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October 23, 2002

Blanca Bayó
Director, Division of Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

Re: Docket 020007-EI

Dear Ms. Bayó:

Enclosed herewith for filing in the above referenced docket on behalf of Florida Power Corporation are the original and fifteen copies of:

- 1.
2. the Revised Direct Testimony and Exhibits of:
 - a. Javier Portuondo 11563-02
 - b. James Timothy Silar. 11564-02

Please acknowledge receipt and filing of the above by stamping the duplicate copy of this letter and returning it to me. If you have any questions concerning this filing, please call me at 850/425-2313.

Very truly yours,

Richard D. Melson

Richard D. Melson

RDM/jlm
Enclosures

cc: Certificate of Service

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I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by regular U.S. mail and/or hand-delivery (*) to all known parties of record in Docket No. 020007-EI this 23rd day of October, 2002.

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FLORIDA POWER CORPORATION

DOCKET No. 020007-EI

**Environmental Compliance Activities and Costs
October 2002 through December 2003**

**DIRECT TESTIMONY OF
JAMES TIMOTHY SILAR**

1 **Q. Please state your name and business address.**

2 **A.** My name is James Timothy Silar. My business address is P.O. Box 1551,
3 Raleigh, North Carolina, 27602-1551.

4
5 **Q. By whom are you employed and in what capacity?**

6 **A.** I am employed by Carolina Power & Light Company ("CP&L") as Manager of
7 the Environmental Remediation Unit for all subsidiaries of Progress Energy,
8 Inc., including Florida Power Corporation ("Florida Power" or "the Company").

9
10 **Q. What is the scope of your duties?**

11 **A.** I am responsible for providing scientific, technical, and project management
12 oversight services for environmental due-diligence, investigation, and
13 remediation matters for Florida Power and the other subsidiaries of Progress
14 Energy.

1 **Q. Please describe your professional qualifications and experience.**

2 **A.** I have a Bachelor of Science degree in Geology and Biology from the
3 University of Delaware and a Masters Degree in Business from Temple
4 University. I am a licensed Professional Geologist in the states of Delaware
5 and Pennsylvania. Prior to my employment as CP&L's Manager of the
6 Environmental Remediation Unit, I held a number of positions in the fields of
7 geology and hydrogeology, including scientific, technical, and project
8 management responsibilities related to investigation and remediation of
9 contaminated sites. One example includes my employment by NUS
10 Corporation, a company that worked as a contractor to the Region III office of
11 the U. S. Environmental Protection Agency ("EPA"). With that company, I
12 worked as a hydrogeologist, Project Manager, and Manager of the
13 Geosciences Section. I was also responsible for all the EPA Hazard Ranking
14 System scoring packages developed for Region III's Superfund Program.
15 Another example is my employment for more than a decade, with Foster
16 Wheeler Corporation, where I served as program director for a number of
17 hazardous waste site programs as well as the company's national
18 Manufactured Gas Plant (MGP) program. Finally, immediately prior to my
19 position with CP&L, I was employed by Jacques Whitford Company, Inc.
20 where I was responsible for creating and implementing a similar national MGP
21 program.

22
23 **Q. What is the purpose of your testimony?**

24 **A.** The purpose of my testimony is to present a description of Florida Power's
25 environmental compliance activities, which fall into the general category of

1 environmental investigation, remediation, and pollution prevention efforts, and
2 the costs associated with these compliance activities for which the Company
3 seeks recovery under the Environmental Cost Recovery Clause (ECRC).
4

5 **Q. Are you sponsoring any exhibits in support of your testimony?**

6 **A.** Yes. I am sponsoring Exhibit No. ____ (JTS-1), Parts A and B, which consists
7 of pertinent statutes referenced in my testimony that require Florida Power to
8 perform the environmental investigation, remediation, and pollution prevention
9 activities for which it is seeking cost recovery.
10

11 **Q. What are the environmental compliance activities for which Florida
12 Power is seeking cost recovery?**

13 **A.** Generally, Florida Power is seeking cost recovery for environmental
14 investigation, remediation, and pollution prevention activities that it is required
15 to undertake pursuant to specific environmental laws and/or regulations.
16 These activities are to be conducted at Florida Power substation and
17 distribution system facilities.
18

19 **Q. Please describe the specific compliance activities for which Florida
20 Power seeks ECRC recovery.**

21 **A.** The environmental investigation, remediation, and pollution prevention
22 activities are conducted to ensure that Florida Power's substation and
23 distribution system, throughout its service area, continues to comply with
24 applicable environmental laws and regulations. The substation and
25 distribution system is evaluated to determine the existence of pollutant (e.g.,

1 mineral oil) discharges, and, if present, their removal and remediation.
2 Activities will also include the development and implementation of best
3 management practices at these facilities. An example of these measures
4 includes the purchase of spill trailers where needed. These activities are
5 undertaken to protect the environment and, where necessary, restore to an
6 acceptable environmental quality.

7
8 **Q. What are the specific environmental laws or regulations that require**
9 **Florida Power to perform the environmental compliance activities you**
10 **have described?**

11 **A.** Florida Power has determined that the substation and distribution system
12 investigation, remediation, and pollution prevention activities are required for
13 Florida Power to continue to be in compliance with Chapters 376 (Pollutant
14 Discharge Prevention and Removal) and 403 (Environmental Control), Florida
15 Statutes. Chapter 376, Florida Statutes, requires that any person discharging
16 a prohibited pollutant shall immediately undertake to contain, remove and
17 abate the discharge to the satisfaction of the Department of Environmental
18 Protection. Chapter 403, Florida Statutes, provides that it is prohibited to
19 cause pollution so as to harm or injure human health or welfare, animal, plant,
20 or aquatic life or property.

21
22 **Q. Is there any precedent in the Commission's prior orders for approval of**
23 **ECRC recovery for the types of environmental compliance activities for**
24 **which Florida Power is seeking cost recovery?**

25 **A.** The Commission previously approved recovery of costs associated with similar

1 environmental investigation, remediation, and pollution prevention activities
2 conducted by two other regulated electric utilities. See, Order No. PSC-97-
3 1047-FOF-EI (approving ECRC recovery of projected costs for Florida Power
4 and Light's (FPL's) Substation Pollutant Discharge and Removal Project);
5 Order No. PSC-94-0044-FOF-EI (approving ECRC recovery of projected costs
6 for Gulf Power's investigation of possible environmental impacts from historical
7 substation herbicide treatment programs under the general heading "Water
8 Quality"); Order No. PSC-93-1580-FOF-EI (approving ECRC recovery of
9 projected costs for FPL's Clean Closure Equivalency Project); and Order No.
10 PSC-95-0384-FOF-EI (approving ECRC recovery of projected costs for FPL's
11 RCRA Corrective Action Project addressing hazardous waste contamination).

