Department of Environmental Protection

Lawton Chiles
Governor

Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Virginia B. Wetherell
Secretary

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DEPT OF ENV PROTECTION
WEST PALM BEACH

November 17, 1995

Mr. John B. Koogler, P.E.
Koogler and Associates
4014 NW Thirteenth Street
Gainesville, Florida 32609

Re: Chapter 62-775, F.A.C.
Soil Thermal Treatment Facilities

Dear Mr. Koogler:

The Engineering Support Section has reviewed your letter dated October 31, 1995 which requested a Department opinion on a permitting scenario under Chapter 62-775, F.A.C. The letter proposed that multiple stationary soil storage facilities would be constructed at various locations around the state with a single mobile treatment unit that would be around between the facilities to treat soil. Your letter indicated that each of the soil treatment facilities would meet the storage, handling, groundwater monitoring and recordkeeping requirements of Chapter 62-775 for stationary facilities.

Generally we find this proposal to be acceptable to the Department with the exception of one concern. Chapter 62-775.620(7), F.A.C. limits the quantity of untreated soil that should be stored at a thermal treatment facility to 90 days of the treatment facility capacity. One of the reasons for this requirement is to avoid a situation in which a single facility would accept a large quantity of soil for treatment and then go out of business, leaving the soil to be treated and disposed by the Department. We feel the spirit and intent of this provision of the rule might not be met if five storage facilities, each storing 90 days of the treatment facility capacity were operated by a single company. As we discussed, this issue should be reconcilable during the permitting process.

We find it acceptable for you to pursue the permitting of the facilities as described In your memo. We will work with you to resolve the soil storage concern during the permitting process. Please be advised that this

determination applies to Chapter 62-775 permitting requirements only. It is my understanding that the Bureau of Air Regulation has responded separately to the issue of air permitting for the treatment unit. If you have any questions, please call me at (904)488-3935.

Sincerely,

Thomas W. Conrardy

Thomas W. Conrardy, P.E.
Administrator
Engineering Support Section
Bureau of Waste Cleanup

TC/tc

cc: District Waste Program Administrators
John M. Ruddell, Director, Division of Waste Management
Williard Hanks, Bureau of Air Regulation
Mary Stewart, Office of General Counsel

Florida Department of Environmental Regulation
Twin Towers Office Bldg. ● 2600 Blair Stone Road ● Tallahassee, Florida 32399-2400
Lawton Chiles, Governor
Carol M. Browner, Secretary

December 4, 1991

Mr. Mark Ziegler
Mortensen Engineering, Inc.
5706 Benjamin Center Drive
Suite 120
Tampa, Florida 33634

Re: Chapter 17-775, F.A.C.
Soil Thermal Treatment Facilities

Dear Mr. Ziegler:

I am writing in response to our recent phone conversation in which you requested a clarification on whether the blending soils is allowable to meet the Total Metals limitations of the Clean Soil Criteria in the Soil Thermal Treatment Facility rule.

Blending of soils is allowed, however, soils must be blended **prior** to soil thermal treatment. Besides the rule provisions which state that mixing of treated soils is prohibited, another reason for mixing soil prior to treatment is the additional mixing which will be provided by the thermal treatment process itself.

The following additional restrictions apply to mixing of soils:

- Mixing may only be used as a means of achieving the Total Metals limits of the Clean Soil Criteria.

- Before mixing can be considered, the soil must be analyzed for TCLP, and the results demonstrate the soil is not a hazardous waste.

- Only petroleum contaminated soil which was to be thermally treated should be used for mixing with the petroleum contaminated soils with high metals concentrations. Uncontaminated soil should not be used for mixing with the soil which has high metals concentrations. Also, moderately contaminated soil or soil with low levels of petroleum contamination and which would otherwise

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be left in place at a petroleum contaminated site should not be used for mixing.

Revision to the Soil Thermal Treatment Facility rule is currently being considered to clarify this issue as well as several other areas. If you have any questions, please call me at (904) 488-0190.

Sincerely,

Thomas W. Conrardy, P.E.
Bureau of Waste Cleanup

TC/wp

cc: Paul Wierzbicki, Florida DER Southeast District

Florida Department of Environmental Regulation

Twin Towers Office Bldg. ● 2600 Blair Stone Road ● Tallahassee, Florida 32399-2400

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Bureau of Waste Cleanup

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Chapter 17-775

SOIL THERMAL TREATMENT FACILITIES

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PART I

INTENT, DEFINITIONS AND GENERAL PROVISIONS

17-775.100 Intent

(1) Rule 17-770, F.A.C., establishes petroleum or petroleum product contamination cleanup criteria and a cleanup process which must be undertaken at all petroleum contamination sites. As a result of this cleanup effort, contaminated soils may be removed for thermal treatment.

(2) The State of Florida Department of Environmental Regulation promulgates this rule in order to provide assurances that contaminated soils as defined in Rule 17-770.200, F.A.C., which are removed for thermal treatment, are properly handled and treated to levels that will prevent future contamination of other soils, ground water, and surface water.

(3) The Department recognizes that thermal treatment of contaminated soils in asphalt plants, cement kilns, rotary kilns, or their equivalents, is a viable method of remediating soils.

(4) The Department intends for this rule to apply only to thermal treatment facilities and the contaminated soils which will be treated therein.

Specific Authority: 376.303, 376.3071, 403.061, F.S.

Law Implemented: 376.3071, F.S.

History: New

17-775.200 Definitions

All words and phrases defined in Section 376.301, F.S., shall have the same meaning when used in this Chapter unless the context clearly indicates otherwise. The following words and phrases when used in this Chapter shall, unless the context clearly indicates otherwise, have the following meanings:

(1) "Contamination" or "contaminated" means a discharge of petroleum or petroleum products into the surface waters, ground waters or upon the land, in quantities which may result in a violation of water quality standards set forth in Chapters 17-3 and 17-302, F.A.C.

(2) "Department" means the State of Florida Department of Environmental Regulation.

(3) "Environmental Protection Agency" or "EPA" means The United States Environmental Protection Agency.

(4) "Existing facility" shall mean a soil thermal treatment facility which is in operation prior to the effective date of this Chapter.

(5) "Hazardous waste" means a solid waste identified as a hazardous waste in 40 CFR 261.3.

(6) "Leachate" means liquid which percolates through or emerges from stockpiled soil and contains soluble, suspended or miscible materials.

(7) "Mobile facility" means a thermal treatment system which is transported to a soil contamination site and only treats soil from that specific site.

(8) "Stationary facility" means a thermal treatment system which thermally treats contaminated soil transported to the facility.

(9) "Thermal treatment" means to apply heat to increase soil temperatures sufficiently to volatilize or burn contaminants within the soil.

(10) "Thermal treatment facility" means either a stationary or mobile system designed, constructed, and permitted by the Department to handle, store, and thermally treat contaminated soils. "Thermal treatment facility" does not include electrical power plants in which thermal treatment of contaminated soils from their own property results in ash which is disposed of in accordance with Chapters 17-701 or 17-702, F.A.C.

