

Statement of Estimated Regulatory Cost for Proposed Changes to Rule 62B-26.016, F.A.C.
Description of the Gulf County Coastal Construction Control Line
October 2009

1. Introduction.

In 1978, the Florida Legislature authorized the Department of Environmental Protection (Department) to protect beaches and dunes through siting and design requirements by establishing and conducting periodic reviews of Coastal Construction Control Lines (CCCL) in the counties with sandy beaches¹. The CCCL defines the portion of the beach-dune system that is subject to severe fluctuations caused by a 100-year storm surge, storm waves, or other forces such as wind, wave, or water level changes. In particular, “the control line...call[s] attention to the special hazards and impacts associated with the use of such property, but [does] not preclude all development or alteration of coastal property seaward of such lines”.² Construction and related activities seaward of the CCCL must meet the siting and design criteria found in Chapter 62B-33 of the Florida Administrative Code (F.A.C.).

In 2005, Governor Bush directed the 19 member Coastal High Hazard Study Committee (Committee) to recommend policies that would safeguard the public from natural hazards, protect property rights, preserve coastal ecosystems and enhance economic development and tourism opportunities. The Department, as a member of the Committee, proposed a restudy of the CCCLs along portions of the panhandle because of impacts to the area’s coastline from hurricanes in 2004 and 2005 (Department of Environmental Protection Report for the Governor’s Coastal High Hazard Study Committee on Chapter 161, Florida Statutes, December, 2005).

On February 9, 2007, the Department published a public notice for proposed rule development to revise the Coastal Construction Control Line in Gulf County, Rule 62B-26.016, F.A.C. On March 8, 2007, the Department held a public rule development workshop at the Gulf County Courthouse in Port St. Joe. At the workshop, Gulf County residents expressed concern over parcels of land in the proposed regulated area that were platted after October 1, 1985 and could be affected by the proposed change in the rule. State law prohibited the Department from issuing a construction permit for a major structure seaward of the 30 year erosion projection.

¹ Bay, Brevard, Broward, Charlotte, Collier, Dade, Duval, Escambia, Flagler, Franklin, Gulf, Indian River, Lee, Manatee, Martin, Nassau, Okaloosa, Palm Beach, Pinellas, Santa Rosa, Sarasota, St John’s, St Lucie, Volusia, and Walton Counties have control lines.

² Rule 62B-33.005(1), F.A.C.

Single family dwellings proposed on properties platted before October 1, 1985, are exempted from Section 161.053(6), Florida Statute (F.S.) if they meet certain criteria discussed below.

2. Summary of Proposed Revisions.

The current CCCL for Gulf County became effective on February 25, 1986. Rule 62B-26.016, F.A.C., entitled "Description of the Gulf County Coastal Construction Control Line," contains the current legal description in metes and bounds of the current CCCL. The revisions to the rule proposed by the Department would move the CCCL landward by varying amounts between Department Reference Monuments (R Monuments) 80 and 105³. The landward relocation of the CCCL would range from 0 feet at R Monument 80, located near the state park, to almost 360 feet at R Monument 105, due to recurring high erosive effects of wind and water. United States Government lands are situated south of R monument 105. These lands are exempt by rule from the requirements of Chapter 62B-33, F.A.C.⁴ Revision of the CCCL would require additional property owners seaward of the proposed line seeking to build on their property, to comply with CCCL siting and design requirements found in Chapter 62B-33, F.A.C.

a. Coastal Construction Control Line.

Section 161.053, F.S. provides that a county's CCCL is based on "ground elevations in relation to historical storm and hurricane tides, predicted maximum wave uprush, beach and offshore ground contours, the vegetation line, erosion trends, the dune or bluff line, if any exist, and existing upland development..." The process by which a CCCL is established is outlined in Section 161.053, F.S. The area seaward of the CCCL is protected through special siting and design criteria. Through Chapter 62B-33, F.A.C., these criteria are applied to construction and related activities to prevent improper design, construction and siting of structures that can destabilize the beach-dune system, accelerate erosion, provide inadequate protection of upland structures, endanger adjacent properties, or interfere with public beach access. Habitable major structures are required to be elevated on and securely anchored to an adequate pile foundation that is above the 100-year storm flood elevation, and designed to withstand the anticipated erosion, scour, and loads from a 100-year storm including wind, wave, hydrostatic, and hydrodynamic forces acting simultaneously with structural (live and dead) loads.