12
13 **Q. What are the projected costs of the environmental compliance activities**
14 **that you have described?**

15 A. Florida Power is requesting to recover \$4,010,499 for environmental
16 investigation, remediation, and pollution prevention activities at its substation
17 and distribution system facilities for the period from October 1, 2002 through
18 December 31, 2003. This figure represents \$10,713 for the period October
19 through December 2002, and \$3,996,901 for the period January through
20 December 2003, adjusted for taxes. These amounts include the investigation
21 and remediation of soil and, where necessary, ground water, as well as
22 implementation of best management and pollution prevention measures. A
23 breakdown of these projected costs in greater detail is included in the
24 Commission's standard form schedules attached as exhibits to the testimony
25 of Mr. Javier Portuondo.

1
2
3
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5
6

The total cost of activities over the life of this effort cannot be estimated at this time since the presence, magnitude, and extent of contamination and the scope of pollution prevention measures at these facilities is unknown.

Q. Does this conclude your testimony?

A. Yes.

Exhibit JTS – 1

Part A

Chapter 376, Florida Statutes
Pollutant Discharge Prevention
And Removal

(Page 1 of 11)

Florida Power Corporation
Docket No. 020007
September 9, 2002

The 2002 Florida Statutes

Title XXVIII

**NATURAL RESOURCES; CONSERVATION,
RECLAMATION, AND USE**

Chapter 376

**POLLUTANT DISCHARGE
PREVENTION AND REMOVAL**

**View Entire
Chapter**

376.301 Definitions of terms used in ss. 376.30-376.319, 376.70, and 376.75.--When used in ss. 376.30-376.319, 376.70, and 376.75, unless the context clearly requires otherwise, the term:

- (1) "Aboveground hazardous substance tank" means any stationary aboveground storage tank and onsite integral piping that contains hazardous substances which are liquid at standard temperature and pressure and has an individual storage capacity greater than 110 gallons.
- (2) "Additive effects" means a scientific principle that the toxicity that occurs as a result of exposure is the sum of the toxicities of the individual chemicals to which the individual is exposed.
- (3) "Antagonistic effects" means a scientific principle that the toxicity that occurs as a result of exposure is less than the sum of the toxicities of the individual chemicals to which the individual is exposed.
- (4) "Backlog" means reimbursement obligations incurred pursuant to s. 376.3071(12), prior to March 29, 1995, or authorized for reimbursement under the provisions of s. 376.3071(12), pursuant to chapter 95-2, Laws of Florida. Claims within the backlog are subject to adjustment, where appropriate.
- (5) "Barrel" means 42 U.S. gallons at 60 degrees Fahrenheit.
- (6) "Bulk product facility" means a waterfront location with at least one aboveground tank with a capacity greater than 30,000 gallons which is used for the storage of pollutants.
- (7) "Cattle-dipping vat" means any structure, excavation, or other facility constructed by any person, or the site where such structure, excavation, or other facility once existed, for the purpose of treating cattle or other livestock with a chemical solution pursuant to or in compliance with any local, state, or federal governmental program for the prevention, suppression, control, or eradication of any dangerous, contagious, or infectious diseases.
- (8) "Compression vessel" means any stationary container, tank, or onsite integral piping system, or combination thereof, which has a capacity of greater than 110 gallons, that is primarily used to store pollutants or hazardous substances above atmospheric pressure or at a reduced temperature in order to lower the vapor pressure of the contents. Manifold compression vessels that function as a single vessel shall be considered as one vessel.
- (9) "Contaminant" means any physical, chemical, biological, or radiological substance present in any medium which may result in adverse effects to human health or the environment or which creates an adverse nuisance, organoleptic, or aesthetic condition in groundwater.
- (10) "Contaminated site" means any contiguous land, sediment, surface water, or groundwater areas that contain contaminants that may be harmful to human health or the environment.
- (11) "Department" means the Department of Environmental Protection.
- (12) "Discharge" includes, but is not limited to, any spilling, leaking, seeping, pouring, misapplying, emitting, emptying, releasing, or dumping of any pollutant or hazardous substance which occurs and which affects lands and the surface and ground waters of the state not regulated by ss. 376.011-376.21.

(13) "Drycleaning facility" means a commercial establishment that operates or has at some time in the past operated for the primary purpose of drycleaning clothing and other fabrics utilizing a process that involves any use of drycleaning solvents. The term "drycleaning facility" includes laundry facilities that use drycleaning solvents as part of their cleaning process. The term does not include a facility that operates or has at some time in the past operated as a uniform rental company or a linen supply company regardless of whether the facility operates as or was previously operated as a drycleaning facility.

(14) "Drycleaning solvents" means any and all nonaqueous solvents used in the cleaning of clothing and other fabrics and includes perchloroethylene (also known as tetrachloroethylene) and petroleum-based solvents, and their breakdown products. For purposes of this definition, "drycleaning solvents" only includes those drycleaning solvents originating from use at a drycleaning facility or by a wholesale supply facility.

(15) "Dry drop-off facility" means any commercial retail store that receives from customers clothing and other fabrics for drycleaning or laundering at an offsite drycleaning facility and that does not clean the clothing or fabrics at the store utilizing drycleaning solvents.

(16) "Engineering controls" means modifications to a site to reduce or eliminate the potential for exposure to petroleum products' chemicals of concern, drycleaning solvents, or other contaminants. Such modifications may include, but are not limited to, physical or hydraulic control measures, capping, point of use treatments, or slurry walls.

(17) "Wholesale supply facility" means a commercial establishment that supplies drycleaning solvents to drycleaning facilities.

(18) "Facility" means a nonresidential location containing, or which contained, any underground stationary tank or tanks which contain hazardous substances or pollutants and have individual storage capacities greater than 110 gallons, or any aboveground stationary tank or tanks which contain pollutants which are liquids at standard ambient temperature and pressure and have individual storage capacities greater than 550 gallons. This subsection shall not apply to facilities covered by chapter 377, or containers storing solid or gaseous pollutants, and agricultural tanks having storage capacities of less than 550 gallons.

(19) "Flow-through process tank" means an aboveground tank that contains hazardous substances or specified mineral acids as defined in s. 376.321 and that forms an integral part of a production process through which there is a steady, variable, recurring, or intermittent flow of materials during the operation of the process. Flow-through process tanks include, but are not limited to, seal tanks, vapor recovery units, surge tanks, blend tanks, feed tanks, check and delay tanks, batch tanks, oil-water separators, or tanks in which mechanical, physical, or chemical change of a material is accomplished.

