

## LOUISIANA<sup>1</sup>

### State Authority for Marine Protection

#### Summary of State Authorities

Louisiana has a network of conservation lands that protect estuarine and coastal habitat, but only the state’s fisheries management tools are used to protect offshore marine areas under the state’s jurisdiction. The state’s Department of Wildlife and Fisheries creates and manages various coastal and estuarine areas that receive different degrees of protection, including Wildlife Management Areas and Refuges, Scenic Rivers, and the Lake Catherine and Lake Pontchartrain Sanctuary. The Office of State Parks also has authority to operate a state acquisition program for conservation lands. In marine waters seaward of the coast, the Department of Wildlife and Fisheries uses various fisheries management tools, including permitting and closures, to protect the marine environment.

	Wildlife Management Areas and Refuges	Louisiana Scenic Rivers Act	Lake Catherine and Lake Pontchartrain Sanctuary	State Parks and Preservation Areas	Fisheries Management, Sanctuaries and Closures
Legal requirement	Allows designation of wildlife management areas (WMAs)	Allows designation of “scenic rivers”	Statute establishing the Lake Catherine and Lake Pontchartrain Sanctuary	State acquisition program for conservation land	Allows restrictions for fisheries management
Citation <sup>2</sup>	LA. REV STAT. ANN. § 56:109 (1974), § 56:781 (1981)	LA. REV STAT. ANN. §§ 56:1840 <i>et seq.</i> (1988)	LA. REV STAT. ANN. § 56:804 (1999)	LA. REV STAT. ANN. § 56:1683 (1980)	LA. REV STAT. ANN. §§ 56:301 <i>et seq.</i> (1986), § 56:6, §56:6.1
Designation authority	Louisiana Wildlife and Fisheries Commission	Louisiana Department of Wildlife and Fisheries & by statute	Louisiana Department of Wildlife and Fisheries & by statute	Louisiana Department of Culture, Recreation and Tourism/Office of State Parks	Louisiana Wildlife and Fisheries Commission: Department of Wildlife and Fisheries
Management & enforcement authority	Louisiana Wildlife and Fisheries Commission; Department of Wildlife and Fisheries	Louisiana Department of Wildlife and Fisheries	Louisiana Department of Wildlife and Fisheries	Louisiana Department of Culture, Recreation and Tourism/Office of State Parks	Louisiana Department of Wildlife and Fisheries
Jurisdiction & boundaries	Statewide; on the coast, estuaries, coastal lands, beaches and dunes	Estuaries, coastal lands, beaches and dunes and riparian areas	Estuaries	Estuaries, coastal lands, beaches and dunes	All state waters

<sup>1</sup> This state chapter is part of a 23-state assessment of state and local authority for marine protection. It should be read in conjunction with the Executive Summary, Introduction and Methodology Chapters in order to fully understand the scope and approach. Other chapters are available at [www.eli-ocean.org/mpa](http://www.eli-ocean.org/mpa).

<sup>2</sup> The citation date provided is the earliest date of enactment and does not reflect subsequent amendments unless otherwise noted. The enactment date is meant to inform the reader of how long the protection authority has existed.

	Wildlife Management Areas and Refuges	Louisiana Scenic Rivers Act	Lake Catherine and Lake Pontchartrain Sanctuary	State Parks and Preservation Areas	Fisheries Management, Sanctuaries and Closures
Prohibited uses	Louisiana Wildlife and Fisheries Commission has authority to develop rules related to use	Channelization, clearing and snagging, reservoir construction, channel realignment, and commercial clearcutting of trees within 100'	Harvesting marine life with certain types of gear	Office of State Parks has authority to develop rules related to use	Louisiana Department of Wildlife and Fisheries has authority to develop rules related to use
Permitted uses	Louisiana Wildlife and Fisheries Commission has authority to develop rules related to use	None specified	Harvesting marine life with permissible gear	Recreational uses such as fishing and boating	None specified

