

CHAPTER 62B-33: BUREAU OF BEACHES AND COASTAL SYSTEMS - RULES AND PROCEDURES FOR COASTAL CONSTRUCTION AND EXCAVATION (PERMITS FOR CONSTRUCTION SEAWARD OF THE COASTAL CONSTRUCTION CONTROL LINE AND FIFTY-FOOT SETBACK)

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**62B-33.002 Definitions.**

- (1) "Agency" is an administrative division of local, municipal, county, state, or federal government.
- (2) "Agent" is any person with the written power or authority to act on behalf of the applicant for purposes of an application submitted under Chapter 161, F.S.
- (3) "Alongshore" is a directional reference meaning along or approximately parallel to the shoreline; alternatively, shore-parallel, or longshore.
- (4) "Applicant" is any person, firm, corporation, county, municipality, township, special district, or any public agency or their authorized agent having authority pursuant to Section 161.052 or 161.053, F.S., to request a permit to conduct construction seaward of the control line or fifty-foot setback. An applicant may include the owner of record, agent, leaseholder, or holder of any legal instrument which gives the holder legal authority to undertake the construction for which a permit is sought.
- (5) "Armoring" is a manmade structure designed to either prevent erosion of the upland property or protect eligible structures from the effects of coastal wave and current action. Armoring includes certain rigid coastal structures such as geotextile bags or tubes, seawalls, revetments, bulkheads, retaining walls, or similar structures but does not include jetties, groins, or other construction whose purpose is to add sand to the beach and dune system, alter the natural coastal currents, or stabilize the mouths of inlets.
- (6) "Beach" is the zone of unconsolidated material that extends landward from the mean low water line to the place where there is marked change in material or physiographic form, or to the line of permanent vegetation.
- (7) "Beach and Dune System" is that portion of the coastal system where there has been or there is expected to be, over time and as a matter of natural occurrence, cyclical and dynamic emergence, destruction, and reemergence of beaches and dunes.
- (8) "Beach quality sand" is sand which is similar to the native beach sand in both coloration and grain size and is free of construction debris, rocks, clay, or other foreign matter.
- (9) "Breakaway Wall" or "Frangible Wall" is a partition independent of supporting structural members that is intended to withstand design wind forces but to collapse from a water load less than that which would occur during a 100-year storm event without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system.
- (10) "Building Support Structure" is any shore-parallel structure which supports floor, wall, or column loads and transmits them to the foundation.
- (11) "Bureau" is the Bureau of Beaches and Coastal Systems of the Department of Environmental Protection. The head of the Bureau is the Chief.
- (12) "Coastal Construction Control Line" (CCCL) or "Control Line" is the line established pursuant to the provisions of Section

161.053, F.S., and recorded in the official records of the county, which defines that portion of the beach-dune system subject to severe fluctuations based on a 100-year storm surge, storm waves, or other predictable weather conditions.

(13) “Coastal System” is the beach and adjacent upland dune system and vegetation seaward of the coastal construction control line; swash zone; surf zone; breaker zone; offshore and longshore shoals; reefs and bars; tidal, wind, and wave driven currents; longshore and onshore/offshore drift of sediment materials; inlets and their ebb and flood tide shoals and zones of primary tidal influence; and all other associated natural and manmade topographic features and coastal construction.

(14) “Construction” is any work or activity, including those activities specified in Section 161.053(2), F.S., which may have an impact as defined in this rule, except as applicable in Rule 62B-33.004, F.A.C.

(15) “Construction Debris” is the material resulting from the demolition of a structure. For the purpose of this rule chapter, construction debris shall not include such material which has been sorted, cleaned, and otherwise processed such that it meets the suitability criteria for armoring materials set forth in this rule chapter.

(16) “Department” is the Florida Department of Environmental Protection. The head of the Department is the Secretary.

(17) “Dune” is a mound, bluff or ridge of loose sediment, usually sand-sized sediment, lying upland of the beach and deposited by any natural or artificial mechanism, which may be bare or covered with vegetation and is subject to fluctuations in configuration and location.

(a) “Significant dune” is a dune which has sufficient height and configuration or vegetation to offer protective value.

(b) “Primary dune” is a significant dune which has sufficient alongshore continuity to offer protective value to upland property. The primary dune may be separated from the frontal dune by an interdunal trough; however, the primary dune may be considered the frontal dune if located immediately landward of the beach.

(18) “Eligible Structures” are public infrastructure and private structures qualified for armoring as follows:

(a) Public infrastructure includes those roads designated as public evacuation routes, public emergency facilities, bridges, power facilities, water or wastewater facilities, other utilities, hospitals, or structures of local governmental, state, or national significance.

(b) Private structures include:

1. Non-conforming habitable structures,
2. Major non-habitable structures which are not expendable,
3. Expendable major structures which are amenities necessary for occupation of the major structure, and
4. Expendable major structures whose failure would cause an adjacent upland non-conforming habitable structure or major non-habitable structure, which is not expendable, to become vulnerable.

(c) Eligible structures do not include minor structures.

(19) “Emergency Protection” is the use of armoring or other measures such as sand fill or expedient foundation reinforcement to temporarily protect eligible structures which are threatened by erosion as a result of recent storm events.

(20) “Erosion” is the wearing away of land or the removal of consolidated or unconsolidated material from the beach and dune system by wind, water, or wave action. Erosion includes:

(a) Landward horizontal movement of the line of mean high water or beach and dune system profile.

(b) Vertical lowering or volumetric loss of sediment from the beach and dune system or the offshore profile.

(21) “Excavation” is any mechanical or manual removal or alteration of consolidated or unconsolidated soil or rock material from or within the beach and dune system.

(22) “Expendable Structure” means a structure that is subject to use or consumption, suitable for sacrifice, or is not essential to preserve.

(23) “Fifty (50)-foot Setback” or “Setback Line” is the line of jurisdiction established pursuant to the provisions of Section 161.052, F.S., in which construction is prohibited within 50 feet of the line of mean high water at any riparian coastal location fronting the Gulf of Mexico or the Atlantic coast shoreline.

(24) “Fixed Coastal Cell” is a geomorphological component of the coastal system which is closely linked internally by active physical processes and is bounded by physical features which exercise a major control on refraction patterns or which compartmentalize or severely limit longshore sediment transport such as headlands or inlets.

(25) “Florida Building Code” (FBC) refers to Part VII of Chapter 553, F.S., the Florida Building Codes Act, effective March 1, 2002.

(26) “Foundation” is the portion of a structure which transmits the associated dead and live loads of the structure to the ground and includes, but is not limited to, spread footings, foundation walls, posts, piers, piles, beams, girders, structural slabs, cross

bracing, and all related connectors. For habitable major structures, the foundation includes all load bearing components below the first habitable floor. For pavements, the foundation includes the subbase and base course layers supporting the pavement layer.

(27) “Geotextile container” is a bag or tube, made of blanket-like synthetic fibers manufactured in a woven or loose nonwoven manner, used as an agent to hold together a large mass of sand forming a rigid tubular structure.

(28) “Global Positioning Systems (GPS)” is a passive, satellite-based, navigation system operated and maintained by the United States Department of Defense. Its primary mission is to provide passive global positioning/navigation for land, air, and sea-based activities.

(29) “Governmental Entity,” as used in Rule 62B-33.0051, F.A.C., Coastal Armoring and Related Structures, is defined as an agency, political subdivision, or municipality having jurisdiction over the proposed activities.

(30) “Hydrodynamic Loads” are those horizontal and vertical forces resulting from a mass of water in motion, such as the forces associated with the flow accompanying a storm surge. Hydrodynamic loads include the effects of turbulence resulting from the interaction of the flowing water mass with a rigid structure.

(31) “Hydrostatic Loads” are those horizontal and vertical forces resulting from a standing mass of water.

(32) “Immediately Adjacent Properties” are properties lying contiguous to a property proposed for construction including properties separated by a road, right-of-way, or accessway and those seaward and landward of the property.

(33) “Impacts” are those effects, whether direct or indirect, short or long term, which are expected to occur as a result of construction and are defined as follows:

(a) “Adverse Impacts” are impacts to the coastal system that may cause a measurable interference with the natural functioning of the coastal system.

(b) “Significant Adverse Impacts” are adverse impacts of such magnitude that they may:

1. Alter the coastal system by:

a. Measurably affecting the existing shoreline change rate;

b. Significantly interfering with its ability to recover from a coastal storm;

c. Disturbing topography or vegetation such that the dune system becomes unstable or suffers catastrophic failure or the protective value of the dune system is significantly lowered; or

2. Cause a take, as defined in Section 379.2431(1), F.S., unless the take is incidental pursuant to Section 379.2431(1)(f), F.S.

(c) “Minor Impacts” are impacts associated with construction which are not adverse impacts due to their magnitude or temporary nature.

(d) “Other Impacts” are impacts associated with construction which may result in damage to existing structures or property or interference with lateral beach access.

(34) “Major Reconstruction” is the complete or partial replacement or rebuilding, to its original level of protection, of a significant portion of an existing armoring structure which has failed or deteriorated.

(35) “Marine Turtle” is any turtle, including all life stages from egg to adult, of the species *Caretta caretta* (loggerhead), *Chelonia mydas* (green), *Dermochelys coriacea* (leatherback), *Eretmochelys imbricata* (hawksbill), and *Lepidochelys kempi* (Kemp’s ridley).

(36) “Mean Tidal Range” is the difference in height between mean high water and mean low water.

(37) “Minor Reconstruction” is the routine repair of an existing, functional, and intact armoring which is necessary to maintain the structural and functional integrity of the structure as originally designed and includes: repair or replacement of caps, return walls, tiebacks, individual sheet piles, and armor stone.

(38) “Mitigation” is an action or series of actions taken by the applicant that will offset impacts caused by a proposed or existing construction project.

(39) “NAD 83/90” – is the North American Datum 1983 adjustment of 1990.

(40) “NAVD 88” is the North American Vertical Datum of 1988.

(41) “NGVD” is National Geodetic Vertical Datum, as established by the National Ocean Survey (formerly called “mean sea level datum, 1929”).

(42) “Nesting Activity” is any activity by marine turtles associated with nesting including: beach selection, emergence from marine waters onto the beach, nest site selection, transit to and from the nest site, nest excavation, egg deposition, nest covering, incubation of eggs, hatching, hatchling emergence, orientation, and the transit of hatchlings into marine waters.

(43) “Nesting Season” is the nesting period for marine turtles from May 1 through October 31 of each year for all counties

except Brevard, Indian River, St. Lucie, Martin, Palm Beach, and Broward. Nesting season for these counties is the period from March 1 through October 31 of each year.

(44) “Nonconforming Structure” is any major habitable structure which was not constructed pursuant to a permit issued by the Department pursuant to Section 161.052 or 161.053, F.S., on or after March 17, 1985.

(45) “Notice to Proceed” is the formal notification from the Department authorizing all or portions of the permitted construction to commence.

(46) “One-hundred-year Storm” or “100-year Storm” is a shore-incident hurricane or any other storm with accompanying wind, wave, and storm surge intensity having a one percent chance of being equaled or exceeded in any given year.

(47) “Permit” is the authorization issued by the Department to conduct certain specified construction in a specified location seaward of a control line, upon issuance of a Notice to Proceed. Permit shall also include variances of the 50-foot setback requirements.

(48) “Permit Condition” is a statement or stipulation issued with, and appearing in or referenced in, a permit.

(49) “Pile Foundation” is a system of piles providing the support of a structure, including those piles terminating below grade at pile caps and those piles extending above grade to superelevate a structure.

(50) “Protective Value” is the measurable protection level afforded by the dune system to upland property and structures from the predictable erosion and storm surge levels associated with coastal storm events.

(51) “Rebuilding” is a substantial improvement of the existing structure as defined in Section 161.54, F.S.

(52) “Repair” is the restoration of a portion of an existing structure, including the foundation of the structure, to its original design or an equivalent structural standard. Repair of a structure assumes that a significant portion of the structure, including its foundation, remains intact.

(53) “Revetment” is a sloped, facing structure made of an armoring material designed to protect an escarpment or embankment or an upland structure from erosion by wave or current action.

