

PART II  
AQUATIC PRESERVES

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**258.35 Short title; ss. 258.35-258.394 and 258.40-258.46.**— Sections 258.35-258.394 and 258.40-258.46 shall be known and may be cited as the “Florida Aquatic Preserve Act of 1975.”

**History.**—s. 1, ch. 75-172.

**258.36 Legislative intent.**— It is the intent of the Legislature that the state-owned submerged lands in areas which have exceptional biological, aesthetic, and scientific value, as hereinafter described, be set aside forever as aquatic preserves or sanctuaries for the benefit of future generations.

**History.**—s. 1, ch. 75-172.

**258.37 Definitions.**— As used in ss. 258.35-258.46:

- (1) “Aquatic preserve” means an exceptional area of submerged lands and its associated waters set aside for being maintained essentially in its natural or existing condition.
- (2) “Biological type” means an area set aside to promote certain forms of animal or plant life or their supporting habitat.
- (3) “Aesthetic type” means an area set aside to maintain certain scenic qualities or amenities.
- (4) “Scientific type” means an area set aside to maintain certain qualities or features which have scientific value or significance.
- (5) “Board” means the Board of Trustees of the Internal Improvement Trust Fund.

**History.**—s. 1, ch. 75-172.

**258.38 Types of aquatic preserves.**— Each aquatic preserve shall be characterized as being one or more of the following principal types:

- (1) Biological.

(2) Aesthetic.

(3) Scientific.

**History.**—s. 1, ch. 75-172.

**258.39 Boundaries of preserves.**— The submerged lands included within the boundaries of Nassau, Duval, St. Johns, Flagler, Volusia, Brevard, Indian River, St. Lucie, Charlotte, Pinellas, Martin, Palm Beach, Miami-Dade, Monroe, Collier, Lee, Citrus, Franklin, Gulf, Bay, Okaloosa, Marion, Santa Rosa, Hernando, and Escambia Counties, as hereinafter described, with the exception of privately held submerged lands lying landward of established bulkheads and of privately held submerged lands within Monroe County where the establishment of bulkhead lines is not required, are hereby declared to be aquatic preserves. Such aquatic preserve areas include:

(1) The Fort Clinch State Park Aquatic Preserve, as described in the Official Records of Nassau County in Book 108, pages 343-346, and in Book 111, page 409.

(2) Nassau River-St. Johns River Marshes Aquatic Preserve, as described in the Official Records of Duval County in Volume 3183, pages 547-552, and in the Official Records of Nassau County in Book 108, pages 232-237.

(3) Pellicer Creek Aquatic Preserve, as described in the Official Records of St. Johns County in Book 181, pages 363-366, and in the Official Records of Flagler County in Book 33, pages 131-134.

(4) Tomoka Marsh Aquatic Preserve, as described in the Official Records of Flagler County in Book 33, pages 135-138, and in the Official Records of Volusia County in Book 1244, pages 615-618.

(5) Mosquito Lagoon Aquatic Preserve, as described in the Official Records of Volusia County in Book 1244, pages 619-623, and in the Official Records of Brevard County in Book 1143, pages 190-194.

(6) Banana River Aquatic Preserve, as described in the Official Records of Brevard County in Book 1143, pages 195-198, and the sovereignty submerged lands lying within the following described boundaries: BEGIN at the intersection of the westerly ordinary high water line of Newfound Harbor with the North line of Section 12, Township 25 South, Range 36 East, Brevard County: Thence proceed northeasterly crossing Newfound Harbor to the intersection of the South line of Section 31, Township 24 South, Range 37 East, with the easterly ordinary high water line of said Newfound Harbor; thence proceed northerly along the easterly ordinary high water line of Newfound Harbor to its intersection with the easterly ordinary high water line of Sykes Creek; thence proceed northerly along the easterly ordinary high water line of said creek to its intersection with the southerly right-of-way of Hall Road; thence proceed westerly along said right-of-way to the westerly ordinary high water line of Sykes Creek; thence southerly along said ordinary high water line to its intersection with the ordinary high water line of Newfound Harbor; thence proceed southerly along the westerly ordinary high water line of Newfound Harbor to the POINT OF BEGINNING.

(7)(a) Indian River-Malabar to Vero Beach Aquatic Preserve, as described in the Official Records of Brevard County in Book 1143, pages 199-202, and in the Official Records of Indian River County in Book 368, pages 5-8 and the sovereignty submerged lands lying within the following described boundaries, excluding those lands contained within the corporate boundary of the City of Vero Beach as of the effective date of this act: Commence at the intersection of the north line of Section 31, Township 28 South, Range 38 East, and the westerly mean high water line of Indian River for a point of beginning; thence from the said point of beginning proceed northerly, westerly, and easterly along the mean high water line of Indian River and its navigable tributaries to an intersection with the north line of Section 24, Township 28 South, Range 37 East; thence proceed easterly, to a point on the easterly mean high water line of Indian River at its intersection with the north line of Section 20, Township 28 South, Range 38 East; thence proceed southerly, along the easterly mean high water line of Indian River to the most westerly tip of Blue Fish Point in said Section 20, thence proceed southwesterly to the intersection of the westerly mean high water line of Indian River with the north line of Section 31, Township 28 South, Range 38 East and the point of beginning: And also commence at the intersection of the northern Vero Beach city limits line in Section 25, Township 32 South, Range 39 East, and the westerly mean high water line of Indian River for the point of beginning: Thence from the said point of beginning proceed northerly, along the westerly mean high water line of Indian River and its navigable tributaries to an intersection with the south line of Section 14, Township 30 South, Range 38 East; thence proceed easterly, along the easterly projection of the south line of said Section 14, to an intersection with the easterly right-of-way line of the Intracoastal Waterway; thence proceed southerly, along the easterly right-of-way line of the Intracoastal Waterway, to

an intersection with the northerly line of the Pelican Island National Wildlife Refuge; thence proceed easterly, along the northerly line of the Pelican Island National Wildlife Refuge, to an intersection with the easterly mean high water line of Indian River; thence proceed southerly along the easterly mean high water line of Indian River and its tributaries, to an intersection with the northern Vero Beach city limits line in Section 30, Township 32 South, Range 40 East; thence proceed westerly and southerly, along the northern Vero Beach city limits line to an intersection with the easterly mean high water line of Indian River and the point of beginning.

(b) For purposes of the Indian River-Malabar to Vero Beach Aquatic Preserve, a lease of sovereign submerged lands for a noncommercial dock may be deemed to be in the public interest when the noncommercial dock constitutes a reasonable exercise of riparian rights and is consistent with the preservation of the exceptional biological, aesthetic, or scientific values which the aquatic preserve was created to protect.

(8) Indian River-Vero Beach to Fort Pierce Aquatic Preserve, as described in the Official Records of Indian River County in Book 368, pages 9-12, and in the Official Records of St. Lucie County in Book 187, pages 1083-1086. More specifically, within that description, the southern corporate line of Vero Beach refers to the southerly corporate boundary line of Vero Beach as it existed on June 3, 1970, which is also a westerly projection of the south boundary of "Indian Bay" subdivision as recorded in Plat Book 3, page 43, Docket No. 59267, Public Records of Indian River County, and State Road A1A refers to State Road A1A, North Beach Causeway, located north of Fort Pierce Inlet.

(9) Jensen Beach to Jupiter Inlet Aquatic Preserve, as described in the Official Records of St. Lucie County in Book 218, pages 2865-2869. More specifically, within that description, the southerly corporate line of the City of Fort Pierce refers to the southerly corporate boundary line of the City of Fort Pierce as it existed in 1969; and the western boundary of the preserve as it crosses the St. Lucie River is more specifically described as a line which connects the intersection point of the westerly mean high-water line of the Indian River and the northerly mean high-water line of the St. Lucie River to the intersection point of the intersection of the westerly mean high-water line of the Intracoastal Waterway and the southerly mean high-water line of the St. Lucie River, lands within this preserve are more particularly described as lying and being in Sections 12, 13, 26, 35, and 36, Township 35 South, Range 40 East, and Sections 18, 19, 29, 30, and 32, Township 35 South, Range 41 East, and Sections 1 and 12, Township 36 South, Range 40 East, and Sections 5, 7, 8, 9, 16, 17, 18, 19, 20, 22, 27, 29, 32, and 34, Township 36 South, Range 41 East, and Sections 2, 3, 4, 9, 10, 11, 13, 14, 15, 22, 23, 24, 26, 35, and 36, Township 37 South, Range 41 East, and Sections 19, 30, 31, and 32, Township 37 South, Range 42 East, and Sections 1 and 12, Township 38 South, Range 41 East, and Sections 5, 6, 8, 16, 17, 19, 20, 21, 28, 29, 32, and 33, Township 38 South, Range 42 East, including the eastern portion of the Hanson Grant, east of Rocky Point Cove, and west of St. Lucie Inlet State Park, and portions of the Gomez Grant lying adjacent to Peck Lake and South Jupiter Narrows, and Sections 25, 26, 35, and 36, Township 39 South, Range 42 East, and Sections 1, 12, and 13, Township 40 South, Range 42 East, and Sections 7, 18, 19, 30, 31, and 32, Township 40 South, Range 43 East.

