

CHAPTER 18-20 FLORIDA AQUATIC PRESERVES

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18-20.001 Intent.

(1) All sovereignty lands within a preserve shall be managed primarily for the maintenance of essentially natural conditions, the propagation of fish and wildlife, and public recreation, including hunting and fishing where deemed appropriate by the Board, and the managing agency.

(2) Aquatic preserves which are described in Part II of Chapter 258, Florida Statutes, were established for the purpose of being preserved in an essentially natural or existing condition so that their aesthetic, biological and scientific values may endure for the enjoyment of future generations.

(3) The preserves shall be administered and managed in accordance with the following goals:

(a) To preserve, protect, and enhance these exceptional areas of sovereignty submerged lands by reasonable regulation of human activity within the preserves through the development and implementation of a comprehensive management program;

(b) To protect and enhance the waters of the preserves so that the public may continue to enjoy the traditional recreational uses of those waters such as swimming, boating, and fishing;

(c) To coordinate with federal, state, and local agencies to aid in carrying out the intent of the Legislature in creating the preserves;

(d) To use applicable federal, state, and local management programs, which are compatible with the intent and provisions of the act and these rules, and to assist in managing the preserves;

(e) To encourage the protection, enhancement or restoration of the biological, aesthetic, or scientific values of the preserves, including but not limited to the modification of existing manmade conditions toward their natural condition, and discourage activities which would degrade the aesthetic, biological, or scientific values, or the quality, or utility of a preserve, when reviewing applications, or when developing and implementing management plans for the preserves;

(f) To preserve, promote, and utilize indigenous life forms and habitats, including but not limited to: sponges, soft coral, hard corals, submerged grasses, mangroves, salt water marshes, fresh water marshes, mud flats, estuarine, aquatic, and marine reptiles, game and non-game fish species, estuarine, aquatic and marine invertebrates, estuarine, aquatic and marine mammals, birds, shellfish and mollusks;

(g) To acquire additional title interests in lands wherever such acquisitions would serve to protect or enhance the biological, aesthetic, or scientific values of the preserves;

(h) To maintain those beneficial hydrologic and biologic functions, the benefits of which accrue to the public at large.

(4) Nothing in these rules shall serve to eliminate or alter the requirements or authority of other governmental agencies, including counties and municipalities, to protect or enhance the preserves provided that such requirements or authority are not inconsistent with the act and this chapter.

Specific Authority 120.53, 258.43(1) FS. Law Implemented 258.35, 258.36, 258.37, 258.39, 258.393 FS., Chapter 80-280, Laws of Florida. History—New 2-23-81, Amended 8-7-85, Formerly 16Q-20.01, 16Q-20.001, Amended 9-29-97.

18-20.002 Boundaries and Scope of the Preserves.

(1) These rules shall only apply to those sovereignty lands within a preserve described in Part II of Chapter 258, Florida Statutes, title to which is vested in the Board, and those other lands for which the Board has an appropriate instrument in writing, executed by the owner, authorizing the inclusion of specific lands in an aquatic preserve pursuant to Section 2(2) of Chapter 73-534, Laws of Florida, Sections 258.40(1) and 258.41(5), Florida Statutes, future aquatic preserves established through general or special acts of the legislature, and pursuant to Rule 18-20.008, Florida Administrative Code. Any publicly owned and maintained navigation channel authorized by the United States Congress, or other public works project authorized by the United States Congress, designed to improve or maintain commerce and navigation shall be deemed to be excluded from the provisions of this chapter, pursuant to subsection 258.40(2), Florida Statutes. Furthermore, all lands lost by avulsion or by artificially induced erosion shall be deemed excluded from the provisions of this chapter pursuant to subsection 258.40(3), Florida Statutes.

(2) These rules do not apply to Biscayne Bay Aquatic Preserve.

(3) These rules are promulgated to clarify the responsibilities of the Board in carrying out its land management functions as those functions apply within the preserves. Implementation and responsibility for environmental permitting of activities and water quality protection within the preserves are vested in the Department of Environmental Protection and the water management districts. Since these rules are considered cumulative with other rules, a person planning an activity within the preserves should also consult the other applicable rules of the Board (Chapter 18-21, Florida Administrative Code, for example) as well as the rules of the Department of Environmental Protection and the water management districts.

(4) These rules shall not affect previous actions of the Board concerning the issuance of any easement or lease; or any disclaimer concerning sovereignty lands.

(5) The intent and specific provisions expressed in paragraphs 18-20.001(3)(e) and (f), Florida Administrative Code, apply generally to all existing or future aquatic preserves within the scope of this chapter. Upon completion of a resource inventory and approval of a management plan for a preserve, pursuant to Rule 18-20.013, Florida Administrative Code, the type designation and the resource sought to be preserved may be readdressed by the Board.

(6) For the purpose of clarification and interpretation, the legal descriptions set forth in Part II of Chapter 258, Florida Statutes, do not include any land which is expressly recognized as privately owned upland in a pre-existing recorded mean high water line settlement agreement between the Board and a private owner or owners. Provided, however, in those instances wherein a settlement agreement was executed subsequent to the passage of the Florida Coastal Mapping Act, the determination of the mean high water line shall be in accordance with the provisions of such act.

(7) Persons interested in obtaining details of particular preserves should contact the Bureau of Coastal and Aquatic Managed Areas, Department of Environmental Protection, 3900 Commonwealth Blvd., Tallahassee, FL 32399 (telephone (850)488-3456).

Specific Authority 120.53, 258.43(1) FS. Law Implemented 258.39, 258.391, 258.392, 258.393, 258.40, 258.41, 258.42, 258.43, 258.44, 258.45 FS. History—New 2-23-81, Amended 8-7-85, Formerly 16Q-20.02, 16Q-20.002, Amended 9-29-97.

18-20.003 Definitions.

When used in these rules, the following words shall have the indicated meaning unless the context clearly indicates otherwise:

(1) “Act” means the provisions of Sections 258.35 through 258.46, Florida Statutes, the Florida Aquatic Preserve Act.

(2) “Activity” means any project and such other human action within the preserve requiring Board approval for the use, sale, lease or transfer of interest in sovereignty lands or materials, or which may require a permit from the Department of Environmental Protection.

(3) “Aesthetic values” means scenic characteristics or amenities of the preserve in its essentially natural state or condition, and the maintenance thereof.

(4) “Applicant” means any person making application for a permit, license, conveyance of an interest in state owned lands or any other necessary form of governmental approval in order to perform an activity within the preserve.

(5) “Application” means a joint application for an environmental resource permit/authorization to use state-owned submerged lands/federal dredge and fill permit or a joint application for wetland resource alterations (dredging or filling) in the waters of Florida.

(6) “Aquaculture” means the cultivation of animal or plant life in an aquatic environment.

(7) “Artificial reef” means any artificial or man-made material acceptable to the Department that is placed on sovereign submerged land for the purpose of fish attraction, habitat creation, enhancement, or restoration.