Louisiana’s jurisdiction over its coastal waters extends three nautical miles seaward.<sup>3</sup> The state follows the public trust doctrine, and submerged lands beneath state water bodies are state property that must be managed in the public interest.<sup>4</sup>

In 2011, Louisiana passed Act 336, “which recognizes that the Louisiana gulfward boundary historically consists of three marine leagues [or nine nautical miles] and designates that boundary to be enforced by state law regarding the protection and restoration of coastal lands, waters and natural resources and regulation of activities affecting them.”<sup>5</sup> However, due to the general supremacy of federal law, the state’s marine jurisdiction will not be extended until the U.S. Congress acknowledges this newly declared boundary or any litigation from the Act is resolved and a non-appealable judgment is rendered.

### Wildlife Management Areas and Refuges

The Louisiana Department of Wildlife and Fisheries (“LDWF”) is authorized to designate lands owned or acquired by the state as Wildlife Management Areas (“WMAs”), public hunting grounds, and refuges, in order to regulate hunting in those areas.<sup>6</sup> The state’s WMAs and refuges constitute a significant portion of the state’s coastal land.<sup>7</sup> Statewide, LDWF manages over 1.6 million acres of habitat through its network of WMAs and refuges, and Louisiana has title to the majority of land in the WMAs and refuges along the coast. When this is not an option, the state will lease the land, as is done for parts of the Biloxi WMA.<sup>8</sup>

<sup>3</sup> See Submerged Lands Act of 1953, 43 U.S.C. §§ 1301–1315.

<sup>4</sup> LA. REV. STAT. ANN. § 41:1701 (1978).

<sup>5</sup> La. Dep’t of Wildlife & Fisheries, Louisiana Wildlife and Fisheries Commission Takes Action to Extend Louisiana State Waters (June 8, 2012), <http://www.wlf.louisiana.gov/news/35538>.

<sup>6</sup> LA. REV. STAT. ANN. §§ 56:109, 56:763, 56:781 (1970).

<sup>7</sup> La. Dep’t of Wildlife & Fisheries, Wildlife Management Areas, <http://www.wlf.louisiana.gov/wma/> (last visited Apr. 15, 2013).

<sup>8</sup> LA. REV. STAT. ANN. § 56:783.

Hunting is allowed in WMAs, but not in refuges. LDWF is not statutorily mandated to manage these areas for the benefit of nongame species. However, LDWF is authorized to do so through the promulgation of regulations for specific WMAs.<sup>9</sup>

For example, in the Isles Dernieres Barrier Islands Refuge, disturbing, injuring, or collecting any flora, fauna, or other property is prohibited, as is attempting any of these activities.<sup>10</sup> However, fishing from boats or wade fishing along the shore is permitted.

### Louisiana Scenic Rivers Act

The Louisiana Scenic Rivers Act allows the state to conserve rivers, streams, and bayous—including Gulf estuaries.<sup>11</sup> The Act guides the management of water bodies that the state legislature has officially designated as “scenic rivers.” LDWF may recommend expanding the scenic rivers system to include additional rivers in undeveloped areas. Additionally, LDWF is tasked with developing a management plan for each scenic river that protects and enhances its wilderness qualities, scenic beauty, and ecological regime.

In accordance with the management plan, LDWF has authority to regulate activities that may detrimentally affect scenic rivers, such as infrastructure projects, drilling, and construction of nearby buildings and piers. Some especially destructive activities are banned entirely, including channelization, snagging, and nearby timber clear-cuts.