(10) Loxahatchee River-Lake Worth Creek Aquatic Preserve, as described in the Official Records of Martin County in Book 320, pages 193-196, and in the Official Records of Palm Beach County in Volume 1860, pages 806-809, and the sovereignty submerged lands lying within the following described boundaries: Begin at the intersection of the easterly mean high water line of the North Fork of the Loxahatchee River with the northerly mean high water line of the Loxahatchee River, being in Section 36, Township 40 South, Range 43 East, Palm Beach County: Thence proceed easterly along the northerly mean high water line of the Loxahatchee River to the westerly right-of-way of U.S. Highway 1; thence proceed southerly along said right-of-way to the southerly mean high water line of said river; thence proceed easterly along the southerly mean high water line of said river to its intersection with the easterly mean high water line of the Lake Worth Creek; thence proceed northwesterly crossing the Loxahatchee River to the point of beginning: And also: Commence at the southwest corner of Section 16, Township 40 South, Range 42 East Martin County; thence proceed north along the west line of Section 16 to the mean high water line of the Loxahatchee River being the point of beginning: Thence proceed southerly along the easterly mean high water line of said river and its tributaries to a point of nonnavigability; thence proceed westerly to the westerly mean high water line of said river; thence proceed northerly along the westerly mean high water line of said river and its tributaries to its intersection with the westerly line of Section 16, Township 40 South, Range 42 East; thence proceed southerly along the said westerly section line to the point of beginning: And also begin where the southerly mean high water line of the

Southwest Fork of the Loxahatchee River intersects the westerly line of Section 35, Township 40 South, Range 42 East; Thence proceed southwesterly along the southerly mean high water line of the Southwest Fork to the northeasterly face of structure #46; thence proceed northwesterly along the face of said structure to the northerly mean high water line of the Southwest Fork; thence proceed northeasterly along said mean high water line to its intersection with the westerly line of Section 35, Township 40 South, Range 42 East; thence proceed southerly along westerly line of said section to the point of beginning.

(11) Biscayne Bay-Cape Florida to Monroe County Line Aquatic Preserve, as described in the Official Records of Miami-Dade County in Book 7055, pages 852-856, less, however, those lands and waters as described in s. 258.397.

(12) North Fork, St. Lucie Aquatic Preserve, as described in the Official Records of Martin County in Book 337, pages 2159-2162, and in the Official Records of St. Lucie County in Book 201, pages 1676-1679.

(13) Yellow River Marsh Aquatic Preserve, as described in the Official Records of Santa Rosa County in Book 206, pages 568-571.

(14) Fort Pickens State Park Aquatic Preserve, as described in the Official Records of Santa Rosa County in Book 220, pages 60-63, and in the Official Records of Escambia County in Book 518, pages 659-662.

(15) Rocky Bayou State Park Aquatic Preserve, as described in the Official Records of Okaloosa County in Book 593, pages 742-745.

(16) St. Andrews State Park Aquatic Preserve, as described in the Official Records of Bay County in Book 379, pages 547-550.

(17) St. Joseph Bay Aquatic Preserve, as described in the Official Records of Gulf County in Book 46, pages 73-76.

(18) Apalachicola Bay Aquatic Preserve, as described in the Official Records of Gulf County in Book 46, pages 77-81, and in the Official Records of Franklin County in Volume 98, pages 102-106.

(19) Alligator Harbor Aquatic Preserve, as described in the Official Records of Franklin County in Volume 98, pages 82-85.

(20) St. Martins Marsh Aquatic Preserve, as described in the Official Records of Citrus County in Book 276, pages 238-241.

(21) Matlacha Pass Aquatic Preserve, as described in the Official Records of Lee County in Book 800, pages 725-728.

(22) Pine Island Sound Aquatic Preserve, as described in the Official Records of Lee County in Book 648, pages 732-736.

(23) Cape Romano-Ten Thousand Islands Aquatic Preserve, as described in the Official Records of Collier County in Book 381, pages 298-301.

(24) Lignumvitae Key Aquatic Preserve, as described in the Official Records of Monroe County in Book 502, pages 139-142.

(25) Coupon Bight Aquatic Preserve, as described in the Official Records of Monroe County in Book 502, pages 143-146.

(26) Lake Jackson Aquatic Preserve, as established by chapter 73-534, Laws of Florida, and defined as authorized by law.

(27) Pinellas County Aquatic Preserve, as established by chapter 72-663, Laws of Florida; Boca Ciega Aquatic Preserve, as established by s. 258.396; and the Biscayne Bay Aquatic Preserve, as established by s. 258.397. If any provision of this act is in conflict with an aquatic preserve established by s. 258.396, chapter 72-663, Laws of Florida, or s. 258.397, the stronger provision for the maintenance of the aquatic preserve shall prevail.

(28) Estero Bay Aquatic Preserve, the boundaries of which are generally: All of those sovereignty submerged lands located bayward of the mean high-water line being in Sections 13, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 26, 27, 35, and 36, Township 46 South, Range 24 East; and in Sections 19, 20, 28, 29, and 34, Township 46 South, Range 24 East, lying north and east of Matanzas Pass Channel; and in Sections 19, 30, and 31, Township 46 South, Range 25 East; and in Sections 6, 7, 17, 18, 19, 20, 29, 30, 31, and 32, Township 47 South, Range 25 East; and in Sections 1, 2, 3, 11, 12, 13, 14, 24, and 25, Township 47 South, Range 24 East, in Lee County, Florida. Any and all submerged lands conveyed by the Trustees of the Internal Improvement Trust Fund prior to October 12, 1966, and any and all uplands now in private ownership are specifically exempted from this preserve.

(29) Cape Haze Aquatic Preserve, the boundaries of which are generally: That part of Gasparilla Sound, Catfish Creek, Whiddon Creek, "The Cutoff," Turtle Bay, and Charlotte Harbor lying within the following described limits: Northerly limits: Commence at the northwest corner of Section 18, Township 42 South, Range 21 East, thence south along the west line of said Section 18 to its intersection with the Government Meander Line of 1843-1844, and the point of beginning, thence southeasterly along said meander line to the northwesterly shoreline of Catfish Creek, thence northeasterly along said shoreline to the north line of said Section 18, thence east along said north line to the easterly shoreline of Catfish Creek, thence southeasterly along said shoreline to the east line of said Section 18, thence south along said east line, crossing an arm of said Catfish Creek to the southerly shoreline of said creek, thence westerly along said southerly shoreline and southerly along the easterly shoreline of Catfish Creek to said Government Meander Line, thence easterly and southeasterly along said meander line to the northerly shoreline of Gasparilla Sound in Section 21, Township 42 South, Range 21 East, thence easterly along said northerly shoreline and northeasterly along the westerly shoreline of Whiddon Creek to the east west quarter line in Section 16, Township 42 South, Range 21 East, thence east along said quarter line and the quarter Section line of Section 15, Township 42 South, Range 21 East to the easterly shoreline of Whiddon Creek, thence southerly along said shoreline to the northerly shoreline of "The Cutoff," thence easterly along said shoreline to the westerly shoreline of Turtle Bay, thence northeasterly along said shoreline to its intersection with said Government Meander Line in Section 23, Township 42 South, Range 21 East, thence northeasterly along said meander line to the east line of Section 12, Township 42 South, Range 21 East, thence north along the east line of said Section 12, and the east line of Section 1, Township 42 South, Range 21 East to the northwest corner of Section 6, Township 42 South, Range 22 East, thence east along the north line and extension thereof of said Section 6 to a point 2,640 feet east of the westerly shoreline of Charlotte Harbor and the end of the northerly limits. Easterly limits: Commence at the northwest corner of Section 6, Township 42 South, Range 22 East, thence east along the north line of said Section 6 and extension thereof to a point 2,640 feet east of the westerly shoreline of Charlotte Harbor and the point of beginning, thence southerly along a line 2,640 feet easterly of and parallel with the westerly shoreline of Charlotte Harbor and along a southerly extension of said line to the line dividing Charlotte and Lee Counties and the end of the easterly limits. Southerly limits: Begin at the point of ending of the easterly limits, above described, said point being in the line dividing Charlotte and Lee Counties, thence southwestward along a straight line to the most southerly point of Devil Fish Key, thence continue along said line to the easterly right-of-way of the Intracoastal Waterway and the end of the southerly limits. Westerly limits: Begin at the point of ending of the southerly limits as described above, thence northerly along the easterly right-of-way line of the Intracoastal Waterway to its intersection with a southerly extension of the west line of Section 18, Township 42 South, Range 21 East, thence north along said line to point of beginning.

