

Imperiled Beach-nesting Bird Permitting Guidelines



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Outline

- Imperiled beach-nesting birds and their protections
- What are the Guidelines?
- Timeline and next steps



State Threatened Shorebirds & Seabirds

Two shorebirds:

- 1) American Oystercatcher
- 2) Snowy Plover



Two seabirds

- 1) Black Skimmer
- 2) Least Tern



State Threatened Shorebirds & Seabirds

Collectively:
“Beach-nesting birds”
or “Shorebirds”



Beach-Nesting Birds – Nesting



- Nest on beaches, barrier islands, spoil islands and oyster rakes.
- All species dig a “scrape” in the sand and lay eggs in the scrape.



Beach-Nesting Birds – Nesting

Seabirds nest in colonies



Shorebirds are solitary



Populations in decline

- Many challenges to nesting on the beach:
 - Disturbance
 - Predators
 - Habitat loss
 - Incompatible management
- 4 species now listed as state Threatened

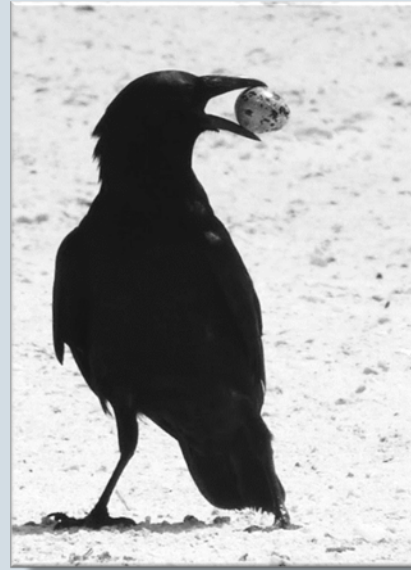
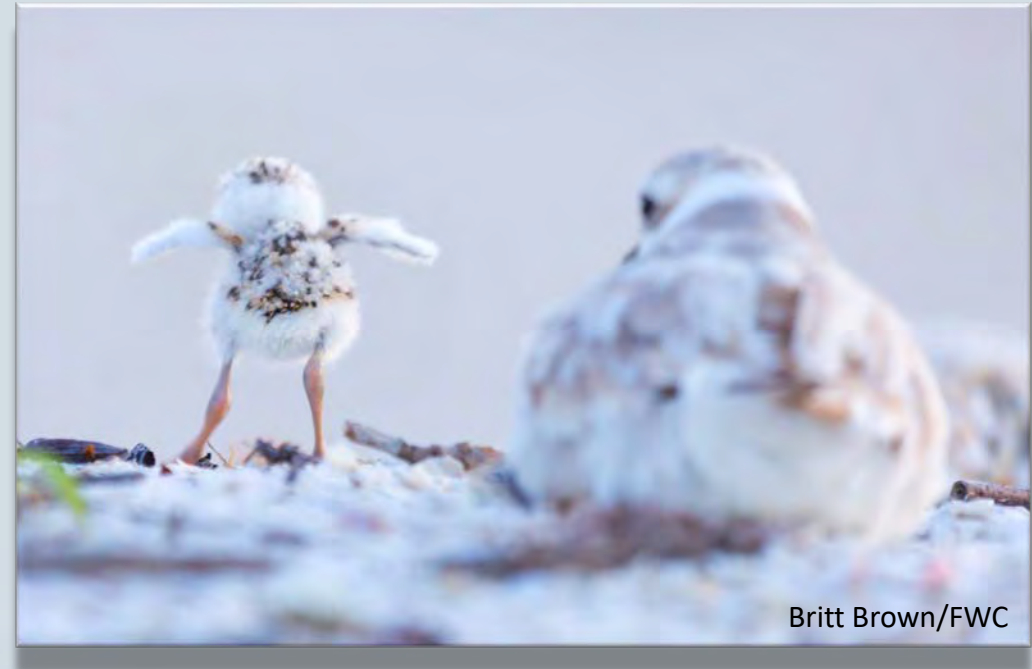


Photo: CWF



Protections for state Threatened species

- 68A-27.003(a), F.A.C. No person shall **take**, possess, or sell any of the endangered or threatened species included in this subsection, or parts thereof or their nests or eggs except as allowed by specific federal or state permit or authorization.



What is “take?”

- 68A-27.001: “Take – to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in such conduct.”



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What does it mean to “harm?”

- 68A-27.001: “The term ‘harm’...means an act which actually kills or injures fish or wildlife. Such act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.”
- An example: A vehicle runs over an egg or chick



What does it mean to “harass?”