(8) “Authorization” means the permission granted by the Board for a person to construct a facility or to carry out an activity on sovereign submerged lands.

(9) “Avulsion” means the sudden or perceptible loss of or addition to land by the action of water or the sudden or perceptible change in the bed of a lake or the course of a stream.

(10) “Beneficial biological functions” means interactions between flora, fauna and physical or chemical attributes of the environment, which provide benefits that accrue to the public at large, including, but not limited to: nutrient, pesticide and heavy metal uptake; sediment retention; nutrient conversion to biomass; nutrient recycling and oxygenation.

(11) "Beneficial hydrological functions" means interactions between flora, fauna and physical geological or geographical attributes of the environment, which provide benefits that accrue to the public at large, including, but not limited to: retardation of storm water flow; storm water retention; and water storage, and periodical release.

(12) "Biological values" means the preservation and promotion of indigenous life forms and habitats including, but not limited to: sponges, soft corals, hard corals, submerged grasses, mangroves, saltwater marshes, fresh water marshes, mud flats, marine, estuarine, and aquatic reptiles, game and non-game fish species, marine, estuarine, and aquatic mammals, marine, estuarine, and aquatic invertebrates, birds and shellfish.

(13) "Board" means the Governor and Cabinet sitting as the Board of Trustees of the Internal Improvement Trust Fund. The Department and water management districts serve as staff to the Board and are delegated authority to carry out functions of the Board as specified in Rule 18-21.0051, Florida Administrative Code.

(14) "Bulkhead" means a vertical structure separating land and water areas primarily designed to resist earth pressure.

(15) "Channel" means a trench, the bottom of which is normally covered entirely by water, with the upper edges of its sides normally below water.

(16) "Commercial, industrial and other revenue generating/income related docks" means docking facilities for an activity which produces income, through rental or any other means, or which serves as an accessory facility to other rental, commercial or industrial operations. It shall include, but not be limited to docking for: marinas, restaurants, hotels, motels, commercial fishing, shipping, boat or ship construction, repair, and sales.

(17) "Department" means the State of Florida Department of Environmental Protection or any of its predecessor agencies.

(18) "Division" means the Division of Marine Resources and its Bureau of Coastal and Aquatic Managed Areas.

(19) "Dock" means a fixed or floating structure, including moorings, used for the purpose of berthing buoyant vessels either temporarily or indefinitely.

(20) "Dredging" means mechanical or other methods used to remove sovereign submerged land.

(21) "Easement" means a nonpossessory interest in state lands created by a grant from or agreement with the Board that confers upon the recipient the limited nonexclusive right and privilege to use such lands for a specific purpose and for a specific time.

(22) "Energy production" means the exploration for, and extraction of, hydrocarbons, including necessary transmission through pipelines, or the water oriented activities related to the generation of electricity.

(23) "Erosion" means the gradual and imperceptible wearing away of riparian or littoral land due to natural causes. Artificial erosion refers to erosion caused by man-made projects and operations.

(24) "Essentially natural condition" means those functions which support the continued existence or encourage the restoration of the diverse population of indigenous life forms and habitats to the extent they existed prior to the significant development adjacent to and within the preserve.

(25) "Extreme hardship" means a significant burden, unique to the applicant and not shared by property owners in the area. Self-imposed circumstances caused to any degree by actions of any person subsequent to the enactment of the Act shall not be construed as an extreme hardship. Extreme hardship under this act shall not be construed to include any hardship which arises in whole or in part from the effect of other federal, state or local laws, ordinances, rules or regulations. The term may be inherent in public projects which are shown to be a public necessity.

(26) "Facility" means any boat ramp, covered slip, pier, dock, piling, marina or other structure which preempts sovereign submerged land.

(27) "Fill" means materials from any source, deposited by any means onto sovereignty lands, either for the purpose of creating new uplands or for any other purpose, including spoiling of dredged materials. For the purpose of this rule, the placement of pilings or riprap shall not be considered to be filling.

(28) "Lease" means a conveyance of interest in lands, title to which is vested in the Board, granted in accordance with specific terms set forth in writing.

(29) "Main access dock" means that walkway which connects a riparian owner's property to a terminal platform.

(30) "Maintenance dredging" means mechanical or other methods used to remove sovereign submerged land in existing channels where navigation by vessels presently occurs. For the purpose of this rule, requests to dredge previously dredged areas that have regained their former natural characteristics due to lack of use, lack of upkeep, or other factors or requests to change the design specification of previously dredged areas shall not be considered as maintenance dredging but shall be considered new dredging.

(31) "Mangrove" means any specimen of the species *Avicennia germinans* (black mangrove), *Laguncularia racemosa* (white mangrove), or *Rhizophora mangle* (red mangrove).

(32) "Marina" means a small craft harbor complex used primarily for recreation.

(33) "Mean high water line" means the intersection of the tidal plane of mean high water with the shore as determined in accordance with Chapter 177 Part II, Florida Statutes, and Chapter 18-11, Florida Administrative Code.

(34) "Mean sea level" means a tidal datum constituting the arithmetic mean of the hourly water elevations observed over a 19-year cycle (the National Tidal Datum Epoch).

(35) "Mitigation" means an action, series of actions, or activity that will offset adverse impacts to sovereign submerged lands. Cash payments shall not be considered mitigation unless payments are specified for use in a previously identified, Department endorsed, environmental or restoration project and the payments initiate a restoration project or supplement an ongoing restoration project.

(36) "Natural characteristics" means topographic features conforming to the usual or ordinary course of nature.

(37) "Negative environmental impact" means an unfavorable effect or damage to the natural resources, aesthetics, or scientific value of an aquatic preserve.

(38) "Oil and gas transportation facilities" means those structures necessary for the movement of oil and gas from the production site to the consumer.

(39) "Ordinary high water line (OHWL)" means the boundary between sovereign submerged lands and the adjacent uplands along nontidal waterbodies.

(40) "Person" means any individual, corporation, partnership, firm, association, joint venture, estate, trust, business trust, syndicate, fiduciary, commission, county, municipality or political subdivision of a state, any interstate body, the federal government, or any subdivision thereof and all other groups or combinations, whether public or private.

(41) "Pier" means a structure in, on, or over sovereignty lands, which is used by the public primarily for fishing or swimming. A pier shall not include a dock.

(42) "Preempted area" means the area of sovereign submerged lands from which traditional public uses have been or would be excluded to any extent by an activity, such as the area occupied by the docks and other structures; swimming areas set apart by buoys, ropes or similar structures; temporary or permanent mooring areas; the area between the docks and shoreline; and the docking facility's turning basin used predominantly by vessels mooring at a dock. If the activity or facility is required to be moved waterward to avoid dredging or disturbing nearshore habitat, a portion of the nearshore area may be excluded from the preempted area if otherwise reasonably accessible to the public.