(30) Wekiva River Aquatic Preserve, the boundaries of which are generally: All the state-owned sovereignty lands lying waterward of the ordinary high-water mark of the Wekiva River and the Little Wekiva River and their tributaries lying and being in Lake, Seminole, and Orange counties and more particularly described as follows:

(a) In Sections 15, 16, 17, 20, 21, 22, 27, 28, 29, and 30, Township 20 South, Range 29 East. These sections are also depicted on the Forest City Quadrangle (U.S.G.S. 7.5 minute series-topographic) 1959 (70PR); and

(b) In Sections 3, 4, 8, 9, and 10, Township 20 South, Range 29 East and in Sections 21, 28, and 33, Township 19 South, Range 29 East lying north of the right-of-way for the Atlantic Coast Line Railroad and that part of Section 33, Township 19 South, Range 29 East lying between the Lake and Orange County lines and the right-of-way of the Atlantic Coast Line Railroad. These sections are also depicted on the Sanford SW Quadrangle (U.S.G.S. 7.5 minute series-topographic) 1965 (70-1); and

(c) All state-owned sovereignty lands, public lands, and lands whether public or private below the ordinary high-water mark of the Wekiva River and the Little Wekiva and their tributaries within the Peter Miranda Grant in Lake County lying below the 10 foot m.s.l. contour line nearest the meander line of the Wekiva River and all state-owned sovereignty lands, public lands, and lands whether public or private below the ordinary high-water mark of the Wekiva River and the Little Wekiva and their tributaries within the Moses E. Levy Grant in Lake County below the 10 foot m.s.l. contour line nearest the meander lines of the Wekiva River and Black Water Creek as depicted on the PINE LAKES 1962 (70-1), ORANGE CITY 1964 (70PR), SANFORD 1965 (70-1), and SANFORD S.W. 1965 (70-1) QUADRANGLES (U.S.G.S. 7.5 minute topographic); and

(d) All state-owned sovereignty lands, public lands, and lands whether public or private below the ordinary high-water mark of the Wekiva River and the Little Wekiva River and their tributaries lying below the 10 foot m.s.l. contour line nearest the meander line of the Wekiva and St. Johns Rivers as shown on the ORANGE CITY 1964 (70PR), SANFORD 1965 (70-1), and SANFORD S.W. 1965 (70-1) QUADRANGLES (U.S.G.S. 7.5 minute topographic) within the following described property: Beginning at a point on the south boundary of the Moses E. Levy Grant, Township 19 South, Range 29 East, at its intersection with the meander line of the Wekiva River; thence south  $60\frac{1}{2}$  degrees east along said boundary line 4,915.68 feet; thence north  $29\frac{1}{2}$  degrees east 15,516.5 feet to the meander line of the St. Johns River; thence northerly along the meander line of the St. Johns River to the mouth of the Wekiva River; thence southerly along the meander line of the Wekiva River to the beginning; and

(e) All state-owned sovereignty lands, public lands, and lands whether public or private below the ordinary high-water mark of the Wekiva River and the Little Wekiva River and their tributaries within the Peter Miranda Grant lying east of the Wekiva River, less the following:

1. State Road 46 and all land lying south of said State Road No. 46.
2. Beginning 15.56 chains West of the Southeast corner of the SW  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  of Section 21, Township 19 South, Range 29 East, run east 600 feet; thence north 960 feet; thence west 340 feet to the Wekiva River; thence southwesterly along said Wekiva River to point of beginning.
3. That part of the east  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  of Section 22, Township 19 South, Range 29 East, lying within the Peter Miranda Grant east of the Wekiva River.

(f) All the sovereignty submerged lands lying within the following described boundaries: Begin at the intersection of State Road 44 and the westerly ordinary high water line of the St. Johns River, Section 22, Township 17 South, Range 29 East, Lake County: Thence proceed southerly along the westerly ordinary high water line of said river and its tributaries to the intersection of the northerly right-of-way of State Road 400; thence proceed northeasterly along said right-of-way to the easterly ordinary high water line of the St. Johns River; thence proceed northerly along said ordinary high water line of the St. Johns River and its tributaries to its intersection with the easterly ordinary high water line of Lake Beresford; thence proceed northerly along the ordinary high water line of said lake to its intersection with the westerly line of Section 24, Township 17 South, Range 29 East; thence proceed northerly to the southerly right-of-way of West New York Avenue; thence proceed westerly along the southerly right-of-way of said avenue to its intersection with the southerly right-of-way line of State Road 44; thence proceed southwesterly along said right-of-way to the point of beginning.

(31) Rookery Bay Aquatic Preserve, the boundaries of which are generally: All of the state-owned sovereignty lands lying waterward of the mean high-water line in Rookery Bay and in Henderson Creek and the tributaries thereto in Collier County, Florida. Said lands are more particularly described as lying and being in Sections 27, 34, 35, and 36, Township 50 South, Range 25 East; in Section 31, Township 50 South, Range 26 East; in Sections 1, 2, 3, 10, 11, 12, 13, 14, 23, 24, and 25, Township 51 South, Range 25 East; and in Sections 5, 6, 7, 8, 9, 10, 15, 16, 17, 18, 19, 20, 30, and 31, Township 51 South, Range 26 East, Collier County, Florida, and all the sovereignty submerged lands lying within the following described boundaries: Begin at the southwest corner of Section 30, Township 52 South, Range 27 East, Collier County: Thence proceed easterly along the southerly line of said Section 30 to the southwest corner of Section 29, Township 52 South, Range 27 East; proceed thence northerly along the westerly lines of Sections 29, 20 and 17 to the northwest corner of said Section 17; thence proceed westerly along the northerly line of Section 18 to the southeast corner of Section 12, Township 52 South, Range 26 East; thence proceed northerly along the easterly lines of Sections 12, 1, 36 and 25 to the northeast corner of said Section 25, Township 51 South, Range 26 East; thence proceed westerly along the northerly lines of Sections 25 and 26 to the northwest corner of said Section 26; thence proceed northerly to northeast corner of said Section 22; thence proceed westerly along the northerly lines of Sections 22 and 21 to the northwest corner of said Section 21; thence proceed southerly to the southwest corner of said Section 21; thence proceed westerly along the northerly line of Section 29 to the northwest corner thereof; thence proceed southerly along the westerly lines of Sections 29 and 32 to the southwest corner of said Section 32; thence proceed westerly to the northwest corner of Section 6, Township 52 South, Range 26 East; thence proceed southerly along a projection of Range line 25 East to its intersection with a line which runs westerly from the southwest corner of Cape Romano - Ten Thousand Islands Aquatic Preserve; thence proceed easterly to the southwest corner of Cape Romano - Ten Thousand

Islands Aquatic Preserve; thence proceed northerly to the point of beginning. Less and except: Begin at the southeast corner of Section 21, Township 52 South, Range 26 East; thence proceed northerly along the easterly lines of Sections 21 and 16 to the northeast corner of said Section 16, thence proceed northerly to the thread of John Stevens Creek; thence proceed northwesterly along the thread of said creek to its intersection with the thread of Marco River; thence proceed northwesterly and westerly along the thread of said river to its intersection with the thread of Big Marco Pass; thence proceed southwesterly along the thread of Big Marco Pass to its intersection with Range line 25 East; thence proceed southerly along Range line 25 East to a point which is west from the point of beginning: Thence proceed easterly to the point of beginning.

(32) Rainbow Springs Aquatic Preserve, the boundaries of which are generally: Commencing at the intersection of Blue Run with the Withlacoochee River in Section 35, Township 16 South, Range 18 East; thence run southeasterly and easterly along said Blue Run to the east boundary of said Section 35; thence continue easterly and northerly along said Blue Run through Section 36, Township 16 South, Range 18 East, to the north boundary of said Section 36; thence continue northerly and northeasterly along said Blue Run in Section 25, Township 16 South, Range 18 East, to the north boundary of the city limits of Dunnellon, Florida; thence from the north boundary of the city limits of Dunnellon, Florida, in Section 25, Township 16 South, Range 18 East; thence run easterly along said Blue Run to its intersection with the east boundary line of said Section 25; thence continue easterly along said Rainbow River (Blue Run) into Section 30, Township 16 South, Range 19 East, thence northerly along said Rainbow River (Blue Run) through Sections 30 and 19, Township 16 South, Range 19 East, to a point on the north boundary of the northwest  $\frac{1}{4}$  of Section 18; thence continue to run northwesterly to the head of Rainbow Springs in Section 12, Township 16 South, Range 18 East.