³ The ranges refer to "Range Monuments" or "R Monuments", located approximately 1,000 feet apart along the sandy beach areas, throughout the state. The numbers start at "1" for each county. e.g. R-1

⁴ Rule 62B-33.004(2)(b), F.A.C.

b. Estimated 30-Year Erosion Projection.

A 30-year erosion projection is determined each time the Department receives an application for construction of a major structure seaward of the CCCL.⁵ It is a site specific evaluation to determine where the seasonal high water line will be in thirty years. The 30-year erosion projection is the Department’s estimate of long term shoreline recession occurring over a period of 30 years based on shoreline change information obtained from historical measurements and forecasted data. In determining the area that will be seaward of the 30-year erosion projection, the Department by law cannot include any areas landward of a coastal construction control line. The procedure for determining a 30-year erosion projection can be found in Section 161.053(6), F. S., and Rule 62B-33.024, F.A.C.

State law prohibited the Department from issuing a construction permit for a major structure seaward of the 30-year erosion projection. For properties platted after October 1, 1985, existing structures seaward of the 30-year erosion projection may be renovated or added onto, within the dimensions of the building’s existing footprint. The Department may also issue permits seaward of the 30-year erosion projection, for coastal and shore protection, minor structures, and piers. Where the application of the 30-year erosion projection precludes the construction of a new structure, the Department may issue a permit for a single-family dwelling so long as:

1. The parcel for which the single-family dwelling is proposed was platted or subdivided by metes and bounds before [October 1, 1985];
2. The owner of the parcel for which the single-family dwelling is proposed does not own another parcel immediately adjacent to and landward of the parcel for which the dwelling is proposed;
3. The proposed single-family dwelling is located landward of the frontal dune structure; and
4. The proposed single-family dwelling will be as far landward on its parcel as is practicable without being seaward of or on the frontal dune.

Fla. Stat. § 161.053(6).

c. Restudy Area.

A Department engineering study, entitled *Coastal Construction Control Line Review Study: Gulf County – St. Joseph Spit (Ranges R75-R108), Florida*, was completed in January, 2007.

⁵ A “major structure” is a structure which, as a result of design, location, or size could cause an adverse impact to the beach and dune system. 62B-33.002(60)(c), F.A.C.

The study recommended reestablishment of the CCCL along a 6 mile section on the St. Joseph Peninsula between R Monuments 80 and 105. This area is roughly between the St. Joseph Peninsula State Park and United States Government lands, the latter of which is exempted from the provisions of Section 161.053, F.S. The study noted that the central and southeastern portions of the peninsula have experienced severe erosion, with an observable pattern progressing from moderately erosional (-2 feet/year at R-75) in the center to extremely erosional at the southeastern end of the Cape (up to -43 feet/year R-114 to R-118). The “Stump Hole” area near R-105 has been eroding between -10 feet/year and -15 feet/year. “The shoreline in the CCCL study area between R-70 and R-110 has lost between 50 and 700 feet over the last 33 years....and is progressively getting worse along the entire study area.”⁶

In December 2007, the Department authorized the St. Joseph Peninsula Beach Restoration Project. The County restored 7.5 miles of shoreline between R Monuments R-67 to R-105 with approximately 3.6 million cubic yards of beach quality sand from two offshore borrow areas. The County completed construction in January 2009. The County is implementing a DEP approved monitoring plan to assess project performance.

3. Florida Statutes and SERCs.

Section 120.54 of the Florida Statutes sets out the procedures to be followed by the Department of Environmental Protection and the state's other regulatory agencies in the preparation, scheduling, development, public notice, and adoption of rules and revisions. The regulatory agency is expected (and required, under certain conditions) to produce a Statement of Estimated Regulatory Cost, or SERC. The purpose of a SERC is to collect and present information on the potential costs that may be imposed upon individuals, firms, or activities that are affected by a particular rule. In Section 120.541, F.S., the Legislature has identified and described the types of information a SERC is expected to present. As the required components of a SERC, shown below, suggest, the Department and other rulemaking agencies are called upon by statute to collect information on the number of people and businesses that may be affected by a proposed rule, costs to the regulated people, firms, or activities, and to state, county, local, or other governments. The statute also directs the regulatory agency to consider

⁶ Coastal Construction Control Line Review Study Gulf County - St Joseph Spit (Ranges R75-R108), Florida, FDEP, Bureau of Beaches and Coastal Systems, Beaches and Shores Resource Center, FSU, January 2007, p. 12.

any lower-cost regulatory alternative proposals that may be submitted, and to include an explanation of why the alternative was or was not accepted.

