

~~Where periods of the employer's non-compliance occurred prior to October 1, 2003, and the employer fails to provide business records sufficient to enable the department to determine the employer's payroll for periods of non-compliance prior to October 1, 2003, for purposes of calculating the penalty to be assessed against the employer for periods of non-compliance prior to October 1, 2003, the department shall assess against the employer a penalty of \$100 per day for each and every calendar day in the period of non-compliance occurring prior to October 1, 2003, the employer was not in compliance, pursuant to Section 440.107(5), F.S. (2002).~~

~~Rulemaking Specific Authority 440.107(9), 440.591 FS. Law Implemented 440.107(5) (2002), 440.107(7)(e) FS. History--New 7-12-05, Amended 8-31-06,_____.~~

NAME OF PERSON ORIGINATING PROPOSED RULE:
Tasha Carter, Bureau Chief, Bureau of Compliance, Division of Workers' Compensation, Department of Financial Services
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Alex Sink, Chief Financial Officer, Department of Financial Services
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 15, 2008
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 3, 2008

Section III
Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: RULE TITLE:
6A-6.0905 Requirements for the District
 Limited English Proficient Plan

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 35, No. 5, February 6, 2009 issue of the Florida Administrative Weekly.

Paragraph (5)(b) of Rule 6A-6.0905 has been changed to correctly identify the form number and the state that the effective date of the form will be the same as the effective date of the amended rule as follows:

(b) The school district ELL plan shall be submitted to the Department utilizing the Department's online template ESOL 100 entitled, "District Plan for Services to English Language Learners," which is hereby incorporated by reference to become a part of this rule to become effective with the effective date of this rule. Copies of this template may be obtained from the Bureau of Student Achievement through

Language Acquisition, K-12 Public Schools, Department of Education, 325 West Gaines Street, Room 501, Tallahassee, Florida 32399-0400. The online template must be completed in its entirety.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices for the Department of Environmental Protection between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Division of Beaches and Shores

RULE NOS.:	RULE TITLES:
62B-56.010	Scope
62B-56.020	Definitions
62B-56.030	Permit Criteria for Construction
62B-56.040	Consultations
62B-56.050	Permit Application Requirements and Procedures
62B-56.060	Electronic Submittal
62B-56.070	Public Comment and Noticing Requirements and Procedures
62B-56.080	Survey Requirements
62B-56.090	Financial Assurances
62B-56.100	Duration of Permits
62B-56.110	Permit Modifications
62B-56.120	Permit Transfers
62B-56.130	Construction and Maintenance Permit Fees
62B-56.140	Conversion to Maintenance Phase
62B-56.150	General Conditions for Reconstructed Dune Permit
62B-56.160	Revocations, Suspensions and Removal
62B-56.900	Forms

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 17, April 25, 2008 issue of the Florida Administrative Weekly.

The forms associated with this Chapter have been amended where appropriate to comport with these changes.

Text of proposed rule changes is:

- 62B-56.010 Scope.
- No change.

Rulemaking Specific Authority 161.053(21), 161.085(5) FS. Law Implemented 161.053(2), (3), (5), 161.085(9) FS. History–New _____.

62B-56.020 Definitions.

(1) through (21) No change.

(22) “Frequent coastal storm” is defined as a storm event having a return period of less than or equal to 25 years 25-year return interval storm event.

(23) through (25)(b)3. No change.

4. Causing a take of nesting state or federally threatened or endangered species, unless an incidental take permit has been issued, pursuant to the Endangered Species Act, 16 U.S.C. Sections 1532, 1536, 1538, and 1539, and Section 379.2431(1)(h), F.S. as defined in Section 370.12(1), F.S., unless the take is incidental pursuant to Section 370.12(1)(h), F.S.

(25)(c) through (d) No change.

(26) “Incidental Take Permit” is a permit issued by either the United States Fish and Wildlife Services ~~or the Florida Fish and Wildlife Conservation Commission.~~

(27) No change.

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

~~(a) “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.~~

~~(a)(b) “Habitable major structures” that are houses, apartment buildings, condominiums, motels, hotels, restaurants, towers, other types of residential, commercial, or public buildings, or other structures designed primarily for human occupancy;~~

(b) Nonhabitable major structures which are designed primarily for uses other than human occupancy, but are necessary for occupancy of a major habitable structure; and

(c) Nonhabitable major structures which are designed primarily for uses other than human occupancy, but whose failure would cause an adjacent upland habitable major structure, public infrastructure or a nonhabitable major structure necessary for occupancy of a habitable major structure, to become subject to damage from frequent coastal storm events.

(29) through (40) No change.

(41) “Public infrastructure” means includes those roads designated as public evacuation routes, public emergency facilities, bridges, power facilities, water or wastewater facilities, other utilities, hospitals, or major structures of local governmental, state or national significance seaward of the CCCL.

(42) through (46) No change.

(47) “Significant beach erosion” is major erosion to the beach-dune system causing recession that significantly interferes with the beach-dune system’s its ability to recover, and is: Significant beach erosion is may be seen as a significant measurable alteration in the shoreline change rate or a disturbance to topography or vegetation such that the dune system becomes unstable or suffers catastrophic failure.

(a) A measurable alteration in the shoreline change rate, or

(b) A disturbance to topography or vegetation such that the beach-dune system becomes unstable or suffers catastrophic failure.

(48) No change.