Any and all submerged lands theretofore conveyed by the Trustees of the Internal Improvement Trust Fund and any and all uplands now in private ownership are specifically exempted from this dedication.

**History.**— s. 1, ch. 75-172; s. 1, ch. 76-109; s. 1, ch. 76-211; s. 84, ch. 77-104; s. 1, ch. 83-62; s. 2, ch. 84-312; s. 1, ch. 85-345; s. 6, ch. 86-186; s. 3, ch. 89-25; s. 1, ch. 91-35; s. 7, ch. 91-221; s. 51, ch. 2008-4.

**258.391 Cockroach Bay Aquatic Preserve.**— The following described area in Hillsborough County is hereby designated by the Legislature for inclusion in the aquatic preserve system under the Florida Aquatic Preserve Act of 1975. Such area shall be known as the Cockroach Bay Aquatic Preserve. Those portions of the Cockroach Bay Aquatic Preserve owned by the Tampa Port Authority shall be included in the aquatic preserve system for the period of a lease and future lease extensions of such area from the Tampa Port Authority. The area designated for inclusion in the Cockroach Bay Aquatic Preserve shall include the following described real property: Begin at the northeast corner of Section 1, Township 33 South, Range 17 East, Manatee County, thence west along the north line of said Section 1 to its intersection with the mean high-water line of Tampa Bay, said point being the point of beginning; from said point of beginning continue west 2,000 feet into the waters of Tampa Bay, thence northeasterly along a line 2,000 feet westerly of the mean high-water line of Tampa Bay, said line also being 2,000 feet westerly of the mean high-water line on Beacon Key, Snake Key, Camp Key, Big Pass Key, Little Cockroach Island, and Sand Key, to a point due west from the southwesterly point of Bird Key, thence east to the most southwesterly point of Bird Key, thence southeasterly, southerly, and easterly along the southerly edge of a channel along the northerly side of Tropical Island to the easterly point of Tropical Island, thence in an easterly direction to the westerly point of Negro Island, thence in an easterly direction along the southerly edge of a channel along the northerly side of Negro Island and Chicken Island, to a point due south of the southeast corner of Collura Subdivision as shown in Plat Book 34, page 2 of the Public Records of Hillsborough County, Florida, said corner being located along the east boundary of government lot 2, thence due north to the northerly shore of the Little Manatee River, thence easterly and southeasterly along the mean high-water line of the northerly shore of the Little Manatee River, including all of the channels, tributaries, bayous, and sloughs of the river, with the exception of Ruskin Inlet, to the intersection of the Little Manatee River and U.S. 301, thence westerly and northwesterly along the mean high-water line of the southerly shore of the Little Manatee River, including all of the channels, tributaries, bayous, and sloughs of the river, to the mouth of the Little Manatee River, thence in a westerly and southwesterly direction along the mean high-water line of Tampa Bay, Little Cockroach Bay,

and Cockroach Bay to the point of beginning. Less any islands, submerged lands, or uplands not owned by the Tampa Port Authority or the State of Florida.

**History.**—s. 1, ch. 76-197; s. 1, ch. 88-258.

**258.392 Gasparilla Sound-Charlotte Harbor Aquatic Preserve.**— The following described area in Lee and Charlotte Counties is designated by the Legislature for inclusion in the aquatic preserve system under the Florida Aquatic Preserve Act of 1975. Such area, to be known as the Gasparilla Sound-Charlotte Harbor Aquatic Preserve, shall be included in the aquatic preserve system and shall include the following described real property: Commence at the northwest corner of Section 18, Township 42 South, Range 21 East; thence northerly along the line of mean high water to the intersection of State Road 775 with said mean high-water line; thence south-southwesterly along said road to the intersection of said road with the mean high-water line of Gasparilla Island; thence southerly along said mean high-water line to the most southerly point of Gasparilla Island; thence southeasterly to the northernmost point at the mean high-water line on Lacosta Island; thence southeasterly along said mean high-water line to the northwest corner of Section 6, Township 44 South, Range 21 East; thence east to a northerly extension of the east line of Section 25, Township 44 South, Range 21 East; thence southeasterly along the mean high-water line of Pine Island to the intersection of the east line of Section 28, Township 43 South, Range 22 East, with said mean high-water line; thence northeasterly to the intersection of the north line of Section 23, Township 43 South, Range 22 East with the mean high-water line; thence northerly along said mean high-water line to the intersection of State Road 45 (U.S. Highway 41, Gilchrist Bridge) with said mean high-water line; thence northwesterly along said road to the intersection of said road with the mean high-water line at Live Oak Point; thence westerly along the mean high-water line to the intersection of State Road 771 with said mean high-water line; thence south-southwesterly along said road to the intersection of said road with the mean high-water line, on the southern shore of the Myakka River; thence southerly along the mean high-water line of the westerly shore of Charlotte Harbor to the northwest corner of Section 6, Township 42 South, Range 22 East; thence east along the north line and extension thereof of said Section 6 to a point 2,640 feet east of the westerly shoreline of Charlotte Harbor; thence southerly along a line 2,640 feet easterly of and parallel with the westerly shoreline of Charlotte Harbor and along a southerly extension of said line to the line dividing Charlotte and Lee Counties; thence southwesterly along a straight line to the most southerly point of Devil Fish Key; thence along said line to the easterly right-of-way of the Intracoastal Waterway; thence northerly along the easterly right-of-way of the Intracoastal Waterway to its intersection with a southerly extension of the west line of Section 18, Township 42 South, Range 21 East; thence north along said line to the point of beginning. Said boundary extends across the mouths of all artificial waterways, but includes all tidally connected natural waterways.

**History.**—s. 1, ch. 79-115; s. 4, ch. 89-25.

**258.3925 Lemon Bay Aquatic Preserve.**— The following described area in Charlotte County and Sarasota County is designated by the Legislature for inclusion in the aquatic preserve system under the Florida Aquatic Preserve Act of 1975. Such area, to be known as the Lemon Bay Aquatic Preserve, shall be included in the aquatic preserve system and shall include the following described property: Those state-owned sovereignty submerged lands comprising the Lemon Bay estuarine system bounded on the south by the Boca Grand Bridge, in Charlotte County, and on the north by the east line of Section 31, Township 39 South, Range 19 East, in Sarasota County, and including: Section 32, Township 39 South, Range 19 East, and Sections 4, 8, 9, 15, 16, 22, 23, 25, 26, 27, 35, and 36, of Township 40 South, Range 19 East, all lying within the defined boundaries of Sarasota County; and Sections 1, 2, 12, and 13 of Township 41 South, Range 19 East, and Sections 6, 7, 8, 17, 18, 19, 20, 21, 28, 29, 33, and 34 of Township 41 South, Range 20 East, and Sections 2, 3, 4, 10, 11, 12, 13, 14, 15, 16, 22, and 27 of Township 42 South, Range 20 East, all lying within the defined boundaries of Charlotte County; including Placida Harbor, Gasparilla Pass, Kettle Harbor, Bocilla Lagoon, Bocilla Pass, Knight Pass, Stump Pass, Lemon Bay, Buck Creek upstream to County Road 775, Oyster Creek upstream to County Road 775, Ainger (Rock) Creek upstream to County Road 775, and Godfrey (Godfried, Gottfried) Creek upstream to County Road 775.

**History.**—s. 74, ch. 86-186; s. 5, ch. 89-25.

**258.393 Terra Ceia Aquatic Preserve wastewater or effluent discharge activities.**—



(1) The following described area in Manatee County is hereby designated by the Legislature for inclusion in the aquatic preserve system under the Florida Aquatic Preserve Act of 1975. Such area, to be known as the Terra Ceia Aquatic Preserve, shall be included in the aquatic preserve system and shall include the following described real property: Begin at a point 165 feet north of the southwest corner of the northwest quarter of Section 12, Township 33 South, Range 17 East, Manatee County, thence run west to the mean high-water line of Tampa Bay, said point being the point of beginning. From said point of beginning, run northwesterly into the waters of Tampa Bay and parallel to the Port Manatee ship channel to the Manatee-Hillsborough county line; thence run southwest along the Manatee-Hillsborough county line to its intersection with the Intracoastal Waterway; thence run south-southwesterly along the Intracoastal Waterway to a point on a line connecting the westernmost tip of Snead Island (Manatee County) to the southernmost tip of Mullet Key (Pinellas County); thence run southeasterly along said line to the westernmost tip of Snead Island (also known as Emerson Point); thence run in a northeasterly direction along the mean high-water line of Tampa Bay, Terra Ceia Bay, where the mean high water line intersects the north line of U.S. Government Lot 4, Section 16, Township 34 South, Range 17 East; thence east along the said north line of U.S. Government Lot 4 and the easterly extension thereof a distance of 1,111 feet more or less to the mean high water line at a seawall; thence meander in a northwesterly, westerly, northerly direction along the seawall of a canal; thence in a northeasterly direction along the mean high water line of Miguel Bay, Joe Bay, and Bishop Harbor to the point of beginning, including tidal waters of all tributaries; less all privately titled submerged lands and uplands.