(11) "Total Volatile Organic Aromatics" or "total VOA" means the sum of concentrations of benzene, toluene, total xylenes, and ethylbenzene as determined by EPA Method 602, 5030/8020, or 5030/8021.

(12) "Used oil" means any lubricant which has been refined from crude oil and, as a result of use, storage or handling, has become unsuitable for its original purpose due to the presence of impurities or loss of properties, but which may be suitable for further use as a fuel or may be economically recycled for use as a fuel. "Used oil" shall not include any oil which has been mixed with any material which is a hazardous waste, unless the material is a hazardous waste solely due to the characteristic of

ignitability as defined in 40 CFR Section 261, Subpart C. Oil containing more than 1000 parts per million of total halogens is presumed to be mixed with a hazardous waste as defined in 40 CFR Section 261, Subpart D, unless a demonstration is made that the used oil does not contain a hazardous waste.

Specific Authority: 376.303, 376.3071, 403.061, F.S.

Law Implemented: 376.3071, 403.021, 403.031, 403.061, 403.062, F.S.

History: New

17-775.210 Reference Standards

(1) Reference standards are available for inspection at the Department's district and central offices.

(2) Specific references to documents or parts thereof are adopted and incorporated as standards only to the extent that the documents are specifically referenced in this Chapter.

(a) DER Guidelines for Preparing Quality Assurance Plans (DER-QA-001/90), Florida Department of Environmental Regulation, Quality Assurance Section.

(b) Test Methods for Evaluating Solid Waste Physical/Chemical, EPA SW 846 Methods, Third Edition, Document No. 955-001-00000-1, as amended by update Package I (December, 1987).

(c) EPA Draft Method 9073 for Total Recoverable Petroleum Hydrocarbons.

(d) Federal Register; Volume 55, No. 61, pages 11798 to 11877; dated Thursday, March 29, 1990; on Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Toxicity Characteristics Revisions; Final Rule.

Specific Authority: 376.303, 376.3071, 403.061, F.S.

Law Implemented: 376.3071, 403.061, 403.062, F.S.

History: New

17-775.300 General Permits

(1) Soil thermal treatment facilities shall operate pursuant to a general permit, and shall meet the applicable general permit requirements in Rules 17-4.510 through 17-4.540, F.A.C., and the requirements of this Rule.

(2) Prior to operating under a general permit, the owners of a soil thermal treatment facility shall notify the Department on Form 17-775.900(1). For an existing soil thermal treatment facility, the notification must be submitted within 90 days after the effective date of this Rule. For a new soil thermal treatment facility or for renewal of a general permit, the notification must be submitted 30 days before the operation begins or the existing permit expires.

(3) The notice of intent to use the general permit to treat contaminated soils at a thermal treatment facility shall bear the signature, date and seal of a professional engineer licensed in the State of Florida.

(4) Soil thermal treatment facilities also must be permitted under Rule 17-2, F.A.C., prior to thermally treating contaminated soil.

(5) Soil thermal treatment facilities shall treat soils to the extent necessary to meet the criteria for clean soil in accordance with Rule 17-775.400, F.A.C. Soil sampling and analysis shall be in accordance with Rule 17-775.410, F.A.C.

(6) For stationary soil thermal treatment facilities, the specific conditions in Rules 17-775.600 through 17-775.620, F.A.C., shall apply. For mobile soil thermal treatment facilities, the specific conditions in Rule 17-775.700 and 17-775.710, F.A.C., shall apply.

(7) All soil thermal treatment facilities operating under a general permit shall maintain accurate records of operations. Operating report logs shall be maintained on a normal work day basis on Forms 17-775.900(2) and (3), F.A.C., and shall be maintained for a period of three years at the facility for a stationary facility, or, at an approved location for mobile facility. The Department shall have complete access to all records, field and laboratory chain-of-custody records, quality control records, raw data records, calibration records, and laboratory analyses.

(8) When treating contaminated soil, soil thermal treatment facilities shall have a minimum operating

temperature and a maximum soil charging rate which provides treatment to meet the criteria in Rule 17-775.400, F.A.C.

(9) Soil must be screened, or otherwise processed in order to prevent soil particles greater than two inch mesh (diameter) from entering the thermal treatment unit. Soil thermal treatment facilities are allowed to treat debris, other than soil, such as concrete, rocks, and wood.

(10) Prior to conducting any sampling or analysis, a Comprehensive Quality Assurance Project Plan (formerly called a Generic Quality Assurance Plan) must be approved by the Department. For those persons who have an approved Comprehensive Quality Assurance Project Plan, a Short Form (site specific) Quality Assurance Project Plan or other appropriate quality assurance document approved by the Department will satisfy this requirement. The Short Form Quality Assurance Project Plan shall be prepared in accordance with the requirements of the Department's Guidelines for Preparing Quality Assurance Plans. If there is reasonable doubt as to the quality of data or methods used, the Department reserves the right to reject any or all data submitted prior to approval of the Short Form Quality Assurance Project Plan.

Specific Authority: 376.303, 376.3071, 403.087, 403.0876, F.S.

Law Implemented: 376.3071, 403.087, 403.0876, F.S.

History: New

17-775.400 Criteria for Clean Soil

Soil which has been treated by a soil thermal treatment facility must meet the following cleanup levels to be classified as clean soil. Mixing of treated soils to achieve these standards is prohibited; however, if metal levels are exceeded without exceeding Toxicity Characteristic Leachate Procedure (TCLP) metals standards, blending of soil is allowed.

(1) Total Volatile Organic Aromatics shall not exceed 100 ug/kg (100 ppb) using the analysis identified in Rule 17-775.410(1)(a), F.A.C., and

(2) Total Recoverable Petroleum Hydrocarbons (TRPH) shall not exceed 10 mg/kg (10 ppm) using the analysis identified in Rule 17-775.410(1)(b), F.A.C., or

(3) Total Recoverable Petroleum Hydrocarbons (TRPH) shall not exceed 50 mg/kg (50 ppm) using the analysis identified in Rule 17-775.410(1)(b), F.A.C., provided the total of the Polynuclear Aromatic Hydrocarbons (PAH) does not exceed 6 mg/kg (6 ppm) using the analysis identified in Rule 17-775.410(1)(c), F.A.C., and the total of the Volatile Organic Halocarbons (VOH) does not exceed 50 ug/kg (50 ppb) using the analysis identified in Rule 17-775.410(1)(d), F.A.C., and

(4) Metals shall not exceed the following concentrations in Table I using the analyses identified in Rule 17-775.410(1)(e), F.A.C. Both preparation methods identified in Rule 17-775.410(2), F.A.C., shall be used prior to metal analysis.

TABLE I

Metals	Maximum Concentration TCLP (mg/l)	Total (mg/kg)
Arsenic	5.0	55
Barium	100.0	2750
Cadmium	1.0	55
Chromium	5.0	275
Lead	5.0	77
Mercury	0.2	17
Selenium	1.0	165
Silver	5.0	165

Specific Authority: 376.303, 376.3071, 403.087, 403.0876, F.S.

