

# THE FLORIDA BEACHES *Habitat Conservation Plan*

*Goals, Objectives, and Implications  
for the Management of  
Florida's Sandy Beaches*  
A PRIMER



# Introduction

The **Florida Department of Environmental Protection (FDEP)**, in concert with its stakeholder partners, is developing the **Florida Beaches Habitat Conservation Plan (FBHCP)**. The intent of this effort is to ensure that the Department can fulfill its Coastal Construction Control Line (CCCL) permitting responsibilities in a manner that fully complies with the U.S. Endangered Species Act (ESA), shielding both the FDEP and CCCL permittees from potential costly third party lawsuits related to take of federally listed species. The Plan will also streamline the permitting process. It will balance human social, economic, and recreational needs within the coastal planning area while providing for the long-term protection of threatened and endangered species and the habitats they rely on.

This brochure discusses the impetus for the project, its goals and objectives, and implications for the management of one of the state's most valuable natural resources, its sandy beaches. It is intended as a primer for property owners, local governments, legislators, developers, engineers, contractors, and others engaged in the regulation, permitting, and/or management of coastal construction activities. It

is similarly relevant to those concerned about the impacts such activities may have on the conservation of coastal wildlife.



**The Florida Beaches Habitat Conservation Plan will balance human social, economic, and recreational needs within the coastal planning area while providing for the long-term protection of threatened and endangered species and the habitats they rely on.**



## BACKGROUND

Florida's sandy beaches are a major fuel for the state's economic engine, as they provide benefits to a variety of user groups. Many are attracted by the unique and diverse wildlife and scenic habitats found here, some are drawn by the abundant fishing opportunities and others come simply to enjoy the sun and surf. Regardless of the attraction, the hotels, restaurants, and other retail establishments that fringe the coastline are heavily dependent upon the revenues generated each year by the millions of residents and tourists that utilize the beach. Florida's tourism industry represents a \$57 billion industry and 20% of the state's economy. It generates \$3.4 billion a year alone in sales tax revenue.

Florida's beaches and dunes are home to a wide array of wildlife, including many threatened and endangered species that are protected under the ESA and by state law. Upland properties that border the beach are also home to a large and growing human population of seasonal and year-round residents. Although the plants and animals that inhabit the coastline have adapted to a dynamic environment, they are nonetheless vulnerable to human disturbance, particularly disturbances impacting the quality and/or quantity of available habitat. Thus, as coastal populations and shoreline development continue to expand, there will be an increasing need to balance human requirements with natural resource protection. It is against this backdrop that the FDEP has embarked on the development of the FBHCP.

### Florida's Coastal Construction Control Line Program

In addition to the important wildlife habitat and diverse recreational opportunities they afford, Florida's beaches and dune systems provide upland properties with storm protection. In recognition of these varied benefits, and in response to concerns over the protection of coastal resources, the state legislature in 1965 enacted the "Beach and Shore Preservation Act" (Chapter 161, Florida



Statutes [F.S.]). Part I of Chapter 161 provides legislative authority for the establishment of the CCCL program within the FDEP Bureau of Beaches and Coastal Systems (BBCS). It sets forth criteria for the preservation and protection of the state's beaches from imprudent construction that can jeopardize the stability of the beach-dune system, accelerate erosion, provide inadequate



protection to upland structures, endanger adjacent properties, or interfere with public beach access. The legislative intent of the CCCL program was to establish coastal construction control lines on a county-by-county basis along those sandy beaches that front the Atlantic Ocean, Gulf of Mexico, and the Straits of Florida. Twenty-five (25) counties in Florida have an established CCCL.

The CCCL demarks the landward extent of the beach and dune system subject to severe fluctuation based on a 100-year storm surge. A 100-year storm is defined as a shore-incident hurricane or any other storm with accompanying wind, wave, and storm surge intensity having a 1% chance of being equaled or exceeded in any given year. The physical area within which coastal construction activities are typically regulated extends



TAKE RESULTS FROM IMPACTS TO A PROTECTED SPECIES' ABILITY TO BREED, FEED, OR SHELTER.

from the mean high water line (MHWL) to the CCCL. Activities regulated under the CCCL program fall into several categories, including but not limited to the following:

- **New construction or rebuilding** of single- or multi-family residences, commercial developments, stormwater facilities, beachfront lighting, swimming pools, parking lots, garages, decks, cabanas, beach-dune walkovers, public infrastructure, etc;
- **Armoring**, such as seawalls, bulkheads, retaining walls, revetments, and geotextile bags or tubes;
- **Beach maintenance**, such as beach raking and debris removal;
- **Beach berm and dune restoration**, such as placement of beach fill landward of the MHWL, and planting of native vegetation;
- **Special activities**, concerts, rallies and other beach events;
- **Post-storm emergency activities**, such as removal of hurricane-generated debris, repair of public facilities, return of sand to the beach-dune system, repair or reconstruction of coastal armoring, foundation repairs, and reconstruction of major and minor structures; and
- Other **miscellaneous minor activities** permitted or explicitly authorized by the FDEP through its CCCL program.



