

### **62B-41.0075 Experimental Coastal Construction.**

(1) Permit applications for experimental coastal construction involving new technologies shall be reviewed in accordance with all applicable provisions of this Chapter and the following special criteria:

(a) The proposed location must be in an erosion area as identified in the Department's Beach Restoration Management Plan.

(b) The proposed location must be properly suited for a non-biased comprehensive analysis of the results of the proposed coastal construction and must include sufficient control sites where comparative monitoring data can be obtained which is not influenced by the proposed new technology.

(c) The proposed location must be situated in an area which is not considered to be an environmentally sensitive area by the Department.

(d) The project must be supported by adequate scientific, engineering and design theory or experimental data demonstrating that it has the potential to provide a positive benefit to the coastal system and is not expected to result in a significant adverse impact. The size and scope of the field test shall not exceed that necessary to adequately address the test plan objective. The requirement for supporting experimental data shall be waived by the Department if it finds that the proposed project has minimal potential for adverse impact.

(e) Requests for permits under this rule must be presented by a riparian property owner or governmental entity.

(2) The Department may confer with a special scientific third party consultant to assist in the review of such proposed projects, to oversee the experiments and to provide an assessment of results and appropriate recommendations.

(3) The applicant shall present a test plan to the Department for review. Such plan shall include a periodic monitoring schedule and periodic progress reporting schedule with, at a minimum, annual reporting after the test phase begins. The periodic reporting shall include project performance monitoring assessments and survey data and analyses. The test plan shall also include:

(a) The objectives and nature of the experiment;

(b) The effectiveness measures;

(c) The measures of impacts to the coastal system, marine turtles, nests and their habitat, and such other measures as may be required to assess attainment of the objectives;

(d) The procedures to be followed;

(e) The time sequence;

(f) The data to be collected;

(g) The test equipment to be used;

(h) The names and technical qualifications of the individuals performing the tests and analyzing the results;

(i) Contingency plans; and

(j) Such other components as may be necessary to assess the impacts and performance of the project as determined by the Department.

(4) The Department shall require assurances such as a mitigation program, financial instrument or contractual agreement to assure compliance

with the permit conditions.

(5) Following initiation of the test phase and the submittal of the first year of progress reporting and monitoring data, and then annually thereafter, the Department shall make a determination based upon observed performance data and the permittee's periodic reports that:

(a) The project as constructed has not caused a significant adverse impact and may proceed; or

(b) The project as constructed has caused a significant adverse impact and must be either removed or modified by the applicant to eliminate the significant adverse impact at no cost to the Department.

(6) Experimental projects may be permitted with phases lasting up to three (3) years, including preparation of the final report. After three (3) years the project shall be evaluated by the Department to determine the feasibility of continued implementation of the project. Upon receipt of the final report the Department will review the report and make a written determination as to:

(a) The effectiveness of the experiment in addressing a coastal erosion problem;

(b) The feasibility of continued implementation of the pilot project; and

(c) Any adverse impacts caused by the experiment.

(7) If the experiment is determined to be ineffective in addressing a coastal erosion problem, or is expected to cause a significant adverse impact, all structures shall be removed. Removal or modification may also be ordered pursuant to Section 62B-41.015(1)(l).

(8) Any time the Department determines that the project must be removed under the provisions of this Chapter, the permittee shall also be responsible for restoring the area of installation and any adversely affected areas to pre-project conditions. By acceptance of the permit, the permittee commits to the removal of any structure, object or installation relating to the project, as well as restoration of all affected areas, should the Department determine that removal is necessary as provided in Subsection (7) above. Costs of removal and restoration shall be borne by the permittee.

(9) All new technologies shall be designed to be stable and durable in the coastal environment. Should the experimental project become dislocated or in disrepair at any time, during or after the initial three year period, it shall be the responsibility of the permittee to have the structures repaired or removed. If the permittee fails to repair or relocate the project within 90 days from receipt of notification of the need for such from the Department, the permittee shall be ordered to remove the project.

Specific Authority 161.041, 370.021 FS. Law Implemented Section 27, Chapter 89-175, Laws of Florida, 161.031, 161.041, 161.042, 161.051, 161.061, 161.161, 370.02(5)(b)2. FS. History--New 8-23-92, Formerly 16B-41.0075.

62B-41.0085 Permit Processing and Administrative Fees.

(7) Experimental projects permitted under rule 62B-41.0075 shall be assessed the larger of a fee of \$5,000, or the permit fee specified in the appropriate fee schedule above, except the maximum fee shall not exceed \$20,000.