Law Implemented: 376.3071, 403.087, 403.0876, F.S.

History: New

17-775.410 Soil Sampling and Analysis

(1) Soil samples shall be analyzed for the following parameters using the test methods indicated:

(a) Total Volatile Organic Aromatics (VOA) — EPA Method 5030/8020

(b) Total Recoverable Petroleum Hydrocarbons — EPA Draft Method 9073

(c)	Polynuclear Aromatic Hydrocarbons (PAH)	EPA Method 3540/8100, 3550/8100, 3540/8250, 3540/8270, 3550/8250, 3550/8270, 3540/8310 or 3550/8310
(d)	Volatile Organic Halocarbons (VOH)	EPA Method 5030/8010
(e)	Metals	
	Arsenic	EPA Method 7060, 7061 or 6010
	Barium	EPA Method 7080 or 6010
	Cadmium	EPA Method 7130, 7131 or 6010
	Chromium	EPA Method 7190, 7191 or 6010
	Lead	EPA Method 7420, 7421 or 6010
	Mercury	EPA Method 7471
	Selenium	EPA Method 7040, 7041 or 6010
	Silver	EPA Method 7760 or 6010

(2) The acid digestion procedure by EPA Method 3050 shall be used to prepare soil samples for total metal analyses, and the extraction procedure by EPA Method 1311 Toxicity Characteristic Leaching Procedure (TCLP) shall be used to determine leachability characteristic of metals.

(3) Pretreatment soil shall be analyzed for Volatile Organic Aromatics, Total Recoverable Petroleum Hydrocarbons, and total metals. From each contamination site, composite soil sampling frequency shall be in accordance with Table II. Each composite soil sample shall consist of soil samples taken from at least four locations. Each sample shall be collected from locations equally distributed throughout the soil surface area and from a depth of at least six inches below the surface.

TABLE II

Amount of Soil		Quantity of
by Volume (cubic yards)	by Weight (tons)	Composite Samples
Less than 100	Less than 140	1
100 to 500	140 to 700	3
500 to 1000	700 to 1400	5
For each additional 500	For each additional 700	1

(4) The soil must not be thermally treated pursuant to this Chapter if classified as a hazardous waste. If any soil is suspected of containing a hazardous waste, then screening analyses for other contaminants may include, but are not limited to the following: volatile organic halogens; corrosivity; reactivity; toxicity characteristic constituents by the Toxicity Characteristic Leachate Procedure (TCLP), which includes metals,

pesticides and additional organics; and polychlorinated biphenyls (PCB).

(5) Following thermal treatment, a soil sample shall be collected at a sampling port at least hourly and composited over an eight hour maximum time interval or at least once every 400 tons, whichever is less. Each composite sample shall be analyzed for the parameters identified in Rule 17-775.400(1),(2), and (4), F.A.C. If the clean soil criterion in Rule 17-775.400(2), F.A.C., is exceeded, the soil may be analyzed for PAH and VOH parameters identified in Rule 17-775.400(3), F.A.C.

Specific Authority: 376.303, 376.3071, 403.061, 403.0877, F.S.

Law Implemented: 376.3071, 403.061, 403.062, F.S.

History: New

17-775.500 Approval of Alternate Procedures

(1) The owner or operator of a facility subject to the provisions of this Chapter may request in writing a determination from the Department that any requirement of this Chapter should not apply to such facility, and shall request approval of alternate procedures.

(2) The request shall set forth at a minimum the following information:

(a) The facility for which an exception is sought;

(b) The specific provision of Rule 17-775, F.A.C., from which an exception is sought;

(c) The basis for the exception;

(d) The alternate procedure or requirement for which approval is sought and a demonstration that the alternate procedure or requirement provides a substantially equivalent degree of protection for the lands, surface waters, or ground waters of the state as the established requirement; and

(e) A demonstration that the alternate procedure or requirement is at least as effective as the established procedure or requirement.

(3) The Secretary or his designee shall approve or deny each alternate procedure using the criteria in subsection (2) and shall provide written notice of such action.

Specific Authority: 376.303, 376.3071, F.S.

Law Implemented: 376.303, 376.3071, F.S.

History: New

PART II

SPECIFIC CONDITIONS FOR STATIONARY FACILITIES

17-775.600 Security

(1) All stationary thermal treatment facilities shall take appropriate measures to assure protection of the general public.

Specific Authority: 376.303, 376.3071, 403.061, F.S.

Law Implemented: 376.303, 376.3071, F.S.

History: New

17-775.610 Ground Water Monitoring

(1) A ground water monitoring program shall be developed for each facility which shall provide assurances that ground water quality is maintained.

(2) A ground water monitoring plan shall be provided to the Department as an attachment to the general permit application. As required and authorized by Chapter 492, F.S., the ground water monitoring plan shall be signed, sealed, and dated by a professional geologist. The monitoring plan shall contain the following information:

(a) Location(s) of the proposed unaffected natural background and downgradient monitoring well(s) and construction details of the monitoring well(s).

(b) Hydrogeological, physical, and chemical data for the site, including:

1. Direction and rate of ground water flow:

2. Background ground water quality;

3. Porosity, horizontal and vertical permeability for the aquifer(s), and the depth to, and lithology of the first confining bed(s);

4. Vertical permeability, thickness, and extent of any confining beds;

5. Topography, soil information, and surface water drainage systems surrounding the site; and

6. Inventory depth, construction details (well drilling logs), and cones of depression of water supply wells located within a one mile radius of the site.

(3) Monitoring wells shall be constructed in accordance with the provisions of Rule 17-532 except as follows:

(a) The minimum inside diameter shall be two inches.

(b) Flush threaded couplings shall be used to join polyvinyl chloride (PVC) pipe.

(4) The ground water monitoring wells shall be sampled and analyzed on a quarterly basis for the following parameters using the designated test methods:

(a)	Volatile Organic Aromatics	
1.	Benzene	EPA Method 602
2.	Toluene	EPA Method 602
3.	Ethylbenzene	EPA Method 602
4.	Total Xylenes	EPA Method 602
(b)	Methyl Tert-Butyl Ether (MTBE)	EPA Method 602

(c) Polynuclear Aromatic Hydrocarbons — EPA Method 610 or 625

(d) Metals

1.	Arsenic	EPA Method 206.2, 206.3, 3010/7060 or 3020/7061
2.	Barium	EPA Method 208.1, 208.2, 3010/7080 or 3020/7081
3.	Cadmium	EPA Method 213.1, 213.2, 3010/7130 or 3020/7131
4.	Chromium	EPA Method 200.7, 218.2 or 3020/7191
5.	Lead	EPA Method 239.2 or 3020/7421
6.	Mercury	EPA Method 245.1 or 3010/7470 or 3020/7471
7.	Selenium	EPA Method 270.2, 270.3, 3010/7740 or 3020/7741
8.	Silver	EPA Method 271.1, 271.2, 3010/7760 or 3020/7761

(5) If sampling analyses indicate any levels of the above parameters exceeding the unaffected natural background levels, the permittee shall notify the Department in writing within seven days of receiving analytical results.