(54) “Scour” is erosion caused by the interaction of waves and currents with man-made structures or natural features.

(55) “Seawall” is a structure separating land from water areas, primarily designed to prevent erosion and other damage due to wave or current action.

(56) “Shoreline” is the intersection of a specified plane of water with the beach. For example, the mean high water shoreline is the intersection of the plane of mean high water with the beach.

(57) “Shoreline Change Rate” is the average annual horizontal shift of the intersection of the foreshore slope of the beach with the referenced water plane, based on recorded historical measurements.

(58) “Shore-normal” is a directional reference meaning approximately perpendicular to the shoreline.

(59) “Storm Surge” is the rise of water above normal water level on the open coast due to a number of factors, including the action of wind stress on the water surface and the rise in water level due to atmospheric pressure reduction.

(60) “Structure” is the composite result of putting together or building related components in an ordered scheme. Enumeration of types of structures in this rule subsection shall not be construed as excluding from the application of this rule chapter any other structure which by usage, design, dimensions, or structural configuration meets the general definition herein provided and requires engineering considerations similar to the following:

(a) “Rigid Coastal Structures” are characterized by their solid or highly impermeable design or construction. Typically included within this category are groins, breakwaters, mound structures, jetties, weirs, seawalls, bulkheads, and revetments.

(b) “Minor Structures” are designed to be expendable, and to minimize resistance to forces associated with high frequency storms and to break away when subjected to such forces, and which are of such size or design as to have a minor impact on the beach and dune system.

(c) “Major Structures” which, as a result of design, location, or size could cause an adverse impact to the beach and dune system. Major structures include:

1. “Nonhabitable Major Structures” which are designed primarily for uses other than human occupancy. Typically included within this category are roads, bridges, storm water outfalls, bathhouses, cabanas, swimming pools, and garages.

2. “Habitable Major Structures” which are designed primarily for human occupancy and are potential locations for shelter from storms. Typically included within this category are residences, hotels, and restaurants.

(61) “Thirty-year Erosion Projection” or “30-year Erosion Projection” is the projection of long-term shoreline recession occurring over a period of 30 years based on shoreline change information obtained from historical measurements.

(62) “Toe scour protection” is a supplemental structure or structural component of armoring designed to prevent waves from scouring and undermining the base of the armoring.

(63) “Understructure” is any wall, partition, or other solid fabrication not comprising a part of the structural support system and located below the first floor support structure.

(64) “Vulnerable” is when an eligible structure is subject to either direct wave attack or to erosion from a 15-year return interval storm which exposes any portion of the foundation.

*Specific Authority 161.053 FS. Law Implemented 161.052, 161.053, 161.0535, 161.054, 161.061, 161.071, 161.081, 161.085 FS. History—New 11-18-80, Amended 3-17-85, 11-10-85, Formerly 16B-33.02, Amended 5-12-92, Formerly 16B-33.002, Amended 9-12-96, 1-26-98, 8-27-00, 7-1-01, 12-31-01, 6-13-04, 5-31-07, 7-17-08.*

#### **62B-33.004 Exemptions from Permit Requirements.**

(1) Any structures under construction prior to the establishment of a coastal construction control line (CCCL) in a particular county are exempt from the provisions of Section 161.053, F.S., and this rule chapter, except as noted in Sections 161.053(9) and (12), F.S.

(a) “Under construction” is the ongoing physical activity at the time of consideration of the exemption referenced in Section 161.053(9), F.S., of placing the foundation of, or continuation of construction above the foundation of, any structure seaward of the established CCCL or the setback line.

(b) A pile-supported structure shall be deemed “under construction” when placement of the permanent pile members for the foundation has begun. Driving of test piles and temporary placement of piles in preparation for driving shall not qualify a structure as “under construction.” For concrete footer, base, slab, or grade beam supported structures, a structure will be deemed “under construction” when the placement of concrete for the foundation has begun. For roads, parking lots, driveways, walkways, or similar paved structures, the structure will be considered “under construction” when placement of the base course, if used, or surface has been started.

(c) Whenever it is unclear under either paragraph 62B-33.004(1)(a) or (b), F.A.C., that a structure is “under construction”, the applicant shall provide to the Department the following documents demonstrating that the structure is under construction:

1. A copy of all required local government permits authorizing the structure,
2. A full set of construction plans for the structure approved by the local government in conjunction with the building permit, and
3. Other documentation, including local building inspectors’ construction reports, construction contracts, or other information, substantiating that a bona fide construction process, which appears will be continuous in nature, has started.

(d) Exemptions granted under this rule subsection shall only apply to those individual structures or parts of such structures which are determined to be under construction and are also described in both the local permit and the building plans. Only those structures which are under construction as defined in this rule section may be exempted. Other proposed structures shown on site plans, building permits, planned unit developments, or similar documents are not exempt. Any subsequent construction activity in addition to that so described and exempted shall require a permit, unless exempted under other provisions of this rule.

(e) Property owners may request a determination of exemption status within the period starting with the date of the first Public Hearing on reestablishing the CCCL held within the respective county and ending with the date of the establishment of the CCCL. The effective date of an exemption granted under this rule section shall be the date the CCCL is established.

(2) In addition to the exemptions provided in Section 161.053(12), F.S., the following are exempt from the provisions of Section 161.053, F.S., and this rule chapter:

(a) Construction of offshore structures, such as drilling platforms, gas and oil rigs, towers, or navigation aides, located beyond the effective limits of littoral sediment transport.

(b) Construction, excavation, and damage or destruction of vegetation conducted by the United States Government on lands owned and maintained by the United States Government.

(c) Minor activities which do not cause an adverse impact on the coastal system and do not cause a disturbance to any significant or primary dune are exempt from the permitting requirements of this rule chapter. Such activities shall be conducted so as not to disturb marked marine turtle nests or known nest locations or damage existing native salt-tolerant vegetation. The activities which are exempt pursuant to this rule paragraph include, but are not limited to, the following:

1. Beach or deck furniture and awnings.

2. Tie-downs, or anchors to existing minor structures or trees.
3. Portable public lifeguard stands.
4. Mono-post structures including umbrellas, antennas, or light posts provided there is minimal disturbance to the beach and dune system, no damage to vegetation, and the grade is restored.
5. Minor recreational diggings and other forms of art on the unvegetated beach provided there is no removal or filling of sand at the site.
6. The removal of windblown sand from paved roads and parking areas, beach access ramps, pools, patios, walkways, or decks not involving a change in the general grade and provided that any beach quality sand is returned to the beach and dune system seaward of the CCCL.
7. The minor maintenance of bulkheads and seawalls specifically involving scraping, chipping, sandblasting, guniting, and painting.
8. Minor structures, including but not limited to driveways, water wells, and irrigation wells which are either located within the landward shadow of existing habitable major structures, landward of the second line of development of major structures, or landward of public evacuation routes.
9. Maintenance or repair of the structures listed below. The structure(s) must be located a minimum of 30 feet landward of the frontal dune, escarpment, or coastal armoring structure, and the maintenance or repair must not expand or enlarge the existing structure(s).
  - a. Streets and roads, parking areas, and other paved areas not draining or discharging onto the beach; and
  - b. Swimming pools, provided the activity does not involve excavation.
10. Landscaping located a minimum of 30 feet landward of the frontal dune, escarpment, or coastal armoring structure which does not involve excavation of existing grade or destruction or removal of native salt-resistant vegetation.
11. Repairs to pile supported foundations which include replacing bolts, hurricane straps, secondary members, and shore-normal cross bracing.

(3) The Department shall issue a letter of exemption pursuant to the provisions of Section 161.053(12)(b), F.S., provided that the applicant fulfills the information requirements of subsection 62B-33.008(11), F.A.C., and provided that the Department determines that the proposed project will not cause a measurable interference with the natural functioning of the coastal system. Prior to commencement of work under the exemption, the applicant shall comply with the public notice requirements for the agency action of Chapter 120, F.S.

(4) If the Department determines the proposed minor construction is exempt from the provisions of Section 161.053(12)(c)9., F.S., the Department shall issue a notice of exemption using the DEP exemption form. The exemption form, which is entitled "Exemption Determination Pursuant to Section 161.053 or 161.052, F.S.," DEP form number 73-120 (Updated 3-05), is hereby incorporated by reference. A copy of the form can be obtained by writing to the Department of Environmental Protection, Bureau of Beaches and Coastal Systems, 3900 Commonwealth Boulevard, Mail Station 300, Tallahassee, Florida 32399-3000, or by telephoning (850)488-7708. The exemption notice shall be posted on site for the duration of the activity. If the proposed activity is determined not to be exempt, a permit pursuant to Section 161.053, F.S., and this rule chapter is required.

(5) Major structures and additions to major structures proposed above existing patio slabs, decks, or similar unenclosed areas are considered as new structures separate and independent of the existing slab, deck, or other unenclosed area and shall comply with regulatory requirements set forth in this rule chapter.

*Specific Authority 161.052, 161.053 FS. Law Implemented 161.052, 161.053 FS. History—New 11-18-80, Amended 3-17-85, 11-10-85, Formerly 16B-33.04, Amended 5-12-92, 11-11-92, Formerly 16B-33.004, Amended 1-26-98, 8-27-00, 5-31-07.*

### **62B-33.005 General Criteria.**

(1) The beach and dune system is an integral part of the coastal system and represents one of the most valuable natural resources in Florida, providing protection to adjacent upland properties, recreational areas, and habitat for wildlife. A coastal construction control line (CCCL) is intended to define that portion of the beach and dune system which 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. These fluctuations are a necessary part of the natural functioning of the coastal system and are essential to post-storm recovery, long term stability, and the preservation of the beach and dune system. However, imprudent human activities can adversely interfere with these natural processes and alter the integrity and functioning of the beach and dune system. The control line and 50-foot setback call attention to the special hazards

and impacts associated with the use of such property, but do not preclude all development or alteration of coastal property seaward of such lines.

(2) In order to demonstrate that construction is eligible for a permit, the applicant shall provide the Department with sufficient information pertaining to the proposed project to show that adverse and other impacts associated with the construction have been minimized and that the construction will not result in a significant adverse impact.

(3) After reviewing all information required pursuant to this rule chapter, the Department shall:

(a) Deny any application for an activity which either individually or cumulatively would result in a significant adverse impact including potential cumulative effects. In assessing the cumulative effects of a proposed activity, the Department shall consider the short-term and long-term impacts and the direct and indirect impacts the activity would cause in combination with existing structures in the area and any other similar activities already permitted or for which a permit application is pending within the same fixed coastal cell. The impact assessment shall include the anticipated effects of the construction on the coastal system and marine turtles. Each application shall be evaluated on its own merits in making a permit decision; therefore, a decision by the Department to grant a permit shall not constitute a commitment to permit additional similar construction within the same fixed coastal cell.

(b) Deny any application for an activity where the project has not met the Department's siting and design criteria; has not minimized adverse and other impacts, including stormwater runoff; or has not provided mitigation of adverse impacts.

(4) The Department shall issue a permit for construction which an applicant has shown to be clearly justified by demonstrating that all standards, guidelines, and other requirements set forth in the applicable provisions of Part I, Chapter 161, F.S., and this rule chapter are met, including the following:

(a) The construction will not result in removal or destruction of native vegetation which will either destabilize a frontal, primary, or significant dune or cause a significant adverse impact to the beach and dune system due to increased erosion by wind or water;

(b) The construction will not result in removal or disturbance of in situ sandy soils of the beach and dune system to such a degree that a significant adverse impact to the beach and dune system would result from either reducing the existing ability of the system to resist erosion during a storm or lowering existing levels of storm protection to upland properties and structures;

(c) The construction will not direct discharges of water or other fluids in a seaward direction and in a manner that would result in significant adverse impacts. For the purposes of this rule section, construction shall be designed so as to minimize erosion induced surface water runoff within the beach and dune system and to prevent additional seaward or off-site discharges associated with a coastal storm event.

(d) The construction will not result in the net excavation of the in situ sandy soils seaward of the control line or 50-foot setback;

(e) The construction will not cause an increase in structure-induced scour of such magnitude during a storm that the structure-induced scour would result in a significant adverse impact;

(f) The construction will minimize the potential for wind and waterborne missiles during a storm;

(g) The activity will not interfere with public access, as defined in Section 161.021, F.S.; and

(h) The construction will not cause a significant adverse impact to marine turtles, or the coastal system.