Section 120.541, F.S., provides that anyone potentially affected by the proposed rule or revision may, within 21 days of public announcement and notification of a rule, submit a lower cost regulatory alternative to the proposed rule. The Department must then either adopt the lower cost proposal, or be able to show why the lower cost proposal was not adopted. The Department typically prepares a draft SERC along with the rest of the rule materials, in accord with the Joint Administrative Procedures Committee requirements.

In Section 120.541(2), sections (a) through (f), of the Florida Statutes, the Legislature has mandated that SERCs should provide the following information. The information requirements as they appear in the statute are cited below, with a discussion of the data and information relied upon for the good faith estimates and analysis of the regulatory costs.

4. A good faith estimate of the number of individuals and entities likely to be required to comply with the rule, together with a general description of the types of individuals likely to be affected by the rule.

a. General description of the types of individuals likely to be affected by the rule by the rule.

The most recent estimates of Gulf County's population and per capita income were 15,667 in 2008⁷ and \$38,160 in 2007⁸. The Department expects that the industry most impacted by this rule will be the construction industry but other local industries, such as tourism, may also be significantly impacted. Based on the 2006 US Census "County Business Patterns" database, construction activities represent approximately 8.23% (\$5,433,000) of resident income,⁹ which is the 7th largest source of income for the county¹⁰.

Seventeen miles of beaches span the county, primarily located on St. Joseph Peninsula. The area's beaches are described as "...generally 100 to 200 ft. in width backed by dunes with an average height of 15 ft".¹¹ According to the Department's June 2009 update of the report

⁷ US Census Bureau 2008 estimate, <http://quickfacts.census.gov/qfd/states/12/12045.html>

⁸ US Census Bureau 2007 estimate, <http://quickfacts.census.gov/qfd/states/12/12045.html>

⁹ 5.8% (\$3,828,000) of resident income is derived from accommodation and food services making it the 9th largest source of income.

¹⁰ US Census Bureau 2006 estimate, http://factfinder.census.gov/servlet/IBQTable?_bm=y&-ds_name=CB0600A1&-geo_id=05000US12045

¹¹ Coastal Construction Control Line Review Study Gulf County - St Joseph Spit (Ranges R75-R108), Florida, 2007.

Critically Eroded Beaches in Florida, approximately 8.3 miles, or about 49% of Gulf County's 16.9 miles of beach, are “critically eroded”¹² and were notably affected by the series of storms that hit Florida in 2004 and 2005. Severe erosion between R Monuments 102 to 107 may also result in breakthroughs in future storms, creating additional erosion.¹³

In addition to high erosion, the St. Joseph Peninsula has experienced significant development in recent years, having made the transition from a rural coastal community to an area adjusting to a recent real estate boom and its subsequent slowdown. This has created a situation of heightened construction activity and renewed interest in beach preservation and restoration.

b.1. A good faith estimate of the number of individuals and entities likely to be required to comply with the rule: Impacts Relating to the Proposed Coastal Construction Control Line.

Entities and individuals owning property between the existing and proposed CCCL will be required to obtain a CCCL permit and meet Departmental siting and design requirement if they wish to engage in construction or other related activities on their property. The Department’s estimate of affected parcels identifies properties with existing structures located wholly landward of the current CCCL and wholly or partially seaward of the proposed CCCL. The estimate excludes properties that are located wholly or partially seaward of the current CCCL because these properties are already subject to CCCL requirements and regulations. Based on April 2008 aerial photography and data provided by the Gulf County Property Appraiser, the affected properties include an estimated 150 single family dwellings, 12 multi-family dwellings, and 79 vacant parcels.

b.2. A good faith estimate of the number of individuals and entities likely to be required to comply with the rule: Impacts of the 30 Year Erosion Projection based on the Department’s Estimation of its Location.