(43) "Preserve or Aquatic Preserve" means any and all of those areas which are exceptional areas of sovereignty lands and the associated water body so designated in Part II of Chapter 258, Florida Statutes, including all sovereignty lands, title to which is vested in the Board, and such other lands as the Board may acquire or approve for inclusion by the Legislature. These areas also include the water column over such lands, which have been set aside to be maintained in an essentially natural or existing condition of indigenous flora and fauna and their supporting habitat and the natural scenic qualities and amenities thereof.

(44) "Private residential single-family dock" means a dock which is used for private, recreational or leisure purposes for a single-family residence, cottage or other such single dwelling unit and which is designed to moor no more than two boats. This also includes docks, with mooring of no more than a total of four boats, located on property lines between two upland single-family residences, where the dock is shared for use by both upland, single-family residences.

(45) "Private residential multi-slip dock" means a docking facility which is used for private recreational or leisure purposes for multi-unit residential dwellings which shall include but is not limited to condominiums, townhouses, subdivisions and other such dwellings or residential areas and which is designed to moor three or more boats. Yacht clubs associated with residential developments, whose memberships or utilization of the docking facility requires some real property interest in the residential area, shall also be included.

(46) "Public interest" means demonstrable environmental, social, and economic benefits which would accrue to the public at large as a result of a proposed action, and which would clearly exceed all demonstrable environmental, social, and economic costs of the proposed action. In determining the public interest in a request for use, sale, lease, or transfer of interest in sovereignty lands or severance of materials from sovereignty lands, the Board shall consider the ultimate project and purpose to be served by said use, sale, lease, or transfer of lands or materials.

(47) "Public land" means any land in which a public entity has a title interest.

(48) "Public navigation project" means a project primarily for the purpose of navigation which is authorized and funded by the United States Congress or by port authorities as defined by Section 315.02(2), Florida Statutes.

(49) "Public necessity" means the works or improvements required for the protection of the health and safety of the public, consistent with the Act and these rules, for which no other reasonable alternative exists.

(50) "Public utilities" means those services, provided by persons regulated by the Public Service Commission, or which are provided by rural cooperatives, municipalities, or other governmental agencies, including electricity, telephone, public water and wastewater services, and structures necessary for the provision of these services.

(51) "Quality of the preserve" means the degree of the biological, aesthetic and scientific values of the preserve necessary for present and future enjoyment of it in an essentially natural condition.

(52) "Repair" means activities undertaken to maintain existing structures in a safely useable and functional condition without modifying the dimensions or footprint of the original structure.

(53) "Resource management agreement" means a contractual agreement between the Board and one or more parties which does not create an interest in real property but merely authorizes the party to conduct certain management activities on lands held by the Board.

(54) “Resource Protection Area (RPA) 1” – Areas within the aquatic preserves which have resources of the highest quality and condition for that area. These resources may include, but are not limited to corals; marine grassbeds; mangrove swamps; salt-water marsh; oyster bars; archaeological and historical sites; endangered or threatened species habitat; and, colonial water bird nesting sites.

(55) “Resource Protection Area 2” – Areas within the aquatic preserves which are in transition with either declining resource protection area 1 resources or new pioneering resources within resource protection area 3.

(56) “Resource Protection Area 3” – Areas within the aquatic preserve that are characterized by the absence of any significant natural resource attributes.

(57) “Riparian rights” means those rights incident to lands bordering upon navigable waters, as recognized by the courts of this state and common law.

(58) “Riprap” means a man-made aggregation of unconsolidated boulders, rocks, or clean rubble designed to break the force of waves and to protect the shore from erosion. The materials used shall not contain any dangerous protrusions.

(59) “Sale” means a conveyance of interest in lands, by the Board, for consideration.

(60) “Scientific values” means the preservation and promotion of certain qualities or features which have scientific significance.

(61) “Seawall” means a vertical structure built along a portion of a coast, retaining earth against its landward face and designed to prevent erosion and other damage by wave action.

(62) “Shoreline” means the mean or ordinary high water line.

(63) “Shore protection structure” means a type of coastal construction designed to minimize the rate of erosion. Coastal construction includes any work or activity which is likely to have a material physical effect on existing coastal conditions or natural shore processes.

(64) “Slip” or “wet slip” means an area of the water column above sovereign submerged lands specifically set aside for the mooring of a single vessel associated with a docking facility.

(65) “Sovereignty lands” means those lands including, but not limited to: tidal lands, islands, sandbars, shallow banks, and lands waterward of the ordinary or mean high water line, to which the State of Florida acquired title on March 3, 1845, by virtue of statehood, and of which it has not since divested its title interest. For the purposes of this rule sovereignty lands shall include all submerged lands within the boundaries of the preserve, title to which is held by the Board.

(66) “Spoil” means materials dredged from sovereignty lands which are redeposited or discarded by any means, onto either sovereignty lands or uplands.

(67) “Terminal platform” means that part of a dock or pier, including finger piers, that is connected to the access walkway, is located at the terminus of the facility, and is designed to secure and load or unload a vessel or conduct other water dependent activities.

(68) “Transfer” means the act of the Board by which any interest in lands, including easements, other than sale or lease, is conveyed.

(69) “Turning basin” means the area of sovereign submerged land which is required to maneuver a vessel into or out of a facility.

(70) “Uplands” means those lands above the mean high water line or ordinary high water line.

(71) “Utility of the preserve” means fitness of the preserve for the present and future enjoyment of its biological, aesthetic and scientific values, in an essentially natural condition.

(72) “Water dependent activity” means an activity which can only be conducted on, in, over, or adjacent to, water areas because the activity requires direct access to the water body or sovereignty lands for transportation, recreation, energy production or transmission, or source of water and where the use of the water or sovereignty lands is an integral part of the activity.

(73) “Water Management Districts” means the water management districts described in Chapter 373, Florida Statutes.

Specific Authority 258.43(1) FS. Law Implemented 258.37, 258.43(1) FS. History—New 2-25-81, Amended 8-7-85, Formerly 16Q-20.03, 16Q-20.003, Amended 4-27-94, 9-29-97.

18-20.004 Management Policies, Standards and Criteria.

The following management policies, standards and criteria are supplemental to Chapter 18-21, Florida Administrative Code (Sovereignty Submerged Lands Management) and shall be used in determining whether to approve, approve with conditions or modifications, or deny all requests for activities on sovereignty lands in aquatic preserves.

(1) GENERAL PROPRIETARY.

(a) In determining whether to approve or deny any request the Board will evaluate each on a case-by-case basis and weigh any factors relevant under Chapter 253 and/or 258, Florida Statutes. The Board, acting as Trustees for all state-owned lands, reserves the right to approve, modify or reject any proposal.

(b) There shall be no further sale, lease or transfer of sovereignty lands except when such sale, lease or transfer is in the public interest (see subsection 18-20.004(2), Florida Administrative Code Public Interest Assessment Criteria).