Specific Authority: 376.303, 376.3071, 403.061, 403.062, F.S.

Law Implemented: 376.303, 376.3071, F.S.

History: New

17-775.620 Receiving, Handling, and Stockpiling

(1) Each batch of contaminated soil shall be clearly identified by source and stockpiled separately until all sampling and analyses in accordance with Rule 17-775.410, F.A.C, are complete. Once the contaminated soil is determined to be acceptable for treatment, soil batches may be mixed with other soil batches found acceptable for thermal treatment. All contaminated soils shall be stored separately and apart from all treated soils.

(2) Contaminated soil shall be stored pursuant to this Chapter in such a manner to prevent contact with rainfall or release of leachate to ground water or surface water. The following pre-treatment storage measures shall be provided at each facility:

(a) All soil shall be stored under a permanent cover structure designed and constructed to prevent rainfall to either directly or indirectly come into contact with the stockpiled soil.

(b) The soil shall be stored on a permanent floor designed and constructed to prevent seepage, which will maintain a maximum hydraulic conductivity of no more than 10^{-7}cm/sec through a minimum of four inches.

1. Plastic or synthetic liners as flooring shall not be considered as suitable alternates.

2. The floor structure shall be designed and constructed for leachate collection and control.

(3) No leachate shall be discharged to soils, ground water, or surface water prior to treatment. Prior to discharge, treated leachate shall meet the standards established in Rule 17-3, F.A.C. Applicable permits for discharges to either surface water or ground water must be obtained prior to any discharge.

(4) Leachate may be treated in the thermal treatment facility.

(5) Until soil analyses have verified that the soil meets the clean soil criteria identified in Rule 17-775.400, F.A.C., treated soil shall be stockpiled on a permanent floor structure, which meets the criteria in Rule 17-775.620(2)(b).

Specific Authority: 376.303, 376.3071, 403.061, F.S.

Law Implemented: 376.303, 376.3071, F.S.

History: New

PART III

SPECIFIC CONDITIONS FOR MOBILE FACILITIES

17-775.700 Notices and Security

(1) Any mobile thermal treatment facility which intends to treat contaminated soil, shall notify the following entities by registered mail at least three days prior to initiating operation at a contaminant site:

(a) The local City and County governments and local environmental agency, and

(b) The appropriate District Office of the Department.

(2) Any permitted mobile thermal treatment facility shall take appropriate measures to assure protection of the general public including the following:

(a) A security fence shall surround all areas where contaminated soil is being processed, including stockpiling, handling and burning areas. The fence shall extend at least six feet above ground surface. In lieu of a security fence, surveillance personnel on site at all times is an acceptable alternative.

(b) Gate accesses shall be locked when no attendant is present.

(c) Appropriate warning notices shall be clearly posted.

Specific Authority: 376.303, 376.3071, 403.061, F.S.

Law Implemented: 376.303, 376.3071, F.S.

History: New

17-775.710 Excavating, Handling, and Stockpiling

(1) Mobile facilities shall operate only at sites with confirmed contaminated soils and may treat only soil native to the site.

(2) Soil which is excavated shall remain on-site and within the area of suspected ground water contamination until soil has been treated, and cleanup levels identified in Rule 17-775.400, F.A.C., have been confirmed.

(3) Excavated soil shall be stockpiled on an impermeable surface or liner. The stockpile shall be covered by a secured plastic cover until treatment in the thermal treatment unit commences.

(4) To the greatest extent possible, soil treated by mobile facilities shall be returned to the original excavation pit.

(5) The stockpile area for untreated soil shall be graded to direct leachate flow to return to the original excavation pit.

Specific Authority: 376.303, 376.3071, 403.061, 403.0877, F.S.

Law Implemented: 376.303, 376.3071, F.S.

History: New

PART IV

SOIL THERMAL TREATMENT FACILITY FORMS

17-775.900 Forms

The forms and instructions used by the Department in the general permitting of soil thermal treatment facilities are adopted and incorporated by reference in this section. The forms are 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 Director, Division of Waste Management, Department of Environmental Regulation, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

(1) Notice of Intent to Use the General Permit to Construct/Operate a Soil Thermal Treatment Facility, 1990.

(2) Untreated Soil Reporting Form, 1990.

(3) Treated Soil Reporting Form, 1990.

Specific Authority: 376.303, 376.3071, 403.061, 403.087, 403.0876, F.S.

Law Implemented: 376.303, 376.3071, F.S.

History: New

Florida Department of Environmental Regulation

Twin Towers Office Bldg. ● 2600 Blair Stone Road ● Tallahassee, Florida 32399-2400

Bob Martinez, Governor Dale Twachtmann, Secretary John Shearer, Assistant Secretary

NOTICE OF INTENT TO USE THE GENERAL PERMIT TO CONSTRUCT/OPERATE A SOIL THERMAL TREATMENT FACILITY

INSTRUCTIONS: Please provide all information as requested below. For stationary facilities submit the original and four (copies) of this notice of intent application along with site location map, process flow chart drawings of the treatment facility, and groundwater monitoring plan to the appropriate district office. For mobile units submit applicable information to the Bureau of Waste Cleanup, Florida Department of Environmental Regulation, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

Type: Stationary __ Mobile __ General Permit No.: _____

Name of Facility: _____ County: _____

Facility Address: _____

Latitude ___° ___' ___"N Longitude ___° ___' ___"W

Telephone Number: _____

Name of Owner(s): _____

Owner(s) Address if different from above: _____

_____

Department of Environmental Regulation Air Permit Number: _____

Expiration Date: _____

Length of primary chamber (ft): _____

Heat generation capability (BTU/hr): _____

Capacity of facility at a _____ minute retention time
(yd^3/hr): _____ or (tons/hr): _____

Operating temperature of primary chamber (°F): _____

Estimated average volume of soil to be processed (yd^3/mth): _____

Covered storage area (ft^2): _____ Height of cover (ft): _____

Floor construction (cement, asphalt, etc.): _____

Statement by Applicant:

I hereby attest as the owner or authorized representative of _____ (attach letter of authorization) the preceding information is accurate and that I will operate this facility in accordance with the requirements of Chapter 17-775 entitled "Soil Thermal Treatment Facilities." I understand that failure to operate this facility as required will constitute grounds for revocation of this permit.

_____
Signature of Owner or Authorized Representative

_____
Name and Title

_____
Date

Statement by Florida Registered Professional Engineer:

I hereby certify that the above information pertinent to the construction an operation of this facility is correct and that this facility is capable of operating to achieve the requirements and standards as set forth in Chapter 17-775, of the Florida Administrative Code.