(20) "Hazardous substances" means those substances defined as hazardous substances in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Pub. L. No. 96-510, 94 Stat. 2767, as amended by the Superfund Amendments and Reauthorization Act of 1986.

(21) "Institutional controls" means the restriction on use or access to a site to eliminate or minimize exposure to petroleum products' chemicals of concern, drycleaning solvents, or other contaminants. Such restrictions may include, but are not limited to, deed restrictions, restrictive covenants, or conservation easements.

(22) "Laundering on a wash, dry, and fold basis" means the service provided by the owner or operator of a coin-operated laundry to its customers whereby an employee of the laundry washes, dries, and folds laundry for its customers.

(23) "Marine fuelling facility" means a commercial or recreational coastal facility, excluding a bulk product facility, providing fuel to vessels.

(24) "Natural attenuation" means a verifiable approach to site rehabilitation that allows natural processes to contain the spread of contamination and reduce the concentrations of contaminants in contaminated groundwater and soil. Natural attenuation processes may include the following: sorption, biodegradation, chemical reactions with subsurface materials, diffusion, dispersion, and volatilization.

(25) "Operator" means any person operating a facility, whether by lease, contract, or other form of agreement.

(26) "Owner" means any person owning a facility.

(27) "Person" means any individual, partner, joint venture, or corporation; any group of the foregoing, organized or united for a business purpose; or any governmental entity.

(28) "Person in charge" means the person on the scene who is in direct, responsible charge of a facility from which pollutants are discharged, when the discharge occurs.

(29) "Person responsible for conducting site rehabilitation" means the site owner, operator, or the person designated by the site owner or operator on the reimbursement application. Mortgage holders and trust holders may be eligible to participate in the reimbursement program pursuant to s. 376.3071(12).

(30) "Petroleum" includes:

(a) Oil, including crude petroleum oil and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary methods and which are not the result of condensation of gas after it leaves the reservoir; and

(b) All natural gas, including casinghead gas, and all other hydrocarbons not defined as oil in paragraph (a).

(31) "Petroleum product" means any liquid fuel commodity made from petroleum, including, but not limited to, all forms of fuel known or sold as diesel fuel, kerosene, all forms of fuel known or sold as gasoline, and fuels containing a mixture of gasoline and other products, excluding liquefied petroleum gas and American Society for Testing and Materials (ASTM) grades no. 5 and no. 6 residual oils, bunker C residual oils, intermediate fuel oils (IFO) used for marine bunkering with a viscosity of 30 and higher, asphalt oils, and petrochemical feedstocks.

(32) "Petroleum products' chemicals of concern" means the constituents of petroleum products, including, but not limited to, xylene, benzene, toluene, ethylbenzene, naphthalene, and similar chemicals, and constituents in petroleum products, including, but not limited to, methyl tert-butyl ether (MTBE), lead, and similar chemicals found in additives, provided the chemicals of concern are present as a result of a discharge of petroleum products.

(33) "Petroleum storage system" means a stationary tank not covered under the provisions of chapter 377, together with any onsite integral piping or dispensing system associated therewith, which is used, or intended to be used, for the storage or supply of any petroleum product. Petroleum storage systems may also include oil/water separators, and other pollution control devices installed at petroleum product terminals as defined in this chapter and bulk product facilities pursuant to, or required by, permits or best management practices in an effort to control surface discharge of pollutants. Nothing herein shall be construed to allow a continuing discharge in violation of department rules.

* (34) "Pollutants" includes any "product" as defined in s. 377.19(11), pesticides, ammonia, chlorine, and derivatives thereof, excluding liquefied petroleum gas.

* (35) "Pollution" means the presence on the land or in the waters of the state of pollutants in quantities which are or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property or which may unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

(36) "Real property owner" means the individual or entity that is vested with ownership, dominion, or legal or rightful title to the real property, or which has a ground lease interest in the real property, on which a drycleaning facility or wholesale supply facility is or has ever been located.

(37) "Response action" means any activity, including evaluation, planning, design, engineering, construction, and ancillary services, which is carried out in response to any discharge, release, or threatened release of a hazardous substance, pollutant, or other contaminant from a facility or site identified by the department under the provisions of ss. 376.30-376.319.

(38) "Response action contractor" means a person who is carrying out any response action, including a person retained or hired by such person to provide services relating to a response action.

(39) "Risk reduction" means the lowering or elimination of the level of risk posed to human health or the environment through interim remedial actions, remedial action, or institutional and, if appropriate, engineering controls.

(40) "Secretary" means the Secretary of Environmental Protection.

(41) "Site rehabilitation" means the assessment of site contamination and the remediation activities that reduce the levels of contaminants at a site through accepted treatment methods to meet the cleanup target levels established for that site. For purposes of sites subject to the Resource Conservation and Recovery Act, as amended, the term includes removal, decontamination, and corrective action of releases of hazardous substances.

(42) "Source removal" means the removal of free product, or the removal of contaminants from soil or sediment that has been contaminated to the extent that leaching to groundwater or surface water has occurred or is occurring.

(43) "Storage system" means a stationary tank not covered under the provisions of chapter 377, together with any onsite integral piping or dispensing system associated therewith, which is or has been used for the storage or supply of any petroleum product, pollutant, or hazardous substance as defined herein, and which is registered with the Department of Environmental Protection under this chapter or any rule adopted pursuant hereto.

(44) "Synergistic effects" means a scientific principle that the toxicity that occurs as a result of exposure is more than the sum of the toxicities of the individual chemicals to which the individual is exposed.

(45) "Terminal facility" means any structure, group of structures, motor vehicle, rolling stock, pipeline, equipment, or related appurtenances which are used or capable of being used for one or more of the following purposes: pumping, refining, drilling for, producing, storing, handling, transferring, or processing pollutants, provided such pollutants are transferred over, under, or across any water, estuaries, tidal flats, beaches, or waterfront lands, including, but not limited to, any such facility and related appurtenances owned or operated by a public utility or a governmental or quasi-governmental body. In the event of a ship-to-ship transfer of pollutants, the vessel going to or coming from the place of transfer and a terminal facility shall also be considered a terminal facility. For the purposes of ss. 376.30-376.319, the term "terminal facility" shall not be construed to include spill response vessels engaged in response activities related to removal of pollutants, or temporary storage facilities created to temporarily store recovered pollutants and matter, or waterfront facilities owned and operated by governmental entities acting as agents of public convenience for persons engaged in the drilling for or pumping, storing, handling, transferring, processing, or refining of pollutants. However, each person engaged in the drilling for or pumping, storing, handling, transferring, processing, or refining of pollutants through a waterfront facility owned and operated by such a governmental entity shall be construed as a terminal facility.