(5) In order for a manmade frontal dune to be considered as a frontal dune defined under Section 161.053(6)(a)1., F.S., the manmade frontal dune shall be constructed to meet or exceed the protective value afforded by the natural frontal dune system in the immediate area of the subject shoreline. Prior to the issuance of a permit for a single-family dwelling meeting the criteria of Section 161.053(6)(c), F.S., the manmade frontal dune must be maintained for a minimum of 12 months and be demonstrated to be as stable and sustainable as the natural frontal dune system.

(6) Sandy material excavated seaward of the control line or 50-foot setback shall be maintained on site seaward of the control line or 50-foot setback and be placed in the immediate area of construction unless otherwise specifically authorized by the Department.

(7) Swimming pools, wading pools, waterfalls, spas, or similar type water structures are expendable structures and shall be sited so that their failure does not have adverse impact on the beach and dune system, any adjoining major structures, or any coastal protection structure. Pools sited within close proximity to a significant dune shall be elevated either partially or totally above the original grade to minimize excavation and shall not cause a net loss of material from the immediate area of the pool. All pools shall be designed to minimize any permanent excavation seaward of the CCCL.

(8) Major structures shall be located a sufficient distance landward of the beach and frontal dune to permit natural shoreline fluctuations, to preserve and protect beach and dune system stability, and to allow natural recovery to occur following storm-induced

erosion. Where a rigid coastal structure exists, proposed major structures shall be located a sufficient distance landward of the rigid coastal structure to allow for future maintenance or repair of the rigid coastal structure. Although fishing piers shall be exempt from this provision, their foundation piles shall be located so as to allow for the maintenance and repair of any rigid coastal structure that is located in close proximity to the pier.

(9) If in the immediate area a number of existing major structures have established a reasonably continuous and uniform construction line and if the existing structures have not been unduly affected by erosion, except where not allowed by the requirements of Section 161.053(6), F.S., and this rule chapter, the Department shall issue a permit for the construction of a similar structure up to that line.

(10) In considering applications for single-family dwellings proposed to be located seaward of the 30-year erosion projection pursuant to Section 161.053(6), F.S., the Department shall require structures to meet criteria in Section 161.053(6)(c), F.S., and all other siting and design criteria established in this rule chapter.

(11) In considering project impacts to native salt-tolerant vegetation, the Department shall evaluate the type and extent of native salt-tolerant vegetation, the degree and extent of disturbance by invasive nuisance species and mechanical and other activities, the protective value to adjacent structures and natural plant communities, the protective value to the beach and dune system, and the impacts to marine turtle nesting and hatchlings. The Department shall restrict activities that lower the protective value of natural and intact beach and dune, coastal strand, and maritime hammock plant communities. Activities that result in the removal of protective root systems or reduce the vegetation's sand trapping and stabilizing properties of salt tolerant vegetation are considered to lower its protective value. Construction shall be located, where practicable, in previously disturbed areas or areas with non-native vegetation in lieu of areas of native plant communities when the placement does not increase adverse impact to the beach and dune system. Planting of invasive nuisance plants, such as those listed in the Florida Exotic Pest Plant Council's 2005 List of Invasive Species – Categories I and II, will not be authorized if the planting will result in removal or destruction of existing dune-stabilizing native vegetation or if the planting is to occur on or seaward of the dune system. A copy of this list is available on the Internet at [www.fleppc.org](http://www.fleppc.org); or can be obtained by writing to the Department of Environmental Protection, Bureau of Beaches and Coastal Systems, 3900 Commonwealth Boulevard, Mail Station 300, Tallahassee, Florida 32399-3000; or by telephoning (850) 488-7708. Special conditions relative to the nature, timing, and sequence of construction and the remediation of construction impacts shall be placed on permitted activities when necessary to protect native salt-tolerant vegetation and native plant communities. A construction fence, a designated location for construction access or storage of equipment and materials, and a restoration plan shall be required if necessary for protection of existing native salt-tolerant vegetation during construction.

(12) Special conditions relative to the nature, timing, and sequence of construction shall be placed on permitted activities when necessary to protect marine turtles and their nests and nesting habitat. In marine turtle nesting areas, all forms of lighting shall be shielded or otherwise designed so as not to disturb marine turtles. Tinted glass or similar light control measures shall be used for windows and doors which are visible from the nesting areas of the beach. The Department shall suspend any permitted construction when the permittee has not provided the required protection for marine turtles and their nests and nesting habitat.

*Specific Authority 161.053 FS. Law Implemented 161.052, 161.053 FS. History–New 11-18-80, Amended 3-17-85, 11-10-85, Formerly 16B-33.05, 16B-33.005, Amended 9-12-96, 1-26-98, 8-27-00, 6-13-04, 5-31-07.*

#### **62B-33.0051 Coastal Armoring and Related Structures.**

(1) General Armoring Criteria. In determining the appropriate means to protect existing private structures and public infrastructure from damage from frequent coastal storms, applicants should be aware that armoring may not be the only option for providing protection. Applicants are encouraged to evaluate other protection methods such as foundation modification, structure relocation, and dune restoration. If armoring (other than through the use of geotextile containers as the core of a reconstructed dune, which are governed exclusively by Chapter 62B-56, F.A.C.), is the selected option, the following siting, design, and construction criteria shall apply in order to minimize potential adverse impacts to the beach and dune system:

(a) Construction of armoring shall be authorized under the following conditions:

1. The proposed armoring is for the protection of an eligible structure; and
2. The structure to be protected is vulnerable. The determination of vulnerability will be made utilizing the dune erosion model contained in the report entitled "Erosion due to High Frequency Storm Events," by the University of Florida, dated November 22, 1995, which is incorporated herein by reference. Where direct application of the model shows that the structure to be protected is not vulnerable, but the construction otherwise meets the requirements of this rule chapter, an applicant may further demonstrate

vulnerability by taking into account the effects of shoreline change rates, natural physical features, and existing manmade structures in accordance with the following circumstances:

a. If it is projected that the eligible structure will become vulnerable at some future date which falls within the authorized time limit of a permit, then the permit shall authorize the construction of armoring once the anticipated site condition changes occur and the structure becomes vulnerable. The permit shall allow additional time to allow for construction operations and appropriate timing to avoid construction during the marine turtle nesting season.

b. Where there are multiple eligible structures in close proximity to one another, but not all of the structures are vulnerable and shoreline trends indicate continued erosion stress on the shoreline, and the Department determines through the use of numerical modeling and engineering analysis that the construction of armoring for only the vulnerable structures would cause the adjacent structures to become vulnerable following installation of the armoring, then all the eligible structures are considered vulnerable.

c. Where an eligible structure is located on a dune or escarpment and the dune erosion model predicts that the erosion from a 15-year return interval storm would fall landward of the existing dune crest or escarpment and seaward of the eligible structure, and where the applicant has provided the Department appropriate geotechnical analysis by a qualified professional engineer specialized in geotechnical or foundation engineering which demonstrates that the structure would be in danger of imminent collapse following the occurrence of erosion from a 15-year return interval storm. Imminent collapse means the structure's foundation will fail due to its own weight under normal conditions, resulting in structural damage to the supported structure.

d. Where an applicant demonstrates to the Department that another site specific circumstance exists other than listed in subparagraphs 62B-33.0051(1)(a)2.a. through c., F.A.C., such that the eligible structure is vulnerable; or

3. A gap exists, that does not exceed 250 feet, between a line of rigid coastal armoring that is continuous on both sides of the unarmored property. Such adjacent armoring shall not be deteriorated, dilapidated, or damaged to such a degree that it no longer provides adequate protection to the upland property. The top of the adjacent armoring must be at or above the still water level, including setup, for the design storm of a 15-year return interval storm plus the breaking wave calculated at its highest achievable level based on the maximum eroded beach profile and highest surge level combination. The adjacent armoring must be stable under the design storm of 15-year return interval storm, including maximum localized scour with adequate penetration, and must have sufficient continuity or return walls to prevent upland erosion and flooding under the design storm of 15-year return interval storm. Such installation shall:

- a. Be sited no farther seaward than the adjacent armoring;
- b. Close the gap between the adjacent armoring;
- c. Avoid significant adverse impacts to marine turtles;
- d. Not exceed the highest level of protection provided by the adjoining walls; and
- e. Comply with the requirements of Section 161.053, F.S.

4. The armoring shall not result in a loss of public access along the beach without providing alternative public access;

5. The construction will not result in a significant adverse impact.

(b) Where all permit criteria of this rule have been met, but a beach nourishment, beach restoration, sand transfer, or other project which would provide protection for the vulnerable structure is scheduled for construction within nine months and all permits and funding for the project are available, then no permit for armoring shall be issued.

(c) Minor reconstruction of existing armoring is exempt from the conditions of paragraph 62B-33.0051(1)(a), F.A.C., provided that the proposed construction would not result in a significant adverse impact.

(d) Major reconstruction of existing armoring is exempt from the requirements of subparagraph 62B-33.0051(1)(a)2., F.A.C., unless the habitable structure protected by the armoring has been destroyed to the extent that it requires rebuilding.

(2) Siting and Design. Armoring shall be sited and designed to minimize adverse impacts to the beach and dune system, marine turtles, native salt-tolerant vegetation, and existing upland and adjacent structures and to minimize interference with public beach access, in accordance with the following criteria:

(a) Siting. Armoring shall be sited as far landward as practicable to minimize adverse impacts while still providing protection to the vulnerable structure. In determining the most landward practicable location, the following criteria apply:

1. Excavation shall be the minimum required to properly install the armoring and shall not result in the destabilization of the beach and dune system seaward of the armoring or have an adverse impact on upland structures.

2. If armoring must be located close to the dune escarpment in order to meet the criteria listed above and such siting would result in destabilization of the dune causing damage to the upland structure, the armoring shall be sited seaward of, and as close as

practicable to, the dune escarpment.

3. Armoring shall be sited a sufficient distance inside the property boundaries to prevent destabilizing the beach and dune system on adjacent properties or increasing erosion of such properties during a storm event. Return walls shall be sited as close to the building as practicable while ensuring the building is not damaged and space is allowed for maintenance.

4. Existing armoring in need of major reconstruction, whose alignment either interferes with movement of sediment material along the beach or causes significant adverse impacts, shall be relocated consistent with the siting requirements of subsection 62B-33.0051(2), F.A.C.

5. When construction of armoring interferes with public access along the beach, the permittee shall provide alternative access.

(b) Design. Armoring shall be designed to provide protection to vulnerable structures while minimizing adverse impacts and shall be designed consistent with generally accepted engineering practice. The following criteria apply:

1. Coastal armoring structures shall be designed for the anticipated runup, overtopping, erosion, scour, and water loads of the design storm event. Design procedures are available in the latest edition of the Department of the Army Corps of Engineers' Coastal Engineering Manual (EM 1110-2-1100), or other similar professionally recognized publications.

2. To minimize adverse impacts to the beach and dune system, adjacent properties, and marine turtles, the shore-normal extent of armoring which protrudes seaward of the dune escarpment, vegetation line, or onto the active beach shall be limited to minimize encroachment on the beach. In areas with viable marine turtle habitat, the highest part of any toe scour protection shall be located to minimize encroachment into marine turtle nesting habitat.

3. All armoring shall be designed to remain stable under the hydrodynamic and hydrostatic conditions for which they are proposed. Armoring shall provide a level of protection compatible with existing topography, not to exceed a 50-year design storm.

4. Armoring shall be designed to minimize interference with public access along the beach.

5. Armor stone, including that used for toe scour protection, shall have a minimum dry unit weight of 135 pounds per cubic foot. In locations where there is potential for adverse impacts on marine turtles and their habitat, armor stone, except that used for toe scour protection, shall have a minimum dry unit weight of 150 pounds per cubic foot to reduce the armoring footprint. Armor stone shall be durable, hard, and free from laminations and weak cleavages, and sound enough to avoid fracturing under the design storm forces.