### Lake Catherine and Lake Pontchartrain Sanctuary

Created by statute in 1999, the Lake Catherine and Lake Pontchartrain Sanctuary protects the estuarine waters of Lake Catherine and a portion of Lake Pontchartrain for the benefit of fish, shrimp, and other marine life.<sup>12</sup> LDWF’s Fish and Game Section, within the Wildlife and Fisheries Commission, administers the sanctuary. In the protected waters, special limits apply to the taking of seafood; for example, taking fish, shrimp and other seafood “by use of trawls, skimmer nets, butterfly nets, seines, or traps or other netting, with the exception of cast nets, drop nets, or scoop nets” is prohibited.<sup>13</sup> However, all other methods of taking marine life, including through the use of crab traps and spearing equipment, are authorized by statute.

### State Parks and Preservation Areas

The Office of State Parks (“OSP”), within the Louisiana Department of Culture, Recreation and Tourism, has authority to establish and operate Louisiana’s state parks and state preservation areas.<sup>14</sup> The state parks protect beaches, dunes, and wetlands. The legislature did not provide the OSP with a mandate to protect or restore habitat in state parks. Instead, the Office must assure that state parks are large enough to provide a “sufficient buffer to preserve the natural integrity of the area.”<sup>15</sup>

<sup>9</sup> LA. ADMIN. CODE tit. 76 §§ 3:101–3:333.

<sup>10</sup> *Id.* § 3:331.

<sup>11</sup> LA. REV STAT. ANN. §§ 56:1840 *et seq.* (1988).

<sup>12</sup> LA. REV STAT. ANN. § 56:804 (1999). Louisiana has created other wildlife sanctuaries by statute. *See id.* §§ 56:803 (Lake Pontchartrain State Bird Sanctuary), 56:799.1 *et seq.* (White Lake Wetland Conservation Area).

<sup>13</sup> *Id.* § 56:804(B).

<sup>14</sup> LA. REV STAT. ANN. § 56:1683 (1980).

<sup>15</sup> *Id.* § 56:1684(D)(1).

State parks “are natural areas which, when evaluated on a statewide basis, possess outstanding potential for recreation utilization. The natural area must possess outstanding scenic and natural qualities to provide a recreation opportunity of high quality in a natural setting.”<sup>16</sup>

In contrast, state preservation areas are defined as lands with exceptional scenic value that are “large enough to . . . [p]rovide an undisturbed habitat for native wildlife.”<sup>17</sup> State preservation areas could theoretically provide a higher degree of protection to marine areas than state parks, but there are currently no coastal state preservation areas.

Fishing is permitted in coastal waters bordering state parks. However, OSP regulations prohibit removing, damaging, disturbing, or destroying any OSP “property” in the terrestrial park (presumably including tidal land); OSP “property” is defined to include “natural features, cultural features[,] wildlife, and plants.”<sup>18</sup> The regulations additionally state that “[a]ll wildlife in OSP sites is under strict protection and must not be hunted, molested, disturbed, destroyed, fed or removed, except for scientific or management purposes when approved by the assistant secretary.”<sup>19</sup>

### Fisheries Management, Sanctuaries and Closures

Louisiana’s fish and shellfish harvest regulations create a comprehensive structure for licensing, fishery management, and enforcement.<sup>20</sup> The majority of fisheries management is carried out through permitting activities; every person that commercially harvests fish and shellfish in Louisiana and its marine waters must obtain a license from LDWF.<sup>21</sup>

LDWF’s Wildlife and Fisheries Commission is authorized to “set possession limits, quotas, places, seasons, times, size limits, and daily take limits.”<sup>22</sup> The Commission has broad discretion over the use of these management mechanisms, including determining penalties for violations. However, the Commission does not have rulemaking authority to regulate fishing gear, though the legislature has enacted statutory gear restrictions.<sup>23</sup>

The Commission uses its authority to issue area-based protections through fisheries closures. In addition to emergency closures,<sup>24</sup> the Commission may set aside, operate and maintain “hatcheries, sanctuaries, and propagating places for the protection and propagation of fish for maintaining the supply in those waters and for restocking same.”<sup>25</sup> Fishing within the closed areas “shall be restricted in any manner deemed advisable by the commission.”<sup>26</sup>

<sup>16</sup> *Id.* § 56:1684(D).