Properties located seaward of the current CCCL and the estimated 30-year erosion projection will be subject to additional statutory regulations. The 30-year erosion projection is usually identified at the time of application for a permit. However, upon recommendation of the 2006 Coastal High Hazard Study Committee, Final Report,¹⁴ the Department, in conjunction with data provided by the Gulf County Property Appraiser, has estimated the 30-year erosion projection

¹² Defined in Rule 62B-36.002(4), F.A.C.

¹³ Wang et. al., 2007.

¹⁴ Coastal High Hazard Study Committee, Final Report, February 1, 2006.

along the entire length of the proposed CCCL in Gulf County, to identify potential impacts to properties affected by the proposed rule change. Unlike the analysis that examines the impact of the change in the CCCL, this calculation identifies properties platted after October 1, 1985 located wholly or partially landward of the current CCCL and wholly or partially seaward of the estimated 30-year erosion projection.

In determining the 30-year erosion projection, Section 161.053(6), F.S., requires the Department to consider the impact on the erosion rates of a beach restoration project for which all funding arrangements have been made and all permits have been issued.¹⁵ A beach restoration project (the “St. Joseph Peninsula Beach Restoration Project”) was completed in January 2009 (dune planting completed in April 2009), with a nourishment cycle of 5 to 7 years. The 7.5 mile project is located in the same area as the CCCL restudy. The project was designed with a beach berm that is intended to remain intact between restoration events (unless eroded by a major storm event) and advance nourishment. For a project of this type, the Department considers beach erosion to be abated for a 10 year period in determining the 30-year erosion projection. Therefore, an adjustment has been made, resulting in a reduction of properties that will be affected by the 30-year erosion projection.

As noted in the introduction, the Department is prohibited from issuing a construction permit for a major structure seaward of the 30-year erosion projection if the property was platted after October 1, 1985. Existing structures seaward of the 30-year erosion projection may be repaired or rebuilt, provided the structure retains its current footprint. Single-family homes seaward of the 30-year erosion projection may be constructed on vacant properties platted on or before October 1, 1985. Vacant properties platted after October 1, 1985, and which are located seaward of the 30-year erosion projection may not be permitted for construction of any structure, other than a coastal or shore protection structure, minor structure, or pier.

Based on the Department’s estimation of the 30-year erosion projection, vacant properties, platted after October 1, 1985, are identified as either moderately or severely affected. Moderately affected properties have a sufficient portion of land located landward of the estimated 30-year erosion projection to construct at least a single family home. Severely affected properties are limited to structures previously named. The affected properties include an estimated 25 severely affected and 18 moderately affected vacant lots, based on information

¹⁵ Fla. Stat. § 161.053(6)(d).

provided by the Gulf County Property Appraiser's Office, 2008 aerial photography, and site inspections performed by the Department's Bureau of Beaches and Coastal Systems in March 2009.

However, in June 2009, the Governor approved House Bill 1369, an act relating to Gulf County that took effect upon becoming law. The act authorizes the Department, notwithstanding Section 161.053(6), F.S., to issue a permit for a single-family dwelling on a parcel whose majority was not already subject to CCCL regulation, if the Department reestablishes a CCCL in Gulf County after January 1, 2009 and the applicant successfully demonstrates compliance with the following:

1. The parcel for which the single-family dwelling is proposed was platted or subdivided by metes and bounds prior to January 1, 2009;
2. The owner of the parcel for which the single-family dwelling is proposed does not own another parcel immediately adjacent to and landward of the parcel for which the dwelling is proposed;
3. The proposed single-family dwelling is located landward of the frontal dune structure; and
4. The proposed single-family dwelling will be as far landward on its parcel as is practicable without being located seaward of or on the frontal dune.

Considering this special legislation for Gulf County, the impact to vacant parcels has been revised to 20 severely affected and 4 moderately affected vacant parcels. The new law did not significantly change the number of parcels severely affected by the 30-year erosion projection. This is because the exemption does not apply to properties where the majority of the parcel is located seaward of the current CCCL.

5. A good faith estimate of the cost to the agency, and to any other state and local government entities, of implementing and enforcing the proposed rule, and any anticipated effect on state and local revenues.

a. A good faith estimate of the cost to DEP of implementing and enforcing the proposed rule.