6. Armoring which utilizes any construction material other than stone in the construction shall be designed to meet both the requirements outlined in subparagraph 62B-33.0051(2)(b)5., F.A.C., and the unit weight, strength, and durability requirements generally accepted by the engineering community for use in the marine environment.

7. Armoring, which utilizes sand-filled geotextile containers as the core of a reconstructed dune for dune stabilization or restoration activities is not authorized under this rule. These structures are governed under Chapter 62B-56, F.A.C.

(c) The applicant shall provide the Department with certification by a professional engineer licensed in the State of Florida that the design plans and specifications submitted as part of the permit application are in compliance with this rule chapter.

(3) Marine Turtle Protection. Construction of armoring shall not be conducted during the marine turtle nesting season if the Department determines that the proposed construction will result in a significant adverse impact, except as allowed under subsection 62B-33.0051(6), F.A.C., or unless under the provisions of Rule 62B-33.014, F.A.C., emergency permitting procedures are enacted. No additional armoring shall be permitted on public lands in the Archie Carr National Wildlife Refuge. For the purposes of this provision, public lands means lands owned by local, state, or federal governments, or any lands acquired for the specific purpose of allowing them to be managed as part of the refuge. This ban does not apply where armoring is necessary, and there is no reasonable alternative, to protect public infrastructure as that term is defined in Section 161.085, F.S.

(4) In addition to the requirements provided in this rule section, armoring shall meet all other applicable provisions of this rule chapter.

(5) Emergency Protection. Upon the occurrence of a coastal storm which causes erosion of the beach and dune system such that existing structures have either become damaged or vulnerable to damage from a subsequent frequent coastal storm, pursuant to Section 162.085, F.S., the governmental entity may take emergency protection measures to protect public infrastructure and private structures within its jurisdiction. Alternatively, upon declaring a shoreline emergency and providing notification to affected property owners and to the Department, the governmental entity may issue permits authorizing private property owners within their jurisdiction to protect their private structures. Local governments shall not authorize the use of geotextile containers. Emergency protection measures shall be subject to the following:

(a) If the Department has declared a shoreline emergency pursuant to this rule chapter and affected governmental entities do not

provide for emergency protection permits, pursuant to Section 161.085, F.S., and this rule section, then private property owners must obtain such permits from the Department prior to construction.

(b) Emergency protection timelines shall be as follows:

1. If a governmental entity declares a localized emergency event and the Department does not issue an emergency final order, emergency protection measures shall be taken within 30 days after the initial erosion event. Delay in providing protection measures in excess of 30 days from the declaration of emergency shall result in a finding of no emergency, and emergency protection pursuant to this rule section shall no longer be authorized. Governmental entities may extend this period up to 30 additional days upon their revalidation of the emergency conditions.

2. If the state of Florida declares a shoreline emergency, emergency protection measure timelines for activities considered under Section 161.085, F.S., shall be concurrent with the Department's emergency final order timelines.

(c) Measures used for temporary protection shall be the minimum required as determined by the governmental entity pursuant to Section 161.085, F.S., to protect the structure from imminent collapse. Armoring or other measures shall be sited and designed to minimize excavation of the beach and frontal dune; impacts to existing native coastal vegetation, marine turtles, and adjacent properties; and encroachment onto the beach. Temporary protection shall be sited and designed to facilitate removal.

(d) Other measures used for temporary protection include the following:

1. Temporary reinforcement of foundations, placement of sandbags, and construction of protective sand berms. Sand used to fill sandbags or construct protective berms shall be beach compatible material and be obtained from an upland source. Excavation of the beach face or near shore area shall require a permit from the Department, pursuant to this rule chapter. Any excavation that occurs below the mean high water line on sovereignty lands is subject to the provision of Section 161.041 and Chapter 253, F.S. Sandfilled geotextile containers used as the core of a reconstructed dune for dune stabilization or restoration activities are not authorized under this rule. These structures are governed under Chapter 62B-56, F.A.C.

2. Construction of temporary wooden retaining walls, cantilever sheetpile walls (without concrete caps, tiebacks, or other reinforcement), or similar structures.

(e) Construction debris resulting from the coastal storm shall not be buried.

(f) Construction debris shall not be used for emergency protection. Any materials used for emergency protection shall either comply with the materials criteria in paragraph 62B-33.0051(2)(b), F.A.C., or shall be clean and easily removed or designed to assimilate into the natural environment without damage to the beach and dune system or marine turtles nesting habitat.

(g) Temporary structures shall be removed within 60 days of installation unless a complete application for a permit seeking authorization to retain the temporary structure or to provide alternative protection has been provided to the Department pursuant to Sections 161.053 and 161.085, F.S. In order for a temporary structure to remain in place, it must be permitted and meet all eligibility, siting, and design criteria for permanent armoring provided in this rule chapter.

(h) No activities shall result in a significant adverse impact.

(i) Under Section 161.085, F.S., if installation of a temporary emergency protection structure has caused, is causing, or has the reasonable potential to cause a significant adverse impact, the governmental entity that authorized the structure shall conduct or require appropriate action to eliminate any significant adverse impact.

(j) The Department shall require mitigation of any adverse impacts caused by emergency protection structures. In addition, the Department shall require removal of a temporary emergency protection structure if a significant adverse impact, as defined in Rule 62B-33.002, F.A.C., occurs.

(k) If installation of emergency protection structures occurs during the marine turtle nesting season, the following measures for the protection of marine turtles shall be implemented prior to siting and during installation of the emergency protection structure:

1. The Department shall be contacted for information on appropriate siting of the emergency structure to minimize impacts to marine turtles and provided with the location of any known marine turtle nests within the area of the proposed project.

2. Temporary emergency protection structures shall be sited and constructed in a manner that protects marine turtles.

3. Construction and storage of equipment or materials shall be conducted from or located at upland locations landward of the nesting beach.

4. In order to be prepared for coastal emergencies, local governmental entities who anticipate installing or authorizing emergency coastal protection structures should obtain a federal Endangered Species Act, Section 10, Incidental Take authorization from the United States Fish and Wildlife Service through the development of a marine turtle habitat conservation plan.

(l) Governmental entities shall notify the Department's Bureau of Beaches and Coastal Systems, within three (3) working days

of installing or authorizing the installation of any armoring pursuant to this rule section (overnight delivery to Florida Department of Environmental Protection, Bureau of Beaches and Coastal Systems, 5050 West Tennessee Street, Building B, Tallahassee, Florida 32304, or facsimile copy to (850)488-5257). Notification shall include:

1. A description of the structure, including a sketch and location;
2. The name and address of the property owner; and
3. The date of installation.

(m) Other authorizations under Chapters 253, 258, 373 and 379, F.S., are necessary to conduct activities below mean high water.

(6) The provisions of this rule section shall apply until the following measures to reduce the threat of erosion damage to upland property and structures within the specific fixed coastal cells of a coastal region have been taken:

(a) The shoreline has been restored such that private structures and public infrastructure are no longer vulnerable to frequent coastal storms; and

(b) The shoreline restoration project provides authority for future nourishment to maintain the level of protection; or

(c) Where applicable, an inlet management plan has been adopted by the Department and implemented by the governmental entity having jurisdiction over the inlet.

*Specific Authority 161.053, 161.085 FS. Law Implemented 161.052, 161.053, 161.085 FS. History—New 9-12-96, Amended 1-26-98, 8-27-00, 7-1-01, 6-13-04, 7-3-05, 5-31-07, 7-17-08.*

#### **62B-33.007 Structural and Other Requirements Necessary for Permit Approval.**

(1) All building permit applications submitted to the Department or to the appropriate local building department prior to March 1, 2002, the effective date of the Florida Building Code Act (Part VII, Chapter 553, F.S.), shall be governed in accordance with the standards contained within this rule section for the life of the permitted work and for any extensions granted to the permit.

(2) Upon the March 1, 2002 effective date of the Florida Building Code Act (pursuant to Sections 553.73 and 553.79, F.S.), the standards contained in this rule section shall be enforced by the local governments, except as noted in subsection 62B-33.007(1) and paragraphs 62B-33.007(4)(k) and (l), F.A.C.

(3) Habitable major structures which extend wholly or partially seaward of the CCCL or 50-foot setback shall be designed to resist the predicted forces associated with a 100-year storm event.

(4) Major structures shall conform to the following requirements:

(a) Habitable major structures shall be designed in accordance with the FBC, pursuant to Sections 553.70 through 553.898, F.S., the Florida Building Codes Act. In the event of conflict between the requirements of this rule chapter and the above building codes or other state or federal laws, the requirements resulting in the more restrictive design for wind, wave, hydrostatic and hydrodynamic loads, and erosion conditions shall apply.

(b) All structures shall be designed in accordance with the applicable wind standards contained in Chapter 16 of the FBC, which is adopted herein by reference.

(c) All habitable major structures shall be elevated on and securely anchored to an adequate pile foundation in such a manner as to locate the building support structure above the design breaking wave crests or wave approach as superimposed on the storm surge with dynamic wave setup of a 100-year storm. The storm surge with dynamic wave setup of a 100-year storm shall be the elevation determined by the Department in studies published as a part of the CCCL establishment process. The Department will evaluate the applicant's proposed structural elevation based upon available scientific and coastal engineering data and will advise the applicant of the specific elevation requirement for the site. The Department shall authorize the construction of additions, repairs, or modifications to existing nonconforming habitable major structures that do not meet the elevation or foundation standards of this paragraph, provided that the addition, repair, or modification does not advance the seaward limits of habitable construction at the site, does not constitute rebuilding of the existing structure, or does not otherwise comply with the requirements of this rule chapter. Staff evaluation in such cases will be based on engineering data, site elevations, any impact on the beach and dune system, and design life of the structure.

(d) Pile foundations for habitable major structures shall be designed to withstand all reasonable anticipated erosion, scour, and loads resulting from a 100-year storm including wind, wave, hydrostatic, and hydrodynamic forces acting simultaneously with typical structural (live and dead) loads. All major habitable structures should be anchored to their pile foundation in such a manner as to prevent flotation, collapse, or lateral displacement.

(e) The elevation of the soil surface to be used in the calculation of pile reactions and bearing capacities for habitable major structures shall not be greater than that which would result from erosion due to a 100-year storm event. Calculation of the design grade shall account for localized scour due to the presence of structural components. Design ratio of pile spacing to pile diameter should not be less than 8:1 for individual piles located above the design grade. Pile caps shall be set below the design grade unless designed to resist increased flood loads associated with setting the cap above the design grade, but at or below the natural grade. Pile penetration shall take into consideration the anticipated loss of soil above the design grade.

(f) Substantial walls or partitions shall not be constructed below the level of the first finished floor of habitable major structures and seaward of the CCCL or 50-foot setback. This does not preclude, subject to Department permit and applicable federal, county, and municipal regulations, the construction of:

1. Stairways;
2. Shearwalls perpendicular to the shoreline;
3. Shearwalls parallel to the shoreline, which are limited to a maximum of 20 percent of the building length in the direction running parallel to the shore;
4. Shearwalls parallel to the shoreline, which exceed 20 percent of the total building length (including any attached major structure) when they meet the following criteria:
  - a. A certification is provided by a Florida licensed professional engineer that certifies the increased length of shearwalls over 20 percent is located landward of the 100-year erosion limit;
  - b. A hydraulic analysis is provided and certified by a Florida licensed professional engineer that evaluates the potential impact of flow increase on the subject parcel and adjacent properties;
  - c. The hydraulic analysis demonstrates that although the overall shearwall coverage is more than 20 percent, the increased shearwall length will not result in substantial increase of flow velocities and drag forces on the structural components of the proposed structure and neighboring structures; and
  - d. These provisions do not include any low-rise building as defined in Section 1606.1.5 of the FBC.
5. Wind or sand screens constructed of fiber or wire mesh;
6. Light, open lattice partitions with individual, wooden lattice strips not greater than 3/4 inch thick and 3 inches wide;
7. Elevator shafts;
8. Small mechanical and electrical equipment rooms; or
9. Break-away or frangible walls.

(g) The requirements specified in paragraph 62B-33.007(4)(f), F.A.C., are not applicable if the Department determines that the substantial wall or partition is landward of the predicted erosion limits of a 100-year storm, that the 100-year storm stillwater depth at the substantial wall or partition is less than 1.5 feet, and that the applicant complies with all other requirements of this rule chapter.