<sup>17</sup> *Id.* § 56:1684(A)(1)(c).

<sup>18</sup> LA. ADMIN. CODE tit. 25 § 9:303(B).

<sup>19</sup> *Id.* § 9:313(A).

<sup>20</sup> LA. REV STAT. ANN. §§ 56:301 *et seq.* (1986).

<sup>21</sup> *Id.* § 56:303.

<sup>22</sup> *Id.* § 56:326.3.

<sup>23</sup> *Id.* §§ 56:320–56:320.1.

<sup>24</sup> *Id.* § 56:6.1.

<sup>25</sup> *Id.* § 56:315.

<sup>26</sup> *Id.*

*Evaluation of State Authorities<sup>27</sup>*

FACTORS	Wildlife Management Areas and Refuges	Louisiana Scenic Rivers Act	Lake Catherine and Lake Pontchartrain Sanctuary	State Parks and Preservation Areas	Fisheries Management, Sanctuaries and Closures
<b>Legal Regime</b>	★★★★★ Regulatory	★★★★★ Regulatory	★★★★★ Regulatory	★★★★★ Regulatory	★★★★★ Regulatory
<b>Ocean Jurisdiction</b>	★★ Estuarine	★★ Estuarine	★★ Estuarine	★★ Estuarine	★★★★★ All marine waters
<b>Durability</b>	★★ Indeterminate	★★ Indeterminate	★★ Indeterminate	★★ Indeterminate	★★ Indeterminate
<b>Consistency</b>	★★★★ Authorizes year-round protection	★★ Indeterminate	★★★★★ Mandates year-round protection	★★★★ Authorizes year-round protection	★★★★ Authorizes year-round protection
<b>Habitat</b>	★★★★ Habitat protection goal	★★★★ Habitat protection goal	★★★★ Habitat protection goal	★★ Byproduct is habitat protection	★★ Byproduct is habitat protection
<b>Sector</b>	★★★★ Authorizes multi-sector protection	★★★★ Authorizes multi-sector protection	★ Authorizes single-sector protection	★★★★ Authorizes multi-sector protection	★ Authorizes single-sector protection
<b>Enforcement</b>	★ No MPA-specific enforcement	★★★★★ Grants LDWF authority to enforce chapter & arrest offenders or issue citations	★★★★★ Grants LDWF's Fish and Game Section authority to enforce chapter & arrest offenders or issue citations	★★★★★ Grants OSP authority to enforce chapter & arrest offenders or issue citations	★★★★★ Grants LDWF authority to enforce chapter & arrest offenders or issue citations
<b>Extent (Scope)</b>	★★★★★ Multi-site, potential expansion	★★★★★ Multi-site, potential expansion	★ Single-site, no expansion	★★★★★ Multi-site, potential expansion	★★★★★ Multi-site, potential expansion
<b>Process for designation or expansion</b>	★★ No MPA-specific public process	★★ No MPA-specific public process	★★ No MPA-specific public process	★★ No MPA-specific public process	★★ No MPA-specific public process

*Local Authority for Marine Protection*

**Summary of Local Authorities**

Local governments in Louisiana have two available mechanisms to protect estuarine and coastal areas. First, the Louisiana Department of Natural Resources is responsible for developing and administering a coastal management program that accords with the requirements of the federal Coastal Zone Management Act, and local governments may assume responsibility for managing their coastal zones by creating their own programs that follow the state rules. Local governments may also acquire land for conservation purposes.

<sup>27</sup> For an explanation of the evaluation matrix and criteria, please see the Introduction and Methodology Chapters.