### The U.S. Endangered Species Act

The ESA of 1973 is the preeminent law of the land for the conservation of imperiled species and their ecosystems. The U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS)

share responsibility for listing species as either threatened or endangered and for implementing the ESA. A species is considered endangered if it is in danger of extinction throughout all or a significant portion of its range, while a species is considered threatened if it is likely to become endangered in the foreseeable future. A list of all species protected under the ESA is maintained by the federal government.

The ESA prohibits activities that result in a “take” (to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or attempt to do these things) of threatened and endangered species even if that taking is unintentional (incidental). However, in formulating the ESA, Congress instituted a process for the amelioration of conflicts between traditional and lawful land-use practices and the conservation of protected species. Under Section 10 of the ESA, non-federal individuals, agencies, or organizations may be authorized a limited amount of take if they first obtain an Incidental Take Permit (ITP). The ITP authorizes the permittee to conduct otherwise lawful activities in a manner that minimizes and mitigates incidental take of federally listed species. Without the ITP, activities that may impact a federally listed species would



be prohibited. A Habitat Conservation Plan is a requisite component of an ITP application.

Take is a very broad term and applies to actions that not only directly impact, but also to those actions that indirectly impact animals by preventing them from feeding, reproducing, or sheltering. Thus impacts to a federally listed species' habitat may cause take. Although the FDEP endeavors to condition its CCCL permits to avoid impacts to sea turtles, incidental take of these and other federally listed species may still occur. The purpose of the FBHCP is to support application to the USFWS for an ESA Section 10 ITP. The FDEP and other coastal stakeholders feel that this is a necessary and prudent action, as they foresee increasing potential for conflicts between regulated activities under the CCCL program and protections set forth in the ESA, particularly in the context of growing coastal populations, ongoing coastal erosion, and continuing shoreline development. An ITP will allow the BBCS to continue to fulfill its CCCL permitting responsibilities in full compliance with ESA regulations. The ITP will also remove FDEP's exposure to third-party lawsuits alleging unauthorized take of federally listed species.

## PROCESS Overview

To date almost 500 HCPs have been developed nationwide by both private and public entities. The development of the FBHCP began in 2008, and it is anticipated that it will take several more years to complete. Its development is being funded by a Habitat Conservation Planning Assistance Grant from the USFWS, as provided under Section 6 of the ESA. A Working Group, consisting of staff from the Florida Fish and Wildlife Conservation Commission (FWC), FDEP, USFWS, and several FDEP contractors, is compiling requisite data for inclusion in the FBHCP. The Working Group is also

assembling, reviewing, and summarizing background information on substantive policy issues affecting FBHCP development and implementation. The Working Group is assisted by several sub-committees, such as the Scientific Committee, that bring relevant subject matter expertise to the FBHCP.

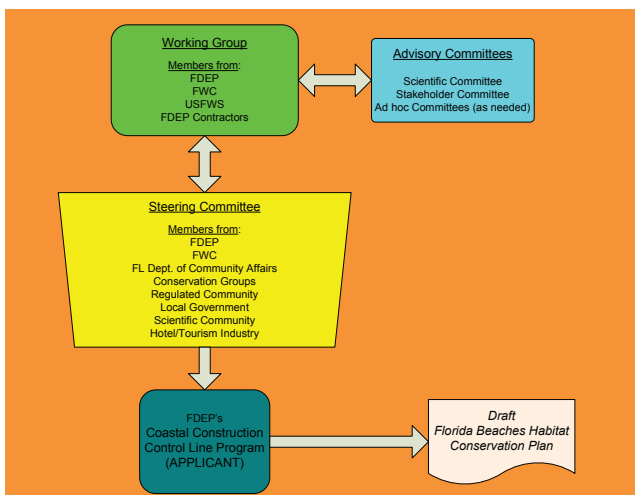
Key policy issues, along with Working Group recommendations, are presented to a Steering Committee for consideration. The Steering Committee was appointed by the Secretary of FDEP and consists of representatives from the following:

- FWC (Chair),
- FDEP (Vice-Chair),
- Florida Fish and Wildlife Research Institute (representing the scientific community),
- Florida Department of Community Affairs,
- Florida Association of Counties and Florida League of Cities (representing local governments),
- Lee County Tourism Development Council (representing the hotel/tourism industry),
- Audubon Society and Sea Turtle Conservancy (representing environmental/conservation groups), and
- Humiston and Moore Engineers (representing the regulated community).