(h) Structural design shall consider all design wave forces. Habitable major structures shall be designed in consideration of a 100-year storm event. Breaking, broken, and nonbreaking waves shall be considered as applicable. Design wave loading analysis shall consider vertical uplift pressures and all lateral pressures to include impact as well as dynamic loading and the harmonic intensification resulting from repetitive waves.

(i) Structural design shall consider all applicable hydrostatic loads. Habitable major structures shall be designed in consideration of the hydrostatic loads which would be expected under the conditions of maximum inundation associated with a 100-year storm event. Calculations for hydrostatic loads shall consider the maximum water pressure resulting from a fully peaked, breaking wave superimposed on the design storm surge with dynamic wave setup. Both free and confined hydrostatic loads shall be considered. Hydrostatic loads which are confined shall be determined using the maximum elevation to which the confined water would freely rise if unconfined. Vertical hydrostatic loads shall be considered as forces acting both vertically downward and upward on horizontal or inclined surfaces of major structures (e.g., floors, slabs, roofs, and walls). Lateral hydrostatic loads shall be considered as forces acting horizontally above and below grade on vertical or inclined surfaces of major structures and coastal or shore protection structures. Hydrostatic loads on irregular or curving geometric surfaces may be determined in consideration of separate vertical and horizontal components acting simultaneously under the distribution of the hydrostatic pressures.

(j) Structural design shall consider all applicable hydrodynamic loads. Habitable major structures shall be designed in consideration of the hydrodynamic loads which would be expected under the conditions of a 100-year storm event. Calculations for hydrodynamic loads shall consider the maximum water pressures resulting from the motion of the water mass associated with a 100-

year storm event. Full intensity loading shall be applied on all structural surfaces above the design grade which would affect the flow velocities.

(k) Fishing or ocean piers or the extension of existing fishing or ocean piers shall be designed to withstand at a minimum the erosion, scour, and loads accompanying a twenty (20)-year storm event. Pier decking and rails may be designed to be an expendable structure. Major structures constructed on the pier shall be designed for the wind loads as set forth in the FBC. Pile foundations shall not obstruct the longshore sediment transport and shall be designed to minimize any impact to the shoreline or coastal processes.

(l) Pipelines and ocean outfalls crossing the beach and littoral zone or the extension of existing pipelines or ocean outfalls shall be designed to withstand at a minimum the erosion, scour, and loads accompanying a 20-year or greater storm event. Pipelines or ocean outfalls shall be constructed below grade across the beach and littoral zone.

(m) Swimming pools located in close proximity to an existing habitable structure or armoring shall be designed with an adequate pile foundation for the erosion and scour conditions of a 100-year storm event.

(5) All structures shall be designed to reduce the potential for generating aerodynamically or hydrodynamically-propelled missiles.

*Specific Authority 161.053 FS. Law Implemented 161.052(2), 161.053 FS. History—New 11-18-80, Amended 3-17-85, 11-10-85, Formerly 16B-33.07, Amended 5-12-92, Formerly 16B-33.007, Amended 9-12-96, 1-26-98, 8-27-00, 12-31-01, 6-13-04, 5-31-07.*

### **62B-33.008 Permit Application Requirements and Procedures.**

(1) All applications submitted to the Department or to the appropriate local building department prior to March 1, 2002, the effective date of the Florida Building Code Act (Part VII, Chapter 553, F.S.), shall contain all the information required in subsection 62B-33.008(3), F.A.C.

(2) Applications received by the Department after the March 1, 2002 effective date of the Florida Building Code Act shall not be required to comply with the provisions of paragraphs 62B-33.008(3)(j), and subsection 62B-33.008(4), F.A.C., except as noted in subsection 62B-33.008(1), F.A.C.

(3) Any person desiring to obtain a permit for construction seaward of the coastal construction control line (CCCL) or 50-foot setback from the Department, except those persons applying pursuant to the emergency procedures in Rule 62B-33.014, F.A.C., shall submit two (2) copies of a completed application form to the Bureau at the address below. The permit application form, which is entitled "Application for a Permit for Construction Seaward of the Coastal Construction Control Line or Fifty-Foot Setback" – DEP Form 73-100 (Revised 12/06), is hereby adopted and incorporated by reference. Copies of the form can be obtained by writing the Department of Environmental Protection, Bureau of Beaches and Coastal Systems, 3900 Commonwealth Boulevard, Mail Station 300, Tallahassee, Florida 32399-3000; or by telephoning (850)488-7708. The application shall contain the following specific information:

(a) Name, mailing address, and telephone number of the property owner and of any duly authorized agent making the application on behalf of the owner, and the signature of the applicant.

(b) The name and mailing address of the owners of the immediately adjacent properties, exclusive of street-ends or easements.

(c) Sufficient evidence of ownership including the legal description of the property for which the permit is requested. Examples of evidence of ownership may include a copy of an executed warranty deed bearing evidence of appropriate recordation; a copy of a long term lease-purchase agreement, or contract for deed; a copy of a property tax receipt bearing the name and address of the current owner; articles of condominium bearing evidence of appropriate recordation (for condominiums); or the cooperative documents defined in Section 719.103(13)(a), F.S. (for residential cooperatives). Other documents submitted as evidence of ownership will be reviewed by the staff and shall be rejected if found not to be sufficient. A copy of a quit claim deed, a purchase contract, an affidavit from the owner, or a tax record obtained from an Internet website (unless obtained from an authenticated official county record) is not sufficient evidence of ownership. If the applicant is not the property owner, the applicant shall submit certification on the form provided by the Department as part of the permit application form, which is referenced in subsection 62B-33.008(3), F.A.C., authorizing the applicant to act as the owner's agent for the purpose of applying for a permit and to act on behalf of the owner in other matters pertaining to the permit.

(d) Written evidence, provided by the appropriate local governmental entity having jurisdiction over the activity, that the proposed activity, as submitted to the Bureau, does not contravene local setback requirements or zoning codes.

(e) A statement describing the proposed work, activity, or construction.

(f) Two original copies of a signed and sealed survey of the subject property. The information depicted on the drawing shall be

from a field survey conducted not more than six months prior to the date of the application. The survey shall comply with the requirements given in Rule 62B-33.0081, F.A.C.

(g) For major and rigid coastal structures, two copies of a dimensioned site plan drawn to an appropriate scale, on eight and one-half (8 1/2)-inch by eleven (11)-inch size paper showing property boundaries, the location of the proposed structure(s), the proposed construction limits, the location and volume of any proposed excavation or fill, and the locations of roads, adjacent dwellings, the vegetation line, and the approximate mean high water line.

(h) For major and rigid coastal structures, two copies of dimensioned cross-sections drawn to an appropriate scale, on eight and one-half (8 1/2)-inch by eleven (11)-inch paper, showing:

1. All subgrade construction or excavation with elevations referenced to NAVD 88 (U.S. survey foot).
2. Typical cross-sections of major structures and crest elevations for any proposed coastal or shore protection structure.
3. Location of the control line or, if not established, the MHWL and the 50-foot setback.
4. Typical profile of existing and proposed grade at the site.
5. The location of the contour line corresponding to elevation 0.0 NAVD 88 (U.S. survey foot).

(i) For structures with proposed permanent exterior lighting, two copies of a dimensioned lighting plan drawn an appropriate scale showing:

1. The location of all proposed permanent exterior lighting fixtures clearly marked by distinctive symbols for each model used,
2. A table with the column headings shown below providing the specified information for each fixture model used, and

SYMBOL	FIXTURE (e.g., name or stock number)	TOTAL NUMBER OF EACH FIXTURE	BULB LUMENS OUTPUT AND TYPE (e.g., 420 lumens output standard incandescent yellow “bug” bulb)	TYPE OF MOUNT (e.g., wall, pole, bollard)	MOUNTING HEIGHT
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3. A detailed description or manufacturer’s catalog sheet (cut sheet) for each fixture model used.

4. Multi-family and commercial project applications shall include three copies of the items listed in rule subparagraphs 62B-33.008(3)(i)1., through 3., F.A.C.

(j) Two copies of detailed final construction plans and specifications for all proposed structures or excavation including all planned appurtenant structures, permanent exterior lighting, and utilities. For major structures, these documents shall be signed and sealed by an engineer or architect (as appropriate) licensed in the State of Florida, and the site plan shall include all information required in subsection 62B-33.0081(1), F.A.C.

(k) For major habitable multifamily dwelling structures, two copies of detailed foundation plans and specifications. These documents shall be signed and sealed by an engineer or architect (as appropriate) licensed in the State of Florida.

(l) Two copies of a dimensioned site plan. The drawings shall be signed and sealed by an architect, engineer, landscape architect, or professional surveyor and mapper (as appropriate) licensed in the state of Florida. The site plan shall include:

1. The locations and exterior dimensions of all proposed structures, including foundations and other activities, and the bearings and distances from the CCCL or 50-foot setback to the seaward corners of the foundations of any major structures or the seaward limit of any coastal or shore-protection structure.

2. Dimensions and locations of the foundation outlines of any existing structures on adjacent properties and distances from the CCCL or 50-foot setback to the seaward corners of the foundations of any existing structures or the seaward limit of any coastal or shore-protection structure. These measurements shall include all structures that the applicant contends have established a reasonably continuous and uniform construction line for permits requested under the provisions of Sections 161.052(2)(b) or 161.053(5)(b), F.S.

3. Dimensions and locations of the foundation outlines of any existing structures on the subject property and distances from the CCCL or 50-foot setback to the seaward corners of the foundations of any major structures or the seaward limit of any coastal or shore-protection structure.

4. The horizontal location of the erosion control line (if one exists), any contour lines corresponding to elevation 0.00, the approximate contour of mean high water and the seasonal high water, and the horizontal location of the seaward line of vegetation and outlines of existing natural vegetation.

5. The horizontal location of the CCCL or the 50-foot setback (if no CCCL is established for the county in which the property is

located) for the full width of the subject property, including the location and full stamping of the two nearest Department or published second order or higher horizontal control points.

6. The location and dimensions of the property boundary, rights of way, and easements, if any.

7. The property owner and project name, street address, scale, north arrow, sheet number, and date of drawings.

8. The location of work limits, construction fences, and dune features and vegetation to be protected during construction.

(m) Two copies of a dimensioned grading plan. The drawings shall be signed and sealed by an architect, engineer, landscape architect, or professional surveyor and mapper (as appropriate) licensed in the State of Florida. The grading plan shall include:

1. Existing and proposed elevations, contours and spot elevations.

2. For any proposed excavation or fill:

a. A table of all permanent, temporary, and net excavation and fill volumes seaward of the CCCL;

b. The storage locations and description of handling methods for all temporary excavation and fill material; and

c. Soil and geotechnical data for beach compatible imported or excavated material proposed for placement on the beach seaward of a frontal dune or on the sandy beach.

(n) Two copies of dimensioned cross-sections. The drawings shall be signed and sealed by an architect, engineer, landscape architect, or professional surveyor and mapper (as appropriate) licensed in the State of Florida. The cross-sections shall include a typical view from the mean high water line to the CCCL depicting all structures and building elevations, proposed and existing grades, subgrade construction, excavation, fill, and elevations for any proposed or existing rigid coastal structures.

(o) For rigid coastal structures, two copies of a dimensioned site plan and detailed final construction plans and specifications for all proposed structures or excavation. These documents shall be signed and sealed by an engineer licensed in the State of Florida and shall bear the certification specified in paragraph 62B-33.0051(2)(c), F.A.C., and the site plan shall include all information required in subsection 62B-33.0081(1), F.A.C.

(p) Details, including engineering design computations, for any proposed waste or storm water discharge onto, over, under, or across the beach and dune system, such as storm water runoff, swimming pool drainage, well discharge, domestic waste systems, or outfalls. For multi-family dwellings, commercial developments, paved roadways, parking lots, and any de-watering projects, the applicant shall provide two copies of a dimensioned storm water management plan or other drainage plan(s). These plans shall show all conveyance systems (pipes, swales, culvers, wells, catchbasins, outlets), retention areas, invert elevations, and surface runoff drainage arrows.