(c) There shall be no construction of seawalls waterward of the mean or ordinary high water line, or filling waterward of the mean or ordinary high water line, except in the case of public road and bridge projects where no reasonable alternative exists and except as provided in Section 258.42(3)(e)4., Florida Statutes.

(d) There shall, in no case, be any dredging waterward of the mean or ordinary high water line for the sole or primary purpose of providing fill for any area landward of the mean or ordinary high water line.

(e) A lease, easement or consent of use may be authorized only for the following activities:

1. A public navigation project;
2. Maintenance of an existing navigational channel;
3. Installation or maintenance of approved navigational aids;
4. Creation or maintenance of a commercial/industrial dock, pier or a marina;
5. Creation or maintenance of private docking facilities for reasonable ingress and egress of riparian owners;
6. Minimum dredging for navigation channels attendant to docking facilities;
7. Creation or maintenance of a shore protection structure, except that restoration of a seawall or riprap at its previous location, upland of its previous location, or within one foot waterward of its previous location is hereby exempted from any requirement to make application for consent of use;
8. Installation or maintenance of oil and gas transportation facilities;
9. Creation, maintenance, replacement or expansion of facilities required for the provision of public utilities; and
10. Other activities which are a public necessity or which are necessary to enhance the quality or utility of the preserve and which are consistent with the act and this chapter.

(f) For activities listed in paragraphs 18-20.004(1)(e)1.-10., Florida Administrative Code above, the activity shall be designed so that the structure or structures to be built in, on or over sovereignty lands are limited to structures necessary to conduct water dependent activities.

(g) For activities listed in subparagraphs 18-20.004(1)(e)7., 8., 9. and 10., Florida Administrative Code above, it must be demonstrated that no other reasonable alternative exists which would allow the proposed activity to be constructed or undertaken outside the preserve.

(h) The use of state-owned lands for the purpose of providing private or public road access to islands where such access did not previously exist shall be prohibited. The use of state-owned lands for the purpose of providing private or public water supply to islands where such water supply did not previously exist shall be prohibited.

(i) Except for public navigation projects and maintenance dredging for existing channels and basins, any areas dredged to improve or create navigational access shall be incorporated into the preempted area of any required lease or be subject to the payment of a negotiated private easement fee.

(j) All private residential multi-slip docking facilities and commercial, industrial and other revenue generating/income related docking facilities require a lease from the Board in accordance with the application procedures and fees of Chapter 18-21, Florida Administrative Code.

(k) Aquaculture and beach renourishment activities which comply with the standards of this chapter and Chapter 18-21, Florida Administrative Code, may be approved by the Board, but only subsequent to a formal finding of compatibility with the purposes of Chapter 258, Florida Statutes, and this rule chapter.

(l) Other uses of the preserve, or human activity within the preserve, although not originally contemplated, may be approved by the Board, but only subsequent to a formal finding of compatibility with the purposes of Chapter 258, Florida Statutes, and this rule chapter.

(2) PUBLIC INTEREST ASSESSMENT CRITERIA.

In evaluating requests for the sale, lease or transfer of interest, a balancing test will be utilized to determine whether the social, economic and/or environmental benefits clearly exceed the costs.

(a) GENERAL BENEFIT/COST CRITERIA:

1. Any benefits that are balanced against the costs of a particular project shall be related to the affected aquatic preserve;
2. In evaluating the benefits and costs of each request, specific consideration and weight shall be given to the quality and nature of the specific aquatic preserve. Projects in the less developed, more pristine aquatic preserves such as Apalachicola Bay shall be subject to a higher standard than the more developed preserves; and,
3. For projects in aquatic preserves with adopted management plans, consistency with the management plan will be weighed heavily when determining whether the project is in the public interest.

(b) BENEFIT CATEGORIES:

1. Public access (public boat ramps, boatslips, etc.);
2. Provide boating and marina services (repair, pumpout, etc.);
3. Improve and enhance public health, safety, welfare, and law enforcement;
4. Improved public land management;
5. Improve and enhance public navigation;
6. Improve and enhance water quality;
7. Enhancement/restoration of natural habitat and functions; and
8. Improve/protect endangered/threatened/unique species.

(c) COSTS:

1. Reduced/degraded water quality;
2. Reduced/degraded natural habitat and function;
3. Destruction, harm or harassment of endangered or threatened species and habitat;
4. Preemption of public use;
5. Increasing navigational hazards and congestion;
6. Reduced/degraded aesthetics; and
7. Adverse cumulative impacts.

(d) EXAMPLES OF SPECIFIC BENEFITS:

1. Donation of land, conservation easements, restrictive covenants or other title interests in or contiguous to the aquatic preserve which will protect or enhance the aquatic preserve;
2. Providing access or facilities for public land management activities;
3. Providing public access easements and/or facilities, such as beach access, boat ramps, etc.;
4. Restoration/enhancement of altered habitat or natural functions, such as conversion of vertical bulkheads to riprap and/or vegetation for shoreline stabilization or re-establishment of shoreline or submerged vegetation;
5. Improving fishery habitat through the establishment of artificial reefs or other such projects, where appropriate;
6. Providing sewage pumpout facilities where normally not required, in particular, facilities open to the general public;
7. Improvements to water quality such as removal of toxic sediments, increased flushing and circulation, etc.;
8. Providing upland dry storage as an alternative to wet slip; and
9. Marking navigation channels to avoid disruption of shallow water habitats.

(3) RESOURCE MANAGEMENT.

(a) All proposed activities in aquatic preserves having management plans adopted by the Board must demonstrate that such activities are consistent with the management plan.

(b) No drilling of oil, gas or other such wells shall be allowed.

(c) Utility cables, pipes and other such structures shall be constructed and located in a manner that will cause minimal disturbance to submerged land resources such as oyster bars and submerged grass beds and do not interfere with traditional public uses.

(d) Spoil disposal within the preserves shall be strongly discouraged and may be approved only where the applicant has demonstrated that there is no other reasonable alternative and that activity may be beneficial to, or at a minimum, not harmful to the quality and utility of the preserve.

(4) RIPARIAN RIGHTS.

(a) None of the provisions of this rule shall be implemented in a manner that would unreasonably infringe upon the traditional, common law and statutory riparian rights of upland riparian property owners adjacent to sovereignty lands.

(b) The evaluation and determination of the reasonable riparian rights of ingress and egress for private, residential multi-slip docks shall be based upon the number of linear feet of riparian shoreline.

(c) For the purpose of this rule, a private residential, single-family docking facility which meets all the requirements of subsection 18-20.004(5), Florida Administrative Code, shall be deemed to meet the public interest requirements of paragraph 18-20.004(1)(b), Florida Administrative Code. However, the applicants for such docking facilities must apply for such consent and must meet all of the requirements and standards of this rule chapter.

(5) STANDARDS AND CRITERIA FOR DOCKING FACILITIES.