The reestablishment of the coastal construction control line in Gulf County will result in both annual administrative costs and one-time cost to the Department associated with rulemaking. The annual administrative cost was determined by estimating the number of new applications that the DEP is likely to process as a result of the landward relocation of the CCCL. As a result

of the change in the CCCL, the Bureau estimates that the Department will see a moderate increase in activities associated with the reestablishment of the CCCL. These activities, based upon the number of permit applications the DEP received during a five year period, are identified below:

PERMIT APPLICATIONS

Habitable single family dwellings, <2400 sq. ft.	2
Habitable single family dwellings, >2400 sq. ft.	2
Coastal armoring	1
Minor project (driveway/ walkway/deck)	1
Field permits	15
Consultations	2
Compliance/Enforcement	3

Costs associated with the technical aspects of the permitting process are calculated by applying a Bureau wide hourly rate of \$66.99 for all staff. The estimated review hours capture all activities related to the receipt, review and issuance of CCCL permits; and following issuance of the permits, the performance of compliance inspections, final inspections, and closure of files.

	<u>Annual Cost</u>
Process 6 individual permits	\$17,752
Issue 15 field permits	\$4,019
Perform permit-related inspections (128 hrs.)	\$8,575
Provide 2 consultations	\$2,010
Take 3 compliance/enforcement actions	\$3,483
Gross Annual Costs	<u>\$35,839</u>
Permit fees collected annually	<u>\$17,300</u>
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The estimate of the total net annual costs to the agency for permitting due to the reestablishment of the Gulf CCCL is:	\$18,539

In addition to the annual agency costs, there is also a one-time cost associated with rulemaking. Estimated agency costs for rule promulgation include advertising, legal notices, data collection, performance of a CCCL reestablishment model study, court reporting, staff salaries, and other professional fees.

The Beaches and Shores Resource Center at Florida State University was contracted to perform the CCCL reestablishment model study. Other contractors that participated include Hydrographic Information System, Inc. (beach and offshore profiles), and Aerial Cartographics of America, Inc (aerial photography). The one-time costs associated with rulemaking are as follows:

1.	Advertising and Notice (Florida Administrative Weekly, newspaper ads, legal notices, public workshop and hearing)	\$9,000
2.	1. Survey data acquisition	
	a. Beach and offshore profiles	\$42,380
	b. Aerial photography	\$9,315
	c. Geodetic and photographic controls	\$27,000
3.	Preparation of technical materials (legal description and Coastal Construction Control Line, map of record)	\$6,400
4.	Development of Statement of Estimated Regulatory Cost(data collection, analysis, and drafting of statement)	\$15,160
5.	CCCL reestablishment model study	\$223,472
Total estimated one-time cost to the agency for rule promulgation:		\$332,727

b. A good faith estimate of the cost to any other state and local government entities of implementing and enforcing the proposed rule.

Local counties are responsible for implementation and enforcement of the Florida Building Code (Part VII Chapter 553, F.S.). Section 3109 of the Florida Building Code (F.B.C.) includes special provisions for structures built seaward of the Coastal Construction Control Line, Section 553.73(2), F.S. These special provisions are in addition to the routine criteria the Local Building Department must review and evaluate. By reestablishing the CCCL, local building officials of Gulf County will be responsible for implementing and enforcing the special provisions of the F.B.C. on an estimated 241 additional properties. Implementing and enforcing these special provisions will impose only minor costs to Gulf County’s Building Department.¹⁶

c. Any anticipated effect on state and local revenues.

c.1 Effect of CCCL provisions.

Potentially 241 property owners will face more stringent restrictions of the use of their property (This is discussed in greater detail in section 6. below). If a landowner wants to build a

¹⁶ Phone interview with Don Butler, Gulf County Administrator, 8/18/09

structure on his or her property under the new CCCL provisions, some subset of all construction options is no longer available. If the landowner would have preferred one of these options to any other then the highest value (to the landowner) option is no longer available. If this option also corresponded with the highest value (in the market) property use then the county could potentially lose tax revenue by restricting the set of options for construction. To conjecture at what the magnitude of this effect may be is merely speculation with the data currently available. However, due to the desirability of beachfront property, it is likely that the parcels will eventually be developed thus increasing county tax revenues in the long run. The net effect of these revenue changes is indeterminate, but is likely to be negative overall.

c.2 Effect of 30 Year Erosion Protection provisions.