(49) “Vulnerable structure” is an existing major structure or public infrastructure located seaward of the CCCL, that is subject to damage from frequent coastal storm events ~~or is in danger of imminent collapse. Examples of a vulnerable structure include:~~

~~(a) Habitable major structures or public infrastructure;~~

~~(b) Nonhabitable major structures that are necessary for occupancy of a major habitable structure; and~~

~~(c) Nonhabitable major structures whose failure would cause an adjacent upland habitable major structure, public infrastructure or a nonhabitable major structure necessary for occupancy of a habitable major structure, to become subject to damage from frequent coastal storm events or to become in danger of imminent collapse.~~

Rulemaking Specific Authority 161.053(21), 161.085(5) FS. Law Implemented 161.021, 161.053(2), (3), (5), 161.085(7), (9) FS. History–New _____.

62B-56.030 Permit Criteria for Construction.

(1) The Department shall issue a permit for a reconstructed dune after it determines the applicant meets under the following conditions:

(a) through (a)1.a., No change.

~~(i)(4)~~ 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; or

(ii) No change.

b. Geotechnical analysis: The applicant may provide the Department an appropriate geotechnical analysis demonstrating that the major structure is in danger of imminent collapse. Imminent collapse means the structure’s foundation will be subject to damage from a frequent coastal storm, fail due to its own weight under normal conditions, resulting in structural damage to the supported structure.

c. Adjacent structure Structure vulnerability test: The applicant may demonstrate that its major structure or public infrastructure is in close proximity to a vulnerable major structure or public infrastructure and the neighboring property’s proposed a major structures in the project vicinity may become vulnerable as a consequence of the reconstructed dune. Where there are multiple structures in close proximity to

each other, but not all of the structures are vulnerable to damage from frequent storm events or in danger of imminent collapse, the professional engineer must present the results of numerical modeling and engineering analysis that demonstrate clearly to the Department that the reconstructed dune would cause the applicant's adjacent major structure or public infrastructure structures to become vulnerable. The demonstration shall be provided by a professional engineer and must be based on the results of numerical modeling and engineering analysis that clearly demonstrate to the Department that the proposed reconstructed dune would cause the applicant's adjacent major structure or public infrastructure to become vulnerable.

d. Site specific vulnerability analysis: The applicant can Where an applicant demonstrates to the Department, through engineering analysis, that another site specific circumstance exists which makes the structure to be protected vulnerable as defined in subsection 62B-56.020(49), F.A.C. other than listed in subparagraph 62B-56.030(1)(a)1., F.A.C.

2. If vulnerability cannot be established then the proposed reconstructed dune shall protect an existing major structure or public infrastructure located seaward of the Coastal Construction Control Line (CCCL) that is upland of a beach-dune system that has experienced significant beach erosion from a frequent coastal storm. The applicant may provide the Department for consideration an analysis certified by a professional engineer licensed in the State of Florida demonstrating that the beach-dune system has experienced significant Significant beach erosion. The analysis and supporting data shall be based upon is determined by the Department staff following a detailed assessment of the impact of a storm events event along the subject shoreline Florida's beaches. The applicant may provide the following types type of quantitative data and analyses for consideration by the Department: considered includes, but is not limited to, beach and offshore profiles, upland topography, nearshore and offshore bathymetry, historical shoreline position changes, storm tide frequency, beach and dune erosion, the effectiveness of previous or existing sand placement efforts in preventing a recurrence of significant beach erosion, post and recent storm assessments of the impacts to beach and dune systems, and similar coastal scientific data necessary to demonstrate significant beach erosion. In the event a beach-dune system does not currently experience significant beach erosion, but sand has been placed at the site within five years of the Department's receipt of a permit application for a reconstructed dune under this rule, then the requirements of this paragraph are met provided that:

a. The sand placement was designed solely for that portion of the beach-dune system that is landward of the shoreline that existed at the time of commencement of the sand placement, and

b. The beach-dune system experienced significant beach erosion immediately prior to the commencement of the sand placement.

3. Alternatively, if the applicant would otherwise meet the requirements of subparagraph 62B-56.030(1)(a)1. or 62B-56.030(1)(a)2., F.A.C., but if the existing major structure or public infrastructure to be protected is not located seaward of the CCCL, the applicant may provide engineering data that shows the existing major structure or public infrastructure in need of protection will be impacted by the to be vulnerable to the storm surge with dynamic wave setup of a one-hundred-year storm or the anticipated erosion of a the one-hundred-year storm.

(b) No change.

(b)1. The reconstructed dune shall be sited as far landward as practicable, balancing the need to minimize excavation of the beach-dune system, impacts to nesting marine turtles and other nesting state or federally threatened or endangered species, and impacts to adjacent properties.

2. The reconstructed dune shall be sited in a sustainable location so that the core of the reconstructed dune is located no farther seaward than the frontal dune that existed prior to recent storm events or that would naturally develop under similar shoreline locations and conditions, whichever is farther landward.

3. through 9. No change.

10. The proposed reconstructed dune shall be sited and constructed in a manner to minimize not result in removal or destruction of native vegetation that will either destabilize a frontal, primary, or significant dune or cause a significant adverse impact to the beach-dune system.

11. through 13. No change.

(c) All fill shall be beach quality sand. Sand excavated Use of native sand seaward of the CCCL shall be limited to that which must be excavated as the minimum amount required to fill the core of the reconstructed dune and in the event there is any excavated sand remaining after the core of the reconstructed dune has been filled, the remaining sand must be returned to the site of the excavation. The sand shall be obtained from the footprint of the core of the reconstructed dune, not from beach scraping. Any additional All other sand necessary to construct the project shall come from upland of the CCCL. Organic or peat material shall not be considered beach compatible material suitable for placement atop the reconstructed dune.

(d) through (e) 4. No change.

(f) In considering project impacts, the Department shall evaluate and minimize the impacts to nesting state or federally threatened or endangered species, including nesting marine turtles and hatchlings. A list of the nesting state species that may be affected by activities regulated under the CCCL Program in the State of Florida are provided in Table 1, below.