(a) All docking facilities, whether for private residential single-family docks, private residential multi-slip docks, or commercial, industrial, or other revenue generating/income related docks or public docks or piers, shall be subject to all of the following standards and criteria.

1. No dock shall extend waterward of the mean or ordinary high water line more than 500 feet or 20 percent of the width of the waterbody at that particular location, whichever is less.

2. Certain docks fall within areas of significant biological, scientific, historic or aesthetic value and require special management considerations. The Board shall require design modifications based on site specific conditions to minimize adverse impacts to these resources, such as relocating docks to avoid vegetation or altering configurations to minimize shading.

3. Docking facilities shall be designed to ensure that vessel use will not cause harm to site specific resources. The design shall consider the number, lengths, drafts and types of vessels allowed to use the facility.

4. In a Resource Protection Area 1 or 2, any wood planking used to construct the walkway surface of a facility shall be no more than eight inches wide and spaced no less than one-half inch apart after shrinkage. Walkway surfaces constructed of material other than wood shall be designed to provide light penetration which meets or exceeds the light penetration provided by wood construction.

5. In a Resource Protection Area 1 or 2, the main access dock shall be elevated a minimum of five (5) feet above mean or ordinary high water.

6. Existing docking facilities constructed in conformance with previously applicable rules of the Board and in conformance with applicable rules of the Department are authorized to be maintained for continued use subject to the current requirements of Chapter 18-21, Florida Administrative Code. Should more than 50 percent of a nonconforming structure fall into a state of disrepair or be destroyed as a result of any natural or manmade force, the entire structure shall be brought into full compliance with the current rules of the Board. This shall not be construed to prevent routine repair.

(b) Private residential single-family docks shall conform to all of the following specific design standards and criteria.

1. Any main access dock shall be limited to a maximum width of four (4) feet.

2. The dock decking design and construction will ensure maximum light penetration, with full consideration of safety and practicality.

3. The dock will extend out from the shoreline no further than to a maximum depth of minus four (- 4) feet (mean low water).

4. When the water depth is minus four (- 4) feet (mean low water) at an existing bulkhead the maximum dock length from the bulkhead shall be 25 feet, subject to modifications accommodating shoreline vegetation overhang.

5. Wave break devices, when requested by the applicant, shall be designed to allow for maximum water circulation and shall be built in such a manner as to be part of the dock structure.

6. Terminal platform size shall be no more than 160 square feet.

7. If a terminal platform terminates in a Resource Protection Area 1 or 2, the platform shall be elevated to a minimum height of five (5) feet above mean or ordinary high water. Up to 25 percent of the surface area of the terminal platform shall be authorized at a lower elevation to facilitate access between the terminal platform and the waters of the preserve or a vessel.

8. Docking facilities in a Resource Protection Area 1 or 2 shall only be authorized in locations having adequate existing water depths in the boat mooring, turning basin, access channels, and other such areas which will accommodate the proposed boat use in order to ensure that a minimum of one foot clearance is provided between the deepest draft of a vessel and the top of any submerged resources at mean or ordinary low water; and

9. Dredging to obtain navigable water depths in conjunction with private residential, single-family dock applications is strongly discouraged.

(c) Private residential multi-slip docks shall conform to all of the following specific design standards and criteria.

1. The area of sovereignty, submerged land preempted by the docking facility shall not exceed the square footage amounting to ten times the riparian waterfront footage of the affected waterbody of the applicant, or the square footage attendant to providing a single dock in accordance with the criteria for private residential single-family docks, whichever is greater. A conservation easement or other similar legally recorded use restriction must be placed on the riparian shoreline, used for the calculation of the 10:1 threshold, to conserve and protect shoreline resources and subordinate or waive any further riparian rights of ingress and egress for additional docking facilities.

2. Docking facilities and access channels shall be prohibited in a Resource Protection Area 1 or 2, except as allowed pursuant to subsection 258.42(3), Florida Statutes, while dredging in Resource Protection Area 3 shall be strongly discouraged.

3. Docking facilities shall not terminate in a Resource Protection Area 1 or 2; however, main access docks will be allowed to pass through a Resource Protection Area 1 or 2, to reach an acceptable Resource Protection Area 3, when reasonable assurances are provided that such crossing will generate no significant negative environmental impact.

4. Main access docks and connecting or cross walks shall not exceed six (6) feet in width.

5. Terminal platforms shall not exceed eight (8) feet in width.

6. Finger piers shall not exceed three (3) feet in width, and 25 feet in length.

7. If requested by the applicant, pilings may be used to provide adequate mooring capabilities.

8. The provisions of paragraph 18-20.004(5)(d), Florida Administrative Code, shall also apply to private residential multi-slip docks.

(d) Commercial, industrial and other revenue generating/income related docking facilities shall conform to all of the following specific design standards and criteria.

1. Docking facilities shall be authorized only in locations having adequate circulation and existing water depths in the boat mooring, turning basin, access channels, and other such areas which will accommodate the proposed boat use to ensure that a minimum of one foot clearance is provided between the deepest draft of a vessel and the bottom of the waterbody at mean or ordinary low water.

2. Docking facilities and access channels shall be prohibited in a Resource Protection Area 1 or 2, except as allowed pursuant to Sections 258.42(3), Florida Statutes; while dredging in Resource Protection Area 3 shall be strongly discouraged.

3. Docking facilities shall not terminate in Resource Protection Area 1 or 2; however, main access docks will be allowed to pass through Resource Protection Area 1 or 2, to reach an acceptable Resource Protection Area 3, when reasonable assurances are provided that such crossing will generate no significant negative environmental impact.

4. Docking facilities shall be sited to ensure that boat access routes avoid injury to marine grassbeds or other aquatic resources in the surrounding areas.

5. Expansion of existing facilities shall take precedence over approval of new facilities.

6. Use of upland dry storage shall take precedence over the creation of new wet slips.

7. Marinas shall not be sited within state designated manatee sanctuaries.

8. In any areas with known manatee concentrations, manatee awareness signs or informational displays shall be specified as part of a wetland resource or environmental resource permit for the facility.

(e) Alterations to the criteria in subsection 18-20.004(5), Florida Administrative Code, shall be authorized to accommodate persons with disabilities or to comply with Americans with Disabilities Act.

(6) MANAGEMENT AGREEMENTS.

The Board may enter into management agreements with local agencies for the administration and enforcement of standards and criteria for private residential single-family docks.

(7) In addition to the policies, standards and criteria delineated in subsections (1) through (6), the provisions of the following management plans apply to specific aquatic preserves and are incorporated herein by reference. Where regulatory criteria in Chapter 18-20, Florida Administrative Code, may differ with specific policies in the management plans listed herein, the general rule criteria shall prevail.