_____
Signature of Engineer
(affix seal)

_____
Engineer's Name (Please Type)

_____
Florida Registration Number

_____
Company Name

_____
Address Street City

_____
Date Telephone Number

Florida Department of Environmental Regulation
Soil Thermal Treatment Facility
Untreated Soil Reporting Form

Name of Facility: _____
Air Permit No.: _____
Soil Treatment Permit No.: _____
Stationary ____ or Mobile Facility: ____

Month: ____ Year: ____

1	2	3	4	5								6	7	8		
Day of Mo.	Soil Batch ID#	Sample Number	Amount, Volume or Weight cy/tn	Analytical Results												
				Metals								Totals		Indicate Other Analyses		
				As	Ba	Cd	Cr	Pb	Hg	Se	Ag	VOA	RPH	Attach Lab Results Only		

DER Form 17-775.900(2)

See reverse side for instructions

Instructions for Completing Untreated Soil Reporting Form

Samples from both untreated and treated soil must be collected and analyzed. Pretreatment sampling is based on the volume of soil from each source, and post treatment sampling is determined by the hours of operation. Each composite sample must be made up of several representative samples. For all analytical results showing below detection limits, BDL should be shown in the proper space. When results indicate contaminants above detectable limits, the concentrations should be shown. Copies of lab reports must be attached to form.

Column

1. Date soil received.

2. Identification number of specific batch of soil.

3. Sample number. The required number of samples is based upon the volume of soil before treatment and is based upon hours of operation after treatment.

4. Total volume of soil being processed through heat treatment facility, yd^3 or tons.

5. Metals concentrations of Arsenic, Barium, Cadmium, Chromium, Lead, Mercury, Selenium and Silver in the untreated soil in ppm (mg/kg) by extraction procedure EPA Method 3050.

6. Total benzene, toluene, ethylbenzene and xylene concentration in untreated soils in ppb (ug/kg). EPA Method 5030/8020. There are no maximum allowable concentrations.

7. Total recoverable petroleum hydrocarbons in untreated soils. EPA Draft Method 9073.

8. Other parameters that are monitored by the facility should be indicated but not quantified. Attach lab results only.

Florida Department of Environmental Regulation
Soil Thermal Treatment Facility
Treated Soil Reporting Form

Name of Facility: _____
Air Permit No.: _____
Soil Treatment Permit No.: _____
Stationary:_____ or Mobile Facility: _____

Month: _____ Year: ____

1	2	3	4	5	6								7								8	9	10	11
Day of Mo.	Soil Batch ID#	Sample Number	Length of Run, Hours	Amount, Volume or Weight cy/tn	Analytical Results																			
					Total Metals								TCLP Metals								Totals			
					As	Ba	Cd	Cr	Pb	Hg	Se	Ag	As	Ba	Cd	Cr	Pb	Hg	Se	Ag	VOA	RPH	PAH	VOH

DER Form 17-775.900(3)

See reverse side for instructions

Instructions for Completing Treated Soil Reporting Form

Samples must be collected and analyzed at least once each day that the thermal treatment facility is processing contaminated soil. Samples from both untreated and treated soil must be collected and analyzed. Pretreatment sampling is based on the volume of soil from each source, and post treatment sampling is determined by the hours of operation. Each composite sample must be made up of several representative samples. For all analytical results showing below detection limits, BDL should be shown in the proper space. When results indicate contaminants above detectable limits, the concentrations should be shown. Copies of lab reports must be attached to form.

Column

1. Date soil processed.

2. Identification number of specific batch of soil.

3. Sample number. The required number of samples is based upon the volume of soil before treatment and is based upon hours of operation during treatment.

4. Number of hours required of treat specific batch of soil.

5. Amount of soil that was processed through thermal treatment facility, yd^3 or tons.

6. Total metals concentrations of Arsenic, Barium, Cadmium, Chromium, Lead, Mercury, Selenium and Silver in the treated soil in ppm (mg/kg) by digestion procedure EPA Method 3050.

7. TCLP metals concentrations of Arsenic, Barium, Cadmium, Chromium, Lead, Mercury, Selenium and Silver in the treated soil in ppm (mg/l) by extraction procedure EPA Method 1311.

8. Total benzene, toluene, ethylbenzene and xylene in treated soil in ppb. (Maximum allowable to dispose of as clean fill-100 ppb).

9. Total recoverable petroleum hydrocarbons in treated soil in ppm. Maximum allowable to dispose of as clean fill-10 ppm, or 50 ppm if PAHs less than 6 ppm and VOH less than 50 ppb. EPA Draft Method 9073.

10. PAH concentrations in the treated soil consisting of (Benzo(a)pyrene, Benzo(a)antracene, Benzo(b)fluoranthene, Benzo(k)fluoranthene, Benzo(g,h,i)perylene, Chrysene, Dibenzo(a,h)anthracene, Ideno(1,2,3-c,d)pyrene), in ppm (mg/kg) by EPA Methods 3510/8250, 3510/8270, 3540/8250, 3540/8270, 3550/8250, 3550/8270, 3540/8310 or 3550/8310.

11. Total volatile organic halogen concentrations in treated soils in ppb by EPA Method 5030/8010.

CHAPTER 403

ENVIRONMENTAL CONTROL

PART I POLLUTION CONTROL (ss. 403.011–403.4153)

PART II ELECTRICAL POWER PLANT SITING (ss. 403.501–403.539)

PART III INTERSTATE ENVIRONMENTAL CONTROL COMPACT (s. 403.60)

PART IV RESOURCE RECOVERY AND MANAGEMENT (ss. 403.702–403.7893)

PART V ENVIRONMENTAL REGULATION (ss. 403.801–403.8171)

PART VI DRINKING WATER (ss. 403.850–403.864)

PART VII MISCELLANEOUS (s. 403.90)

PART VIII PERMITTING OF ACTIVITIES IN WETLANDS (ss. 403.91–403.938)

PART I

POLLUTION CONTROL

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403.021 Legislative declaration; public policy.
403.031 Definitions.
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403.061 Department; powers and duties.
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403.011 Short title.—This act shall be known and cited as the "Florida Air and Water Pollution Control Act."
History.—s. 2, ch. 67-436.

403.021 Legislative declaration; public policy.—

(1) The pollution of the air and waters of this state constitutes a menace to public health and welfare; creates public nuisances; is harmful to wildlife and fish and other aquatic life; and impairs domestic, agricultural, industrial, recreational, and other beneficial uses of air and water.

(2) It is declared to be the public policy of this state to conserve the waters of the state and to protect, maintain, and improve the quality thereof for public water supplies, for the propagation of wildlife and fish and other aquatic life, and for domestic, agricultural, industrial, recreational, and other beneficial uses and to provide that no wastes be discharged into any waters of the state without first being given the degree of treatment necessary to protect the beneficial uses of such water.

(3) It is declared to be the public policy of this state and the purpose of this act to achieve and maintain such levels of air quality as will protect human health and safety and, to the greatest degree practicable, prevent injury to plant and animal life and property, foster the comfort and convenience of the people, promote the economic and social development of this state, and facilitate the enjoyment of the natural attractions of this state. In accordance with the public policy established herein, the Legislature further declares that the citizens of this state should be afforded reasonable protection from the dangers inherent in the release of toxic or otherwise hazardous vapors, gases, or highly volatile liquids into the environment.