(2) Wastewater or effluent discharge activities from an existing stationary facility or existing stationary installation which has been approved pursuant to state law or federal law or for which facility or installation an application has been filed before June 24, 1984, are exempt from the requirements of this chapter.

**History.**—s. 1, ch. 84-312; s. 4, ch. 85-345.

**258.394 Guana River Marsh Aquatic Preserve.**— The following described area in St. Johns County is hereby designated by the Legislature for inclusion in the aquatic preserve system under the Florida Aquatic Preserve Act of 1975. Such area, to be known as the Guana River Marsh Aquatic Preserve, shall be included in the aquatic preserve system and shall include all the sovereignty submerged lands and other state-owned lands lying within the following described boundaries: Begin at the intersection of the westerly projection of the south line of Section 18, Township 6 South, Range 30 East, with the westerly mean high water line of Tolomato River: Thence proceed easterly along the south line of Section 18 to the mean high water line of the Atlantic Ocean; thence proceed east three geographic miles into said ocean; thence proceed northerly running parallel with said mean high water line to a point east of the intersection of the southerly right-of-way of Micklers Road and the westerly right-of-way of U.S. A1A; thence proceed west to said intersection; thence proceed southwest along the southerly right-of-way of Micklers Road to its intersection with the westerly mean high water line of the Tolomato River; thence proceed southerly along the westerly mean high water line of said river and its tributaries to the point of beginning.

**History.**—s. 2, ch. 85-345.

**258.395 Big Bend Seagrasses Aquatic Preserve.**— The following described area in Wakulla, Jefferson, Taylor, Dixie, and Levy Counties is hereby designated by the Legislature for inclusion in the aquatic preserve system under the Florida Aquatic Preserve Act of 1975. Such area, to be known as the Big Bend Seagrasses Aquatic Preserve, shall be included in the aquatic preserve system and shall include all the sovereignty submerged lands lying within the following described boundaries: Begin where the northerly mean high water line of Withlacoochee River meets the mean high water line of the Gulf of Mexico, Township 17 South, Range 15 East, Levy County: Thence from the said point of beginning proceed northwesterly along the mean high water line of the coast and its navigable tributaries to the intersection of the westerly mean high water line of St. Marks River with the mean high water line of the Gulf of Mexico, in Township 4 South, Range 1 East, Wakulla County; thence proceed south three marine leagues into the Gulf of Mexico; thence proceed southeasterly along a line three marine leagues from and parallel to the line of mean high water previously described to an intersection with a line projected west from the point of beginning; thence proceed east to the point of beginning. Less and except all those sovereignty submerged lands within 500 feet of any incorporated or unincorporated municipality within the above described lands. Less and except: Begin at the

intersection of the southerly projection of the east line of Range line 4 East with the mean high water line of the Gulf of Mexico; thence proceed southwest to a point on the three marine league line; thence proceed southeasterly three marine leagues from and parallel to the mean high water line to a point which is southwest of the intersection of the southerly line of Section 22, Township 6 South, Range 6 East, Taylor County, with the mean high water line of the Gulf of Mexico; thence proceed Northeast to the foresaid point of intersection; thence proceed northwesterly along the mean high water line of the Gulf of Mexico and its tributaries to the point of beginning. Less and except all those local access channels adjacent to Keaton Beach and a proposed navigational channel more particularly described as follows: Begin at State Plane Coordinate; X=2,288,032; Y=298,365: Thence proceed West 11,608 feet; thence proceed south 1,440 feet; thence proceed east 11,608 feet; thence proceed north 1,440 feet to the point of beginning; less and except all those sovereign submerged lands lying northerly and easterly of U.S. Highway 19.

**History.**—s. 3, ch. 85-345.

**258.396 Boca Ciega Bay Aquatic Preserve.—**

(1) Boca Ciega Bay, in Pinellas County, as hereinafter described, is designated and established as an aquatic preserve under the provisions of this section. It is the intent of the Legislature that Boca Ciega Bay be preserved, insofar as possible, in an essentially natural condition so that its biological and aesthetic values may endure for the enjoyment of future generations.

(2)(a) For the purposes of this section, Boca Ciega Bay, sometimes referred to in this section as “the preserve,” shall be comprised of that body of water in Pinellas County which lies south of the State Road 688 bridge at, or near, Indian Rocks Beach and within the area enclosed by a line as follows: Beginning at a point where the east end of said bridge crosses the western shoreline of mainland Pinellas County and extending in a generally southerly direction along the western shoreline of mainland Pinellas County to the west end of the Seminole Bridge following the bridge easterly to exclude Long Bayou and Cross Bayou, thence in a southerly direction including the western shoreline of the Sunshine Skyway Causeway and extending to the southern boundary of Pinellas County, thence westerly along the Pinellas County line and around Mullet Key along a line 100 yards seaward of the shoreline of Mullet Key and northerly along a line passing 100 yards to the west of the shorelines of Summer Resort Key, Cabbage Key and Shell Key to the southernmost point of Long Key, thence in a generally northerly direction along the inner shoreline of Long Key, Treasure Island and Sand Key to a point where the west end of the State Road 688 bridge crosses the inner shoreline of Sand Key, thence easterly along the south side of said bridge to the point of beginning. The boundary of the preserve designated as the shoreline shall mean the line of mean high water along such shoreline.

(b) The preserve established by this section shall include the submerged bottom lands, the water column upon such lands, and the islands owned by the state within the boundaries of the preserve. Any privately held land or submerged land within the established bulkhead lines or privately held islands within the preserve shall be deemed to be excluded therefrom. The Board of Trustees of the Internal Improvement Trust Fund may negotiate an arrangement with any such private owner whereby such lands or water bottoms may be included within the preserve.

(3) The Board of Trustees of the Internal Improvement Trust Fund are hereby directed to maintain Boca Ciega Bay as an aquatic preserve subject to the following provisions:

(a) No further sale, transfer, or lease of sovereignty submerged lands within the preserve shall be approved or consummated by the board of trustees unless such sale, transfer, or lease is in the public interest.

(b) No further dredging or filling of submerged lands within the preserve shall be approved or tolerated by the board of trustees except:

1. Such minimum dredging and spoiling as may be authorized for public navigation projects;
2. Such other alteration of physical conditions as may be necessary to enhance the quality or utility of the preserve as determined by the Pinellas County Water and Navigation Control Authority in a public hearing; and
3. Such dredging as is necessary for the purpose of eliminating conditions hazardous to the public health or for the purpose of eliminating stagnant waters, unsightly mud flats, islands, and spoil banks the dredging of which would enhance the aesthetic quality and utility of the preserve and is clearly in the public interest as determined by the Pinellas County Water and Navigation Control Authority in a public hearing.

There shall be no dredging beyond the bulkhead line for the sole purpose of providing fill for upland or submerged land within the bulkhead line. In addition there shall be no drilling of wells, excavation for shell or minerals, and no erection of structures (other than docks) within the preserve, unless such activity is associated with activity authorized by this section.

(c) The board of trustees shall not approve any seaward relocation of bulkhead lines or further establishment of bulkhead lines except when a proposed bulkhead line is located at the line of mean high water along the shoreline.

(4)(a) The board of trustees shall adopt and enforce reasonable rules and regulations to carry out the provisions of this section and specifically to provide:

1. Additional preserve management criteria as may be necessary to accommodate special circumstances; and
2. Regulation of human activity within the preserve in such a manner as not to interfere unreasonably with such lawful and traditional public uses of the preserve as fishing (both sport and commercial), boating, and swimming.

(b) Other uses of the preserve, or human activity within the preserve, although not originally contemplated, may be permitted by the board of trustees, but only subsequent to a formal finding of compatibility with the purposes of this section.

(5) Neither the establishment nor the management of the Boca Ciega Bay Aquatic Preserve shall operate to infringe upon the riparian rights of upland property owners adjacent to or within the preserve. Reasonable improvement for ingress and egress, mosquito control, shore protection, bridges, causeways, and similar purposes may be permitted by the board of trustees, subject to the provisions of any other applicable laws under the jurisdiction of other agencies.

(6) Nothing herein shall be construed to deprive the Pinellas County Water and Navigation Control Authority of its jurisdiction, powers, and duties.