For a list of federally threatened or endangered species visit the U.S. Fish and Wildlife Service web site at: <http://www.fws.gov/endangered/policy/index.html>.

TABLE 1
Nesting State Species
Endangered – E, Threatened – T, Critical – C

Scientific Name	Common Name	Classification	Nesting Dates
Reptiles			
Drymarchon corais	Eastern Indigo Snake	T	Resident Population
Gopherus polyphemus	Gopher tortoise	T	Resident Population
Caretta caretta	Loggerhead Turtle	T	Mar. 1, thru. Oct 31 (Brevard thru. Broward) May 1 thru. Oct 31 (All Other Counties)
Chelonia mydas	Green Turtle	E	
Dermochelys coriaca	Leatherback Turtle	E	
Eretmochelys imbricata	Hawksbill Turtle	E	
Lepidochelys kempii	Kemp's Ridley Turtle	E	
Birds			
Aphelocoma coerulescens	Florida Scrub Jay	T	Resident
Charadrius alexandrinus	Snowy Plover	T	Feb 1 – Sept 1
Haliaeetus leucoccephalus	Bald Eagle	T	Sept 1 – May 1
Sternula Sterna antillarum	Least Tern	T	Apr 1 – Sept 1
Sterna dougallii	Roseate Tern	T	Apr 1 – Sept 1
Mammals			
Peromyscus polionotus allopshys	Choctawhatchee Beach Mouse	E	Resident Populations
Peromyscus polionotus niveiventris	Southeastern Beach Mouse	T	
Peromyscus polionotus peninsularis	St. Andrews Beach Mouse	E	
Peromyscus polionotus phasma	Anastasia Beach Mouse	E	
Peromyscus polionotus trissyllepsis	Perdido Key Beach Mouse	E	
Insects			
Cyclargus [=Hermiargus] thomasi bethunebakeri	Miami blue butterfly	C/E	Resident Population

(g) The Department shall restrict activities that lower the protective value of natural and intact beach-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 native beach-dune vegetation are considered to lower its protective value. Any such vegetation removal must be temporary in nature and must be replaced with native dune vegetation that will result in an overall increase in the protective value of the root system or the sand trapping and stabilization properties of the existing native beach vegetation. Construction activities shall be located, where practicable, in previously disturbed areas or areas with nonnative vegetation in lieu of areas of native plant communities when the placement does not increase adverse impacts to the beach-dune system; and,

(h) Special conditions relative to the nature, timing, and sequence of construction shall be placed on permitted activities when necessary to protect nesting state or federally threatened or endangered species and marine turtles, their nests and

nesting habitat. Sand placement ~~during marine turtle nesting season~~ must be undertaken in conformity with a federal incidental take authorization, if an Incidental Take Permit is required.

(2) No change.

(2)(a) Grant the permit provided the applicant has demonstrated the project will comply with the requirements of this chapter. Evaluate each application on its own merits. 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) through (c) No change.

(3) No permit shall be issued under this rule where all permit criteria have been met, but a publicly funded beach nourishment, beach restoration, sand transfer, or other project which would provide protection to the ~~vulnerable~~ structure is scheduled for construction within nine months, ~~and~~ all permits have been issued, and funding for the project is ~~are~~ available.

~~(4) No permit shall be issued under this rule where proposed activities result in the take of nesting state or federally threatened or endangered species where such take has~~

~~not been authorized by the Florida Fish and Wildlife Conservation Commission or the U.S. Fish and Wildlife Service.~~

~~(4)(5)~~ No change.

Rulemaking Specific Authority 161.053(21), 161.085(5) FS. Law Implemented 120.60, 161.053(2), (3), (5), 161.085(9), 379.2431(1) FS. History–New _____.

62B-56.040 Consultations.

(1) through (4) No change.

(4)(a) Procedures to obtain an Incidental Take Permit ~~from the U.S. Fish and Wildlife Service~~ or other wildlife protection determination from the Florida Fish and Wildlife Conservation Commission ~~or and~~ the U.S. Fish and Wildlife Service.

(4)(b) through (5) No change.

Rulemaking Specific Authority 161.053(21), 161.085(5) FS. Law Implemented ~~161.053~~, 161.085(9) FS. History–New _____.

62B-56.050 Permit Application Requirements and Procedures.

(1) To apply for a construction and maintenance permit under this chapter, the applicant shall submit one signed original and two paper copies of the application form and supporting documents, plus one electronic copy of the same, to the Department of Environmental Protection, Bureau of Beaches and Coastal Systems, 3900 Commonwealth Boulevard, Mail Station 300, Tallahassee, Florida 32399-3000, using Form 62B-56.900(1), entitled “Permit Application for Construction and Maintenance of a Reconstructed Dune” (effective _____), which is incorporated by reference. Copies of forms may be obtained by writing to the Department of Environmental Protection, Bureau of Beaches and Coastal Systems, MS 300, 3900 Commonwealth Blvd., Tallahassee, FL 32399-3000; or at the following web site: www.dep.state.fl.us/beaches.

(2) through (3)(g) No change.

(3)(g)1. Two copies of a biological assessment of habitat quality of natural plant communities and potential nesting state or federally threatened or endangered species whose range includes the subject property, using Form 62B-56.900(4), entitled “Biological Assessment” (effective _____), which is incorporated by reference. Copies of forms may be obtained by writing to the Department of Environmental Protection, Bureau of Beaches and Coastal Systems, MS 300, 3900 Commonwealth Blvd., Tallahassee, FL 32399-3000; or at the following web site: www.dep.state.fl.us/beaches.

2. One copy of any existing Incidental Take Permits from ~~the Florida Fish and Wildlife Conservation Commission and~~ the U. S. Fish and Wildlife Service.