(46) "Transfer" or "transferred" includes onloading, offloading, fueling, bunkering, lightering, removal of waste pollutants, or other similar transfers, between terminal facility and vessel or vessel and vessel.

History.--s. 84, ch. 83-310; s. 6, ch. 84-338; s. 11, ch. 86-159; s. 2, ch. 89-188; s. 22, ch. 90-54; s. 9, ch. 90-98; s. 12, ch. 91-305; s. 3, ch. 92-30; s. 3, ch. 94-355; s. 297, ch. 94-356; s. 1, ch. 95-239; s. 1, ch. 95-349; s. 15, ch. 96-263; s. 2, ch. 96-277; s. 8, ch. 98-189; s. 7, ch. 2000-317.

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The 2002 Florida Statutes

[Title XXVIII](#)
[Chapter 377](#)
[View Entire Chapter](#)

NATURAL RESOURCES; CONSERVATION, RECLAMATION, AND USE
 ENERGY RESOURCES

377.19 Definitions.--Unless the context otherwise requires, the words defined in this section shall have the following meanings when found in ss. [377.06](#), [377.07](#), and [377.10-377.40](#):

- (1) "Division" means the Division of Resource Management of the Department of Environmental Protection.
- (2) "State" means the State of Florida.
- (3) "Person" means any natural person, corporation, association, partnership, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind.
- (4) "Oil" means crude petroleum oil and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods, and which are not the result of condensation of gas after it leaves the reservoir.
- (5) "Gas" means all natural gas, including casinghead gas, and all other hydrocarbons not defined as oil in subsection (4).
- (6) "Pool" means an underground reservoir containing or appearing to contain a common accumulation of oil or gas or both. Each zone of a general structure which is completely separated from any other zone on the structure is considered a separate pool as used herein.
- (7) "Field" means the general area which is underlaid, or appears to be underlaid, by at least one pool; and "field" includes the underground reservoir, or reservoirs, containing oil or gas, or both. The words "field" and "pool" mean the same thing when only one underground reservoir is involved; however, "field," unlike "pool," may relate to two or more pools.
- (8) "Owner" means the person who has the right to drill into and to produce from any pool and to appropriate the production either for the person or for the person and another, or others.
- (9) "Producer" means the owner or operator of a well or wells capable of producing oil or gas, or both.
- (10) "Waste," in addition to its ordinary meaning, means "physical waste" as that term is generally understood in the oil and gas industry. "Waste" includes:
 - (a) The inefficient, excessive, or improper use or dissipation of reservoir energy; and the locating, spacing, drilling, equipping, operating, or producing of any oil or gas well or wells in a manner which results, or tends to result, in reducing the quantity of oil or gas ultimately to be recovered from any pool in this state.
 - (b) The inefficient storing of oil; and the locating, spacing, drilling, equipping, operating, or producing of any oil or gas well or wells in a manner causing, or tending to cause, unnecessary or excessive surface loss or destruction of oil or gas.
 - (c) Producing oil or gas in such a manner as to cause unnecessary water channeling or coning.
 - (d) The operation of any oil well or wells with an inefficient gas-oil ratio.
 - (e) The drowning with water of any stratum or part thereof capable of producing oil or gas.
 - (f) Underground waste however caused and whether or not defined.
 - (g) The creation of unnecessary fire hazards.

(h) The escape into the open air, from a well producing both oil and gas, of gas in excess of the amount which is necessary in the efficient drilling or operation of the well.

(i) The use of gas for the manufacture of carbon black.

(j) Permitting gas produced from a gas well to escape into the air.

(k) Abuse of the correlative rights and opportunities of each owner of oil and gas in a common reservoir due to nonuniform, disproportionate, and unratable withdrawals, causing undue drainage between tracts of land.

* (11) "Product" means any commodity made from oil or gas and includes refined crude oil, crude tops, topped crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil, casinghead gasoline, natural gas gasoline, naphtha, distillate, condensate, gasoline, waste oil, kerosene, benzene, wash oil, blended gasoline, lubricating oil, blends or mixtures of oil with one or more liquid products or byproducts derived from oil or gas, and blends or mixtures of two or more liquid products or byproducts derived from oil or gas, whether hereinabove enumerated or not.

(12) "Illegal oil" means oil which has been produced within the state from any well or wells in excess of the amount allowed by rule, regulation, or order of the division, as distinguished from oil produced within the state from a well not producing in excess of the amount so allowed, which is "legal oil."

(13) "Illegal gas" means gas which has been produced within the state from any well or wells in excess of the amount allowed by any rule, regulation, or order of the division, as distinguished from gas produced within the State of Florida from a well not producing in excess of the amount so allowed, which is "legal gas."

(14) "Illegal product" means any product of oil or gas, any part of which was processed or derived, in whole or in part, from illegal gas or illegal oil or from any product thereof, as distinguished from "legal product," which is a product processed or derived to no extent from illegal oil or illegal gas.

(15) "Reasonable market demand" means the amount of oil reasonably needed for current consumption, together with a reasonable amount of oil for storage and working stocks.

(16) "Tender" means a permit or certificate of clearance for the transportation or the delivery of oil, gas, or products, approved and issued or registered under the authority of the division.

(17) The use of the word "and" includes the word "or" and the use of "or" includes "and," unless the context clearly requires a different meaning, especially with respect to such expressions as "oil and gas" or "oil or gas."

(18) "Well site" means the general area around a well, which area has been disturbed from its natural or existing condition, as well as the drilling or production pad, mud and water circulation pits, and other operation areas necessary to drill for or produce oil or gas.

(19) "Oil and gas administrator" means the State Geologist.

(20) "Operator" means the entity who has the right to drill and to produce a well.

(21) "Completion date" means the day, month, and year that a new productive well, a previously shut-in well, or a temporarily abandoned well is completed, repaired, or recompleted and the operator begins producing oil or gas in commercial quantities.

(22) "Shut-in well" means an oil or gas well that has been taken out of service for economic reasons or mechanical repairs.

(23) "Temporarily abandoned well" means a permitted well or wellbore that has been abandoned by plugging in a manner that allows reentry and redevelopment in accordance with oil or gas rules of the Department of Environmental Protection.