**History.**— ss. 1, 2, 3, 4, 5, 6, ch. 69-342; ss. 27, 35, ch. 69-106; s. 2, ch. 89-25.

**Note.**— Former s. 258.16.

### **258.397 Biscayne Bay Aquatic Preserve.**—

(1) **DESIGNATION.**— Biscayne Bay in Miami-Dade and Monroe Counties, as hereinafter described to include Card Sound, is designated and established as an aquatic preserve under the provisions of this section. It is the intent of the Legislature that Biscayne Bay be preserved in an essentially natural condition so that its biological and aesthetic values may endure for the enjoyment of future generations.

(2) **BOUNDARIES.**—

(a) For the purposes of this section, Biscayne Bay, sometimes referred to in this section as “the preserve,” shall be comprised of the body of water in Miami-Dade and Monroe Counties known as Biscayne Bay whose boundaries are generally defined as follows:

Begin at the southwest intersection of the right-of-way of State Road 826 and the mean high-water line of Biscayne Bay (Township 52 South, Range 42 East, Miami-Dade County); thence southerly along the westerly mean high-water line of Biscayne Bay to its intersection with the right-of-way of State Road 905A (Township 59 South, Range 40 East, Monroe County); thence easterly along such right-of-way to the easterly mean high-water line of Biscayne Bay; thence northerly along the easterly mean high-water line of Biscayne Bay following the westerly shores of the most easterly islands and Keys with connecting lines drawn between the closest points of adjacent islands to the southeasterly intersection of the right-of-way of State Road 826 and the mean high-water line of Biscayne Bay; thence westerly to the point of beginning. Said boundary extends across the mouths of all artificial waterways, but includes all natural waterways tidally connected to Biscayne Bay. Excluded from the preserve are those submerged lands conveyed to the United States for the establishment of the Biscayne National Monument as defined by Pub. L. No. 90-606 of the United States.

(b) The preserve established by this section shall include the submerged bottom lands and the water column upon such lands, as well as all publicly owned islands, within the boundaries of the preserve. Any privately held upland within the boundaries of the preserve shall be deemed to be excluded therefrom. However, the Board of Trustees of

the Internal Improvement Trust Fund may negotiate an arrangement with any such private upland owner by which such land may be included in the preserve.

(c) The board of trustees may transfer to the United States any interest in lands, title to which is vested in the board of trustees, which are presently within the boundaries of the preserve for inclusion in the Biscayne National Monument or its successor should the area be designated a national park. Transfers of interest under this paragraph shall be subject to the following conditions:

1. All interests in oil, gas, or other mineral rights held by the board of trustees shall be retained and not transferred to the United States.
2. All rights to fish on the waters shall be retained and not transferred to the United States.
3. All rights to impose and collect state excise taxes on the sales of alcohol or tobacco shall be retained and not transferred to the United States.
4. Transfers of interest shall be subject to outstanding easements, reservations, or other interests appearing of record.

(3) **AUTHORITY OF TRUSTEES.**—The Board of Trustees of the Internal Improvement Trust Fund is authorized and directed to maintain the aquatic preserve hereby created pursuant and subject to the following provisions:

(a) No further sale, transfer, or lease of sovereignty submerged lands in the preserve shall be approved or consummated by the board of trustees, except upon a showing of extreme hardship on the part of the applicant and a determination by the board of trustees that such sale, transfer, or lease is in the public interest.

(b) No further dredging or filling of submerged lands of the preserve shall be approved or tolerated by the board of trustees except:

1. Such minimum dredging and spoiling as may be authorized for public navigation projects or for such minimum dredging and spoiling as may be constituted as a public necessity or for preservation of the bay according to the expressed intent of this section.
2. Such other alteration of physical conditions, including the placement of riprap, as may be necessary to enhance the quality and utility of the preserve.
3. Such minimum dredging and filling as may be authorized for the creation and maintenance of marinas, piers, and docks and their attendant navigation channels and access roads. Such projects may only be authorized upon a specific finding by the board of trustees that there is assurance that the project will be constructed and operated in a manner that will not adversely affect the water quality and utility of the preserve. This subparagraph shall not authorize the connection of upland canals to the waters of the preserve.
4. Such dredging as is necessary for the purpose of eliminating conditions hazardous to the public health or for the purpose of eliminating stagnant waters, islands, and spoil banks, the dredging of which would enhance the aesthetic and environmental quality and utility of the preserve and be clearly in the public interest as determined by the board of trustees.

Any dredging or filling under this subsection or improvements under subsection (5) shall be approved only after public notice as provided by s. 253.115.

(c) There shall be no drilling of wells, excavation for shell or minerals, or erection of structures other than docks within the preserve unless such activity is associated with activity authorized by this section.

(d) The board of trustees shall not approve any seaward relocation of bulkhead lines or further establishment of bulkhead lines except when a proposed bulkhead line is located at the line of mean high water along the shoreline. Construction, replacement, or relocation of seawalls shall be prohibited without the approval of the board of trustees, which approval may be granted only if riprap construction is used in the seawall. The board may grant approval under this paragraph by a letter of consent.

(e) Notwithstanding other provisions of this section, the board of trustees may, respecting lands lying within Biscayne Bay:

1. Enter into agreements for and establish lines delineating sovereignty and privately owned lands.
2. Enter into agreements for the exchange of, and exchange, sovereignty lands for privately owned lands.

3. Accept gifts of land within or contiguous to the preserve.
4. Negotiate for, and enter into agreements with owners of lands contiguous to sovereignty lands for, any public and private use of any of such lands.
5. Take any and all actions convenient for, or necessary to, the accomplishment of any and all of the acts and matters authorized by this paragraph.
6. Conduct restoration and enhancement efforts in Biscayne Bay and its tributaries.
7. Stabilize eroding shorelines of Biscayne Bay and its tributaries that are contributing to turbidity by planting natural vegetation to the greatest extent feasible and by the placement of riprap, as determined by Miami-Dade County in conjunction with the Department of Environmental Protection.
8. Request the South Florida Water Management District to enter into a memorandum of understanding with the Department of Environmental Protection, the Biscayne National Park Service, the Miami-Dade County Department of Environmental Resources Management and, at their option, the Corps of Engineers to include enhanced marine productivity in Biscayne Bay as an objective when operating the Central and Southern Florida Flood Control projects consistently with the goals of the water management district, including flood protection, water supply, and environmental protection.

(4) RULES.—

(a) The board of trustees shall adopt and enforce reasonable rules and regulations to carry out the provisions of this section and specifically to provide:

1. Additional preserve management criteria as may be necessary to accommodate special circumstances.
2. Regulation of human activity within the preserve in such a manner as not to interfere unreasonably with lawful and traditional public uses of the preserve, such as fishing (both sport and commercial), boating, and swimming.

(b) Other uses of the preserve, or human activity within the preserve, although not originally contemplated, may be permitted by the board of trustees, but only subsequent to a formal finding of compatibility with the purposes of this section.

(c) Fishing involving the use of seines or nets is prohibited in the preserve, except when the fishing is for shrimp or mullet and such fishing is otherwise permitted by state law or rules promulgated by the Fish and Wildlife Conservation Commission. As used in this paragraph, the terms “seines” or “nets” shall not include landing nets, cast nets, or bully nets.

(5) RIPARIAN RIGHTS.—Neither the establishment nor the management of the Biscayne Bay Aquatic Preserve shall operate to infringe upon the riparian rights of upland property owners adjacent to or within the preserve. Reasonable improvement for ingress and egress, mosquito control, shore protection, public utility expansion, and similar purposes may be permitted by the board of trustees or Department of Environmental Protection, subject to the provisions of any other applicable laws under the jurisdiction of other agencies.

(6) DISCHARGE OF WASTES PROHIBITED.—No wastes or effluents which substantially inhibit the accomplishment of the purposes of this section shall be discharged into the preserve. In order to ensure that these objectives are met, the following shall be required:

(a) The Department of Environmental Protection, in cooperation with the South Florida Water Management District and Miami-Dade County, shall investigate stormwater management practices within the watershed and shall develop a corrective plan for management and treatment of stormwater. The plan shall provide for retrofitting of stormwater outfalls causing the greatest environmental damage to the bay.

(b) The Department of Environmental Protection, in cooperation with Miami-Dade County, shall develop a program to regulate the use of pumpout facilities in the Biscayne Bay area and along the Miami River.

(c) The Department of Environmental Protection, in cooperation with Miami-Dade County, shall develop a program to eliminate, to the greatest extent possible, the discharge of oil and other pollutants from ships and to remove derelict vessels from the Miami River and the Biscayne Bay area.

(7) ENFORCEMENT.—The provisions of this section may be enforced in accordance with the provisions of s. 403.412. In addition, the Department of Legal Affairs is authorized to bring an action for civil penalties of \$5,000 per day against any person, natural or corporate, who violates the provisions of this section or any rule or regulation issued hereunder. Enforcement of applicable state regulations shall be supplemented by the Miami-Dade County

Department of Environmental Resources Management through the creation of a full-time enforcement presence along the Miami River.