	State and Local Coastal Resources Management Act	Land Acquisition
Legal requirement	Land use planning policies	Incentivizes land acquisition for habitat conservation
Citation <sup>28</sup>	LA. REV STAT. ANN. § 49:214.26 (1983)	n/a
Designation authority	Louisiana Department of Natural Resources	Local government
Management & enforcement authority	Local government	Local government
Jurisdiction & boundaries	Estuaries, coastal lands, beaches and dunes	Estuaries, coastal lands, beaches and dunes
Prohibited uses	Determined through permitting process	None specified
Permitted uses	None specified	None specified

### State and Local Coastal Resources Management Act

Under the State and Local Coastal Resources Management Act of 1978, the Office of Coastal Management, within the Louisiana Department of Natural Resources (“LDNR”), is responsible for developing and administering a coastal management program that accords with the requirements of the federal Coastal Zone Management Act.<sup>29</sup> This coastal management program must balance competing development and conservation goals; for instance, it must encourage the full use of coastal resources, while minimizing impacts on wildlife habitat.<sup>30</sup>

The Act allows local governments to assume responsibility for managing the coastal zone. Local governments may take responsibility for permitting activities that affect areas within their jurisdiction if the governments create coastal management programs that follow the state rules and conservation goals.<sup>31</sup> Ten of Louisiana’s 21 coastal parishes have approved coastal programs in place, while two more parishes are in the process of developing them.<sup>32</sup> LDNR and local governments share some management and enforcement authority.<sup>33</sup>

### Land Acquisition

Local governments also may be able to protect coastal marine habitat by using their authority to finance land acquisition. Several mechanisms to promote habitat conservation exist: general obligation bonds, annual mill rate allocation, sales tax districts, and parish-wide recreation districts.<sup>34</sup> From 1998 to 2008, only one local ballot initiative created a dedicated source of revenue for conservation—a \$45 million property tax initiative in East Baton Rouge Parish.<sup>35</sup>

<sup>28</sup> The citation date provided is the earliest date of enactment and does not reflect subsequent amendments unless otherwise noted. The enactment date is meant to inform the reader of how long the protection authority has existed.

<sup>29</sup> LA. REV STAT. ANN. § 49:214.26 (1983).

<sup>30</sup> *Id.* § 49:214.27.

<sup>31</sup> *Id.* § 49:214.28.

<sup>32</sup> La. Dep’t Natural Res., Local Coastal Programs, <http://dnr.louisiana.gov/index.cfm?md=pagebuilder&tmp=home&pid=111&pnid=192&nid=194> (last visited Apr. 15, 2013).

<sup>33</sup> LA. REV STAT. ANN. § 49:214.36.

<sup>34</sup> Conservation Almanac, Louisiana Profile of State Programs and Policy Framework, <http://www.conservationalmanac.org/secure/almanac/southeast/la/programs.html> (last visited Apr. 15, 2013).

<sup>35</sup> Conservation Almanac, Louisiana LandVote Data, <http://www.conservationalmanac.org/secure/almanac/southeast/la/lvdata.html> (last visited Apr. 16, 2013).

*Evaluation of Local Authorities*

FACTORS	State and Local Coastal Resources Management Act	Land Acquisition
Legal Regime	Planning <span>★★★★</span>	Incentive-based <span>★★★</span>
Ocean Jurisdiction	Beach, tidal only <span>★</span>	Beach, tidal only <span>★</span>
Durability	Indeterminate <span>★★★</span>	Indeterminate <span>★★★</span>
Consistency	Authorizes year-round protection <span>★★★★</span>	Indeterminate <span>★★★</span>
Habitat	Habitat protection goal <span>★★★★</span>	Habitat protection goal <span>★★★★</span>
Sector	Authorizes multi-sector protection <span>★★★★</span>	Indeterminate
Enforcement	No MPA-specific enforcement <span>★</span>	Voluntary, with assistance/ incentives
Extent (scope)	Shoreland-by-shoreland, local management <span>★</span>	Shoreland-by-shoreland, local management <span>★</span>
Process for expansion	No MPA-specific public process <span>★★★</span>	No MPA-specific public process <span>★★★</span>