

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.