	Date Adopted
Alligator Harbor	September 23, 1986
Apalachicola Bay	January 22, 1992
Banana River	September 17, 1985
Cockroach Bay	April 21, 1987
Estero Bay	September 6, 1983
Charlotte Harbor (Cape Haze, Gasparilla Sound-Charlotte Harbor, Matlacha Pass and Pine Island Sound)	May 18, 1983
Coupon Bight	January 22, 1992
Ft. Pickens State Park	January 22, 1992
Guana River Marsh	December 17, 1991
Indian River-Malabar to Vero Beach	January 21, 1986
Indian River Lagoon (Vero Beach to Fort Pierce and Jensen Beach to Jupiter Inlet)	January 22, 1985
Lake Jackson	July 23, 1991
Lemon Bay	April 7, 1992
Lignumvitae Key	December 17, 1991
Loxahatchee River-Lake Worth Creek	June 12, 1984
Mosquito Lagoon	July 9, 1991
Nassau River-St. Johns River Marshes and Fort Clinch State Park	April 22, 1986
North Fork of the St. Lucie River	May 22, 1984
Oklawaha River	May 5, 1992
Pellicer Creek	July 9, 1991
Rocky Bayou	December 17, 1991
Rookery Bay (Cape Romano – Ten Thousand Islands)	June 28, 1988
St. Andrews Bay	May 14, 1991
St. Joseph Bay (Revised)	April 15, 1997
St. Martins Marsh	September 9, 1987
Terra Ceia	April 21, 1987
Tomoka Marsh	April 21, 1992
Wekiva River	August 25, 1987
Yellow River Marsh	September 12, 1991

Specific Authority 258.43(1) FS. Law Implemented 258.41, 258.42, 258.43(1), 258.44 FS. History—New 2-25-81, Amended 8-7-85, Formerly 16Q-20.04, 16Q-20.004, Amended 9-4-88, 3-6-94, 4-27-94, 6-12-97, 9-29-97, 5-27-99.

18-20.006 Cumulative Impacts.

In evaluating applications for activities within the preserves or which may impact the preserves, the Board recognizes that, while a particular alteration of the preserve may constitute a minor change, the cumulative effect of numerous such changes often results in major impairments to the resources of the preserve. Therefore, the particular site for which the activity is proposed shall be evaluated with the recognition that the activity may, in conjunction with other activities, adversely affect the preserve which is part of a complete and interrelated system. The impact of a proposed activity shall be considered in light of its cumulative impact on the preserve's natural system. The evaluation of an activity shall include:

(1) The number and extent of similar human actions within the preserve which have previously affected or are likely to affect the preserve;

- (2) The similar activities within the preserve which are currently under consideration by the department and the water management districts;
- (3) Direct and indirect effects upon the preserve and adjacent preserves, if applicable, which may reasonably be expected to result from the activity;
- (4) The extent to which the activity is consistent with management plans for the preserve, when developed;
- (5) The extent to which the activity is permissible within the preserve in accordance with comprehensive plans adopted by affected local governments, pursuant to Section 163.3161, Florida Statutes, and other applicable plans adopted by local, state, and federal governmental agencies;
- (6) The extent to which the loss of beneficial hydrologic and biologic functions would adversely impact the quality or utility of the preserve; and
- (7) The extent to which mitigation measures may compensate for adverse impacts.

Specific Authority 258.43(1) FS. Law Implemented 258.36, 258.43, 258.44 FS. History—New 2-25-81, Formerly 16Q-20.06, 16Q-20.006, Amended 9-29-97.

18-20.008 Inclusion of Lands, Title to Which Is Not Vested in the Board, in a Preserve.

- (1) Lands and water bottoms which are within designated aquatic preserve boundaries, or adjacent thereto and which are owned by other governmental agencies, may be included in an aquatic preserve upon specific authorization for inclusion by an appropriate instrument in writing executed by the agency.
- (2) Lands and water bottoms which are within designated aquatic preserve boundaries or adjacent thereto, and which are in private ownership, may be included in an aquatic preserve upon specific authorization for inclusion by an appropriate instrument in writing executed by the owner.
- (3) The appropriate instrument shall be either a dedication in perpetuity, or a lease. Such lease shall contain the following conditions:
 - (a) The term of the lease shall be for a minimum period of ten 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, and shall have the power to include such lands in any agreement for management of such lands.
 - (c) The Board shall pay no more than \$1 per year for any such lease.

Specific Authority 258.43(1) FS. Law Implemented 258.40, 258.41 FS. History—New 2-25-81, Formerly 16Q-20.08, 16Q-20.008.

18-20.009 Establishment or Expansion of Aquatic Preserves.

- (1) The Board may expand existing preserves or 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 expanded or new preserve is to be located, adopt a resolution formally setting aside such areas to be included in the system.
- (3) The resolution setting aside an aquatic preserve area shall include:
 - (a) A legal description of the area to be included. A map depicting the legal description shall also be attached.
 - (b) The designation of the type of aquatic preserve.
 - (c) A general statement of what is sought to be preserved.
 - (d) A statement that the area established as a preserve shall be subject to the management criteria and directives of this chapter.
 - (e) A directive to develop a natural resource inventory and a management plan for the area being established as an aquatic preserve.
- (4) Within 30 days of the designation and establishment of an aquatic preserve, the Board shall record in the public records of the county or counties in which the preserve is located a legal description of the preserve.

Specific Authority 258.43(1) FS. Law Implemented 258.41 FS. History—New 2-25-81, Formerly 16Q-20.09, 16Q-20.009.

18-20.010 Exchange of Lands.

The Board in its discretion may exchange lands for the benefit of the preserve, provided that:

- (1) In no case shall an exchange result in any land or water area being withdrawn from the preserve; and
- (2) Exchanges shall be in the public interest and shall maintain or enhance the quality or utility of the preserve.

Specific Authority 258.43(1) FS. Law Implemented 258.41(5), 258.42(1) FS. History—New 2-25-81, Formerly 16A-20.10, 16Q-20.010.

18-20.012 Protection of Indigenous Life Forms.

The taking of indigenous life forms for sale or commercial use is prohibited, except that this prohibition shall not extend to the commercial taking of fin fish, crustacea or mollusks, except as prohibited under applicable laws, rules or regulations. Members of the public may exercise their rights to fish, so long as not contrary to other statutory and regulatory provisions controlling such activities.

Specific Authority 258.43(1) FS. Law Implemented 258.43(1) FS. History—New 2-25-81, Formerly 16Q-20.12, 16Q-20.012.

18-20.013 Development of Resource Inventories and Management Plans for Preserves.

(1) The Board authorizes and directs the Division to develop a resource inventory and management plan for each preserve.

(2) The Division may perform the work to develop the inventories and plans, or may enter into agreements with other persons to perform the work. In either case, all work performed shall be subject to Board approval.

Specific Authority 258.43(1) FS. Law Implemented 253.03(7), 253.03(8) FS. History—New 2-25-81, Amended 8-7-85, Formerly 16Q-20.13, 16Q-20.013.

18-20.017 Lake Jackson Aquatic Preserve.