(h) Written commitment from financial institution or insurance company demonstrating that financial assurance can be obtained, and a completed copy of Form 62B-56.900(2), entitled “Financial Assurance Worksheet” (effective date

_____), pursuant to Rule 62B-56.090, F.A.C. This form is incorporated by reference. Copies of forms may be obtained by writing to the Department of Environmental Protection, Bureau of Beaches and Coastal Systems, MS 300, 3900 Commonwealth Blvd., Tallahassee, FL 32399-3000; or at the following web site: www.dep.state.fl.us/beaches.

(i) through (j)2. No change.

3. Dimensions and locations of the foundation outlines of any existing structures on the subject property and distances from the CCCL to the seaward corners of the foundations of any ~~habitable~~ major structures, public infrastructure and the seaward limit of any coastal or shore-protection structure.

4. through 9. No change.

(k) through (k)5. No change.

6. Two copies of Form 62B-56.900(3), F.A.C., entitled “Sand Quality Assurance/Quality Control (QA/QC) Plan” (effective _____), which is incorporated by reference. Copies of forms may be obtained by writing to the Department of Environmental Protection, Bureau of Beaches and Coastal Systems, MS 300, 3900 Commonwealth Blvd., Tallahassee, FL 32399-3000; or at the following web site: www.dep.state.fl.us/beaches. The QA/QC plan shall detail measures for testing, screening, handling, monitoring and remediation of all excavated or filled material and shall include mechanisms to ensure that only beach compatible sand is placed on the project site; and

(3)(k)7. through (5) No change.

(6) 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 the applicant requires additional time ~~and provides good cause~~ in which to respond to a request for additional information, the applicant may notify the Department in writing of the circumstances justifying the need for additional time. Upon receipt of such notice providing good cause, at which time the application shall be held in active status for a period of up to 90 days. A showing that the applicant is making a diligent effort to obtain the requested additional information shall constitute good cause. Failure of the applicant to provide the timely requested information by the applicable deadline shall result in denial of the application.

(7) through (9) No change.

Rulemaking Specific Authority 161.053(21), 161.0535, 161.085(5) FS. Law Implemented 120.60, 161.053(2), (3), (5), 161.085(9) FS. History–New _____.

62B-56.060 Electronic Submittals.

(1) The Department requests that:

~~(a)(1)~~ Complete permit applications ~~are to~~ be submitted on writeable CD media, clearly labeled and protected within a case or sleeve.

~~(b)(2)~~ Digital files ~~are to~~ be submitted in Adobe Acrobat Portable Document Format (PDF), Version 7.0 or higher.

~~(c)(3)~~ No single electronic document is to exceed five megabytes in file size.

~~(d)(4)~~ The CD ~~must~~ include an index of file contents, referenced to the items on the permit application and given a distinct, identifiable name.

~~(2)(5)~~ No change.

Rulemaking Specific Authority 120.60, 161.053(21), 161.085(5) FS. Law Implemented 161.053(2), 161.085(9) FS. History–New _____.

62B-56.070 Public Comment and Noticing Requirements and Procedures.

(1) Within ~~fourteen ten-working~~ days of the Department receiving an application for a reconstructed dune permit, the applicant shall publish a notice requesting public comment in a newspaper of general circulation in the area affected by the proposed reconstructed dune. The public comment request shall include the file number, the name of the applicant, the address where the proposed project is located, a description of the project, and a statement directing comments to the Florida Department of Environmental Protection, Bureau of Beaches and Coastal Systems, 3900 Commonwealth Boulevard, Mail Station 300, Tallahassee, Florida 32399. A copy of an example notice can be obtained by contacting the Bureau at the above address.

(2) Within ~~fourteen ten-working~~ days of the Department taking action to issue or deny the permit, the applicant shall publish a notice of the agency’s action in a newspaper of general circulation in the area affected by the proposed reconstructed dune. The public notice shall include the permit number, the name of the applicant, the address where the proposed project is located, and shall include rights under Section 120.57, F.S.

(3) through (6) No change.

Rulemaking Specific Authority 161.053(21), 161.0535, 161.085(5) FS. Law Implemented 120.60, ~~161.053~~, 161.0535, ~~161.085~~ FS. History–New _____.

62B-56.080 Survey Requirements

(1) The certified survey of the subject property, which is required by ~~subparagraph paragraph~~ 62B-56.050(3)(i), F.A.C., shall include the following information:

(a) through (m) No change.

(n) Dimensions and locations of the foundation outlines of any existing structures on the subject property and the bearings and distances perpendicular from the CCCL to the seaward corners of the foundations of any ~~habitable~~ major structures and public infrastructure or the seaward limit of the crest or cap at the extremities of any coastal or shore protection structure; and,

(1)(o) through (3) No change.

Rulemaking Specific Authority 161.053(21), 161.085(5) FS. Law Implemented 161.053(2), (3), (5), 161.085(9) FS. History–New _____.

62B-56.090 Financial Assurances.

(1) Prior to issuance of a Notice to Proceed, the responsible entity shall provide the Department with financial assurance, as defined in Rule 62B-56.020, F.A.C., in an amount sufficient to cover the cost of dune core removal and restoration of the project site, including topography and native ~~beach-dune beach-dune~~ vegetation, and a one-time deferred removal cost, as defined in Rule 62B-56.020, F.A.C. In the event the responsible entity fails to remove and restore pursuant to Rule 62B-56.160, F.A.C., the financial assurance shall be used to conduct such removal and restoration.