The Department estimates there are 20 severely affected and 4 moderately affected vacant parcels that will likely be subject to the restrictions of the 30-year erosion projection. If the Department's current estimation of the 30-year erosion projection is consistent with the 30-year erosion projection at the time of application, those 20 severely affected properties will be restricted from building major structures and may only build a coastal or shore protection structure, minor structures, or piers. This may cause a reduction in the property value and thus, a possible reduction in the taxable value. To conjecture as to what the magnitude of this effect may be is merely speculation with the data currently available.

6. A good faith estimate of the transactional costs likely to be incurred by individuals and entities, including local government entities, required to comply with the requirements of the rule. As used in this paragraph, "transactional costs" are direct costs that are readily ascertainable based upon standard business practices, and include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used or procedures required to be employed in complying with the rule, additional operating costs incurred, and the cost of monitoring and reporting.

The proposed revisions to the Gulf County CCCL may affect a number of individuals and entities in several ways. Owners of properties located seaward of the proposed CCCL will be required to obtain CCCL permits and use special siting and design considerations during construction or other related activities on their property. The proposed change will cause the Department to incur additional costs related to permitting and regulating the newly affected properties, as noted in section 5 above. The proposed change may also negatively affect the

value of the properties newly captured by the proposed CCCL. Finally, if the property values are affected by the proposed change, the taxable value of the property may change and affect Gulf County's ability to collect property taxes. These potential costs are addressed in the following subsections.

a. Construction Costs

As a result of the proposed rule change, property owners seaward of the new CCCL may face greater transactional costs from the installation of additional equipment. Construction of new homes that will be located seaward of the revised CCCL will be required to withstand a 100-year storm event, have breakaway walls constructed below the wave crest height of a 100-year storm and pilings and elevations for non-breakaway walls sufficient to clear the wave crest height of a 100-year storm. Many variables determine the cost of building a home, including the square footage of the house, the height of elevation, and soil and other site-specific conditions. It is estimated that, a house built on a pile foundation, as required by the CCCL permit, would cost about 15-20% more than a similar house built on grade.¹⁷

b. Permitting Fees.

Property owners will be subject to additional permitting fees under the proposed rule change. The fees range from \$300 for construction of a minor structure to \$5,000 plus \$100 per dwelling unit for multi-family dwellings. There is no charge for field permits. It is estimated that an additional 6 permit applications per year will be processed, which is comprised of 2 permits for single family homes less than 2400 sq. ft. at \$2,000 each, 2 for single family homes that are more than 2400 sq. ft. at \$4,000 each, 1 for a coastal armoring project at \$5,000, and 1 for minor structures and activities at \$300, totaling \$17,300. These fees are based on historical activity in the area, and the number of homes and lots that will be affected.

c. Property Values.

The primary concern of many of the property owners on St. Joseph Peninsula is the possible impact on property values. There is a concern that restrictions on construction will reduce the value of the properties. Since assessed property values determine property tax revenues, the Gulf County government is also concerned about the effect on county tax revenues.

How might the value of a property be affected? Proximity to the shoreline is one characteristic of value of housing on or near the beach. Another factor might be a view of the

¹⁷ E-mail correspondence, Prof. Michael Cook, University of Florida, M.E. Rinker, Sr. School of Building Construction, 7/31/07.

coast. Typically, a property with an unobstructed view of the beach or shoreline might be expected to demand a higher market value. According to the Gulf County Property Appraiser's data, the five year average sales price for property on St. Joseph Peninsula, including areas landward of the current CCCL, is \$274,469 for a townhouse, and \$396,689 for a single family home.

As noted above, the CCCL is expected to move very little or not at all at several locations at the northern end of the study area, and up to 375 feet landward at the southern end of the study area (DEP Reference Monument R104).

The assessed value of property is assigned by the local tax assessor for purposes of levying local property taxes. This assessment is likely to differ from the true market value of a property, which is determined at the time the property is sold in a market transaction. Reductions in market value imply reductions in assessed values. Reductions in assessed values would proportionately reduce the county's ad valorem taxes.

The Department reestablished and modified the majority of CCCLs in the 1980's. A 1992 survey of property tax appraisers throughout the state indicated that the establishment or change of a CCCL may have mixed effect on property values.¹⁸ The property appraisers also expressed the difficulty of isolating the effects of changes to the CCCL from other impacts on property values, such as numerous or severe storm events and changes in the economy.

d. Effect of rule changes on property owners.