In addition to the provisions of Rules 18-20.001 through 18-20.016, Florida Administrative Code, except for those in subsection 18-20.004(5), Florida Administrative Code, the following requirements shall also apply to all proposed activities within the Lake Jackson Aquatic Preserve. If any provisions of this Rule are in conflict with any provisions of Rules 18-20.001 through 18-20.016, Florida Administrative Code or Part II of Chapter 258, Florida Statutes, the stronger provision for the protection or enhancement of the aquatic preserve shall prevail.

(1) No further sale, transfer or lease of sovereignty lands in the preserve shall be approved or consummated by the Board, except upon a showing of extreme hardship on the part of the applicant or when the Board shall determine such sale, transfer or lease to be in the public interest.

(2) No further dredging or filling of sovereignty lands of the preserve shall be approved or tolerated by the Board except:

(a) Minimum dredging and spoiling authorized under a valid wetland resource or environmental resource permit, as applicable, or an exemption under subsection 403.813(2), Florida Statutes, for public navigation projects or for preservation of the lake; and

(b) Such other alteration of physical conditions as may be necessary to enhance the quality or utility of the preserve.

(3) 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 Part II of Chapter 258, Florida Statutes.

(4) The Board shall not approve the relocations of bulkhead lines within the preserve.

(5) Notwithstanding other provisions of this act, the Board may, respecting lands lying within the Lake Jackson basin:

(a) Enter into agreements for and establish lines delineating sovereignty and privately owned lands;

(b) Enter into agreements for the exchange and exchange sovereignty lands for privately owned lands;

(c) Accept gifts of land within or contiguous to the preserve.

(6) All docking facilities shall be subject to all of the following standards and criteria:

(a) No docking facility shall extend waterward of the 81-foot N.G.V.D. contour elevation or otherwise create a navigational hazard by extending farther waterward than the existing line of neighboring docks.

(b) The size of terminal platforms shall not exceed 160 square feet. Terminal platforms are authorized to be fixed or floating. Fixed portions of terminal platforms shall be elevated at or above 89.2 feet N.G.V.D., except that not more than 25 percent of the surface area of the terminal platform may be at a lower elevation to facilitate access between the terminal platform and the waters of the preserve or a vessel. Terminal platforms shall not include covers and shall not be enclosed.

(c) Boat lifts are authorized to be a part of the docking facility.

(d) Mooring locations shall not include covers and shall not be enclosed.

(e) Main access docks shall be fixed (not floating) with a decking elevation at or above 89.2 feet N.G.V.D.

(f) Certain docks fall within areas of significant biological, scientific, historic or aesthetic value and require special management considerations. The Board shall require design modifications based on site specific conditions to minimize adverse impacts to these resources, such as relocating docks to avoid vegetation or altering configurations to minimize shading. Any wood planking used to construct the walkway surface of a facility shall be no more than eight inches wide and spaced no less than one-half inch apart after shrinkage. Walkway surfaces constructed of material other than wood shall be designed to provide light penetration which meets or exceeds the light penetration provided by wood construction.

(g) Wave break devices, when requested by the applicant, shall be designed to allow for maximum water circulation and shall be built in such a manner as to be part of the dock structure.

(h) Docking facilities shall be authorized only in locations having adequate circulation and existing water depths in the boat mooring, turning basin, access channels, and other such areas so as to accommodate boat use without causing bottom scouring or dredging.

(i) No dock shall extend waterward of the ordinary high water line more than 500 feet or 20 percent of the width of the waterbody at that particular location, whichever is less.

(j) When the local government has more stringent standards and criteria for docking facilities, the more stringent standards for the protection and enhancement of the aquatic preserve shall prevail.

(k) Docking facilities shall be designed to ensure that vessel use will not cause harm to site specific resources. The design shall consider the number, lengths, drafts and types of vessels allowed to use the facility.

(7) Private residential single-family docks shall conform to all of the following specific design standards and criteria.

(a) Main access docks shall be limited to a maximum width of four (4) feet.

(b) New dredging to obtain navigable water depths in conjunction with private residential, single-family docks is prohibited.

(8) Private residential multi-slip docks shall conform to all of the following specific design standards and criteria.

(a) The area of sovereignty, submerged land preempted by the docking facility shall not exceed the square footage amounting to ten times the riparian waterfront footage of the affected waterbody of the applicant, or the square footage attendant to providing a single dock in accordance with the criteria for private residential single-family docks, whichever is greater. A conservation easement or other similar legally recorded use restriction must be placed on the riparian shoreline, used for the calculation of the 10:1 threshold, to conserve and protect shoreline resources and subordinate or waive any further riparian rights of ingress and egress for additional docking facilities.

(b) Main access docks and connecting or cross walks shall not exceed six (6) feet in width.

(c) Terminal platforms shall not exceed eight (8) feet in width.

(d) Finger piers shall not exceed three (3) feet in width, and 25 feet in length.

(e) If requested by the applicant, pilings may be used to provide adequate mooring capabilities.

(f) The provisions of subsection 18-20.017(9), Florida Administrative Code, shall also apply to private residential multi-slip docks.

(9) Commercial, industrial and other revenue generating/income related docking facilities shall conform to the following specific design standards and criteria.

(a) Access channels shall be prohibited.

(b) Docking facilities shall be sited to ensure that boat access routes avoid injury to grassbeds or other aquatic resources in the surrounding areas.

(c) Expansion of existing facilities shall take precedence over approval of new facilities.

(d) Use of upland dry storage shall take precedence over the creation of new wet slips.

(e) The siting of new facilities within the preserve shall be secondary to the expansions of existing facilities within the preserve when such expansion is consistent with the other standards.

(f) The location of new facilities and expansion of existing facilities shall consider the use of upland dry storage as an alternative to multiple wet-slip docking.

(10) Alterations to the criteria in this section shall be authorized to accommodate persons with disabilities or to comply with the Americans with Disabilities Act.

(11) Existing docking facilities constructed in conformance with previously applicable rules of the Board and in conformance with applicable rules of the Department are authorized to be maintained for continued use subject to the current requirements of Chapter 18-21, Florida Administrative Code. Should more than 50 percent of a nonconforming structure fall into a state of disrepair or be destroyed as a result of any natural or manmade force, the entire structure shall be brought into full compliance with the current rules of the Board. This shall not be construed to prevent routine repair.

Specific Authority 258.42, 258.43(1) FS. Law Implemented 258.39(26), 258.42, 258.43(1), 258.44 FS. History—New 8-7-85, Formerly 16Q-20.17, 16Q-20.017, Amended 9-29-97.

18-20.019 Boca Ciega Bay and Pinellas County Aquatic Preserves.

The following rules, in addition to the provisions of Rules 18-20.001 through 18-20.016, Florida Administrative Code, except for subsection 18-20.004(5), Florida Administrative Code, apply in the Boca Ciega Bay and Pinellas County Aquatic Preserves in recognition of their highly developed, urban nature.