(4) It is declared that local and regional air and water pollution control programs are to be supported to the extent practicable as essential instruments to provide for a coordinated statewide program of air and water pollution prevention, abatement, and control for the securing and maintenance of appropriate levels of air and water quality.

(5) It is hereby declared that the prevention, abatement, and control of the pollution of the air and waters of this state are affected with a public interest, and the provisions of this act are enacted in the exercise of the police powers of this state for the purpose of protecting the health, peace, safety, and general welfare of the people of this state.

(6) The Legislature finds and declares that control, regulation, and abatement of the activities which are causing or may cause pollution of the air or water resources in the state and which are or may be detrimental to human, animal, aquatic, or plant life, or to property, or unreasonably interfere with the comfortable enjoyment of life or property be increased to ensure conservation of natural resources; to ensure a continued safe environment; to ensure purity of air and water; to ensure domestic water supplies; to ensure protection and preservation of the public health, safety, welfare, and economic well-being; to ensure and provide for recreational and wildlife needs as the population increases and the economy expands; and to ensure a continuing growth of the economy and industrial development.

(7) The Legislature further finds and declares that:

(a) Compliance with this law will require capital outlays of hundreds of millions of dollars for the installation of machinery, equipment, and facilities for the treatment of industrial wastes which are not productive assets and increased operating expenses to owners without any financial return and should be separately classified for assessment purposes.

(b) Industry should be encouraged to install new machinery, equipment, and facilities as technology in environmental matters advances, thereby improving the quality of the air and waters of the state and benefiting the citizens of the state without pecuniary benefit to the owners of industries; and the Legislature should prescribe methods whereby just valuation may be secured to such owners and exemptions from certain excise taxes should be offered with respect to such installations.

(c) Facilities as herein defined should be classified separately from other real and personal property of any manufacturing or processing plant or installation, as such facilities contribute only to general welfare and health and are assets producing no profit return to owners.

(d) In existing manufacturing or processing plants it is more difficult to obtain satisfactory results in treating industrial wastes than in new plants being now planned or constructed and that with respect to existing plants in many instances it will be necessary to demolish and remove substantial portions thereof and replace the same with new and more modern equipment in order to more effectively treat, eliminate, or reduce the objectionable characteristics of any industrial wastes and that such replacements should be classified and assessed differently from replacements made in the ordinary course of business.

(8) The Legislature further finds and declares that the public health, welfare, and safety may be affected by disease-carrying vectors and pests. The department shall assist all governmental units charged with the control of such vectors and pests. Furthermore, in reviewing applications for permits, the department shall consider the total well-being of the public and shall not consider solely the ambient pollution standards when exercising its powers, if there may be danger of a public health hazard.

(9)(a) The Legislature finds and declares that it is essential to preserve and maintain authorized water depth in the existing navigation channels, port harbors, turning basins, and harbor berths of this state in order to provide for the continued safe navigation of deepwater shipping commerce. The department shall recognize that maintenance of authorized channel depths is an ongoing, continuous, beneficial, and necessary activity; and it shall develop a regulatory process which shall enable the ports of this state to conduct such activities in an environmentally sound, expeditious, and efficient manner.

(b) The provisions of paragraph (a) apply only to the port waters, spoil disposal sites, port harbors, navigation channels, turning basins, and harbor berths used for deepwater commercial navigation in the ports of Jacksonville, Tampa, Port Everglades, Miami, Port Canaveral, Ft. Pierce, Palm Beach, Port Manatee, Port St. Joe, Panama City, St. Petersburg, and Pensacola.

(10) It is the policy of the state to ensure that the existing and potential drinking water resources of the state remain free from harmful quantities of contaminants. The department, as the state water quality protection agency, shall compile, correlate, and disseminate available information on any contaminant which endangers or may endanger existing or potential drinking water resources. It shall also coordinate its regulatory program with the regulatory programs of other agencies to assure adequate protection of the drinking water resources of the state.

(11) It is the intent of the Legislature that water quality standards be reasonably established and applied to take into account the variability occurring in nature. The department shall recognize the statistical variability inherent in sampling and testing procedures that are used to express water quality standards. The department shall also recognize that some deviations from water quality standards occur as the result of natural background conditions. The department shall not consider deviations from water quality standards to be violations when the discharger can demonstrate that the deviations would occur in the absence of any man-induced discharges or alterations to the water body.

History.—s. 3, ch. 67-436, s. 1, ch. 78-98, ss. 1, 5, ch. 81-228, s. 4, ch. 84-79, s. 46, ch. 84-338, s. 11, ch. 85-269, s. 1, ch. 85-277, s. 8, ch. 86-186, s. 3, ch. 86-213.

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" is the Department of Environmental Regulation.

(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 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 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 man-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) "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.

(9) "Source" is any and all points of origin of the item defined in subsection (1), whether privately or publicly owned or operated.

(10) "Treatment works" and "disposal systems" mean any plant or other works used for the purpose of treating, stabilizing, or holding wastes.

(11) "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.

(12) "Waters" include, but are not limited to, rivers, lakes, streams, springs, impoundments, 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 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 54½ 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 west along the north line of section 27 to the northwest corner 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 [1]Rule 27F-3, 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 as provided in s. 403.817. 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 watercourse or as determined pursuant to [2]s. 17-4.022, Florida Administrative Code, shall be a part of this water body. Any areas within the line described in paragraph (a) which are not within the jurisdiction of the department as determined pursuant to [2]s. 17-4.022, Florida Administrative Code, 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.

(13) "State water policy" means the comprehensive statewide policy as adopted by the department pursuant to ss. 373.026 and 403.061, setting forth goals, objectives, and guidance for the development and review of programs, rules, and plans relating to water resources.

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

(15) "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 degrada-

tion and water pollution or otherwise affect the quantity and quality of discharges from the system.

(16) "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.

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

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.

[1]**Note.**—Chapter 27F-3, Florida Administrative Code, was transferred to ch. 28-25, Florida Administrative Code.

[2]**Note.**—Section 17-4.022, Florida Administrative Code, was transferred to s. 17-3.022, Florida Administrative Code.

403.051 Meetings; hearings and procedure.—

(1) The department shall cause a transcript of the proceedings at all meetings to be made.

(2)(a) Any department planning, design, construction, modification, or operating standards, criteria, and requirements for treatment works, disposal systems, and sewerage systems for wastes from any source shall be promulgated as a rule or regulation.

(b) The department shall not withhold the issuance of a permit to consider matters not addressed by the permit application or to consider standards, criteria, and requirements not adopted as required by paragraph (a).

History.—s. 6, ch. 67-436; ss. 26, 35, ch. 69-106; s. 1, ch. 70-84; s. 2, ch. 71-137; s. 1, ch. 71-138; s. 154, ch. 71-377; s. 1, ch. 72-223; s. 1, ch. 74-308; s. 14, ch. 78-95; s. 58, ch. 83-218.

