

CHAPTER 19

AQUATIC PRESERVES

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19. AQUATIC PRESERVES

19-1 OVERVIEW

The aquatic preserve assessment process is charted in **Figure 19.1**. Aquatic preserves are the vested interest of and are established by the State of Florida, Board of Trustees through the Florida ***Aquatic Preserve Act of 1975 (Sections 258.35 through 258.46, Florida Statutes)***. Goals and policies of the Board of Trustees of the Internal Improvement Trust Fund for management of the aquatic preserves are defined in ***Chapter 18-20 of the Florida Administrative Code***. Administration of the preserves is, however, by the Florida Department of Environmental Protection (DEP).

Aquatic preserves are sovereign submerged lands that are established for the purpose of being preserved in an essentially natural or existing condition so that their exceptional aesthetic, biological, and scientific values may endure for the enjoyment of future generations. Most of the aquatic preserves are located along the coast and involve marine or estuarine environments with the exception of a few aquatic preserves which are located inland. Many of the aquatic preserves are associated with state or federal parks and refuges. All aquatic preserves are also considered Outstanding Florida Waters (***Part 2, Chapter 21***).

During the Efficient Transportation Decision Making (ETDM) Process, the proposed project is entered into the Environmental Screening Tool (EST) by the ETDM Coordinator (See the ***ETDM Planning and Programming Manual***). The Purpose and Need for the project is identified, and logical termini are located on a GIS based map. The Advance Notification (AN) package is distributed electronically as part of the Programming Screen on the EST (***Part 1, Chapter 3 Advance Notification***). A ***Final Programming Screen Summary Report*** is created before the project is advanced to PD&E and provides the Class of Action Determination for the project.

Aquatic Preserve information is provided in the Special Designations section of the ***Programming Screen Summary Report*** and includes the results of GIS analysis for the aquatic preserves using available GIS data and applicable maps. Environmental Technical Advisory Team (ETAT) comments and potential Degree of Effect determinations on the Special Designations issue may also be included in the report. The ***Programming Screen Summary Report*** should identify the proximity of the proposed action to any aquatic preserves and identify any potential impact to the resource.

It is the responsibility of the District to determine whether or not a project is located in one of the aquatic preserves. Districts can review information provided in the ***Programming Screen Summary Report*** as well as the list in ***Figure 19.2*** and the map shown in ***Figure 19.3***.

Documentation in the Aquatic Preserve section of the Type 2 Categorical Exclusion (CE) document (***Project Development Summary Report (PDSR)***), Environmental

Assessment (EA), Environmental Impact Statement (EIS), or State Environmental Impact Report (SEIR) will either be:

1. An assessment of the impacts including results of coordination with DEP,
or
2. A statement if the project has no impact.

Documentation in the Aquatic Preserve section should provide information addressing any ETAT commentary.

19-2 PROCEDURE

Once the Class of Action is determined (**Part 1, Chapter 2**), the procedures described herein are followed by the District. They include:

1. A determination of involvement with a designated aquatic preserve,
2. Coordination with DEP,
3. Documentation, and
4. **Section 4(f)** applicability.

19-2.1 Determination of Involvement

FDOT will determine the project's involvement with an aquatic preserve from information included in the **Final Programming Screen Summary Report**. A good starting point is to review ETAT comments and degree of effect determinations for the Special Designations issue in the **Final Programming Screen Summary Report**. It may be helpful to also review ETAT comments on other issues such as Wetlands and Water Quality and Quantity. Comments by DEP are especially important.

The Districts should review **Chapter 258 F.S.** and the map in **Figure 19.3** to determine if the project may affect an aquatic preserve. If further assistance is needed the District should contact the DEP.

19-2.2 Coordination with the Department of Environmental Protection

Once right-of-way requirements have been defined, aerials depicting alternatives with right-of-way located within the boundary of an aquatic preserve should be submitted to DEP for review and comment. They should be addressed to:

Director, Office of Coastal and Aquatic Managed Areas
Florida Department of Environmental Protection
3900 Commonwealth Blvd.
Mail Station 235
Tallahassee, FL 32399-3000

A letter requesting DEP response within a period of thirty (30) days should accompany the aerials. Any response received from DEP should be addressed in the Aquatic Preserve section of the Type 2 CE/**PDSR**, EA, EIS, or SEIR. For EAs and EISs, a copy of the DEP letter should be placed in the Appendix. In addition, discussion of coordination with DEP in the Comments and Coordination section should be consistent with the Aquatic Preserve section. For Type 2 CEs, the letter need only be referenced in the **PDSR** and included in the project file. For all document types ETAT commentary should be addressed in the document.