(1) No dock shall extend waterward of the mean or ordinary high water line more than 500 feet or 25 percent of the width of the waterbody at that particular location, whichever is less.

(2) When the local government has more stringent standards and criteria for docking facilities, the more stringent standards for the protection and enhancement of the aquatic preserve shall prevail.

(3) Certain docks fall within areas of significant biological, scientific, historic or aesthetic value and require special management considerations. The Board shall require design modifications based on site specific conditions to minimize adverse impacts to these resources, such as relocating docks to avoid vegetation or altering configurations to minimize shading. Any wood planking used to construct the walkway surface of a facility shall be no more than eight inches wide and spaced no less than one-half inch apart after shrinkage. Walkway surfaces constructed of material other than wood shall be designed to provide light penetration which meets or exceeds the light penetration provided by wood construction.

(4) In a Resource Protection Area 1 or 2, the main access dock shall be elevated a minimum of five (5) feet above mean sea level.

(5) If a terminal platform terminates in a Resource Protection Area 1 or 2, the platform shall be elevated to a minimum height of five (5) feet above mean sea level.

(6) Private residential single-family docks shall conform to all of the following specific design standards and criteria.

(a) Main access docks shall be limited to a maximum width of four (4) feet in a Resource Protection Area 1 or 2, and six (6) feet in a Resource Protection Area 3.

(b) Wave break devices, when requested by the applicant, shall be designed to allow for maximum water circulation and shall be built in such a manner as to be part of the dock structure.

(c) Dredging to obtain navigable water depths in conjunction with private residential, single-family docks is strongly discouraged.

(d) For those docking facilities terminating in a Resource Protection Area 1 or 2, a terminal platform shall not exceed a total of 100 square feet which may include a lower level platform of not more than 20 square feet to facilitate access between the terminal platform and the waters of the preserve or a vessel. Covered slips shall not be authorized.

(e) For those docking facilities terminating in a Resource Protection Area 3, a terminal platform shall not exceed a total of 250 square feet which may include a lower level platform of not more than 40 square feet to facilitate access between the terminal platform and the waters of the preserve or a vessel. Total coverage of sovereignty, submerged lands of the terminal platform, any lower level platform, and any covered slip shall not exceed 500 square feet.

(7) Private residential multi-slip docks shall conform to all of the following specific design standards and criteria.

(a) The area of sovereignty, submerged land preempted by the docking facility shall not exceed the square footage amounting to thirty times the riparian waterfront footage of the affected waterbody of the applicant, or the square footage attendant to providing a single dock in accordance with the criteria for private residential single-family docks, whichever is greater. A conservation easement or other similar legally recorded use restriction must be placed on the riparian shoreline, used for the calculation of the 30:1 threshold, to conserve and protect shoreline resources and subordinate or waive any further riparian rights of ingress and egress for additional docking facilities.

(b) Docking facilities shall not terminate in a Resource Protection Area 1 or 2; however, main access docks will be allowed to pass through a Resource Protection Area 1 or 2, to reach an acceptable Resource Protection Area 3, when reasonable assurances are provided that such crossing will generate no significant negative environmental impact.

(c) Docking facilities shall be authorized only in locations having adequate circulation and existing water depths in the boat mooring, turning basin, access channels, and other such areas which will accommodate the proposed boat use. This depth shall be a minimum of minus two (2) feet at mean or ordinary low water.

(d) In a Resource Protection Area 1 or 2, the main access docks and connecting or cross walks shall not exceed six (6) feet in width.

(e) If requested by the applicant, pilings may be used to provide adequate mooring capabilities.

(f) The provisions of paragraphs 18-20.019(8)(b) through (g), Florida Administrative Code, shall also apply to private residential multi-slip docks.

(8) Commercial, industrial and other revenue generating/income related docking facilities shall conform to all of the following specific design standards and criteria.

(a) Docking facilities shall be authorized only in locations having adequate circulation and existing water depths in the boat mooring, turning basin, access channels, and other such areas which will accommodate the proposed boat use. This depth shall be a minimum of minus three (3) feet at mean or ordinary low water.

(b) Access channels shall be prohibited.

(c) Docking facilities shall not terminate in a Resource Protection Area 1 or 2; however, main access docks will be allowed to pass through a Resource Protection Area 1 or 2, to reach an acceptable Resource Protection Area 3, when reasonable assurances are provided that such crossing will generate no significant negative environmental impact.

(d) The location of new facilities and expansion of existing facilities shall consider the use of upland dry storage as an alternative to multiple wet-slip docking.

(e) Docking facilities shall be designed to ensure that vessel use will not cause harm to site specific resources. The design shall consider the number, lengths, drafts and types of vessels allowed to use the facility.

(f) Marinas shall not be sited within state designated manatee sanctuaries.

(g) In any areas with known manatee concentrations, manatee awareness signs or informational displays shall be specified as part of a wetland resource or environmental resource permit for the facility.

(9) Alterations to the criteria in this section shall be authorized to accommodate persons with disabilities or to comply with the Americans with Disabilities Act.

(10) Private residential single-family docking facilities constructed prior to 9-29-97 in conformance with the permitting requirements of Pinellas County are hereby authorized to be maintained or rebuilt for continued use. Such structures are grandfathered for the purposes of reconstruction in the event of destruction or damage resulting from any natural or man-made force. Design alterations to such structures, however, must comply with the provisions of these rules.

(11) Private residential multi-slip and commercial, industrial, or other revenue generating/income-related docking facilities constructed prior to 9-29-97 in conformance with the permitting requirements of Pinellas County and any applicable requirements of the Department and the water management districts, and the rules of the Board are hereby authorized to be maintained or rebuilt for continued use. Those private residential multi-slip and commercial, industrial, or other revenue generating/income-related docking facilities constructed prior to 9-29-97 in conformance with the permitting requirements of Pinellas County but without the requisite approval of the Board and the Department shall be considered unauthorized structures unless the owner:

(a) Registers with the Department on or before May 1, 1998, by providing a copy of the permit issued by Pinellas County and a statement of intent to apply for a lease of lands preempted from public use by May 1, 1999;

(b) Submits a completed application for lease under Chapter 18-21, Florida Administrative Code, by May 1, 1999; and

(c) Pays standard lease fees, including lease fees in arrears from April 9, 1991 or the documented date of the commencement of construction, whichever is later. Lease fees shall be computed pursuant to subsection 18-21.011(1), Florida Administrative Code.

(12) Existing structures previously authorized by the Board or pursuant to subsections 18-20.019(10) or (11), Florida Administrative Code, are grandfathered for the purposes of reconstruction in the event of destruction or damage resulting from any natural or man-made force. Design alterations to such structures, however, must comply with the provisions of these rules. This shall not be construed to prevent routine repair.

Specific Authority 258.42, 258.43(1) FS. Law Implemented 258.39(27), 258.396, 258.42, 258.43(1), 258.44 FS. History—New 9-29-97.