(q) An anticipated construction schedule.

(r) Two copies of detailed planting plans, including the location of proposed plants, existing native vegetation, and plants to be removed. Plans shall include a plant list with both scientific and common names.

(4) If the application proposes to repair or rebuild, improve, or add an addition to an existing structure, the applicant shall submit a statement from the local governmental agency having jurisdiction over the activity which clearly states whether or not the proposed construction is a substantial improvement as defined in Section 161.54(12), F.S. If a statement is not available, the applicant shall submit to the Department all documentation necessary for the Department to make such a determination. The documentation shall include the cost of the improvement or repair and a figure representing the cumulative total of 50 percent of the market value of the structure, either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred.

(5) The staff shall require the applicant to provide other site specific information or calculations as is necessary for proper evaluation of the application. The dimensions for that plans referenced in this section shall be submitted in U.S. Customary System units. Structures shall be located with distances measured perpendicular to the control line, 50-foot setback line, or the mean high water line, as appropriate. All elevations in this rule shall be referenced to NAVD 88 (U.S. survey foot). Site, grading, drainage, and landscape plans as well as cross-sections shall be drawn to a scale no smaller than 1" = 40' in the horizontal dimension.

(6) The Department recognizes that the requirements specified in paragraphs 62B-33.008(3)(f) through (r), and Rule 62B-33.0081, F.A.C., may not, due to the project specific circumstances, be applicable or necessary to ensure protection to the beach and dune system. In such cases, the applicant shall, as part of the application, identify those requirements and state the reason why they are inapplicable. The Department shall waive requirements that do not apply.

(7) The applicant shall have 180 days from the date the Department mails a timely request for additional information to submit that information to the Department. If an applicant requires more than 180 days in which to respond to a request for additional information, the applicant may notify the Department in writing of the circumstances, at which time the application shall be held in

active status for a period of up to 90 days. Additional extensions shall be granted for good cause shown by the applicant. A showing that the applicant is making a diligent effort to obtain the requested additional information shall constitute good cause. Failure of an applicant to provide the timely requested information by the applicable deadline shall result in denial of the application.

(8) Permits for major structures shall expire three (3) years from the date of issuance unless the Department receives a written request for extension from the applicant demonstrating that the construction phase of the project cannot be completed within three years. In such case, permits for major structures shall expire five (5) years from the date of issuance. Permits for minor structures shall expire one year from the date of issuance. Once a permit has expired, all activity authorized must cease unless a new permit, a time extension, or a permit renewal is approved by the Department.

(9) Any substantial modification to a complete application shall require an additional processing fee determined pursuant to subsection 62B-33.0085(4), F.A.C., and shall restart the time requirements of Section 120.60, F.S. For purposes of this rule section, the term “substantial modification” shall mean a modification that is reasonably expected to lead to new or increased adverse impacts that require a detailed review.

(10) As an alternative to the above procedure, the Department issues field permits for certain minor structures and activities if the Department determines the activity has minor impacts. The field permit form that, is entitled “Field Permit Pursuant to Section 161.053 or 161.052, F.S.,” DEP Form 73-122 (Revised 3/05), is hereby adopted and incorporated by reference. A copy of the form can be obtained by writing to the Department of Environmental Protection, Bureau of Beaches and Coastal Systems, 3900 Commonwealth Boulevard, Mail Station 300, Tallahassee, Florida 32399-3000, or by telephoning (850) 488-7708.

(11) Requests for the Department to determine that the proposed activity is exempt from permitting pursuant to the provisions of Section 161.053(12)(b), F.S., shall include, at a minimum, a survey meeting the requirements of Rule 62B-33.0081, F.A.C., and the information requirements of paragraphs 62B-33.008(3)(l), (m), (n), (p), (r), and subsection 62B-33.008(5), F.A.C. The Department recognizes that the requirements specified above may not be necessary to make an exemption determination. In such cases, the applicant shall, as part of the request for exemption, identify those requirements and state the reason why they are inapplicable. The Department shall waive requirements that do not apply.

*Specific Authority 161.053, 161.0535 FS. Law Implemented 161.052, 161.053 FS. History—New 11-18-80, Amended 7-7-81, 3-17-85, 11-10-85, Formerly 16B-33.08, Amended 8-7-86, Formerly 16B-33.008, Amended 1-26-98, 8-27-00, 12-31-01, 6-13-04, 5-31-07.*

#### **62B-33.0081 Survey Requirements.**

(1) The certified survey of the subject property, which is required by paragraph 62B-33.008(3)(f), F.A.C., shall include the following information:

- (a) The property owner’s name.
- (b) All vertical data specified on the survey shall be referenced to NAVD 88 (U.S. survey foot).
- (c) The location of the property in relation to bordering roads and streets.
- (d) Property boundaries and right-of-ways.
- (e) Legal description of the property.
- (f) All horizontal coordinates, bearings, and distances referenced to the control provided upon the most recently recorded Map of Record for the CCCL in the county where the subject property is located.
- (g) The recording date, book, and page of the Map of Record of the CCCL as recorded in the county public records where the subject property resides.
- (h) The horizontal location of the CCCL or the fifty (50)-foot setback (if no CCCL is established for the county in which the property is located) for the full width of the subject property, including the location and full stamping of the two (2) nearest Department or published second order or higher horizontal control points.
- (i) The horizontal location of the erosion control line, if one exists,
- (j) The horizontal locations of the contour lines corresponding to elevation 0.00, the approximate contour of the mean high water, and the contour of the seasonal high water.
- (k) The horizontal location of the seaward line of vegetation and outlines of existing natural vegetation. Each contiguous stand shall be circumscribed at the outermost edge of the vegetation or the drip line of a tree canopy and shall be identified as being one of the following categories:

1. Beach dune (grasses and groundcovers);

2. Coastal strand (saw palmetto and salt pruned shrubs);
3. Hammock (overhead forest canopy);
4. Wetland (mangrove, marsh, or swamp); or
5. Exotics (greater than 50 percent Australian pine, Brazilian pepper, Australian scaevola, or other invasive nuisance species).

(l) When the topographic contours of the subject property are uniform in nature in the shore-normal direction throughout the project area, show (1) a minimum of three transects, (2) one transect per lot line, and (3) one transect per 100 feet of shore-normal direction, with data points at 25-foot intervals and at one-foot or greater changes in elevation on each transect. In project areas that are irregular or not uniform in nature or where abnormal topographic entities exist in a dune system, provide sufficient transect data points and elevations to establish a two-foot contour interval throughout the dune system.

(m) Dimensions and locations of the foundation outlines of any existing structures on the subject property and the bearings and distances perpendicular from the CCCL or 50-foot setback to the seaward corners of the foundations of any major structures or the seaward limit of the crest or cap at the extremities of any coastal or shore protection structure.

(n) If the permit is requested under the provisions of Section 161.053(5)(b) or 161.052(2)(b), F.S., the survey shall show the dimensions and locations of the foundation outlines of any existing structures in the immediate contiguous or adjacent areas that the applicant contends have established a reasonably continuous and uniform construction line. The survey shall show bearings and distances perpendicular from the CCCL or fifty (50)-foot setback to the seaward corners of the foundations of any major structures or the seaward limit of the crest or cap at the extremities of any coastal or shore protection structure, including the down line bearings and distances from the nearest point of intersection of the CCCL and the established perpendicular intersection.

(2) When conventional route surveying is used to locate the CCCL, the following information must be shown, reported, and become a part of the drawing:

(a) The location traverse showing all adjusted angles, distances, and directions shall be shown, reported, and become a part of the drawing.

(b) At least two (2) CCCL Map of Record control points or any two (2) published second order or higher horizontal control points shall be used in the location traverse. The bearing and distance from the nearest control monuments to the points of intersection on the CCCL shall be shown upon the survey.

(c) The survey shall provide the Florida State Plane Coordinates referenced to NAD 83/90 (U.S. survey foot) for two consecutive property corners on the subject property and the perpendicular bearings and distances to the most recently recorded CCCL or 50-foot setback, including the down-line bearing and distance from the nearest point of intersection of the CCCL and the established perpendicular intersection.

(3) When Global Positioning Systems are used, the following must be shown, reported, and become a part of the drawing:

(a) A tabular listing of all Geodetic Control Stations occupied and checked into, along with their latitude, longitude, State Plane Coordinate, zone, and specifications of units (U.S. survey foot).

(b) The software brand and version number used for the baseline or real-time processing and or adjustment.

(c) Identification of the Geodetic Control that was held fixed or used as Base Station installation. The Geodetic Control that was checked or allowed to take adjustment. When using real-time kinematic carrier phase processing, at least one additional control monument shall be occupied and a statistical comparison to the published values shall be provided.

(d) A general statement of accuracy for each newly established coordinate.

(e) A graphic representation of the final fixed position data depicting the three-dimensional vector baseline established between the control station and the newly established stations, including three-dimensional loop closure statistics on the checked monumentation.

(f) A tabular listing of all newly established positions obtained from the final fixed vectors which includes their latitude, longitude, State Plane Coordinate, zone, grid Azimuth (convergence angle), scale factor, and specification of units (U.S. survey foot). Newly established stations shall be identified as such. The number of decimal places displayed shall reflect the level of precision of the work performed.

(g) The survey drawings shall include the following notes or equivalent:

1. The procedures and or network design meet the Geodetic Accuracy Standards and Specifications for Using GPS Related Positioning as set forth by the Federal Geodetic Control Sub-Committee in their most current publication for 3rd order class 1 horizontal control survey or provide the horizontal accuracy for all new positions established as a positional tolerance.

2. Provide the vertical accuracy for all new positions established as a positional tolerance.

3. The survey shall provide the Florida State Plane Coordinates referenced to NAD 83/90 (U.S. survey foot) for two (2) consecutive property corners on the subject property and the perpendicular bearings and distances to the most recently recorded CCCL or fifty (50)-foot setback, including the down line bearing and distance from the nearest point of intersection of the CCCL and the established perpendicular intersection.

4. For general location purposes the survey shall provide a bearing and distance from the state plane coordinated property corners to the nearest Department range baseline monitoring location.

*Specific Authority 161.053 FS. Law Implemented 161.052, 161.053 FS. History—New 6-13-04, Amended 5-31-07.*

#### **62B-33.0085 Permit Fees.**

(1) Each application for a new permit or for a change in permit status to be considered by the Department pursuant to Section 161.053, F.S., or Rule 62B-33.013, F.A.C., except the applications listed in paragraphs 62B-33.0085(1)(a) through (e), F.A.C., shall be accompanied by a fee. Monies from fees assessed pursuant to this rule section shall be deposited into the Florida Permit Fee Trust Fund. No fee shall be assessed for:

- (a) Applications pursuant to Rule 62B-33.014, F.A.C., Emergency Procedures;
- (b) Applications filed by agencies of government of the executive branch of the State of Florida;
- (c) Applications for permits pursuant to Section 161.052, F.S., for work to be conducted in counties where no CCCL has been established pursuant to Section 161.053, F.S.;
- (d) Field permits; or
- (e) Transfer of permits.

(2) The appropriate fee is to be submitted to the Department at the time of application. No permit application will be considered complete until the required fee has been received by the Department.

(3) If an applicant has submitted a fee for an activity which is exempt from the fee provisions of this rule section, such fee shall be refunded to the applicant pursuant to the provisions of Section 120.60(2), F.S. Any fee payment in excess of the amount required by this rule section shall be refunded to the applicant. Fees submitted to the Department pursuant to this rule section shall not be refunded if the application is withdrawn, denied, or if separate application(s) to other governmental agencies are denied.