19-2.3 Documentation of Consultation and Coordination

19-2.3.1 Projects Involved In an Aquatic Preserve Without Impacts

For projects located in an aquatic preserve without impacts, the following standard statement will be included in the Type 2 CE/**PDSR**, EA, EIS or SEIR.

"This project is included in the (Name of Aquatic Preserve). After coordination with the Department of Environmental Protection, it has been determined that the project will not have an impact on the (Name of Aquatic Preserve)."

For EAs or EISs, the DEP letter should be included in the Appendix along with appropriate information in the Comments and Coordination section. For Type 2 CEs, the DEP letter should be referenced and placed in the project file.

19-2.3.2 Projects Involved In an Aquatic Preserve With Impacts

For projects in an aquatic preserve with involvement and impacts, the following areas should be assessed and included in the Type 2 CE/**PDSR**, EA, EIS or SEIR.

1. Identify aquatic preserve affected and location of that part of the project that may affect the aquatic preserve.
2. Discuss the extent of potential impacts.

3. Assess the impacts that the proposed project will have on the preserve.
4. Discuss why there is no practicable alternative to locating the project outside the preserve.
5. Identify all measures to minimize harm to the preserve.
6. Identify permits needed and appropriate permitting agencies.
7. Provide results of coordination with appropriate agencies having administrative jurisdiction over the preserve.

If a determination is made that a project will have no impact on an aquatic preserve after coordination with DEP, then the standard statement in **Section 19-2.3.1** should be provided in the Aquatic Preserve section of the Type 2 CE/**PDSR**, EA, EIS or SEIR.

19-2.4 Section 4(f) Applicability

Section 4(f) applies to the portions of aquatic preserves which are, in fact, being used, or designated on an approved land management plan for use as a park, recreational area, wildlife or waterfowl refuge, or for historic purposes. Further, **Section 4(f)** is not applicable unless specific land uses, as identified in **Section 4(f)**, exist on those portions of the land needed for highway purposes. See the **FHWA Guidance on Section 4(f) Applicability Exhibit 13.1** in **Part 2, Chapter 13** for more information on **Section 4(f)** applicability. Designation as an aquatic preserve does not in itself invoke **Section 4(f)** in the absence of specific **Section 4(f)** land use categories. Such land uses are often delineated in a preserve's management plan. Coordination with the official with jurisdiction is needed to prepare **Section 4(f)** documentation; however, the FHWA has sole responsibility for determining **Section 4(f)** applicability.

19-3 REFERENCES

1. Florida Aquatic Preserve Act of 1975, Sections 258.35 through 258.46.
2. Chapter 18-20, Florida Administrative Code.
3. The 1985 Florida Statutes.
4. The 2007 Florida Statutes.
5. Florida Department of Transportation. Efficient Transportation Decision Making (ETDM) Planning and Programming Manual.