The Steering Committee will discuss and debate key policy matters and make recommendations to the Secretary of FDEP, who will make the final decision on all policies and programs proposed for inclusion in the FBHCP. Ultimately the FDEP will be responsible for implementing, administering, and funding these policies and programs. Although the composition of the Steering Committee was intended to represent a broad range of stakeholder groups, additional stakeholder input will be sought as

**ALL STEERING  
COMMITTEE MEETINGS  
are open to the public**

FBHCP development moves forward. All Steering Committee meetings are open to the public either in person or via an interactive web medium. Additionally, all of the information being developed in support of the FBHCP, including Steering Committee briefing documents, analyses of key issues, presentations, meeting minutes, frequently asked questions, and contact information, can be found on the FBHCP website ([www.flbeacheshcp.com](http://www.flbeacheshcp.com)).







## Key Components OF THE FBHCP

*The biological goal of the FBHCP is to implement a statewide conservation strategy within the coastal planning area that sustains the basic life history traits and ecology of all covered species (federally listed species for which incidental take authorization is being sought) and supports the conservation goals of federal recovery plans and state management plans for those species. The FBHCP will prescribe all of the policies and programs the BBCS will implement to avoid, minimize, and mitigate take of covered species over the term of the ITP. It will also describe how the FBHCP will be administered and funded.*

**COVERED ACTIVITIES AND SPECIES • THE PLAN AREA • TERM OF THE ITP  
MINIMIZATION AND MITIGATION MEASURES • ADAPTIVE MANAGEMENT • FLORIDA BEACHES HCP FUNDING**

### Covered Activities and Species

As with all HCPs, the FBHCP will describe all activities for which it is seeking federal incidental take authorization. All CCCL permitted activities that may potentially harm listed species within the coastal planning area will be included. The FDEP is presently seeking take authorization for the five species of sea turtles that nest on Florida's beaches (loggerhead, green, leatherback, hawksbill, and Kemp's ridley), the five sub-species of the oldfield/beach mouse that inhabit the state's coastal dunes (Anastasia Island, southeastern, Perdido Key, Choctawhatchee, and St. Andrew), and two species of shorebirds that overwinter along the state's coastline (piping plover and red knot). Eleven (11) of these species are currently listed as either threatened or endangered under the ESA; the red knot is currently a candidate for federal listing. Several other species likely to become future candidates for federal listing during the period the ITP would be in effect are also being considered for inclusion in the FBHCP. It may be more efficient and cost effective to include these species now rather than having to amend the ITP each time a new species becomes federally listed.

#### SEA TURTLES

Loggerhead  
Green  
Leatherback  
Hawksbill  
Kemp's Ridley



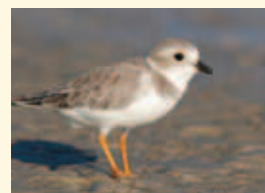
#### BEACH MICE

Anastasia Island  
Southeastern  
Perdido Key  
Choctawhatchee  
St. Andrew



#### SHOREBIRDS

Piping Plover  
Red Knot



## The Plan Area

The FBHCP will delimit the HCP area, the geographical boundaries within which incidental take authorization is being requested. The FBHCP area will encompass that area typically regulated under the CCCL Program, namely the area from the MHWL to the CCCL, in each



of the 25 coastal counties with an established CCCL. However, the FDEP may decide to expand the FBHCP area to other counties with critically eroded isolated sandy beaches where no CCCL has been established but where the FDEP has regulatory jurisdiction and occasionally permits activities similar to those permitted under the CCCL program. The defined Plan Area will not be constrained by discrete geographical boundaries but rather will be described in a manner as to allow for its movement over time in response to significant changes within the dynamic coastal environment brought about by such things as storm events.