Existing structures seaward of the proposed CCCL that are damaged by storms usually can be rebuilt. These properties will be required to obtain a CCCL permit from the Department and adhere to special siting and design requirements for construction and related activities. Existing structures that replace windows, roofs, etc. will not be affected.

7. An analysis of the impact on small business as defined by s. 288.703, F.S. and an analysis of the impact on small counties and small cities as defined by s.120.52, F.S.

a. An analysis of the impacts on small businesses.

A small business is defined in Section 288.703 of the Florida Statutes as "...an *independently* owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than \$5 million or any firm

¹⁸ Proposed Reestablishment of the Pinellas County Coastal Construction Control Line, Statement of Estimated Regulatory Cost, 2000.

based in this state which has a Small Business Administration 8(a) certification. As applicable to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments”.

Based on information available to the Department, there are no small businesses of any size located within the affected area.¹⁹ However, construction of new structures is often conducted by small businesses. Small businesses will be required to comply with the stricter requirements of the CCCL if the business chooses to construct on one of the 241 newly affected properties. These companies and their contractors will bear costs related to additional design, labor and materials necessary to comply with the rule. Some of these costs will be passed along to the property owner, but a significant portion may be borne by the construction company. The level of this cost burden is indeterminate with the data available at this time.

Further, even though the Department believes that there are no small businesses currently located in the affected area, small businesses are not specifically excluded from locating in this area in the future. As such, a small business wishing to construct on affected properties would bear similar costs to builders of residential properties. Again, due to the hypothetical nature of this construction, exact values for these costs are indeterminate at this time.

b. An analysis of the impacts on small counties and small cities.

In Section 120.52, F.S., “Small City” is defined as “...*any* municipality that has an unincarcerated population of 10,000 or less according to the most recent decennial census”. “Small County” is defined as “...any county that has an unincarcerated population of 75,000 or less according to the most recent decennial census”. By the statutory definition, Gulf County is a small county.

Historically application for CCCL permits are higher the year before adoption/relocation of the CCCL in a county than the year after. This activity is likely due to the exemption provision found in rule 62B-33.004, F.A.C. This results in builders attempting to be “grandfathered” in, rather than a market-driven increase in demand for new construction.²⁰ This increase is then followed by a decline. This impact is expected to be temporary, occurring primarily during an

¹⁹ Estimate from Bureau Staff on August 3rd 2009 based on information from the Gulf County Property Appraiser’s data base provided in February of 2009.

²⁰ Structures that are “under construction” at the time the new CCCL is established are exempt from Chapter 62B-33, F.A.C. The definition of “under construction” and the method for determining such an exemption can be found in Subsection 62B-33.004(1), F.A.C.

unknown market adjustment period during which builders may postpone commencement of construction.

In summary, the number of coastal construction control line permit applications may be expected to continue to increase with the general economy and population growth in the area, subject to the availability of parcels. This may result in additional permit revenue in the short term and increased tax revenue from higher value property in the long term.

8. Any additional information that the agency determines may be useful.

It should be noted that this rule produces a secondary effect on insurance markets. By requiring stricter construction standards on additional coastal properties, moving the CCCL may also act to lower insurance risk (and thus premiums) on the affected parties. This would also serve to lessen the burden on the state as it will be less likely to have to serve as the insurer of last resort. The magnitude of this effect is indeterminate with the currently available data.

9. In the statement or revised statement, whichever applies, a description of any good faith written proposal submitted under paragraph (1)(a) and either a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule.

At the writing of this Statement of Estimated Regulatory Cost, no lower cost alternatives have been submitted to the Department.

10. References

A Department review of information provided by the Florida Department of Revenue, Gulf County Property Appraiser's Office, and Department aerial photography were considered in identifying the affected properties. The information obtained from multiple sources, which has not been used in this combination before, to our knowledge, was not designed to be compatible. The impacts are based on a combination of these sources, taking into consideration that each source has inherent weaknesses, and the different dates used for the "snapshot" in time.

1. *Critically Eroded Beaches in Florida, Updated June 2009*, Bureau of Beaches and Coastal Systems, Division of Water Resource Management, Department of Environmental Protection, State of Florida.

2. Draft rule language, Florida Administrative Weekly, Vol. 33, Number 6, Feb. 9, 2007, p. 633.
3. *Permit Drawings, St Joseph Peninsula Erosion Control Project*, prepared by MRD Associates for Gulf County, June 1, 2006.
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