- 68A-27.001: “The term ‘harass’...means an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding or sheltering.”
- An example: A beach-raker repeatedly drives through an important breeding site, keeping birds from nesting.





***What are the
Guidelines?***



What are Species Conservation Measures & Permitting Guidelines?


- Meant to streamline technical assistance & permitting
 - Outlines actions expected to cause take
 - Includes avoidance measures
 - FWC permitting, including minimization & mitigation when take unavoidable
- Incorporated in rule



SPECIES CONSERVATION MEASURES AND PERMITTING GUIDELINES

Florida Burrowing Owl

Athene cunicularia floridana



Species Overview

Status: Listed as state Threatened on Florida's Endangered and Threatened Species List.

Current Protections

- 68A-27.003(a), F.A.C. No person shall take, possess, or sell any of the endangered or threatened species included in this subsection, or parts thereof or their nests or eggs except as allowed by specific federal or state permit or authorization.
- 68A-27.001(4), F.A.C. Take -- to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in such conduct. The term "harm" in the definition of take means an act which actually kills or injures fish or wildlife. Such act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering. The term "harass" in the definition of take means an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding or sheltering.
- Florida burrowing owls, active nests, eggs, and young also are protected under the Federal Migratory Bird Treaty Act, state Rule 68A-16.001, F.A.C., and state Rule 68A-4.001, F.A.C.

Biological Background

This section describes the biological background for this species and provides context for the following sections. It focuses on the habitats that support essential behaviors for the Florida burrowing owl, threats faced by the species, and what constitutes take for the species. The Florida burrowing owl is a small, long-legged owl (averaging 9 inches in height) that uses burrows for breeding and sheltering. The Florida burrowing owl's distribution is localized and patchy, occurring primarily in peninsular Florida, with isolated pairs and small colonies found as far west as Eglin Air Force Base and as far south as the Dry Tortugas. The typical breeding season for the Florida burrowing owl is February 15 to July 10, though owls can breed earlier or later. For example, Millsap and Bear (1990) observed egg-laying as early as October 2 and as late as May 9. FWC staff (Zambrano, unpublished data) found that only 4.5% of 89 burrows scoped in south Florida between November 30, 2007, and February 8, 2008, contained eggs or flightless young. Incubation lasts about 4 weeks, and young first start to emerge from the burrow about 2 weeks after hatching (Zarn 1974). Juvenile burrowing owls start learning to fly about 4 weeks after hatching and are starting to fly well by 6 weeks of age (Zarn 1974). Juvenile burrowing owls continue to use their parents' burrows for 30-60 days after they start flying (Mealey 1997).

Habitat features that support essential behavioral patterns

Florida burrowing owls use a breeding burrow and often 1 or more satellite burrows for the essential behaviors of breeding and sheltering. Florida burrowing owls usually dig their own burrows, which are typically 5 to 10 feet long and can be excavated by the owls in as little as 2 days (Millsap 1996). Burrowing owls in Florida are known to use burrows year-round, for roosting during the winter and for raising young during the breeding season (Millsap 1996; R. Mrykalo, personal communication). Some owls leave their burrows for part of the year due to flooding from seasonal rains (Mrykalo 2005). Burrowing owls prefer

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Recommended conservation practices


- Guidelines also include recommended conservation practices
- No permit needed for these practices
- For example:
 - Stewardship
 - Posting
 - Monitoring
 - Outreach and education
 - Trash management