(2) Proof of financial assurance shall be submitted on either Forms 62B-56.900(10) “Trust Fund Agreement” (effective date _____); Form 62B-56.900(11), “Payment Bond” (effective date _____); Form 62B-56.900(12), “Performance Bond” (effective date _____); Form 62B-56.900(13), “Letter of Credit” (effective date _____); or, Form 62B-56.900(14) “Standby Trust Agreement” (effective date _____), as appropriate. These forms are incorporated by reference. Copies of forms may be obtained by writing to the Department of Environmental Protection, Bureau of Beaches and Coastal Systems, MS 300, 3900 Commonwealth Blvd., Tallahassee, FL 32399-3000; or at the following web site: www.dep.state.fl.us/beaches. A standby trust agreement must accompany any surety payment bond or performance bond or letter of credit.

(3) The amount of the financial assurance shall be based on a cost estimate provided by an individual qualified to make such an estimate a professional engineer licensed in the State of Florida, who is not the applicant or an employee of the applicant, or associated with the sale, installation, or contract for removal, of the geotextile container to be permitted under this chapter. The individual providing the estimate may be a professional engineer or general contractor licensed in the State of Florida or other person who has demonstrated similar qualifications to the Department. The estimate shall include the costs associated with removal of the geotextile container and restoration of the project site, including topography and native ~~beach-dune beach-dune~~ vegetation, and the cost of a one-time deferred removal, consistent with subsection 62B-56.160(6), F.A.C., and based on the engineering documents submitted with the application. The costs shall be estimated on a per unit basis, with the description of the estimates indicated, and shall be submitted on Form 62B-56.900(2), “Financial Assurance Worksheet” (effective date _____), as part of the permit application. This form is incorporated by reference. Copies of forms may be obtained by writing to the Department of Environmental Protection, Bureau of Beaches and Coastal

Systems, MS 300, 3900 Commonwealth Blvd., Tallahassee, FL 32399-3000; or at the following web site: www.dep.state.fl.us/beaches.

(4) As part of the permit application, the applicant must also submit a written commitment from the financial institution or insurance company providing or acting as Trustee of the financial assurance that such funds or instruments in the amount estimated on Form 62B-56.900(2), "Financial Assurance Worksheet" (effective date _____), will be made available to the responsible entity prior to the issuance of the Notice to Proceed. This form is incorporated by reference. Copies of forms may be obtained by writing to the Department of Environmental Protection, Bureau of Beaches and Coastal Systems, MS 300, 3900 Commonwealth Blvd., Tallahassee, FL 32399-3000; or at the following web site: www.dep.state.fl.us/beaches.

(5) The responsible entity shall revise and resubmit the cost estimate, Form 62B-56.900(2), "Financial Assurance Worksheet" (effective date _____), every five years from the date of permit issuance to adjust for inflation or other changes in costs, and shall provide the revised financial assurance to the Department. This form is incorporated by reference. Copies of forms may be obtained by writing to the Department of Environmental Protection, Bureau of Beaches and Coastal Systems, MS 300, 3900 Commonwealth Blvd., Tallahassee, FL 32399-3000; or at the following web site: www.dep.state.fl.us/beaches.

(6) Prior to any transfer of the permit, the new responsible entity (transferee) must provide the Department with proof of financial assurance to cover the cost of dune core removal and restoration of the project site, including topography and native ~~beach-dune~~ ~~beach-dune~~ vegetation, and the one-time deferred removal cost. The new responsible entity's (transferee's) financial assurance may be satisfied by proof of the continuation of the existing financial assurance.

Rulemaking Specific Authority 161.053(21), 161.085(5) FS. Law Implemented 161.053(5), 161.085(9) FS. History—New _____.

62B-56.100 Duration of Permits.

(1) Unless revoked or otherwise modified, the duration of the construction and maintenance phases of this a permit are under this chapter is as follows:

(a) The construction phase ~~Construction~~ shall be ~~completed~~ no more than two years after issuance of permit.

(b) The maintenance phase shall be perpetual for the life of the permitted structure. ~~Perpetual for the maintenance phase of a coastal construction permit for a reconstructed dune structure. Unless otherwise specified in the permit, the maintenance phase of a permit shall not become effective until:~~

~~1. The responsible entity, within 30 days after completion of the permitted activity, has filed a written statement of completion and certification by a professional engineer licensed in the State of Florida; and~~

~~2. The Department has inspected and determined that the permitted system meets all the provisions of the permit.~~

(2) No change.

Rulemaking Specific Authority 161.053(21), 161.085(5) FS. Law Implemented 120.60, 161.053(2), (3), (5), 161.085(9) FS. History—New _____.

62B-56.110 Permit Modifications.

(1) No change.

(2) Minor modifications shall be reviewed and shall meet the requirements of Chapter 62B-56 applicable to the modification request; however they shall not be subject to the noticing requirements contained in Rule 62B-56.070, F.A.C., and they will not restart the 90 day period as described in subsection 62B-56.050(7), F.A.C. Minor changes or modifications shall be made upon request of the applicant. They do not require the same review as major modifications because they do not increase the risk of adverse impacts. Minor modifications are not required to adhere to the noticing requirements contained in Rule 62B-56.070, F.A.C.

(3) No change.

Rulemaking Specific Authority 161.053(21), 161.085(5) FS. Law Implemented 120.60, 161.053(17), 161.085(9) FS. History—New _____.

62B-56.120 Permit Transfers.

(1) No change.

(2) At least 30 days prior to any transfer of ownership or control of the land on which the reconstructed dune is located or where any permitted activity is located, the responsible entity shall submit an executed Form 62B-56.900(5), entitled "Permit Transfer Agreement" (effective date _____), which is incorporated by reference. Copies of forms may be obtained by writing to the Department of Environmental Protection, Bureau of Beaches and Coastal Systems, MS 300, 3900 Commonwealth Blvd., Tallahassee, FL 32399-3000; or at the following web site: www.dep.state.fl.us/beaches. This form must contain original signatures of both the current and the proposed responsible entity. The submittal must include the permit transfer fee specified in Rule 62B-56.130, F.A.C.