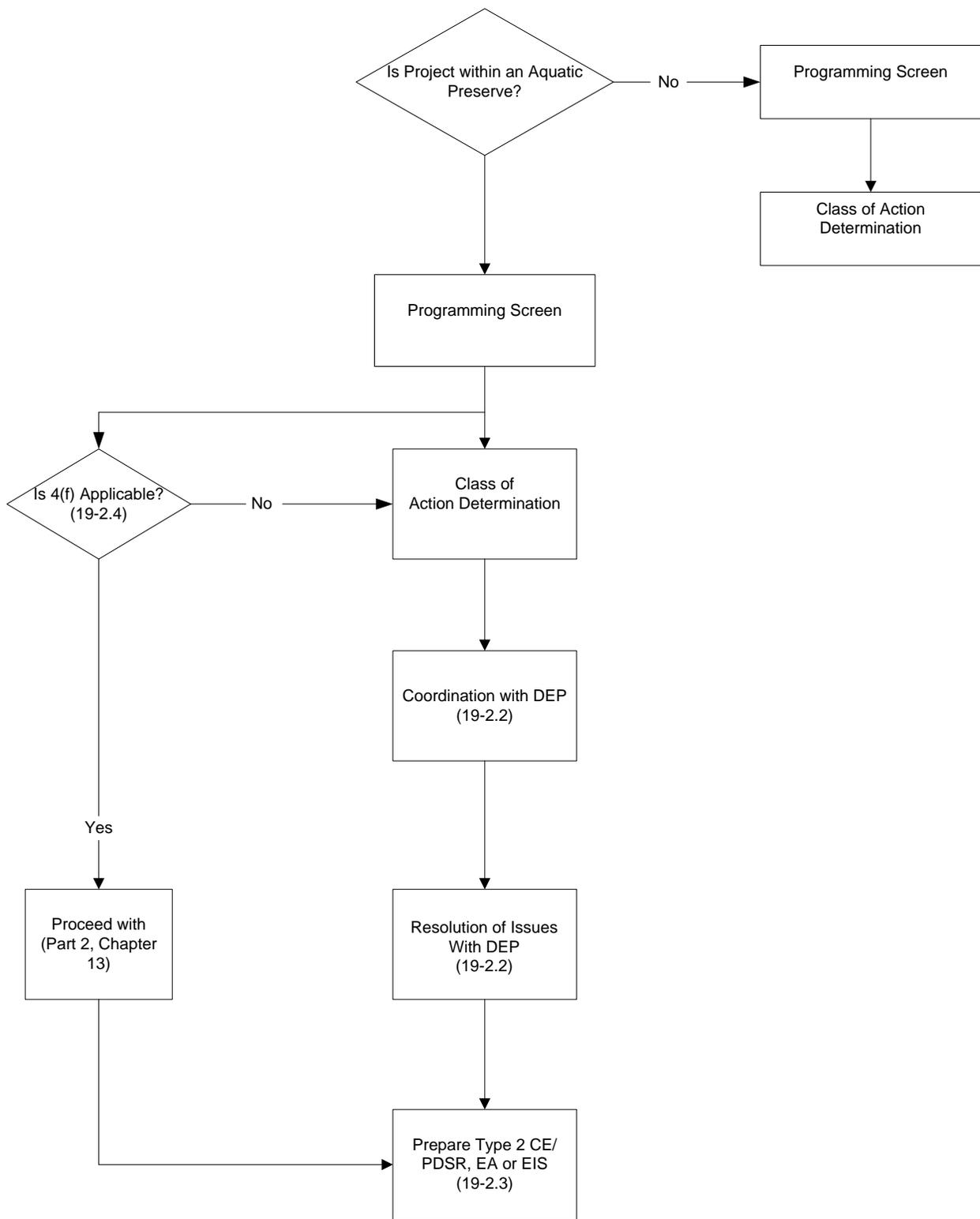


FIGURE 19.1 Aquatic Preserve Assessment Process

AQUATIC PRESERVES

1. FORT CLINCH STATE PARK
2. NASSAU RIVER - ST. JOHNS RIVER MARSHES
3. PELLICER CREEK
4. TOMOKA MARSH
5. MOSQUITO LAGOON
6. BANANA RIVER
7. INDIAN RIVER - MALABAR TO VERO BEACH
8. INDIAN RIVER - VERO BEACH TO FORT PIERCE
9. JENSEN BEACH TO JUPITER INLET
10. LOXAHATCHEE RIVER - LAKE WORTH CREEK
11. BISCAYNE BAY – CAPE FLORIDA TO MONROE COUNTY LINE
12. NORTH FORK: ST. LUCIE
13. YELLOW RIVER MARSH
14. FORT PICKENS STATE PARK
15. ROCKY BAYOU STATE PARK
16. ST. ANDREWS STATE PARK
17. ST. JOSEPH BAY
18. APALACHICOLA BAY
19. ALLIGATOR HARBOR
20. ST. MARTINS MARSH
21. MATLACHA PASS
22. PINE ISLAND SOUND
23. CAPE ROMANO - TEN THOUSAND ISLANDS
24. LIGNUMVITAE KEY
25. COUPON BIGHT
26. LAKE JACKSON
27. PINELLAS COUNTY
28. ESTERO BAY
29. CAPE HAZE
30. WEKIVA RIVER
31. ROOKERY BAY
32. COCKROACH BAY
33. GASPARILLA SOUND - CHARLOTTE HARBOR
34. TERRA CEIA
35. GUANA RIVER MARSH
36. BIG BEND SEAGRASSES
37. BOCA CIEGA
38. RAINBOW SPRINGS
39. LEMON BAY
40. OKLAWAHA RIVER

