



Florida Department of Transportation

RICK SCOTT
GOVERNOR

605 Suwannee Street
Tallahassee, FL 32399-0450

MIKE DEW
SECRETARY

June 16, 2017

Khoa Nguyen
Director, Office of Technical Services
Federal Highway Administration
3500 Financial Plaza, Suite 400
Tallahassee, Florida 32312

Re: State Specifications Office
Section: 007
Proposed Specification: **SP0070104-3 Legal Requirements and Responsibility to the Public – Compliance with Federal Endangered Species Act and other Wildlife Regulations. REVISED**

Dear Mr. Nguyen:

We are submitting, for your approval, two copies of the above referenced Special Provision. Changes were made to the language in response to comments from Rafiq Darji. **These changes are highlighted in the documents.**

The changes are proposed by Katasha Cornwell of the Office of Environmental Management to expand the existing requirements when it is known that gopher tortoise involvement exists within the project limits. This will also eliminate the need for modified special provisions.

Please review and transmit your comments, if any, within two weeks. Comments should be sent via email to dan.hurtado@dot.state.fl.us.

If you have any questions relating to this specification change, please call me at 414-4130.

Sincerely,

Signature on file

Dan Hurtado, P.E.
State Specifications Engineer

DH/rf

Attachment

cc: Florida Transportation Builders' Assoc.
State Construction Engineer

**LEGAL REQUIREMENTS AND RESPONSIBILITY TO THE PUBLIC –
COMPLIANCE WITH FEDERAL ENDANGERED SPECIES ACT AND OTHER
WILDLIFE REGULATIONS.**

(REV ~~5-25-17~~ ~~1-31-17~~ ~~6-15-17~~)

SUBARTICLE 7-1.4 is expanded by the following new Subarticle:

7-1.4.1 Additional Requirements for Gopher Tortoises (*Gopherus*

Polyphemus): Certain gopher tortoise burrows are to remain within the project area, as shown on the Plans, and must be protected. Avoid ground disturbing impacts within a 25 foot radius of each burrow. Install **and maintain** silt fence **in accordance with Section 104** as a means of burrow avoidance, ensuring that it opens towards the offsite project limits, does not herd tortoises toward and obstacle, and that burrows are not fully encircled. Install fence prior to any other construction activity. ~~Maintain fence throughout the duration of the construction. Replace fence as soon as it is no longer functioning for burrow avoidance or as directed by the Engineer.~~ Replace fence in the same location as the original fence. Remove fence upon **completion of construction**.

Silt fence intended for burrow avoidance may also be used as silt fence for erosion control but shall not be considered as the only silt fence needed for erosion control purposes within the project limits.

Follow the gopher tortoise species requirements posted in the URL address in 7-1.4 when gopher tortoises are observed or previously unidentified burrows are discovered.

**LEGAL REQUIREMENTS AND RESPONSIBILITY TO THE PUBLIC –
COMPLIANCE WITH FEDERAL ENDANGERED SPECIES ACT AND OTHER
WILDLIFE REGULATIONS.**

(REV 6-15-17)

SUBARTICLE 7-1.4 is expanded by the following new Subarticle:

7-1.4.1 Additional Requirements for Gopher Tortoises (*Gopherus Polyphemus*): Certain gopher tortoise burrows are to remain within the project area, as shown on the Plans, and must be protected. Avoid ground disturbing impacts within a 25 foot radius of each burrow. Install **and maintain** silt fence **in accordance with Section 104** as a means of burrow avoidance, ensuring that it opens towards the offsite project limits, does not herd tortoises toward and obstacle, and that burrows are not fully encircled. Install fence prior to any other construction activity. Replace fence in the same location as the original fence. Remove fence upon **completion of** construction.

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