(3) No change.

(4) The Department shall approve a request for transfer of a permit after it determines that ~~if~~ the proposed responsible entity meets the requirements of Chapter 62B-56, F.A.C., and if applicable, the terms and conditions of the existing permit, including the financial assurances required under Rule 62B-56.090, F.A.C. If the Department proposes to deny the transfer, it shall provide both the current and proposed responsible entities a written notice of denial of such transfer, which will include the reasons for the denial.

(5) No change.

(6) Once the request to transfer the permit has been approved by the Department, the new responsible entity shall be liable for compliance with all the terms and conditions of the permit for the life of the reconstructed dune.

(7) No change.

Rulemaking Specific Authority 161.053(21), 161.085(5) FS. Law Implemented 120.60, 161.053(2), (3), (5), 161.085(9) FS. History—New _____.

62B-56.130 Construction and Maintenance Permit Fees.

(1) through (2) No change.

(2)(a) Reconstructed dune: ~~\$5,000~~ ~~\$3,500~~ each 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 returns. Note that \$1,500 of the \$5,000 is included for maintenance which will be refunded if the application is denied.

(b) through (d) No change.

~~(e) Conversion to Maintenance Permit: The fee for processing the conversion of a permit from the construction to the maintenance and for post construction monitoring of a reconstructed dune is \$1,500 or ten percent of the original permit fee, whichever is greater.~~

~~(e)(f)~~ No change.

Rulemaking Specific Authority 161.053(21), 161.0535, 161.085(5) FS. Law Implemented ~~161.053~~, 161.0535, ~~161.085~~ FS. History—New _____.

62B-56.140 Conversion to ~~and~~ Maintenance Phase.

(1) Upon completion of construction of a reconstructed dune authorized under this chapter, the permit must be converted from the a construction phase permit to the a maintenance phase permit.

(2) through (2)(a) No change.

(b) Within 30 days after completion of construction, the responsible entity shall submit a completed Form 62B-56.900(6), entitled “Final Construction Certification of Reconstructed Dune” (effective date _____), which is incorporated by reference. Copies of forms may be obtained by writing to the Department of Environmental Protection, Bureau of Beaches and Coastal Systems, MS 300, 3900 Commonwealth Blvd., Tallahassee, FL 32399-3000; or at the following web site: www.dep.state.fl.us/beaches.

(3) Within 30 days after completion of construction, the responsible entity shall also submit Form 62B-56.900(7), entitled “Conversion of Permit for a Reconstructed Dune from Construction Phase to Maintenance Phase” (effective date _____), which is incorporated by reference. Copies of forms may be obtained by writing to the Department of Environmental Protection, Bureau of Beaches and Coastal Systems, MS 300, 3900 Commonwealth Blvd., Tallahassee, FL 32399-3000; or at the following web site: www.dep.state.fl.us/beaches. Such submittal shall include

confirmation of financial assurances, and plans for annual maintenance and monitoring. Upon receipt and review of the information, the Department shall determine compliance with the terms and conditions of the permit and this chapter and notify the responsible entity whether the conversion to the maintenance phase will become effective. ~~The submittal of the permit conversion and maintenance documentation requires a fee as specified in paragraph 62B-56.130(2)(e), F.A.C., but does not require processing as a permit modification.~~

(4) No change.

(5) Once the maintenance phase of the project has been initiated, the responsible entity shall provide an annual inspection report to the Department on Form 62B-56.900(8), entitled “Maintenance Inspection Report” (effective date _____), which is incorporated by reference. Copies of forms may be obtained by writing to the Department of Environmental Protection, Bureau of Beaches and Coastal Systems, MS 300, 3900 Commonwealth Blvd., Tallahassee, FL 32399-3000; or at the following web site: www.dep.state.fl.us/beaches. This report shall be filed with the Department within 30 days after the inspection. The inspection shall be conducted as specified in the permit and include the following:

(a) The depth of sand cover over the geotextile core of the reconstructed dune shall be surveyed no earlier than 30 days before the start of the marine turtle nesting season and in consideration of other protected species. The sand depth shall be measured at 50-foot intervals along the seaward edge of the reconstructed dune and at 10-foot intervals along each profile line at 50-foot intervals from the seaward edge of the reconstructed dune to its landward limit, unless the responsible entity can otherwise demonstrate to the Department that sand coverage over the dune exceeds three feet. If there is less than three feet of sand cover over the core structure, the responsible entity shall place beach compatible sand over the core structure to reestablish the three feet of sand cover prior to the start of the marine turtle nesting season. The sand placement shall be in accordance with the terms and conditions of the approved permit; and,

(b) No change.

(6) If the responsible entity permit holder demonstrates that the core of the reconstructed dune does not require continued maintenance in order to maintain a minimum of three feet of continuous sand coverage, and established beach-dune vegetation, then the Department shall eliminate the release the permittee from this annual inspection requirement.

(7) No change.

(8) The reporting activities described above shall be filed with the Department using Form ~~62B-56.900(7)~~ 62B-56.900(8), entitled “Maintenance Inspection Report” (effective date _____), which is incorporated by reference. Copies of forms may be obtained by writing to the Department of Environmental Protection, Bureau of Beaches and Coastal

Systems, MS 300, 3900 Commonwealth Blvd., Tallahassee, FL 32399-3000; or at the following web site: www.dep.state.fl.us/beaches.

Rulemaking Specific Authority 161.053(21), 161.085(5) FS. Law Implemented 161.085(9) FS. History—New _____.