(24) "New field well" means an oil or gas well completed after July 1, 1997, in a new field as designated by the Department of Environmental Protection.

(25) "Horizontal well" means a well completed with the wellbore in a horizontal or nearly horizontal orientation within 10 degrees of horizontal within the producing formation.

History.--s. 14, ch. 22819, 1945; ss. 25, 35, ch. 69-106; s. 138, ch. 71-377; s. 1, ch. 76-104; s. 1, ch. 77-174; s. 67, ch. 79-65; s. 1, ch. 94-193; s. 309, ch. 94-356; s. 1021, ch. 95-148; s. 74, ch. 96-323.

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The 2002 Florida Statutes

Title XXVIII

NATURAL RESOURCES; CONSERVATION,
RECLAMATION, AND USE

376.302 Prohibited acts; penalties.--

Chapter 376

POLLUTANT DISCHARGE
PREVENTION AND REMOVAL

[View Entire
Chapter](#)

- * (1) It shall be a violation of this chapter and it shall be prohibited for any reason:
- * (a) To discharge pollutants or hazardous substances into or upon the surface or ground waters of the state or lands, which discharge violates any departmental "standard" as defined in s. [403.803\(13\)](#).
- (b) To fail to obtain any permit or registration required by this chapter or by rule, or to violate or fail to comply with any statute, rule, order, permit, registration, or certification adopted or issued by the department pursuant to its lawful authority.
- (c) To knowingly make any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this chapter, or to falsify, tamper with, or knowingly render inaccurate any monitoring device or method required to be maintained under this chapter or by any permit, registration, rule, or order issued under this chapter.
- (2) Except as provided in s. [376.311](#), any person who commits a violation specified in subsection (1) is liable to the state for any damage caused and for civil penalties as provided in s. [403.141](#).
- (3) Any person who willfully commits a violation specified in paragraph (1)(a) or paragraph (1)(b) shall be guilty of a misdemeanor of the first degree punishable as provided in ss. [775.082\(4\)\(a\)](#) and [775.083\(1\)\(g\)](#), by a fine of not less than \$2,500 or more than \$25,000, or punishable by 1 year in jail, or by both for each offense. Each day during any portion of which such violation occurs constitutes a separate offense.
- (4) Any person who commits a violation specified in paragraph (1)(c) shall be guilty of a misdemeanor of the first degree punishable as provided in ss. [775.082\(4\)\(a\)](#) and [775.083\(1\)\(g\)](#), by a fine of not more than \$10,000, or by 6 months in jail, or by both for each offense.
- (5) Any person who commits fraud in representing their qualifications for reimbursement or in submitting a reimbursement request pursuant to s. [376.3071\(12\)](#) commits a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).
- (6) It is the legislative intent that the civil penalties and criminal fines imposed by the court be of such amount as to ensure immediate and continued compliance with this act.

History.--s. 84, ch. 83-310; s. 8, ch. 84-338; s. 4, ch. 92-30; s. 1, ch. 94-311; s. 4, ch. 94-355.

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The 2002 Florida Statutes

Title XXVIII
 NATURAL RESOURCES; CONSERVATION,
 RECLAMATION, AND USE

Chapter 376
 POLLUTANT DISCHARGE
 PREVENTION AND REMOVAL

[View Entire Chapter](#)

376.305 Removal of prohibited discharges.--

- * (1) Any person discharging a pollutant as prohibited by ss. 376.30-376.319 shall immediately undertake to contain, remove, and abate the discharge to the satisfaction of the department. However, such an undertaking to contain, remove, or abate a discharge shall not be deemed an admission of responsibility for the discharge by the person taking such action. Notwithstanding this requirement, the department may undertake the removal of the discharge and may contract and retain agents who shall operate under the direction of the department.
- (2) If the person causing the discharge, or the person in charge of facilities at which the discharge has taken place, fails to act immediately, the department may arrange for the removal of the pollutant; except that, if the pollutant was discharged into or upon the navigable waters of the United States, the department shall act in accordance with the national contingency plan for removal of such pollutant as established pursuant to the Federal Water Pollution Control Act, as amended, and the costs of removal incurred by the department shall be paid in accordance with the applicable provisions of that law. Federal funds provided under that act shall be used to the maximum extent possible prior to the expenditure of state funds.
- (3) No action taken by any person to contain or remove a discharge, whether such action is taken voluntarily or at the request of the department or its designee, shall be construed as an admission of liability for the discharge.
- (4) No person who, voluntarily or at the request of the department or its designee, renders assistance in containing or removing any pollutant shall be liable for any civil damages to third parties resulting solely from the acts or omissions of such person in rendering such assistance, except for acts or omissions amounting to gross negligence or willful misconduct.
- (5) Nothing in ss. 376.30-376.319 shall affect the right of any person to render assistance in containing or removing any pollutant or any rights which that person may have against any third party whose acts or omissions in any way have caused or contributed to the discharge of the pollutant.
- (6) The Legislature created the Abandoned Tank Restoration Program in response to the need to provide financial assistance for cleanup of sites that have abandoned petroleum storage systems. For purposes of this subsection the term "abandoned petroleum storage system" shall mean any petroleum storage system that has not stored petroleum products for consumption, use, or sale since March 1, 1990. The department shall establish the Abandoned Tank Restoration Program to facilitate the restoration of sites contaminated by abandoned petroleum storage systems.
 - (a) To be included in the program:
 1. An application must be submitted to the department by June 30, 1996, certifying that the system has not stored petroleum products for consumption, use, or sale at the facility since March 1, 1990.
 2. The owner or operator of the petroleum storage system when it was in service must have ceased conducting business involving consumption, use, or sale of petroleum products at that facility on or before March 1, 1990.
 3. The site is not otherwise eligible for the cleanup programs pursuant to s. 376.3071 or s. 376.3072.
 - (b) In order to be eligible for the program, petroleum storage systems from which a discharge occurred must be closed in accordance with department rules prior to an eligibility determination.

However, if the department determines that the owner of the facility is financially unable to comply with the department's petroleum storage system closure requirements and all other eligibility requirements are met, the petroleum storage system closure requirements shall be waived. The department shall take into consideration the owner's net worth and the economic impact on the owner in making the determination of the owner's financial ability. The June 30, 1996, application deadline shall be waived for owners who are financially unable to comply.

(c) Sites accepted in the program will be eligible for site rehabilitation funding as provided in s. 376.3071(12) or s. 376.30711, as appropriate.