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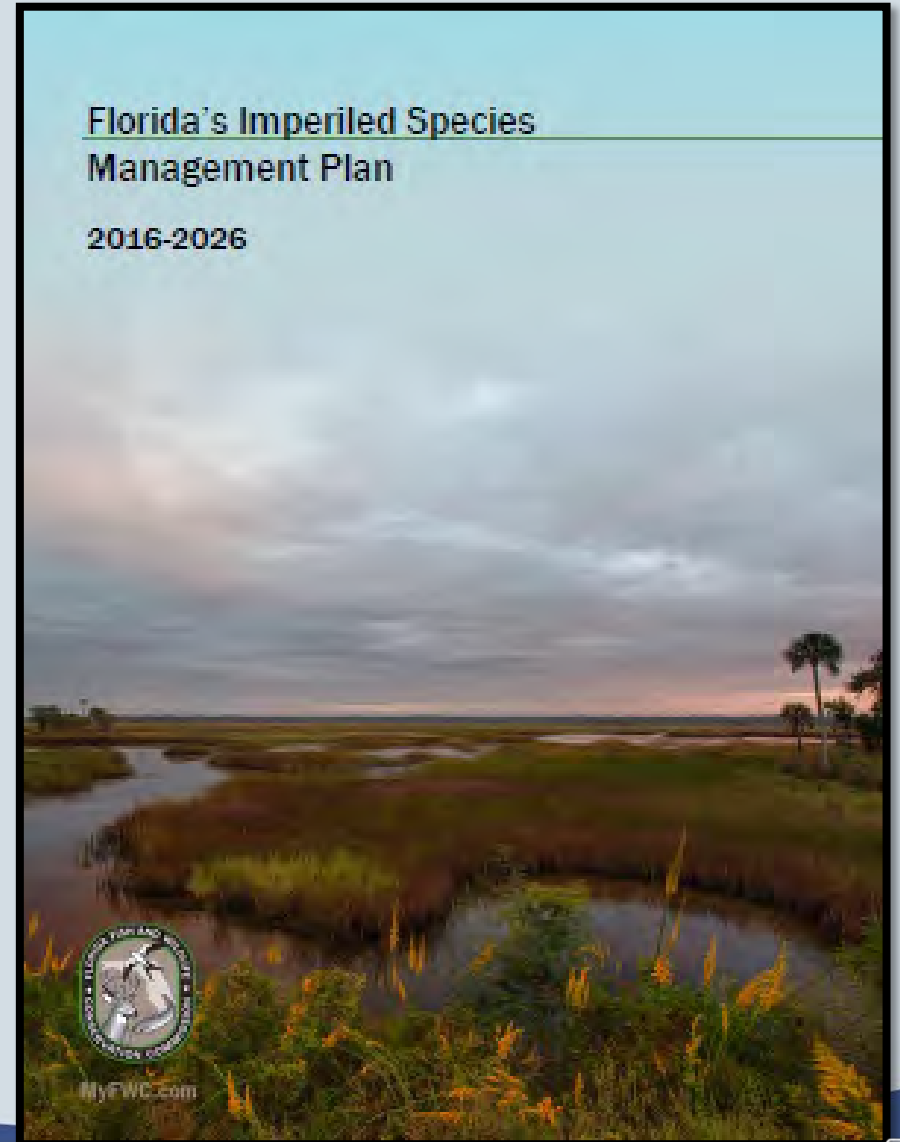
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Why develop Guidelines now?

- FWC's Imperiled Species Management Plan
- Guidelines are part of plan implementation
- Available for 46 species
- On the way for 13 more



Where do the Guidelines apply?

- Guidelines apply statewide, wherever the species are found
- Beaches, oyster rakes, spoil islands, rooftops, etc.



We're focusing on...

- Breeding site
 - Active breeding site
 - Recent breeding site
- Critical brood-rearing site
- Critical roosting site



Active Breeding Site -- Defined

- Breeding sites where one or more active nests are present.



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Recent Breeding Site -- Defined