62B-56.150 General Permit Conditions for Reconstructed Dune Permit.

(1) No change.

(a) The responsible entity shall perform all construction activities in accordance with the plans and specifications that were approved by the Department. Any deviations without written approval from the Department shall be grounds for suspension of the work or revocation of the permit pursuant to Section 120.60(5), F.S. and Rule 62B-56.160, F.A.C., and shall result in assessment of administrative fines, as described in Rule 62B-54.002, F.A.C., 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 available for inspection by a Department representative.

(b) through (e)1. No change.

2. A Notice to Proceed placard has been issued by the Department. The issuance of the placard acknowledges that the permit holder has met the permit conditions and rule requirements applicable prior to the pre-construction conference described below. Prior to issuance of a notice to proceed with construction, the permit holder must submit, where applicable, and the Department must accept the following documents: proof of publication of the public notice pursuant to subsection 62B-56.070(3), F.A.C.; proof of the recording of the permit and the permit conditions with the clerk of the county court pursuant to subsection 62B-56.070(6), F.A.C.; executed financial assurance forms pursuant to Rule 62B-56.090, F.A.C.; incidental take permit(s), as defined in Rule 62B-56.020, pursuant to Rule 62B-56.030(5), F.A.C.; and other permits, licenses, agreements or approvals specified in the special permit conditions.

3. through 4. No change.

(f) All imported sand shall meet the definition of beach quality sand in Rule 62B-56.020, F.A.C., and be obtained from a source landward of the Coastal Construction Control Line (CCCL). Prior to the sand placement authorized by this permit, the permittee shall provide the Department's field representative with three benchmark samples of sand used in completing Form 62B-56.900(3) 62B-56.900(2), entitled "Sand Quality Assurance/Quality Control Plan" (effective date _____), which is incorporated by reference. Copies of forms may be obtained by writing to the Department of Environmental Protection, Bureau of Beaches and Coastal

Systems, MS 300, 3900 Commonwealth Blvd., Tallahassee, FL 32399-3000; or at the following web site: www.dep.state.fl.us/beaches. One sample shall be retained by the Department's field representative, one by the permittee and one will remain on site, for permit compliance.

(g) through (i)4. No change.

5. The reconstructed dunes are to be protected from foot traffic or other encroachments. Signs, rope and bollard barriers, or sand fencing shall be constructed and maintained ~~in accordance with Department guidelines and shall be constructed and maintained~~ as necessary to prevent trampling of vegetation, ~~and~~ erosion of the dune feature, and to protect nesting state and federal endangered and threatened species. Such signs, ropes, barriers, and sand fencing shall not interfere with established public access.

(j) through (l) No change.

(m) The responsible entity shall submit to the Bureau monthly periodic progress reports beginning at the start of construction and continuing until all construction and restoration work has been completed. Reports shall be certified by a professional engineer licensed in the State of Florida. The engineer 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 include photographic documentation of site conditions and state the percent of completion of the project and each major individual component. The reports shall be provided to the Bureau using Form 62B-56.900(9) entitled "Periodic Progress Report" (effective date _____), which is incorporated by reference. Copies of forms may be obtained by writing to the Department of Environmental Protection, Bureau of Beaches and Coastal Systems, MS 300, 3900 Commonwealth Blvd., Tallahassee, FL 32399-3000; or at the following web site: www.dep.state.fl.us/beaches.

(n) Within 30 days of construction completion, the responsible entity shall submit two copies of a signed and sealed as-built survey and a completed Form 62B-56.900(6), entitled "Final Construction Certification of Reconstructed Dune" (effective date _____), both prepared pursuant to Rule 62B-56.140, F.A.C., of this chapter. This form is incorporated by reference. Copies of forms may be obtained by writing to the Department of Environmental Protection, Bureau of Beaches and Coastal Systems, MS 300, 3900 Commonwealth Blvd., Tallahassee, FL 32399-3000; or at the following web site: www.dep.state.fl.us/beaches.

(o) No change.

(p) Following conversion to the a maintenance phase permit, the responsible entity shall submit to the Bureau annual reports, as required by the permit or by Chapter 62B-56, F.A.C. The completed reports shall be provided to the Bureau using Form 62B-56.900(8), entitled "Maintenance Inspection

Report” (effective date _____), which is incorporated by reference. Copies of forms may be obtained by writing to the Department of Environmental Protection, Bureau of Beaches and Coastal Systems, MS 300, 3900 Commonwealth Blvd., Tallahassee, FL 32399-3000; or at the following web site: www.dep.state.fl.us/beaches.

(q) No change.

(2) ~~This permit does not authorize The responsible entity shall not commence any excavation, construction, or other physical activity on or encroaching on the sovereignty land of Florida. Authorization may be obtained until they have 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) through (6) No change.

Rulemaking Specific Authority 161.053(21), 161.085(5) FS. Law Implemented 161.053(2), (3), (5), 161.085(9) FS. History–New _____.

62B-56.160 Revocations, Suspensions and Removal.

(1) No change.

(1)(a) Financial assurances are invalid or inadequate as submitted, updated, or provided by the new responsible entity (transferee) under Rule 62B-56.090, F.A.C.

(b) Responsible entity has failed to maintain continuous cover of at least three feet of sand over the dune core stabilized with native beach-dune vegetation ~~unless precluded by state or federal habitat protection requirements.~~

(1)(c) through (3) No change.

(3)(a) The severity of the conduct;:

(b) The danger to the public created or caused ~~occasioned~~ by the conduct; and;

(c) Attempts by the responsible entity to correct or prevent violations, or the refusal or failure of the responsible entity to take reasonable measures to correct or prevent violations; ~~and~~,

~~(d) Any other mitigating or aggravating factors.~~

(4) through (6)(b) No change.