(4) The total permit fee shall be the sum of the fees assessed for each individual major structure plus any additional fee for minor structure. The fees for each activity, experimental project, rigid coastal structure, permit modification, time extension, permit renewal, area wide permit, or structure or addition, when any portion of the foundation or any habitable portion of such structure or addition is proposed by the applicant to extend seaward of the CCCL, shall be assessed in accordance with the following schedule:

- (a) Nonhabitable major structures: \$1,000.
- (b) Habitable major structures with a roof footprint less than 2,400 square feet for a single family dwelling: \$2,000.
- (c) Habitable major structures with a roof footprint equal to or greater than 2,400 square feet for a single family dwelling: \$4,000.
- (d) Habitable major structures with more than one dwelling unit (e.g., hotels, motels, apartment buildings, and condominiums): \$5,000 plus \$100 per dwelling unit for each dwelling unit in the structure.
- (e) Other major habitable structures (e.g., commercial or public buildings, restaurants, and towers): \$3,000.
- (f) Additions to existing habitable structures for a single family dwelling: \$1,000.
- (g) Additions to existing habitable structures with more than one dwelling unit: \$2,500 for the first unit and \$100 for every additional dwelling unit in the structure.
- (h) Minor structures and activities: \$300 for a single minor structure, \$500 for multiple minor structures, and \$300 for one or more minor activities. Minor activities include but are not limited to dune construction and enhancement, placement of fill, and removal of debris. Minor structures and activities exclude minor structures and activities authorized by a field permit. There shall be no additional fee for minor activities in conjunction with a permit for a major structure.
- (i) Experimental Projects: \$3,000 for experimental projects permitted in accordance with Section 161.053, F.S., and Section 27, Chapter 89-175, Laws of Florida.
- (j) Area Wide Permits pursuant to Section 161.053(18), F.S.: \$500.
- (k) Rigid Coastal Structures: \$3,000 for structures up to 100 feet in length, plus \$500 for each additional 50 feet of length or portion thereof. For fee payment purposes, the length of the structure shall include return walls.
- (l) Other Activities: \$500. Other activities include, but are not limited to minor reconstruction of coastal protection structures,

repairs to major structures, excavation, and large landscaping projects.

(m) Time Extension: \$200 for projects that are certified by a professional engineer or architect licensed in the State of Florida to be at least 75 percent complete, \$500 for projects that are certified by a professional engineer or architect licensed in the State of Florida to be less than 75 percent complete and above the foundation, and \$750 for projects in which the foundation is incomplete. In order to be eligible for a time extension, a request, pursuant to subsection 62B-33.013(3), F.A.C., must be filed in writing with the Bureau of Beaches and Coastal Systems prior to the permit expiration date.

(n) Permit Renewal: \$1,000 or 10 percent of the original permit fee whichever is greater for permits which expire without a request for time extension or in cases in which a request for a time extension is not received prior to the permit expiration date.

(o) Revisions or Modifications of Approved Permits.

1. For a modification to a permit for a minor structure or activity which adds a new minor structure or activity, the fee will be the amount assessed for the additional structure or activity under subsection 62B-33.0085(4), F.A.C. For a modification which includes revisions to a permitted minor structure or activity and does not include a new minor structure or activity, the fee will be \$150.

2. For a modification to a permit for a major structure which adds a new major structure or dwelling unit, the fee will be \$500 or the amount assessed for the structure or dwelling unit under subsection 62B-33.0085(4), F.A.C., whichever is greater. For a modification which includes revisions to a permitted major structure or dwelling unit and does not include a new major structure or dwelling unit, the fee will be \$500.

(p) Fee Waiver: For projects which are cost shared under Section 161.101, F.S., with the state government, the local government may request a waiver of that portion of the fee above the local government pro rata share. (Example: local share 50%, computed total fee \$5,000, waived fee is \$2,500, local pro rata fee \$2,500). In no case will the local pro rata share be less than \$2,000.

(q) Development Agreements pursuant to Section 161.0531, F.S.: \$2000.

*Specific Authority 161.053, 161.0535 FS. Law Implemented 161.053, 161.0535 FS. History--New 8-7-86, Formerly 16B-33.0085, Amended 6-16-97, 4-30-98, 8-27-00, 6-13-04.*

#### **62B-33.013 Permit Modifications, Time Extensions, and Renewals.**

(1) Requests for major changes or modifications including additions, revisions, or structural modifications of permitted projects or activities shall be reviewed in the same manner as the initial application. Changes considered major are those changes that will affect compliance with structural standards of this rule or which increase the potential for adverse impacts.

(2) A determination that minor changes or modifications, including minor additions, revisions, or structural modifications of permitted projects or activities that are within the scope of the permit, shall be made upon request of the applicant. Minor additions, revisions, or structural modifications are those changes which will not increase the risk of adverse impacts.

(3) The permittee or authorized agent may request an extension of the permit expiration date by filing a written request with the Bureau prior to the permit expiration date. If a request for a time extension is completed pursuant to paragraph 62B-33.013(3)(a), F.A.C., and received prior to the permit expiration date, the permit will be valid until the Department acts upon the extension request. If a timely but incomplete request for a time extension is received, construction must cease upon the expiration date of the permit and shall not restart until the request is complete or until the Department acts upon the request. Time extensions for major structures can be issued for periods of up to three years. The total time extensions shall not extend beyond three years from the permit's original expiration date. The request shall be made using the time extension form entitled "Application for a Permit Time Extension Pursuant to Rule 62B-33.013, F.A.C.," DEP Form 73-113 (Revised 7/04), which is hereby adopted and incorporated by reference. A copy of the form can be obtained by writing to the Department of Environmental Protection, Bureau of Beaches and Coastal Systems, 3900 Commonwealth Boulevard, Mail Station 300, Tallahassee, Florida 32399-3000, or by telephoning (850)488-7708.

(a) A written request for a permit time extension shall include the following items:

1. The permit number;
2. The length of time requested;
3. A copy of a valid building permit or evidence provided by the applicable county or municipality that the authorization previously provided under paragraph 62B-33.008(3)(d), F.A.C., shall remain in effect throughout the duration of the requested time extension;
4. Reasonable assurance that the activity can be completed within the time extension requested based on a schedule for

completion included with the request, that no significant change in shoreline conditions has occurred since the original permit was issued, and that the nature of the work has not changed; and

5. A fee pursuant to Rule 62B-33.0085, F.A.C.

(b) The Department shall deny a request for a time extension if:

1. Shoreline or other conditions have changed so that the project is no longer permissible under this rule chapter;
2. Application for a time extension is made after the expiration date of the permit;
3. Construction has not started within the five (5)-year period following the date of permit issuance for a major structure;
4. The permit has previously been extended to the limit allowed under this subsection or renewed pursuant to subsection 62B-33.013(4), F.A.C.; or
5. The time extension request would extend the expiration date beyond three years from the permit's original expiration date.

(4) If a permit has expired before the work is complete, the applicant may apply in writing for a permit renewal provided the request is made within six months of the original permit expiration date. A permit renewal can be issued for periods of up to two years. Permit renewals are not available if a time extension, pursuant to subsection 62B-33.013(3), F.A.C., was previously issued. In order to obtain a renewal, the applicant must provide information required in subparagraphs 62B-33.013(3)(a)1. through 5., F.A.C. Time extensions are not authorized while a permit renewal is in effect.

(5) If construction is not complete after having been granted additional time by means of either a time extension or a permit renewal, the permittee must submit a new application pursuant to Rule 62B-33.008, F.A.C.

*Specific Authority 161.053 FS. Law Implemented 161.052, 161.053 FS. History—New 11-18-80, Amended 3-17-85, Formerly 16B-33.13, 16B-33.013, Amended 1-26-98, 8-27-00, 6-13-04, 5-31-07.*

#### **62B-33.014 Emergency Procedures.**

(1) A “shoreline emergency” declared by the Governor or the Department is any unusual incident resulting from a hurricane, storm, or other violent coastal disturbance that has resulted in erosion, beach or coastal damage, sudden and unpredictable hazards to navigation, damage to upland structures, or any other unusual incident from natural or unnatural causes that endangers the coastal system or health, safety, welfare, or resources of the citizens of the state. Permits approved under the emergency procedures described in this rule section are intended to alleviate conditions resulting from a shoreline emergency and for purposes of this rule section shall be referred to as “emergency permits”.

(2) Once a state of emergency is declared by either Executive Order of the Governor, pursuant to Section 252.36, F.S., or by the Secretary, pursuant to Section 120.569(2)(1), F.S., the following emergency procedures shall be followed:

(a) Designated representatives of the Department shall process emergency permits upon the request for an emergency field permit or the submittal of an emergency permit application. All construction shall be reasonably expected to be completed within ninety (90) days of permit issuance;

(b) Emergency field permits that are processed pursuant to subsection 62B-33.008(11), F.A.C., may be issued for construction, including but not limited to: temporary or remedial activities to protect structures; repair or replace minor structures, including dune walkovers, retaining walls, decks, and gazebos; dune restoration with beach compatible sand; repair or replacement of minor damages to coastal armoring structures, including bulkhead or seawall caps, return walls, tiebacks, individual sheet piles, and armor stone; and other similar activities;

(c) Emergency permit applications may be submitted for the following activities: permanent foundation repair to major structures, repair or reconstruction of major structures, or repair or reconstruction of major damages to coastal armoring structures. The request shall be submitted using the form entitled “Emergency Permit Application Pursuant to Section 161.052 or 161.053, F.S.” – DEP Form 73-303 (New 12/06), which is hereby adopted and incorporated by reference;

(d) Processing fees for emergency permits shall be waived;

(e) Information requirements of this rule chapter shall be deferred if the delay necessary to gather and submit the information will compound the emergency; and

(f) Public notice procedures shall be waived.

(3) Emergency permit processing procedures shall be designated for no longer than the period stated in the executive order. The Department shall authorize emergency permit processing extensions, of thirty (30) days each, not to exceed three extensions, concurrent with an emergency final order.

(4) Emergency permits shall expire 90 days after the date of issuance unless an earlier date is specified in the permit. If the

permittee demonstrates that the emergency conditions still exist and that failure to complete the project was beyond the permittee's control, the Department shall grant an extension of no more than 90 days after the initial expiration date.

(5) When the proposed activity is not for the purpose of alleviating conditions resulting from the shoreline emergency, permitting and authorization procedures set forth in the other sections of this rule chapter shall be followed.

(6) Emergency permits shall not be issued for the creation of new lands or permanent structures that did not exist before the emergency.

*Specific Authority 161.053 FS. Law Implemented 161.041, 161.052, 161.053 FS. History—New 11-18-80, Amended 3-17-85, 11-10-85, Formerly 16B-33.14, 16B-33.014, Amended 1-26-98, 5-31-07.*

#### **62B-33.0155 General Permit Conditions.**

(1) The following general permit conditions shall apply, unless waived by the Department or modified by the permit:

(a) The permittee shall carry out the construction or activity for which the permit was granted in accordance with the plans and specifications that were approved by the Department as part of the permit. Deviations therefrom, without written approval from the Department, shall be grounds for suspension of the work and revocation of the permit pursuant to Section 120.60(7), F.S., and shall result in assessment of civil fines or issuance of an order to alter or remove the unauthorized work, or both. No other construction or activities shall be conducted. No modifications to project size, location, or structural design are authorized without prior written approval from the Department. A copy of the notice to proceed shall be conspicuously displayed at the project site. Approved plans shall be made available for inspection by a Department representative.

(b) The permittee shall conduct the construction or activity authorized under the permit using extreme care to prevent any adverse impacts to the beach and dune system, marine turtles, their nests and habitat, or adjacent property and structures.

(c) The permittee shall allow any duly identified and authorized member of the Department to enter upon the premises associated with the project authorized by the permit for the purpose of ascertaining compliance with the terms of the permit and with the rules of the Department until all construction or activities authorized or required in the permit have been completed and all project performance reports, certifications, or other documents are received by the Department and determined to be consistent with the permit and approved plans.

(d) The permittee shall hold and save the State of Florida, the Department, and its officers and employees harmless from any damage, no matter how occasioned and no matter what the amount, to persons or property that might result from the construction or activity authorized under the permit and from any and all claims and judgments resulting from such damage.

(e) The permittee shall allow the Department to use all records, notes, monitoring data, and other information relating to construction or any activity under the permit, which are submitted, for any purpose necessary except where such use is otherwise specifically forbidden by law.

(f) Construction traffic shall not occur and building materials shall not be stored on vegetated areas seaward of the control line unless specifically authorized by the permit. If the Department determines that this requirement is not being met, positive control measures, such as temporary fencing, designated access roads, adjustment of construction sequence, or other requirements, shall be provided by the permittee at the direction of the Department. Temporary construction fencing shall not be sited within marine turtle nesting habitats.