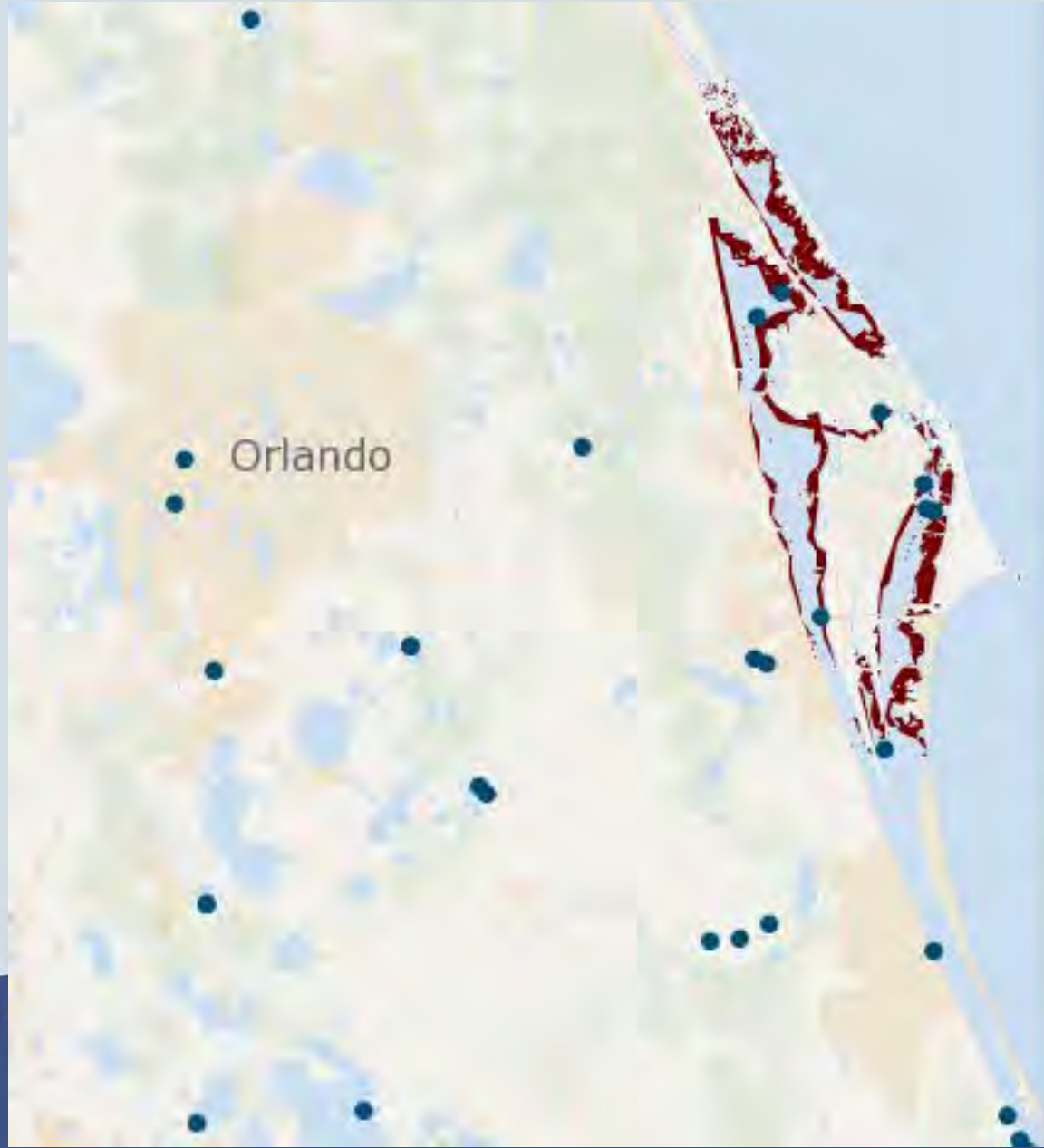
- Breeding sites where one or more Active Nests have been present in the preceding 5 breeding seasons.
- A map of recent breeding sites will be available on the FWC's website.



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For example, like wading bird Guidelines...



FWC Wading Bird Guidelines Data

Disclaimer

This database is NOT meant to take the place of ground and/or aerial surveys required to verify the presence/absence of nesting waterbirds and reddish egret core foraging habitat. Not all waterbird colonies in Florida have been documented by FWC, and habitat models based on remotely sensed data does not accurately reflect actual conditions at all sites.

Layer Descriptions

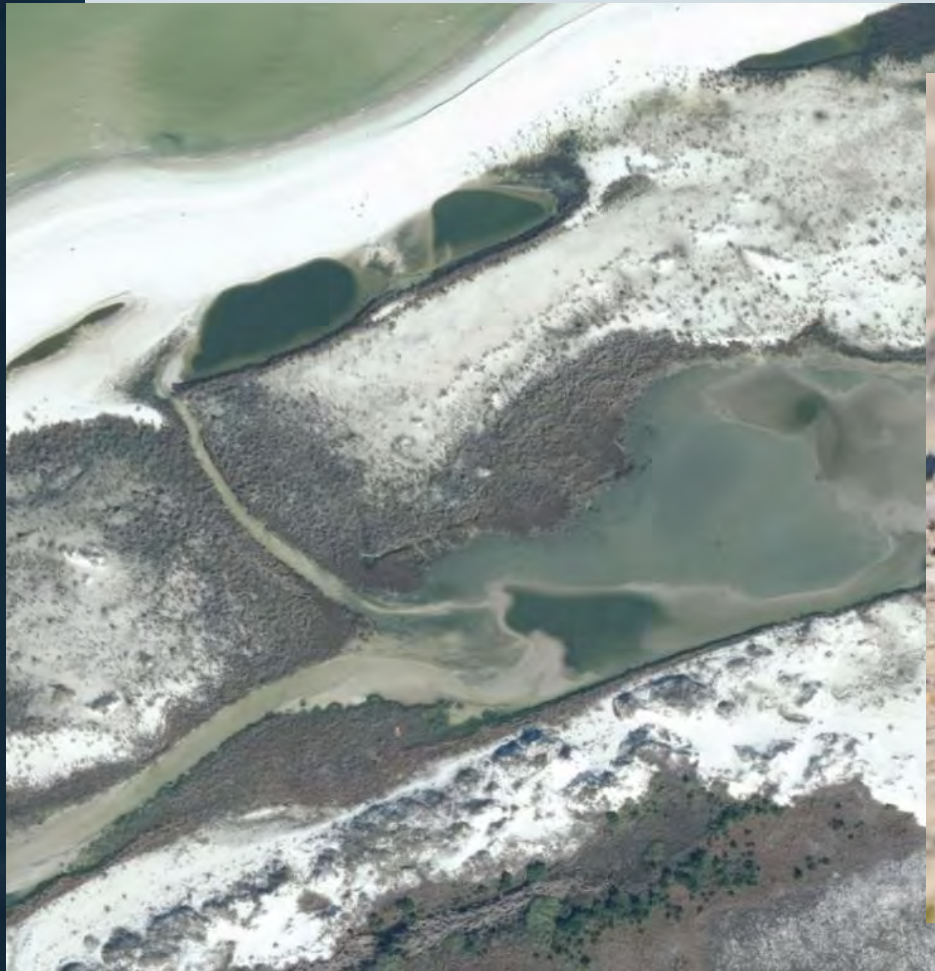
Recent Wading Bird Colonies: Wading bird colonies active within the past five years where nesting state-listed threatened species have been observed.