## Term of the ITP

The FBHCP will prescribe a precise time period or term over which incidental take authorization is being requested. The Steering Committee has weighed the advantages and disadvantages of short and long-term permits, and has recommended a moderate term of 25 years, which is typical for large-scale HCPs. Contingent upon FDEP's approval, impacts to covered species potentially resulting from permitted activities will be identified, and the resultant amount of take likely to occur over the next 25 years will be estimated.

## Minimization and Mitigation Measures

Within the FBHCP, the FDEP will describe the measures it intends to implement to avoid and minimize the incidental take of covered species to the maximum extent practicable. Applicable avoidance and minimization measures will be incorporated into the Special Permit Conditions of CCCL permits issued by the BBCS. The scope of avoidance and minimization measures proposed by FDEP will be proportionate to the amount of incidental take anticipated to result from its permitted activities. It should be noted that many of these conditions, such as restrictions on when construction can take place and where seawalls can be located, are already part of the CCCL permitting process.

The FBHCP will also include those actions the FDEP intends to take to lessen or mitigate unavoidable take. The amount of mitigation proposed will be commensurate with the cumulative amount of take projected to occur over the term of the ITP. Potential mitigation options are too numerous to list here, but as an example may include beachfront property acquisition, improved management of beach-dune systems within existing state-owned lands, public awareness programs, and guidance to local governments in the management of beach activities (e.g., overnight storage of beach furniture, dune protection, etc.). The Working Group will reach out to FBHCP stakeholders for ideas on cost-effective mitigation measures.

### POTENTIAL MITIGATION OPTIONS

- Beachfront property acquisition
- Improved management of beach/dune system on state-owned lands
- Public awareness programs
- Beach management guidance to local governments

## Adaptive Management

One of the key components of many HCPs, particularly those that will be in effect for many years, is flexibility or the ability to change approaches as conditions warrant. Thus, the effectiveness of minimization and mitigation measures in achieving the FBHCP's goals and objectives will be monitored over the term of the ITP. Most needed adjustments can be implemented through an adaptive management strategy designed to improve Plan performance and allow appropriate responses to unforeseen or changed circumstances affecting the Plan Area. The flexibility added through the implementation of adaptive management practices will help the FBHCP toward achieving its regulatory and conservation goals in an effective and efficient manner without imposing undue hardships on either the FDEP or CCCL permittees. The FBHCP will explicitly set forth the conditions that warrant changes in minimization and/or mitigation strategies and will describe the process for implementing such changes, if needed.

...DESIGNED TO IMPROVE PLAN PERFORMANCE  
AND ALLOW APPROPRIATE RESPONSES TO  
UNFORESEEN OR CHANGED CIRCUMSTANCES...

## Florida Beaches HCP Funding

Finally, the FBHCP will describe how the FBHCP will be implemented, administered, and funded. One of several funding possibilities is the assessment of an HCP implementation fee for applicants who seek CCCL permits, with the fee amount being proportional to the overall potential impact likely to result from the permitted activity. Stakeholder input will be solicited to ensure development of an equitable and reasonable funding strategy.

## CRITICAL Issues

Resolving several challenging issues will be essential to the successful development and implementation of the FBHCP. These issues include obtaining expanded **legislative authority** for the CCCL program, **funding** for FBHCP implementation and administration, monitoring, and public awareness of **benefits** derived from the ITP.

### Expanded Legislative Authority

Although there are numerous federally protected species that utilize Florida's beaches and dunes during some portion of their life cycles, currently the FDEP can only consider potential impacts to sea turtles and their habitat when reviewing CCCL permit applications, as that is the only legal authority conferred by Chapter 161, F.S. FDEP's lack of authority to consider impacts to other wildlife often leaves private property owners few options but the expensive and time-consuming process of obtaining individual ITP authorizations from the USFWS before CCCL activities can proceed. However, before the FDEP can consider



impacts to beach mice, shorebirds, and other species included in the Plan, additional legislative authorizations will be required. Similarly, the FDEP may currently have other legal restrictions affecting the scope of issues it can consider during review of CCCL permit applications. Consequently, avoidance, minimization and mitigation measures prescribed by the Plan may require expanded legislative authority before they can be implemented.