(d) The following sites are excluded from eligibility:

1. Sites on property of the Federal Government;
2. Sites contaminated by pollutants that are not petroleum products;
3. Sites where the department has been denied site access; or
4. Sites which are owned by any person who had knowledge of the polluting condition when title was acquired unless that person acquired title to the site after issuance of a notice of site eligibility by the department.

(e) Participating sites are subject to a deductible as determined by rule, not to exceed \$10,000.

The provisions of this subsection do not relieve any person who has acquired title subsequent to July 1, 1992, from the duty to establish by a preponderance of the evidence that he or she undertook, at the time of acquisition, all appropriate inquiry into the previous ownership and use of the property consistent with good commercial or customary practice in an effort to minimize liability, as required by s. 376.308(1)(c).

History.--s. 84, ch. 83-310; s. 13, ch. 86-159; s. 12, ch. 90-98; s. 13, ch. 91-305; s. 6, ch. 92-30; s. 2, ch. 94-311; s. 1016, ch. 95-148; s. 4, ch. 96-277.

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Exhibit JTS – 1

Part B

Chapter 403, Florida Statutes

Environmental Control

(Page 1 of 6)

Florida Power Corporation
Docket No. 020007
September 9, 2002

The 2002 Florida Statutes

Title XXIX
PUBLIC HEALTH

Chapter 403
ENVIRONMENTAL CONTROL

[View Entire Chapter](#)

403.161 Prohibitions, violation, penalty, intent.--

- * (1) It shall be a violation of this chapter, and it shall be prohibited for any person:
 - * (a) To cause pollution, except as otherwise provided in this chapter, so as to harm or injure human health or welfare, animal, plant, or aquatic life or property.
 - (b) To fail to obtain any permit required by this chapter or by rule or regulation, or to violate or fail to comply with any rule, regulation, order, permit, or certification adopted or issued by the department pursuant to its lawful authority.
 - (c) To knowingly make any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this chapter, or to falsify, tamper with, or knowingly render inaccurate any monitoring device or method required to be maintained under this chapter or by any permit, rule, regulation, or order issued under this chapter.
 - (d) For any person who owns or operates a facility to fail to report to the representative of the department, as established by department rule, within one working day of discovery of a release of hazardous substances from the facility if the owner or operator is required to report the release to the United States Environmental Protection Agency in accordance with 42 U.S.C. s. 9603.
 - (2) Whoever commits a violation specified in subsection (1) is liable to the state for any damage caused and for civil penalties as provided in s. 403.141.
 - (3) Any person who willfully commits a violation specified in paragraph (1)(a) is guilty of a felony of the third degree punishable as provided in ss. 775.082(3)(d) and 775.083(1)(g) by a fine of not more than \$50,000 or by imprisonment for 5 years, or by both, for each offense. Each day during any portion of which such violation occurs constitutes a separate offense.
 - (4) Any person who commits a violation specified in paragraph (1)(a) due to reckless indifference or gross careless disregard is guilty of a misdemeanor of the second degree, punishable as provided in ss. 775.082(4)(b) and 775.083(1)(g) by a fine of not more than \$5,000 or by 60 days in jail, or by both, for each offense.
 - (5) Any person who willfully commits a violation specified in paragraph (1)(b) or paragraph (1)(c) is guilty of a misdemeanor of the first degree punishable as provided in ss. 775.082(4)(a) and 775.083(1)(g) by a fine of not more than \$10,000 or by 6 months in jail, or by both for each offense.
 - (6) It is the legislative intent that the civil penalties and criminal fines imposed by the court be of such amount as to ensure immediate and continued compliance with this section.

History.--s. 17, ch. 67-436; ss. 26, 35, ch. 69-106; s. 1, ch. 70-356; s. 1, ch. 70-439; s. 4, ch. 72-286; s. 8, ch. 74-133; s. 139, ch. 77-104; s. 1, ch. 77-174; s. 21, ch. 88-393; s. 2, ch. 89-143; s. 8, ch. 89-324.

The 2002 Florida Statutes

[Title XXIX](#)
PUBLIC HEALTH

[Chapter 403](#)
ENVIRONMENTAL CONTROL

[View Entire Chapter](#)

403.031 Definitions.--In construing this chapter, or rules and regulations adopted pursuant hereto, the following words, phrases, or terms, unless the context otherwise indicates, have the following meanings:

- (1) "Contaminant" is any substance which is harmful to plant, animal, or human life.
- (2) "Department" means the Department of Environmental Protection.
- (3) "Effluent limitations" means any restriction established by the department on quantities, rates, or concentrations of chemical, physical, biological, or other constituents which are discharged from sources into waters of the state.
- (4) "Installation" is any structure, equipment, or facility, or appurtenances thereto, or operation which may emit air or water contaminants in quantities prohibited by rules of the department.
- (5) "Person" means the state or any agency or institution thereof, the United States or any agency or institution thereof, or any municipality, political subdivision, public or private corporation, individual, partnership, association, or other entity and includes any officer or governing or managing body of the state, the United States, any agency, any municipality, political subdivision, or public or private corporation.
- (6) "Plant" is any unit operation, complex, area, or multiple of unit operations that produce, process, or cause to be processed any materials, the processing of which can, or may, cause air or water pollution.
- * (7) "Pollution" is the presence in the outdoor atmosphere or waters of the state of any substances, contaminants, noise, or manmade or human-induced impairment of air or waters or alteration of the chemical, physical, biological, or radiological integrity of air or water in quantities or at levels which are or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation unless authorized by applicable law.
- (8) "Pollution prevention" means the steps taken by a potential generator of contamination or pollution to eliminate or reduce the contamination or pollution before it is discharged into the environment. The term includes nonmandatory steps taken to use alternative forms of energy, conserve or reduce the use of energy, substitute nontoxic materials for toxic materials, conserve or reduce the use of toxic materials and raw materials, reformulate products, modify manufacturing or other processes, improve in-plant maintenance and operations, implement environmental planning before expanding a facility, and recycle toxic or other raw materials.
- (9) "Sewerage system" means pipelines or conduits, pumping stations, and force mains and all other structures, devices, appurtenances, and facilities used for collecting or conducting wastes to an ultimate point for treatment or disposal.
- (10) "Source" is any and all points of origin of the item defined in subsection (1), whether privately or publicly owned or operated.
- (11) "Treatment works" and "disposal systems" mean any plant or other works used for the purpose of treating, stabilizing, or holding wastes.
- (12) "Wastes" means sewage, industrial wastes, and all other liquid, gaseous, solid, radioactive, or other substances which may pollute or tend to pollute any waters of the state.