(g) The permittee shall not disturb existing beach and dune topography and vegetation except as expressly authorized in the permit. Before the project is considered complete, any disturbed topography or vegetation shall be restored as prescribed in the permit with suitable fill material or revegetated with appropriate beach and dune vegetation.

(h) All fill material placed seaward of the control line shall be sand which is similar to that already existing on the site in both coloration and grain size. All such fill material shall be free of construction debris, rocks, clay, or other foreign matter; shall be obtained from a source landward of the coastal construction control line; and shall be free of coarse gravel or cobbles.

(i) If surplus sand fill results from any approved excavation seaward of the control line, such material shall be distributed seaward of the control line on the site, as directed by the Department, unless otherwise specifically authorized by the permit.

(j) Any native salt-tolerant vegetation destroyed during construction shall be replaced with plants of the same species or, by authorization of the Department, with other native salt-tolerant vegetation suitable for beach and dune stabilization. Unless otherwise specifically authorized by the Department, all plants installed in beach and coastal areas – whether to replace vegetation displaced, damaged, or destroyed during construction or otherwise – shall be of species indigenous to Florida beaches and dunes, such as sea oats, sea grape, saw palmetto, panic grass, saltmeadow hay cordgrass, seashore saltgrass, and railroad vine, and grown from stock

indigenous to the region in which the project is located.

(k) All topographic restoration and revegetation work is subject to approval by the Department, and the status of restoration shall be reported as part of the final certification of the actual work performed.

(l) If not specifically authorized elsewhere in the permit, no operation, transportation, or storage of equipment or materials is authorized seaward of the dune crest or rigid coastal structure during the marine turtle nesting season. The marine turtle nesting season is May 1 through October 31 in all counties except Brevard, Indian River, St. Lucie, Martin, Palm Beach, and Broward counties where leatherback turtle nesting occurs during the period of March 1 through October 31.

(m) If not specifically authorized elsewhere in the permit, no temporary lighting of the construction area is authorized at any time during the marine turtle nesting season and no additional permanent exterior lighting is authorized.

(n) All windows and glass doors visible from any point on the beach must be tinted to a transmittance value (light transmission from inside to outside) of 45% or less through the use of tinted glass or window film.

(o) The permit has been issued to a specified property owner and is not valid for any other person unless formally transferred. An applicant requesting transfer of the permit shall sign two copies of the permit transfer agreement form, agreeing to comply with all terms and conditions of the permit, and return both copies to the Bureau. The transfer request shall be provided on the form entitled "Permit Transfer Agreement" – DEP Form 73-103 (Revised 1/04), which is hereby adopted and incorporated by reference. No work shall proceed under the permit until the new owner has received a copy of the transfer agreement approved by the Department. A copy of the transfer agreement shall be displayed on the construction site along with the permit. An expired permit shall not be transferred.

(p) The permittee shall immediately inform the Bureau of any change of mailing address of the permittee and any authorized agent until all requirements of the permit are met.

(q) For permits involving major structures or activities, the permittee shall submit to the Bureau periodic progress reports on a monthly basis beginning at the start of construction and continuing until all work has been completed. If a permit involves either new armoring or major reconstruction of existing armoring, the reports shall be certified by an engineer licensed in the State of Florida. The permittee or engineer, as appropriate, shall certify that as of the date of each report all construction has been performed in compliance with the plans and project description approved as a part of the permit and with all conditions of the permit, or shall specify any deviation from the plans, project description, or conditions of the permit. The report shall also state the percent of completion of the project and each major individual component. The reports shall be provided to the Bureau using the form entitled "Periodic Progress Report" – DEP Form 73-111 (Revised 6/04), which is hereby adopted and incorporated by reference. Permits for minor structures or activities do not require submittal of periodic reports unless required by special permit condition.

(r) For permits involving habitable major structures, all construction on the permitted structure shall stop when the foundation pilings have been installed. At that time the foundation location form shall be submitted to and accepted by the Bureau prior to proceeding with further vertical construction above the foundation. The form shall be signed by a professional surveyor, licensed pursuant to Chapter 472, F.S., and shall be based upon such surveys performed in accordance with Chapter 472, F.S., as are necessary to determine the actual configuration and dimensioned relationship of the installed pilings to the control line. The information shall be provided to the Bureau using the form entitled "Foundation Location Certification" – DEP Form 73-114B (Revised 9/05), which is hereby adopted and incorporated by reference. Phasing of foundation certifications is acceptable. The Department shall notify the permittee of approval or rejection of the form within seven (7) working days after staff receipt of the form. All survey information upon which the form is based shall be made available to the Bureau upon request. Permits for repairs or additions to existing structures with nonconforming foundations are exempt from this condition.

(s) For permits involving major structures, the permittee shall provide the Bureau with a report by an engineer or architect licensed in the State of Florida within thirty (30) days following completion of the work. The report shall state that all locations specified by the permit have been verified and that other construction and activities authorized by the permit have been performed in compliance with the plans and project description approved as a part of the permit and all conditions of the permit; or shall describe any deviations from the approved plans, project description, or permit conditions, and any work not performed. Such report shall not relieve the permittee of the provisions of paragraph 62B-33.0155(1)(a), F.A.C. If none of the permitted work is performed, the permittee shall inform the Bureau in writing no later than 30 days following expiration of the permit. The report shall be provided on the form entitled "Final Certification" DEP Form 73-115B (Revised 9/05), which is hereby adopted and incorporated by reference.

(t) Authorization for construction of armoring or other rigid coastal structures is based on an engineering review and assessment of the design and anticipated performance and impact of the structure as a complete unit. Construction of any less than the complete

structure as approved by the Department is not authorized and shall result in the assessment of an administrative fine and the issuance of an order to remove the partially constructed structure. Modifications to the project size, location, or structural design shall be authorized by the Department in accordance with Rule 62B-33.013, F.A.C.

(2) The permittee shall not commence any excavation, construction, or other physical activity on or encroaching on the sovereignty land of Florida seaward of the mean high water line or, if established, the erosion control line until the permittee has received from the Board of Trustees of the Internal Improvement Trust Fund the required lease, license, easement, or other form of consent authorizing the proposed use.

(3) The permittee shall obtain any applicable licenses or permits required by Federal, state, county, or municipal law.

(4) This permit does not authorize trespass onto other property.

(5) In the event of a conflict between a general permit condition and a special permit condition, the special permit condition shall prevail.

(6) Copies of any forms referenced above can be obtained by writing to the Department of Environmental Protection, Bureau of Beaches and Coastal Systems, 3900 Commonwealth Boulevard, Mail Station 300, Tallahassee, Florida 32399-3000, or by telephoning (850)488-7708.

*Specific Authority 161.053 FS. Law Implemented 161.052, 161.053 FS. History—New 6-13-04, Amended 5-31-07.*

#### **62B-33.024 Thirty-Year Erosion Projection Procedures.**

(1) A 30-year erosion projection is the projection of long-term shoreline recession occurring over a period of 30 years based on shoreline change information obtained from historical measurements. A 30-year erosion projection of the seasonal high water line (SHWL) shall be made by the Department on a site specific basis upon receipt of an application with the required topographic survey, pursuant to Rules 62B-33.008 and 62B-33.0081, F.A.C., for any activity affected by the requirements of Section 161.053(6), F.S. An applicant may submit a proposed 30-year erosion projection for a property, certified by a professional engineer licensed in the state of Florida, to the Department for consideration.

(2) A 30-year erosion projection shall be determined using one or more of the following procedures:

(a) An average annual shoreline change rate in the location of the mean high water line (MHWL) at a Department reference survey monument shall be determined and multiplied by 30 years. The resulting distance shall be added landward of the SHWL located on the application survey. The rate shall be determined as follows:

1. The shoreline change rate shall be derived from historical shoreline data obtained from coastal topographic surveys and maps, controlled aerial photography, and similar sources approved by the Department. Data from periods of time that clearly do not represent current prevailing coastal processes acting on or likely to act on the site shall not be used.

2. The shoreline change rate shall include the zone spanned by three adjacent Department reference monuments on each side of the site. A lesser or greater number of reference monuments can be used as necessary to obtain a rate representative of the site, and a rationale for such use shall be provided.

3. In areas that the Department determines to be either stable or accreting, a minus one-foot per year shoreline change rate shall be applied as a conservative estimate.

(b) If coastal armoring is present at the site, the Department shall determine whether or not the 30-year erosion projection shall stop at the armoring. The applicant shall provide scientific and engineering evidence, including a report with data and supporting analysis certified by a professional engineer licensed in the state of Florida, which verifies that the armoring has been designed, constructed, and maintained to survive the effects of a 30-year storm and has the ability to stop erosion of the MHWL for 30 years. The Department shall waive the requirement for the applicant to provide scientific and engineering evidence if the Department determines the information is not necessary in order to make the erosion projection determination.

(c) Some shoreline areas, such as those adjacent to or in the vicinity of inlets without jetty structures, can experience large-scale beach-width fluctuations with or without net erosional losses. Other beach areas can fluctuate greatly due to the observed longshore movement of large masses of sand, sometimes referred to as sand waves. In these areas, a 30-year erosion projection shall be estimated from the available data at the SHWL landward limit of the large beach-width fluctuations within the last 100 years.

(d) Beach nourishment or restoration projects shall be considered as follows:

1. Future beach nourishment or restoration projects shall be considered as existing if all funding arrangements have been made and all permits have been issued at the time the application is submitted.

2. Existing beach nourishment or restoration projects shall be considered to be either a one-time beach construction event or a

long-term series of related sand placement events along a given length of shoreline. The Department shall make a determination of remaining project life based on the project history, the likelihood of continuing nourishments, the funding arrangements, and consistency with the Strategic Beach Management Plan adopted by the Department for managing the state's critically eroded shoreline and the related coastal system.

3. The MHWL to SHWL distance landward of the erosion control line (ECL) shall be determined. If the ECL is not based on a pre-project survey MHWL, then a pre-project survey MHWL shall be used instead of the ECL. The pre-project SHWL shall be located by adding the MHWL to the SHWL distance landward of the pre-project MHWL (usually the ECL). The remaining project life, which is the number of years the restored beach MHWL is expected to be seaward of the ECL, shall be subtracted from the 30 years as a credit for the nourishment project. The non-credited remaining years times the pre-project shoreline change rate for the site yields the 30-year projection distance landward of the pre-project SHWL.

4. If the Department is unable to scientifically determine a pre-project erosion rate due to a lack of pre-project data, the Department shall set the 30-year erosion projection along an existing, reasonably continuous, and uniform line of construction that has been shown to be not unduly affected by erosion.

(e) The 30-year erosion projection shall extend no farther landward than the coastal construction control line (CCCL). In the event that the plane of the seasonal high water elevation does not intercept the upland terrain on the site, the 30-year erosion projection shall stop at the CCCL, unless it is determined to be stopped by armoring as described in paragraph 62B-33.024(2)(b), F.A.C.

(f) When the Department approves a permit for new, repaired, or significantly modified coastal structures or activities that affect the lateral movement of sand along the shore, the change in site conditions can significantly affect the future shoreline location. In these areas, if the Department is unable to use historic data to determine a 30-year erosion projection, the Department shall make a 30-year erosion projection assessment based on the best available information and shall provide the rationale to all interested parties.

(g) If a specific shoreline change rate for a 30-year erosion projection has not yet been determined for a given area, but the Department can determine that a proposed structure is sufficiently landward such that it will not likely be affected by a worst case erosion projection estimate, then the proposed structure shall be considered as being landward of the 30-year erosion projection. Such an estimate shall be based on the topography, geomorphology, the erosion experienced at the site thus far, the sand supply situation, and any other applicable coastal engineering factors.

(h) In the event the Department is unable to make a site specific 30-year erosion projection following the procedures in this rule section, the Department shall make an assessment based on the best available information and shall provide the rationale to all interested parties.

(3) The Department shall continue to develop, maintain, and update a database of shoreline data for assistance in making 30-year erosion projections.

*Specific Authority 161.053 FS. Law Implemented 161.053(6) FS. History—New 11-10-85, Formerly 16B-33.24, 16B-33.024, Amended 1-26-98, 6-13-04, 5-31-07.*