403.061 Department; powers and duties.—The department shall have the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules and regulations adopted and promulgated by it and, for this purpose, to:

(1) Approve and promulgate current and long-range plans developed to provide for air and water quality control and pollution abatement.

(2) Hire only such employees as may be necessary to effectuate the responsibilities of the department.

(3) Utilize the facilities and personnel of other state agencies, including the Department of Health and Rehabilitative Services, and delegate to any such agency any duties and functions as the department may deem necessary to carry out the purposes of this act.

(4) Secure necessary scientific, technical, research, administrative, and operational services by interagency agreement, by contract, or otherwise. All state agencies, upon direction of the department, shall make these services and facilities available.

(5) Accept state appropriations and loans and grants from the Federal Government and from other sources, public or private, which loans and grants shall not be expended for other than the purposes of this act.

(6) Exercise general supervision of the administration and enforcement of the laws, rules, and regulations pertaining to air and water pollution.

(7) Adopt, modify, and repeal rules and regulations to carry out the intent and purposes of this act. Any rule or regulation adopted pursuant to this act shall be consistent with the provisions of federal law, if any, relating to control of emissions from motor vehicles, effluent limitations, pretreatment requirements, or standards of performance. Rules adopted pursuant to this act shall not require dischargers of waste into waters of the state to improve natural background conditions. Discharges from steam electric generating plants existing or licensed under this chapter on July 1, 1984, shall not be required to be treated to a greater extent than may be necessary to assure that the quality of nonthermal components of discharges from nonrecirculated cooling water systems is as high as the quality of the makeup waters; that the quality of nonthermal components of discharges from recirculated cooling water systems is no lower than is allowed for blowdown from such systems; or that the quality of noncooling system discharges which receive makeup water from a receiving body of water which does not meet applicable department water quality standards is as high as the quality of the receiving body of water. The department may not adopt standards more stringent than federal regulations, except as provided in s. 403.804.

(8) Issue such orders as are necessary to effectuate the control of air and water pollution and enforce the same by all appropriate administrative and judicial proceedings.

(9) Adopt a comprehensive program for the prevention, control, and abatement of pollution of the air and waters of the state, and from time to time review and modify such program as necessary.

(10) Develop a comprehensive program for the prevention, abatement, and control of the pollution of the waters of the state. In order to effect this purpose, a grouping of the waters into classes may be made in accordance with the present and future most beneficial uses. Such classifications may from time to time be altered or modified. However, before any such classification is made, or any modification made thereto, public hearings shall be held by the department.

(11) Establish ambient air quality and water quality standards for the state as a whole or for any part thereof, and also standards for the abatement of excessive and unnecessary noise. The department is authorized to establish reasonable zones of mixing for discharges into waters.

(a) When a receiving body of water fails to meet a water quality standard for pollutants set forth in department rules, a steam-electric generating plant discharge of pollutants that is existing or licensed under this chapter on July 1, 1984, may nevertheless be granted a mixing zone, provided that:

1. The standard would not be met in the water body in the absence of the discharge;

2. The discharge is in compliance with all applicable technology-based effluent limitations;

3. The discharge does not cause a measurable increase in the degree of noncompliance with the standard at the boundary of the mixing zone; and

4. The discharge otherwise complies with the mixing zone provisions specified in department rules.

(b) No mixing zone for point source discharges shall be permitted in Outstanding Florida Waters except for:

1. Sources which have received permits from the department prior to April 1, 1982, or the date of designation, whichever is later;

2. Blowdown from new power plants certified pursuant to the Florida Electrical Power Plant Siting Act; and

3. Discharges of water necessary for water management purposes which have been approved by the governing board of a water management district and, if required by law, by the secretary.

Nothing in this act shall be construed to invalidate any existing department rule relating to mixing zones. The department shall cooperate with the Department of Highway Safety and Motor Vehicles in the development of regulations required by s. 316.272(1).

(12)(a) Cause field studies to be made and samples to be taken out of the air and from the waters of the state periodically and in a logical geographic manner so as to determine the levels of air quality of the air and water quality of the waters of the state.

(b) Determine the source of the pollution whenever a study is made or a sample collected which proves to be below the air or water quality standard set for air or water.

(13) Require persons engaged in operations which may result in pollution to file reports which may contain information relating to locations, size of outlet, height of outlet, rate and period of emission, and composition and concentration of effluent and such other information as the department shall prescribe to be filed relative to pollution.

(14) Establish a permit system whereby a permit may be required for the operation, construction, or expansion of any installation that may be a source of air or water pollution and provide for the issuance and revocation of such permits and for the posting of an appropriate bond to operate.

(a) Notwithstanding any other provision of this chapter, the Department of Environmental Regulation may authorize, by rule, the Department of Transportation to perform any activity requiring a permit from the Department of Environmental Regulation covered by this chapter, upon certification by the Department of Transportation that it will meet all requirements imposed by statute, rule, or standard for environmental control and protection as such statute, rule, or standard applies to a governmental program. To this end, the Department of Environmental Regulation may accept such certification of compliance for programs of the Department of Transportation, may conduct investigations for compliance, and, if a violation is found to exist, may take all necessary enforcement action pertaining thereto, including, but not limited to, the revocation of certification. The authorization shall be by rule of the Department of Environmental Regulation, shall be limited to the maintenance, repair, or replacement of existing structures, and shall be conditioned upon compliance by the Department of Transportation with specific guidelines or requirements which are set forth in the formal acceptance and deemed necessary by the Department of Environmental Regulation to assure future compliance with this chapter and applicable department rules. The failure of the Department of Transportation to comply with any provision of the written acceptance shall constitute grounds for its revocation by the Department of Environmental Regulation.

(b) The provisions of chapter 120 shall be accorded any person when substantial interests will be affected by an activity proposed to be conducted by the Department of Transportation pursuant to its certification and the acceptance of the Department of Environmental Regulation. If a proceeding is conducted pursuant to s. 120.57, the Department of Environmental Regulation may intervene as a party. Should a hearing officer of the Division of Administrative Hearings of the Department of Administration submit a recommended order pursuant to s. 120.57, the Department of Environmental Regulation shall issue a final department order adopting, rejecting, or modifying the recommended order pursuant to such action.

(15) Consult with any person proposing to construct, install, or otherwise acquire a pollution control device or system concerning the efficacy of such device or system, or the pollution problem which may be related to the source, device, or system. Nothing in any such consultation shall be construed to relieve any person from compliance with this act, rules and regulations of the department, or any other provision of law.

(16) Encourage voluntary cooperation by persons and affected groups to achieve the purposes of this act.

(17) Encourage local units of government to handle pollution problems within their respective jurisdictions on a cooperative basis and provide technical and consultative assistance therefor.

(18) Encourage and conduct studies, investigations, and research relating to pollution and its causes, effects, prevention, abatement, and control.