(13) "Waters" include, but are not limited to, rivers, lakes, streams, springs, impoundments, wetlands, and all other waters or bodies of water, including fresh, brackish, saline, tidal, surface, or underground waters. Waters owned entirely by one person other than the state are included only in regard to possible discharge on other property or water. Underground waters include, but are not limited to, all underground waters passing through pores of rock or soils or flowing through in channels, whether manmade or natural. Solely for purposes of s. 403.0885, waters of the state also include navigable waters or waters of the contiguous zone as used in s. 502 of the Clean Water Act, as amended, 33 U.S.C. ss. 1251 et seq., as in existence on January 1, 1993, except for those navigable waters seaward of the boundaries of the state set forth in s. 1, Art. II of the State Constitution. Solely for purposes of this chapter, waters of the state also include the area bounded by the following:

(a) Commence at the intersection of State Road (SRD) 5 (U.S. 1) and the county line dividing Dade and Monroe Counties, said point also being the mean high-water line of Florida Bay, located in section 4, township 60 south, range 39 east of the Tallahassee Meridian for the point of beginning. From said point of beginning, thence run northwesterly along said SRD 5 to an intersection with the north line of section 18, township 58 south, range 39 east; thence run westerly to a point marking the southeast corner of section 12, township 58 south, range 37 east, said point also lying on the east boundary of the Everglades National Park; thence run north along the east boundary of the aforementioned Everglades National Park to a point marking the northeast corner of section 1, township 58 south, range 37 east; thence run west along said park to a point marking the northwest corner of said section 1; thence run northerly along said park to a point marking the northwest corner of section 24, township 57 south, range 37 east; thence run westerly along the south lines of sections 14, 15, and 16 to the southwest corner of section 16; thence leaving the Everglades National Park boundary run northerly along the west line of section 16 to the northwest corner of section 16; thence east along the northerly line of section 16 to a point at the intersection of the east one-half and west one-half of section 9; thence northerly along the line separating the east one-half and the west one-half of sections 9, 4, 33, and 28; thence run easterly along the north line of section 28 to the northeast corner of section 28; thence run northerly along the west line of section 22 to the northwest corner of section 22; thence easterly along the north line of section 22 to a point at the intersection of the east one-half and west one-half of section 15; thence run northerly along said line to the point of intersection with the north line of section 15; thence easterly along the north line of section 15 to the northeast corner of section 15; thence run northerly along the west lines of sections 11 and 2 to the northwest corner of section 2; thence run easterly along the north lines of sections 2 and 1 to the northeast corner of section 1, township 56 south, range 37 east; thence run north along the east line of section 36, township 55 south, range 37 east to the northeast corner of section 36; thence run west along the north line of section 36 to the northwest corner of section 36; thence run north along the west line of section 25 to the northwest corner of section 25; thence run west along the north line of section 26 to the northwest corner of section 26; thence run north along the west line of section 23 to the northwest corner of section 23; thence run easterly along the north line of section 23 to the northeast corner of section 23; thence run north along the west line of section 13 to the northwest corner of section 13; thence run east along the north line of section 13 to a point of intersection with the west line of the southeast one-quarter of section 12; thence run north along the west line of the southeast one-quarter of section 12 to the northwest corner of the southeast one-quarter of section 12; thence run east along the north line of the southeast one-quarter of section 12 to the point of intersection with the east line of section 12; thence run east along the south line of the northwest one-quarter of section 7 to the southeast corner of the northwest one-quarter of section 7; thence run north along the east line of the northwest one-quarter of section 7 to the point of intersection with the north line of section 7; thence run northerly along the west line of the southeast one-quarter of section 6 to the northwest corner of the southeast one-quarter of section 6; thence run east along the north lines of the southeast one-quarter of section 6 and the southwest one-quarter of section 5 to the northeast corner of the southwest one-quarter of section 5; thence run northerly along the east line of the northwest one-quarter of section 5 to the point of intersection with the north line of section 5; thence run northerly along the line dividing the east one-half and the west one-half of Lot 5 to a point intersecting the north line of Lot 5; thence run east along the north line of Lot 5 to the northeast corner of Lot 5, township 54¹/₂ south, range 38 east; thence run north along the west line of