FIGURE 19.2 Aquatic Preserves

Florida's Coastal and Aquatic Managed Areas

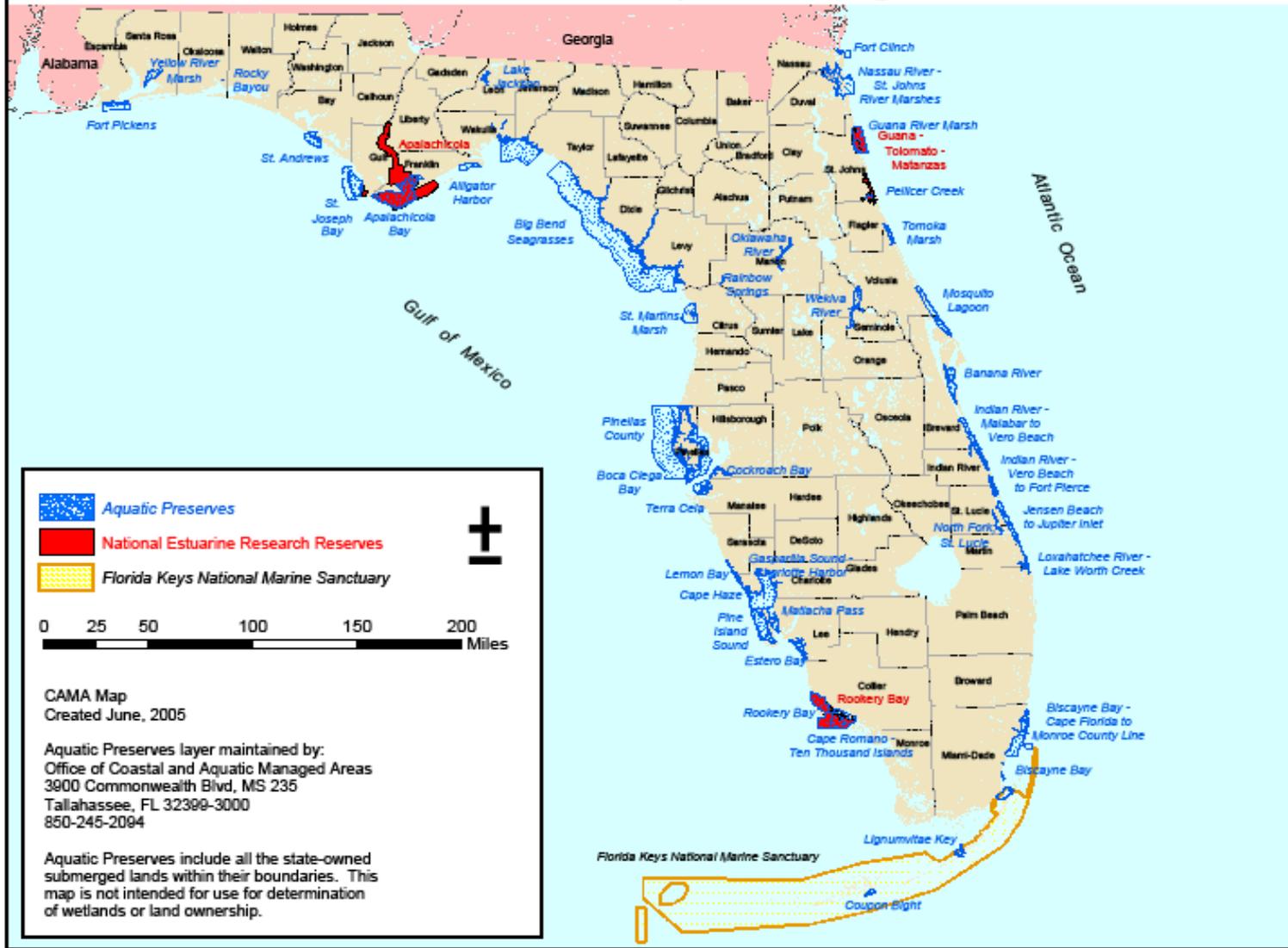


FIGURE 19.3 Location Map of Aquatic Preserves