(8) SECTIONS 403.501-403.518 APPLICABLE.—The provisions of this section shall be subject to the provisions of ss. 403.501-403.518.

**History.**—ss. 1, 2, 3, 4, 5, 6, 7, 8, ch. 74-171; s. 2, ch. 76-109; s. 1, ch. 77-174; s. 1, ch. 78-628; s. 12, ch. 79-65; s. 1, ch. 80-204; s. 59, ch. 86-186; s. 1, ch. 86-295; s. 1, ch. 89-25; s. 47, ch. 90-331; ss. 98, 496, ch. 94-356; s. 78, ch. 99-245; s. 52, ch. 2008-4.

**Note.**—Former s. 258.165.

**258.399 Oklawaha River Aquatic Preserve.**—The following described area in Marion County is designated by the Legislature for inclusion into the aquatic preserve system under the Florida Aquatic Preserve Act of 1975. Such area, to be known as the Oklawaha River Aquatic Preserve, shall be included in the aquatic preserve system and shall include the following described property. The Oklawaha River Aquatic Preserve shall consist of those state-owned sovereignty submerged lands lying below the ordinary high water line of said land, located in Marion County. The preserve is more specifically described as: Begin at the intersection of the southerly right-of-way of county road 316 and the westerly ordinary high water line of the Oklawaha River, located in Section 9, Township 13 South, Range 24 East. Thence from said point of beginning proceed southerly along the ordinary high water line of the Oklawaha River and its tributaries to its intersection with the eastern line of Section 36, Township 15 South, Range 23 East. Thence proceed northerly along said Section line to its intersection with the easterly ordinary high water line of the Oklawaha River. Thence proceed northerly along said ordinary high water line to its intersection with the southerly right-of-way of county road 316. Thence proceed west along said road to the point of beginning; including Eaton Creek upstream to the northern line of Section 3, Township 14 South, Range 24 East, Daisy Creek upstream to county road 315, Silver River upstream to the western line of Section 5, Township 15 South, Range 23 East. Less and except Dead River and Orange Drain.

**History.**—s. 1, ch. 89-192.

#### **258.40 Scope of preserves.**—

(1) The aquatic preserves established under this act shall include only lands or water bottoms owned by the state as set forth in s. 253.03 and such lands or water bottoms owned by other governmental agencies as may be specifically authorized for inclusion by appropriate instrument in writing from such agency. Any privately owned lands or water bottoms shall be deemed to be excluded therefrom; however, the board may negotiate an arrangement with any such private owner by which such land may be included in the preserves.

(2) Any publicly owned and maintained navigation channel or other public works project authorized by the United States Congress designed to improve or maintain commerce and navigation shall be deemed excluded from the aquatic preserves established under this act.

(3) All lands lost by avulsion or by artificially induced erosion shall be deemed excluded from the provisions of this act.

**History.**—s. 1, ch. 75-172.

#### **258.41 Establishment of aquatic preserves.**—

(1) The board may establish additional areas to be included in the aquatic preserve system, subject to confirmation by the Legislature.

(2) The board may, after public notice and public hearing in the county or counties in which the proposed preserve is to be located, adopt a resolution formally setting aside such areas to be included in the aquatic preserve system.

(3) The resolution setting aside an aquatic preserve area shall include:

- (a) A legal description of the area to be included.
- (b) The designation of the type of aquatic preserve being set aside.
- (c) A general statement of what is sought to be preserved.
- (d) A clear statement of the management responsibilities for the area.

(4) Lands and water bottoms owned by other governmental agencies may be included in an aquatic preserve upon specific authorization for inclusion by an appropriate instrument in writing from the governmental agency.

(5) Lands and water bottoms in private ownership may be included in an aquatic preserve upon specific authorization for inclusion by an appropriate instrument in writing from the owner. The appropriate instrument shall be either a dedication in perpetuity or a lease. Such lease shall contain the following conditions:

(a) Term of the lease shall be for a minimum period of 10 years.

(b) The board shall have the power and duty to enforce the provisions of each lease agreement and shall additionally have the power to terminate any lease if the termination is in the best interest of the aquatic preserve system.

(c) The board shall pay no more than \$1 per year for any such lease.

(6) Except as provided in subsection (5), no aquatic preserve or any part thereof shall be withdrawn from the state aquatic preserve system except by an act of the Legislature. Notice of such proposed legislation shall be published in each county in which the affected area is located, in the manner prescribed by law relating to local legislation.

(7) Within 30 days of the designation and establishment of an aquatic preserve, the Board of Trustees of the Internal Improvement Trust Fund shall record in the public records of the county or counties in which the aquatic preserve is located a legal description of the aquatic preserve.

**History.**—s. 1, ch. 75-172.

**258.42 Maintenance of preserves.**— The Board of Trustees of the Internal Improvement Trust Fund shall maintain such aquatic preserves subject to the following provisions:

(1)(a) No further sale, lease, or transfer of sovereignty submerged lands shall be approved or consummated by the trustees except when such sale, lease, or transfer is in the public interest.

(b) For purposes of this subsection, aquaculture is in the public interest and aquaculture leases may be authorized in aquatic preserves pursuant to the provisions in ss. 253.68-253.75. By March 1, 1997, the Department of Environmental Protection is further directed to establish rules for freshwater aquatic preserves and urban aquatic preserves.

(2) The trustees shall not approve the waterward relocation or setting of bulkhead lines waterward of the line of mean high water within the preserve except when public road and bridge construction projects have no reasonable alternative and it is shown to be not contrary to the public interest.

(3)(a) No further dredging or filling of submerged lands shall be approved by the trustees except the following activities may be authorized pursuant to a permit:

1. Such minimum dredging and spoiling as may be authorized for public navigation projects.

2. Such minimum dredging and spoiling as may be authorized for the creation and maintenance of marinas, piers, and docks and their attendant navigation channels.

3. Such other alteration of physical conditions as may, in the opinion of the trustees, be necessary to enhance the quality or utility of the preserve or the public health generally.

4. Such other maintenance dredging as may be required for existing navigation channels.

5. Such reasonable improvements as may be necessary for public utility installation or expansion.

6. Installation and maintenance of oil and gas transportation facilities, provided such facilities are properly marked with marine aids to navigation as prescribed by federal law.

(b) There shall, in no case, be any dredging seaward of a bulkhead line for the sole or primary purpose of providing fill for any area landward of a bulkhead line.

(c) There shall be no drilling of gas or oil wells. However, this will not prohibit the state from leasing the oil and gas rights and permitting drilling from outside the preserve to explore for oil and gas if approved by the board.

(d) There shall be no excavation of minerals, except the dredging of dead oyster shells as approved by the Department of Environmental Protection.

(e) Structures may not be erected within the preserve, except:

1. Private residential docks may be approved for reasonable ingress or egress of riparian owners. Slips at private residential single-family docks which contain boat lifts or davits that do not float in the water when loaded may not, in

whole or in part, be enclosed by walls, but may be roofed if the roof does not overhang more than 1 foot beyond the footprint of the lift and the boat stored at the lift. Such roofs are not included in the square-footage calculation of a terminal platform.

2. Private residential multislip docks may be approved if located within a reasonable distance of a publicly maintained navigation channel, or a natural channel of adequate depth and width to allow operation of the watercraft for which the docking facility is designed without the craft having an adverse impact on marine resources. The distance shall be determined in accordance with criteria established by the trustees by rule, based on the depth of the water, nature and condition of bottom, and presence of manatees.

3. Commercial docking facilities shown to be consistent with the use or management criteria of the preserve may be approved if the facilities are located within a reasonable distance of a publicly maintained navigation channel, or a natural channel of adequate depth and width to allow operation of the watercraft for which the docking facility is designed without the craft having an adverse impact on marine resources. The distance shall be determined in accordance with criteria established by the trustees by rule, based on the depth of the water, nature and condition of bottom, and presence of manatees.

4. Structures for shore protection, including restoration of seawalls at their previous location or upland of or within 18 inches waterward of their previous location, approved navigational aids, or public utility crossings authorized under paragraph (a) may be approved.

A structure under this paragraph or chapter 253 may not be prohibited solely because the local government fails to adopt a marina plan or other policies dealing with the siting of such structures in its local comprehensive plan.

(f) No wastes or effluents shall be discharged into the preserve which substantially inhibit the accomplishment of the purposes of this act.

(g) No nonpermitted wastes or effluents shall be directly discharged into the preserve which substantially inhibit the accomplishment of the purposes of this act.

(4) Notwithstanding any other provisions of this part, a riparian owner may selectively trim or alter mangroves on adjacent publicly owned submerged lands, provided that the selective trimming or alteration is in compliance with the requirements of <sup>1</sup>ss. 403.93-403.938, including any required permit under <sup>1</sup>ss. 403.93-403.938.