Reddish Egret Core Foraging Habitat: Reddish egret core foraging habitat: Foraging habitat for reddish egrets as modeled in Cox et al. (2019).



Critical Brood-Rearing Sites

- Snowy plovers only
- Precocial chicks travel several km to these sites
- Only in a few counties in SW & NW Florida



Critical Roosting Sites

- Limited to American oystercatchers
- Cedar Key area, Levy County



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How do Guidelines relate to the Florida Beaches Habitat Conservation Plan?

- FL Beaches HCP would replace the Guidelines for state Threatened species for DEP CCCL activities
- But Guidelines include more than just CCCL activities



***What constitutes
take for these
species?***



Actions cause take if result in...


- Injury or death of adults, eggs, young
- Significant habitat modification
- Flushing from active nests
- Persistent defensive behaviors
- Chicks forced to leave breeding colony or brood-rearing site
- Roosting or foraging birds repeatedly forced to fly
- Capturing, handling, collecting, etc.



Examples of activities that may result in take

- JCP-related activities
 - E.g., beach nourishment, groins/jetties, dredging
- CCCL-related activities
 - E.g., coastal construction, beach cleaning, special events
- Rooftop repairs
- Scientific research



A seabird, possibly a booby, is sitting on a nest made of shells and debris. The bird has a black cap, a white breast, and a yellow beak. A speech bubble is positioned above the bird, containing text.

***How can take be
avoided,
minimized, or
mitigated?***

Photo by Alexander Kropp



Avoidance and authorizations

- Guidelines include:
 - Avoidance measures (e.g., 300-ft buffers)
 - Examples of activities not expected to cause take
 - Other authorizations for take (e.g., actions for human health and safety)



FWC permitting



- If take is unavoidable, FWC can issue an Incidental Take Permit
 - Issued when conservation or scientific benefit to the species
 - Benefit typically through minimization & mitigation
 - Minimization *reduces* take
 - Mitigation *counterbalances* take & *provides a benefit*.



Examples of minimization options

- Bird monitor
 - Beach nourishment, beach cleaning, activities during the breeding season
 - Surveys prior to activities
 - Posts & establishes buffers as necessary



Examples of mitigation options

- On-site conservation
 - E.g., posting a temporary refuge
- Off-site conservation
 - E.g., Protecting, restoring, or creating habitat
- Financial contribution



We plan to have standard mitigation options for some activities



Programmatic Permits

- Option for programmatic permits
 - Covering multiple activities,
 - Covering large scales, and/or
 - Covering longer duration
- Examples
 - Beach cleaning and beach driving



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How do the Guidelines relate to the FSBPA?

- Guidelines help stakeholders...
 - Avoid wildlife violations
 - Know when a permit is needed
 - Know how to get a permit
 - Ensure projects avoid costly delays



How do the Guidelines relate to nourishment?



- Beach nourishment JCPs already have shorebird conditions
- JCP conditions usually constitute avoidance of take
- If take is unavoidable, FWC permit would be necessary



Timeline & Stakeholder Engagement

- **March-August 2020:** initial stakeholder engagement
- **Spring 2021:** resume stakeholder engagement
- **TBD 2021:** Public comment period, draft available for review
- **Late 2021:** Draft presented to Commissioners for approval

Comments welcome anytime at

imperiled@myfwc.com



QUESTIONS?