(c) The responsible entity shall revegetate the area disturbed by removal of the dune core structure by reestablishing native beach-dune vegetation indigenous to the area consistent with other siting and design criteria of Rule 62B-56.030, F.A.C. as approved by the Department; and

(6)(d) through (7) No change.

Rulemaking Specific Authority 161.053(21), 161.085(5) FS. Law Implemented 120.60, 161.053(7), ~~161.054~~, 161.085(9) FS. History–New _____.

62B-56.900 Forms.

The forms used by the Department in the Coastal Construction Control Line program are adopted and incorporated by reference in this ~~chapter~~ rule. Each form is listed by rule number, which is also the form number, and with the subject, title, and effective date. Copies of forms may be obtained by

writing to the Department of Environmental Protection, Bureau of Beaches and Coastal Systems, MS 300, 3900 Commonwealth Blvd., Tallahassee, FL 32399-3000; or at the following web site: www.dep.state.fl.us/beaches

(1) through (14) No change.

Rulemaking Specific Authority 120.60, 161.053(21), 161.085(5) FS. Law Implemented 161.085 FS. History–New _____.

DEPARTMENT OF HEALTH

Board of Nursing

RULE NO.: 64B9-4.002
 RULE TITLE: Requirements for Certification
 NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 35, No. 8, February 27, 2009 issue of the Florida Administrative Weekly.

The changes are in response to written comments submitted by the staff of the Joint Administrative Procedures Committee. Subsection (4) of the rule shall be changed to read as follows:

(4) Nursing specialty boards shall meet the following standards:

(a) Attest to the competency of nurses in a clinical specialty area;

(b) Require a written examination prior to certification;

(c) Require (and required at the time of original certification) completion of a formal program prior to eligibility of examination;

(d) Maintain a program accreditation or review mechanism that adheres to criteria which are substantially equivalent to requirements in Florida;

(e) Identify standards or scope of practice statements as appropriate for the specialty.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Rick Garcia, Executive Director, Board of Nursing, 4052 Bald Cypress Way, Bin # CO2, Tallahassee, Florida 32399-3252

DEPARTMENT OF HEALTH

Board of Optometry

RULE NO.: 64B13-4.004
 RULE TITLE: Manner of Application
 NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 34, No. 52, December 24, 2008 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF FINANCIAL SERVICES

Division of Workers’ Compensation

RULE NO.: 69L-6.028
 RULE TITLE: Procedures for Imputing Payroll and Penalty Calculations

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 34, No. 51, December 19, 2008 issue of the Florida Administrative Weekly has been withdrawn.

Section IV Emergency Rules

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices for the Department of Environmental Protection between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

Section V

Petitions and Dispositions Regarding Rule Variance or Waiver

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

WATER MANAGEMENT DISTRICTS

NOTICE IS HEREBY GIVEN THAT on March 30, 2009, the South Florida Water Management District (District), received a petition for waiver from the Collier County Board of County Commissioners, Application No. 09-0309-2, for utilization of Works or Lands of the District known as the Airport Road Canal, to allow an existing bus shelter and concrete sidewalk to remain within 40 feet of the top of the canal bank; Section 2, Township 49 South, Range 25 East, Collier County. The petition seeks relief from subsections 40E-6.011(4) and (6), and paragraph 40E-6.221(2)(j), Florida Administrative Code, which govern the placement of permanent and/or semi-permanent above-ground encroachments within 40 feet of the top of the canal bank within Works or Lands of the District.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Kathie Ruff at (561)682-6320 or e-mail: kruff@sfwmd.gov. The District will accept comments concerning the petition for 14 days from the date of publication of this notice. To be considered, comments must be received by the end of business on the 14th day at: South Florida Water Management District, 3301 Gun Club Road, MSC 1410, West Palm Beach, FL 33406, Attn: Kathie Ruff, Office of Counsel.

DEPARTMENT OF MANAGEMENT SERVICES

NOTICE IS HEREBY GIVEN THAT on March 19, 2009, the Agency for Workforce Innovation, received a petition for Variance from subsection 60BB-4.210(1), Florida Administrative Code, from the Early Learning Coalition of Putnam and St. Johns Counties, Inc., 200 Reid Street, Suite 2, Palatka, Florida 32177.

This Notice supersedes the Notice published in Vol. 35, No. 13, on April 3, 2009, which referenced Rule No. 60BB-4.201, Florida Administrative Code.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Stephanie Savestanan, Agency for Workforce Innovation, Office of Early Learning, 107 E. Madison Street, MSC 140, Tallahassee, Florida 32399-4120.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

NOTICE IS HEREBY GIVEN THAT on March 19, 2009, the Division of Hotels and Restaurants, Bureau of Elevator Safety, received a petition for a variance [Rule 61C-5.001](#), Standards Adopted; Exclusions; and Conflicts, F.A.C., from Andree Achim on behalf of High Point Group Seven in Naples, FL for License Number 26187. The variance is requested from door restrictors (VW2009-052).

A copy of the Petition for Variance or Waiver may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

NOTICE IS HEREBY GIVEN THAT on March 19, 2009, the Division of Hotels and Restaurants, Bureau of Elevator Safety, received a petition for a temporary variance [Rule 61C-5.001](#), Standards Adopted; Exclusions; and Conflicts, F.A.C., from Steve Austin of The Palms of Sebring (license number 35903) in Sebring, Florida. The petitioner is requesting 30 to 60 days to correct the following violations:

A17.1, 1996 sections 304, 303.1, 304, 204.1e and 110 which require an oil dipstick, code data tag, fire gibbs, door bumpers, door restrictors, tag on the hydraulic control valve, lock on escape hatch, car top railing and limits the door gap.