**History.**—ss. 1, 2, 4, ch. 75-172; s. 1, ch. 77-174; ss. 7, 73, ch. 86-186; s. 4, ch. 88-207; s. 1, ch. 88-377; s. 1, ch. 88-414; s. 6, ch. 91-187; s. 4, ch. 93-34; s. 99, ch. 94-356; s. 84, ch. 95-143; s. 7, ch. 96-247; s. 1, ch. 2010-208.

<sup>1</sup>**Note.**—Some sections within this range have been repealed; ss. 403.93, 403.931, 403.9311, 403.932, 403.933, 403.935, and 403.936 were repealed by s. 13, ch. 95-299. Section 403.938 was amended and transferred to s. 403.9333 by s. 12, ch. 95-299.

### **258.43 Rules.—**

(1) The Board of Trustees of the Internal Improvement Trust Fund has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this act and specifically to provide regulation of human activity within the preserve in such a manner as not to unreasonably interfere with lawful and traditional public uses of the preserve, such as sport and commercial fishing, boating, and swimming.

(2) Other uses of the preserve, or human activity within the preserve, although not originally contemplated, may be permitted by the trustees, but only subsequent to a formal finding of compatibility with the purposes of this act.

(3) The Board of Trustees of the Internal Improvement Trust Fund may delegate to a local government, by agreement, the power and duty to administer and enforce the standards and criteria established in a resource inventory and management plan adopted by the board, if the board determines that such a delegation is in the public interest.

(a) Such delegation shall be made only if the board determines that the local government's program for administering and enforcing the adopted standards and criteria:

1. Adopts, by ordinance, standards and criteria no less restrictive than those in the management plan approved by the board pursuant to the provisions of rule 18-20.013(2), Florida Administrative Code; provided, however nothing contained in this subsection shall expand the powers, jurisdiction, or authority granted pursuant to this chapter. When



a local government's program proposes to include standards and criteria that are more restrictive than those in the management plan approved by the board, such standards and criteria shall not be effective until they have been approved by the board as being consistent with the provisions of this chapter.

2. Provides for the enforcement of such requirements by appropriate administrative and judicial processes.
3. Provides for administrative organization, staff, and financial and other resources necessary to effectively and efficiently enforce such requirements.
4. Provides for improved management and enforcement of the standards and criteria in the resource inventory and management plans and of the rules adopted by the board pertaining to state-owned lands.

(b) Such delegation may not include the authority to grant approval for the sale, lease, easement, or other uses of state-owned sovereignty lands that require approval by the board as provided by the board's rules on October 1, 1989. This provision shall not preclude agreements between the board and local governments that may provide that the local government shall process applications and present recommendations for final action to the board.

(c) The board shall give prior notice of its intention to enter into an agreement as described in this subsection, as provided by s. 253.115. The Division of State Lands of the Department of Environmental Protection shall update its rules annually to include a list of the management agreements adopted pursuant to this subsection. The list shall identify the parties to, and the date and location of, each agreement, and shall specify the nature of the authority delegated by the agreement.

(d) The board may designate the local government as its enforcement arm for purposes of s. 258.46, and the local government shall have the authority to directly enforce the provisions of that section or to rely on the enforcement provisions of the local ordinance implementing the management plan. The governing body of the local government shall seek approval from the Division of State Lands before seeking the elevated penalties associated with direct enforcement of s. 258.46 in lieu of penalties associated with violation of its ordinance. Nothing in this subsection shall affect the authority of the division to enforce the provisions of this act.

(e) Each year on the anniversary of any delegation pursuant to this subsection, the staff of the department shall present to the board an evaluation of decisions made by the local governments during the previous year. The board shall, upon reviewing this evaluation, either act to renew the delegation, act to retract the delegation, or act to renew the delegation with specific directives to the local government to take corrective action concerning any deficiencies in its processing or application of the standards and criteria in the rules approved by the board or a management plan adopted for the preserves.

(f) Nothing contained in this subsection shall affect the powers, duties, or procedures set forth in chapter 403.

**History.**—s. 1, ch. 75-172; s. 6, ch. 89-25; ss. 100, 497, ch. 94-356; s. 85, ch. 95-143; s. 49, ch. 98-200.

#### **258.435 Use of aquatic preserves for the accommodation of visitors.—**

(1) The Department of Environmental Protection shall promote the public use of aquatic preserves and their associated uplands. The department may receive gifts and donations to carry out the purpose of this part. Moneys received in trust by the department by gift, devise, appropriation, or otherwise, subject to the terms of such trust, shall be deposited into the Grants and Donations Trust Fund and appropriated to the department for the administration, development, improvement, promotion, and maintenance of aquatic preserves and their associated uplands and for any future acquisition or development of aquatic preserves and their associated uplands.

(2) The department may grant a privilege or concession for the accommodation of visitors in and use of aquatic preserves and their associated state-owned uplands if the privilege or concession does not deny or interfere with the public's access to such lands and is compatible with the aquatic preserve's management plan as approved by the Acquisition and Restoration Council. Moneys received by the department under this subsection shall be deposited into the Internal Improvement Trust Fund. A concession must be granted based on business plans, qualifications, approach, and specified expectations or criteria. A privilege or concession may not be assigned or transferred by the grantee without the consent of the department.

(3) Upon submittal to the department of a proposed concession or privilege, the department shall post a description of the proposed concession or privilege on the department's website, including a description of the activity to occur under the proposed concession or privilege, the time of year that the activity would take place, and the

location of the activity. Once the description of the proposed privilege or concession is posted on the department's website and at least 60 days before execution of a privilege or concession agreement, the department shall provide an opportunity for public comment on the proposed privilege or concession agreement.

**History.**—s. 13, ch. 2014-151; s. 19, ch. 2015-229.

**258.44 Effect of preserves.**— Neither the establishment nor the management of the aquatic preserves under the provisions of this act shall operate to infringe upon the traditional riparian rights of upland property owners adjacent to or within the preserves. Reasonable improvement for ingress and egress, mosquito control, shore protection, public utility expansion, surface water drainage, installation and maintenance of oil and gas transportation facilities, and similar purposes may be permitted by the trustees subject to the provisions of any other applicable laws under the jurisdiction of other agencies.

**History.**—s. 1, ch. 75-172.

**258.45 Provisions not superseded.**— The provisions of this act shall not supersede, but shall be subject to, the provisions of ss. 403.501-403.518.

**History.**—ss. 3, 6, ch. 75-172; s. 48, ch. 90-331.

**258.46 Enforcement; violations; penalty.**— The provisions of this act may be enforced by the Board of Trustees of the Internal Improvement Trust Fund or in accordance with the provisions of s. 403.412. However, any violation by any person, natural or corporate, of the provisions of this act or any rule or regulation issued hereunder shall be further punishable by a civil penalty of not less than \$500 per day or more than \$5,000 per day of such violation.

**History.**—s. 5, ch. 75-172.

### PART III

## WILD AND SCENIC RIVERS

258.501 Myakka River; wild and scenic segment.

**258.501 Myakka River; wild and scenic segment.**—

(1) **SHORT TITLE.**— This section may be cited as the “Myakka River Wild and Scenic Designation and Preservation Act.”

(2) **LEGISLATIVE DECLARATION.**— The Legislature finds and declares that a certain segment of the Myakka River in Manatee, Sarasota, and Charlotte Counties possesses outstandingly remarkable ecological, fish and wildlife, and recreational values which are unique in the State of Florida. These values give significance to the river as one which should be permanently preserved and enhanced for the citizens of the State of Florida, both present and future. The permanent management and administration of the river involves a complex interaction of state, regional, and local interests which require balancing and coordination of purpose. It is the intention of the Legislature to provide for the permanent preservation of the designated segment of the Myakka River by way of development of a plan for permanent administration by agencies of state and local government which will ensure the protection necessary but retain that degree of flexibility, responsiveness, and expertise which will accommodate all of the diverse interests involved in a manner best calculated to be in the public interest.

(3) **DEFINITIONS.**— As used in this section, the term:

(a) “Activity” means the doing of any act or the failing to do any act, whether by a natural person or a corporation.

(b) “Agreement” means the interagency operating agreement between the department, the Department of Economic Opportunity, and Sarasota County or the City of North Port.

(c) “Coordinating council” means the council created by subsection (7).

(d) “Department” means the Department of Environmental Protection.

(e) “Division” means the Division of Recreation and Parks of the Department of Environmental Protection.

(f) “Major infrastructure facility” means a manmade structure which serves the common needs of the population, such as a central sewage disposal system, potable water system, potable water well serving a system, solid waste disposal site or retention area, stormwater system, utility, causeway, marina, bridge, or roadway.