section 33, township 54 south, range 38 east to a point intersecting the northwest corner of the southwest one-quarter of section 33; thence run easterly along the north line of the southwest one-quarter of section 33 to the northeast corner of the southwest one-quarter of section 33; thence run north along the west line of the northeast one-quarter of section 33 to a point intersecting the north line of section 33; thence run easterly along the north line of section 33 to the northeast corner of section 33; thence run northerly along the west line of section 27 to a point intersecting the northwest corner of the southwest one-quarter of section 27; thence run easterly to the northeast corner of the southwest one-quarter of section 27; thence run northerly along the west line of the northeast one-quarter of section 27 to a point intersecting the north line of section 27; thence run north along the west lines of sections 22 and 15 to the northwest corner of section 15; thence run easterly along the north lines of sections 15 and 14 to the point of intersection with the L-31N Levee, said intersection located near the southeast corner of section 11, township 54 south, range 38 east; thence run northerly along Levee L-31N crossing SRD 90 (U.S. 41 Tamiami Trail) to an intersection common to Levees L-31N, L-29, and L-30, said intersection located near the southeast corner of section 2, township 54 south, range 38 east; thence run northeasterly, northerly, and northeasterly along Levee L-30 to a point of intersection with the Dade/Broward Levee, said intersection located near the northeast corner of section 17, township 52 south, range 39 east; thence run due east to a point of intersection with SRD 27 (Krome Ave.); thence run northeasterly along SRD 27 to an intersection with SRD 25 (U.S. 27), said intersection located in section 3, township 52 south, range 39 east; thence run northerly along said SRD 25, entering into Broward County, to an intersection with SRD 84 at Andytown; thence run southeasterly along the aforementioned SRD 84 to an intersection with the southwesterly prolongation of Levee L-35A, said intersection being located in the northeast one-quarter of section 5, township 50 south, range 40 east; thence run northeasterly along Levee L-35A to an intersection of Levee L-36, said intersection located near the southeast corner of section 12, township 49 south, range 40 east; thence run northerly along Levee L-36, entering into Palm Beach County, to an intersection common to said Levees L-36, L-39, and L-40, said intersection located near the west quarter corner of section 19, township 47 south, range 41 east; thence run northeasterly, easterly, and northerly along Levee L-40, said Levee L-40 being the easterly boundary of the Loxahatchee National Wildlife Refuge, to an intersection with SRD 80 (U.S. 441), said intersection located near the southeast corner of section 32, township 43 south, range 40 east; thence run westerly along the aforementioned SRD 80 to a point marking the intersection of said road and the northeasterly prolongation of Levee L-7, said Levee L-7 being the westerly boundary of the Loxahatchee National Wildlife Refuge; thence run southwesterly and southerly along said Levee L-7 to an intersection common to Levees L-7, L-15 (Hillsborough Canal), and L-6; thence run southwesterly along Levee L-6 to an intersection common to Levee L-6, SRD 25 (U.S. 27), and Levee L-5, said intersection being located near the northwest corner of section 27, township 47 south, range 38 east; thence run westerly along the aforementioned Levee L-5 to a point intersecting the east line of range 36 east; thence run northerly along said range line to a point marking the northeast corner of section 1, township 47 south, range 36 east; thence run westerly along the north line of township 47 south, to an intersection with Levee L-23/24 (Miami Canal); thence run northwesterly along the Miami Canal Levee to a point intersecting the north line of section 22, township 46 south, range 35 east; thence run westerly to a point marking the northwest corner of section 21, township 46 south, range 35 east; thence run southerly to the southwest corner of said section 21; thence run westerly to a point marking the northwest corner of section 30, township 46 south, range 35 east, said point also being on the line dividing Palm Beach and Hendry Counties; from said point, thence run southerly along said county line to a point marking the intersection of Broward, Hendry, and Collier Counties, said point also being the northeast corner of section 1, township 49 south, range 34 east; thence run westerly along the line dividing Hendry and Collier Counties and continuing along the prolongation thereof to a point marking the southwest corner of section 36, township 48 south, range 29 east; thence run southerly to a point marking the southwest corner of section 12, township 49 south, range 29 east; thence run westerly to a point marking the southwest corner of section 10, township 49 south, range 29 east; thence run southerly to a point marking the southwest corner of section 15, township 49 south, range 29 east; thence run westerly to a point marking the northwest corner of section 24, township 49 south, range 28 east, said point lying on the west boundary of the Big Cypress Area of Critical State Concern as described in rule 28-25.001, Florida Administrative Code; thence run southerly along said boundary crossing SRD 84 (Alligator Alley) to a point marking the southwest corner of section 24, township 50 south, range 28 east; thence leaving the aforementioned west boundary of the Big Cypress Area of Critical State Concern run easterly to a point marking the northeast corner of section 25, township 50 south, range 28 east; thence run southerly along the east line of range 28 east to a point lying approximately 0.15 miles south of the northeast corner of section 1, township 52 south, range 28 east; thence run southwesterly 2.4 miles more or less to an intersection with SRD 90 (U.S. 41 Tamiami Trail), said intersection lying 1.1 miles more or less west of the east line of range 28 east; thence run northwesterly and westerly along SRD 90 to an intersection with the west line of section 10, township 52 south, range 28 east; thence leaving SRD 90 run southerly to a point marking the southwest corner of section 15, township 52 south, range 28 east; thence run westerly crossing the Faka Union Canal 0.6 miles more or less to a point; thence run southerly and parallel to the Faka Union Canal to a point located on the mean high-water line of Faka Union Bay; thence run southeasterly along the mean high-water line of the various bays, rivers, inlets, and streams to the point of beginning.

(b) The area bounded by the line described in paragraph (a) generally includes those waters to be known as waters of the state. The landward extent of these waters shall be determined by the delineation methodology ratified in s. 373.4211. Any waters which are outside the general boundary line described in paragraph (a) but which are contiguous thereto by virtue of the presence of a wetland, watercourse, or other surface water, as determined by the delineation methodology ratified in s. 373.4211, shall be a part of this water body. Any areas within the line described in paragraph (a) which are neither a wetland nor surface water, as determined by the delineation methodology ratified in s. 373.4211, shall be excluded therefrom. If the Florida Environmental Regulation Commission designates the waters within the boundaries an Outstanding Florida Water, waters outside the boundaries shall not be included as part of such designation unless a hearing is held pursuant to notice in each appropriate county and the boundaries of such lands are specifically considered and described for such designation.

(14) "State water resource implementation rule" means the rule authorized by s. 373.036, which sets forth goals, objectives, and guidance for the development and review of programs, rules, and plans relating to water resources, based on statutory policies and directives. The waters of the state are among its most basic resources. Such waters should be managed to conserve and protect water resources and to realize the full beneficial use of these resources.

(15) "Stormwater management program" means the institutional strategy for stormwater management, including urban, agricultural, and other stormwater.

(16) "Stormwater management system" means a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use, or reuse water to prevent or reduce flooding, overdrainage, environmental degradation and water pollution or otherwise affect the quantity and quality of discharges from the system.

(17) "Stormwater utility" means the funding of a stormwater management program by assessing the cost of the program to the beneficiaries based on their relative contribution to its need. It is operated as a typical utility which bills services regularly, similar to water and wastewater services.

(18) "Watershed" means the land area which contributes to the flow of water into a receiving body of water.

(19) "Regulated air pollutant" means:

(a) Nitrogen oxides or any volatile organic compound;

(b) Any pollutant regulated under 42 U.S.C. s. 7411 or s. 7412; or

(c) Any pollutant for which a national primary ambient air quality standard has been adopted.

(20) "Electrical power plant" means, for purposes of this part of this chapter, any electrical generating facility that uses any process or fuel and that is owned or operated by an electric utility, as defined in s. 403.503(13), and includes any associated facility that directly supports the operation of the electrical power plant.

(21) "Total maximum daily load" is defined as the sum of the individual wasteload allocations for point sources and the load allocations for nonpoint sources and natural background. Prior to determining individual wasteload allocations and load allocations, the maximum amount of a pollutant that a water body or water segment can assimilate from all sources without exceeding water quality standards must first be calculated.

History.--s. 4, ch. 67-436; ss. 26, 35, ch. 69-106; s. 1, ch. 71-36; s. 2, ch. 71-137; s. 153, ch. 71-377; s. 1, ch. 73-46; s. 112, ch. 73-333; ss. 1, 2, ch. 74-133; s. 1, ch. 77-174; s. 72, ch. 79-65; s. 13, ch. 84-79; s. 1, ch. 89-143; s. 30, ch. 89-279; s. 22, ch. 91-305; s. 1, ch. 92-132; s. 1, ch. 93-94; ss. 35, 69, ch. 93-213; ss. 12, 13, ch. 94-122; s. 355, ch. 94-356; s. 7, ch. 96-370; s. 1005, ch. 97-103; s. 24, ch. 97-160; s. 2, ch. 99-223; s. 9, ch. 99-353; s. 42, ch. 2001-62.