### Funding for Plan Implementation and Administration

Costs are an important consideration for programs implemented at any level of government, and the FBHCP is no different. Potential sources of funding for FBHCP implementation will have to be identified and the additional responsibilities placed on BBCS staff evaluated. To the degree possible, the Plan will capitalize on existing activities being conducted by state and local governments that can be considered to offset, or to mitigate, impacts of CCCL authorized activities. As noted earlier, some of these funds could be derived from an increase in CCCL permitting fees. However, healthy beach/dune systems benefit a broad range of users well beyond those applying for CCCL permits, and thus, cost sharing funding options must also be considered. Several potential funding mechanisms have been discussed, but many others are likely to exist. Ultimately, the FDEP must satisfactorily demonstrate to the USFWS that it has the capacity to implement the various programs and policies prescribed by the FBHCP, as that is one of several key criteria for ITP issuance. This process will require close coordination with local governments in order to develop an economically feasible plan for implementation.



## Florida Beaches HCP Benefits

The FBHCP Working Group must clearly explain the basis for, and objectives of, the various programs and policies proposed for inclusion in the FBHCP, as well as the stakeholder benefits that will be derived from the ITP. One of the primary objectives of the Plan is to establish a general framework for the preservation of the state's critically important but spatially limited natural coastal resources, as required by the Beach and Shore Preservation Act. By promoting positive stewardship of Florida's natural resources, the FBHCP will enhance the beach experience for residents and tourists alike and, by extension, the associated economic, recreational, and ecological values of Florida's sandy beaches. The economic benefits should provide strong incentive for local governments to consider partnering with the FDEP in the implementation, enforcement and monitoring of the FBHCP. Ultimately, a strong FBHCP will improve and preserve the overall quality of life on Florida's coast to the benefit of both current and future generations.

From a more practical standpoint, the FBHCP and resultant ITP will streamline the permitting process for CCCL permit applicants for situations involving potential incidental take. The BBCS will have a standard set of Special Permit Conditions it can apply to permits within discrete areas of the state, depending on shoreline conditions and species occurrences, and those conditions will remain consistent over time. Furthermore, the ITP will serve as an umbrella ITP for property owners, local governments, and others engaged in emergency and standard CCCL permitting activities, ensuring that they remain compliant with ESA regulations. Any incidental take that might occur as the result of the permitted activity will be authorized under the ITP. Furthermore, the FDEP will be able to issue CCCL permits without

### FBHCP BENEFITS

- Protection of the beaches' economic value
- A streamlined permitting process
- Consistent permit conditions
- Protection to property owners and local governments from potential third-party lawsuits.

requiring permit applicants to obtain individual ITPs when impacts to federally listed species are likely, as is currently required when an incidental take is deemed likely. This can be a lengthy and very costly process for an applicant, and it will no longer be required under the FBHCP. The FBHCP/ITP will provide guidance and ESA protection to local governments that regulate and/or manage emergency

cleanup activities following storm events. It may even provide ITP coverage to local governments that issue emergency permits for temporary armoring and other shoreline protection activities, as allowed for under Subsection 161.085(3), Florida Statutes. And as previously stated, the ITP will also shield both the FDEP and CCCL permittees from potentially costly third party lawsuits related to take of federally listed species, thereby saving taxpayer dollars.





# MOVING *Forward*

As part of its public awareness effort, the FBHCP Working Group will hold several public workshops around the state and will continue its on-going outreach program. Although certain criteria must be met for issuance of an ITP, there is still considerable latitude for flexibility, creativity and compromise in developing the various programs and policies contained in the FBHCP. Consequently, stakeholder involvement is not only desirable, but essential to the overall success of the FBHCP.

Development of the FBHCP will continue to be completely transparent. Updates on the progress of the Plan are posted regularly on the FBHCP website ([www.flbeacheshcp.com](http://www.flbeacheshcp.com)), and there is an easy process for providing feedback. Whether you're a stakeholder or a citizen with a general interest in the project, you are encouraged to become involved. Broad support for the program is essential, as the future of some of the state's rarest natural resources rests in the balance.

BROAD SUPPORT FOR THE FBHCP IS ESSENTIAL,  
*as the future of some of the state's rarest  
natural resources rests in the balance.*







This publication was made possible by a Section 6 Grant from the U.S. Fish and Wildlife Service. For more information about the contents of this publication, please visit these websites:

[www.flbeacheshcp.com](http://www.flbeacheshcp.com)

[www.fws.gov/endangered/hcp](http://www.fws.gov/endangered/hcp)

[www.dep.state.fl.us/beaches](http://www.dep.state.fl.us/beaches)

[myfwc.com/WILDLIFEHABITATS/imperiledSpp\\_index.htm](http://myfwc.com/WILDLIFEHABITATS/imperiledSpp_index.htm)



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