(19) Make a continuing study of the effects of the emission of air contaminants from motor vehicles on the quality of the outdoor atmosphere of this state and the several parts thereof and make recommendations to appropriate public and private bodies with respect thereto.

(20) Collect and disseminate information and conduct educational and training programs relating to pollution.

(21) Advise, consult, cooperate, and enter into agreements with other agencies of the state, the Federal Government, other states, interstate agencies, groups, political subdivisions, and industries affected by the provisions of this act, rules, or policies of the department.

(22) Adopt, modify, and repeal rules governing the specifications, construction, and maintenance of industrial reservoirs, dams, and containers which store or retain industrial wastes of a deleterious nature.

(23) Adopt rules and regulations to ensure that no detergents are sold in Florida after December 31, 1972, which are reasonably found to have a harmful or deleterious effect on human health or on the environment. Any regulations adopted pursuant to this subsection shall apply statewide. Subsequent to the promulgation of such rules and regulations, no county, municipality, or other local political subdivision shall adopt or enforce any local ordinance, special law, or local regulation governing detergents which is less stringent than state law or regulation. Regulations, ordinances, or special acts adopted by a county or municipality governing detergents shall be subject to approval by the department, except that regulations, ordinances, or special acts adopted by any county or municipality with a local pollu-

tion control program approved pursuant to s. 403.182 shall be approved as an element of the local pollution control program.

(24)(a) Establish a permit system to provide for spoil site approval, as may be requested and required by local governmental agencies as defined in s. 403.1822(3), or mosquito control districts as defined in s. 388.011(2), to facilitate these agencies in providing spoil sites for the deposit of spoil from maintenance dredging of navigation channels, port harbors, turning basins, and harbor berths, as part of a federal project, when the agency is acting as sponsor of a contemplated dredge and fill operation involving an established navigation channel, harbor, turning basin, or harbor berth. A spoil site approval granted to the agency shall be granted for a period of 10 to 25 years when such site is not inconsistent with an adopted local governmental comprehensive plan and the requirements of this chapter. The department shall periodically review each permit to determine compliance with the terms and conditions of the permit. Such review shall be conducted at least once every 10 years.

(b) This subsection applies only to those maintenance dredging operations permitted after July 1, 1980, where the United States Army Corps of Engineers is the prime dredge and fill agent and the local governmental agency is acting as sponsor for the operation, and does not require the redesignation of currently approved spoil sites under such previous operations.

(25) Establish and administer a program for the restoration and preservation of bodies of water within the state. The department shall have the power to acquire lands, to cooperate with other applicable state or local agencies to enhance existing public access to such bodies of water, and to adopt all rules necessary to accomplish this purpose.

(26)(a) Develop standards and criteria for waters used for deepwater shipping which standards and criteria consider existing water quality; appropriate mixing zones and other requirements for maintenance dredging in previously constructed deepwater navigation channels, port harbors, turning basins, or harbor berths; and appropriate mixing zones for disposal of spoil material from dredging and, where necessary, develop a separate classification for such waters. Such classification, standards, and criteria shall recognize that the present dedicated use of these waters is for deepwater commercial navigation.

(b) The provisions of paragraph (a) apply only to the port waters, spoil disposal sites, port harbors, navigation channels, turning basins, and harbor berths used for deepwater commercial navigation in the ports of Jacksonville, Tampa, Port Everglades, Miami, Port Canaveral, Ft. Pierce, Palm Beach, Port Manatee, Port St. Joe, Panama City, St. Petersburg, Port Bartow, Florida Power Corporation's Crystal River Canal, Boca Grande, Green Cove Springs, and Pensacola.

(27)(a) Establish rules which provide for a special category of water bodies within the state, to be referred to as "Outstanding Florida Waters," which water bodies shall be worthy of special protection because of their natural attributes. Nothing in this subsection shall affect any existing rule of the department.

(b) Waters within the following aquatic preserves which have not been designated as Outstanding Florida Waters as of June 1, 1986, may be designated as Outstanding Florida Waters only where the Environmental Regulation Commission determines that the natural attributes of such waters are of exceptional recreational or ecological significance pursuant to the procedures established by rules for designating special waters as Outstanding Florida Waters:

1. Guana River Marsh Aquatic Preserve.
2. Big Bend Aquatic Preserve.
3. Terra Ceia Aquatic Preserve.
4. Rookery Bay Aquatic Preserve.
5. Banana River Aquatic Preserve.
6. Wekiva River Aquatic Preserve.
7. Indian River-Malabar to Vero Beach Aquatic Preserve.
8. Loxahatchee River-Lake Worth Creek Aquatic Preserve.

(28) Perform any other act necessary to control and prohibit air and water pollution, and to delegate any of its responsibilities, authority, and powers, other than rulemaking powers, to any state agency now or hereinafter established.

(29) Adopt by rule special criteria to protect Class II shellfish harvesting waters. Rules previously adopted by the department in 's. 17-4.28(8)(a), Florida Administrative Code, are hereby ratified and determined to be a valid exercise of delegated legislative authority and shall remain in effect unless amended by the Environmental Regulation Commission.

(30) Establish requirements by rule that reasonably protect the public health and welfare from electric and magnetic fields associated with existing 230 kV or greater electrical transmission lines, new 230 kV and greater electrical transmission lines for which an application for certification under the Transmission Line Siting Act, ss. 403.52-403.536, is not filed, new or existing electrical transmission or distribution lines with voltage less than 230 kV, and substation facilities. Notwithstanding any other provision in this chapter or any other law of this state or political subdivision thereof, the department shall have exclusive jurisdiction in the regulation of electric and magnetic fields associated with all electrical transmission and distribution lines and substation facilities. However, nothing herein shall be construed as superseding or repealing the provisions of s. 403.523(1) and (14).

(31) Adopt rules necessary to obtain approval from the U.S. Environmental Protection Agency to administer the Federal National Pollution Discharge Elimination System (NPDES) permitting program in Florida under Sections 318, 402, and 405 of the Federal Clean Water Act, Pub. L. No. 92-500, as amended. This authority shall be implemented consistent with the provisions of part II, which shall be applicable to facilities certified thereunder. The department shall establish all rules, standards, and requirements that regulate the discharge of pollutants into waters of the United States as defined by and in a manner consistent with federal regulations; provided, however, that the department may adopt a standard that is stricter or more stringent than one set by the U.S. Environmental Protection Agency if

approved by the Governor and Cabinet in accordance with the procedures of s. 403.804(2).

(32) Coordinate the state's stormwater program.

(33) Adopt by rule a state water policy, which shall provide goals, objectives, and guidance for the development and review of programs, rules, and plans relating to water resources. This state water policy shall be consistent with the state comprehensive plan and may include such department rules as are specifically identified in the policy.

History.—s. 7, ch. 67-436; ss. 19, 26, 35, ch. 69-106; s. 1, ch. 71-35; s. 2, ch. 71-36; s. 3, ch. 72-39; s. 1, ch. 72-53; s. 113, ch. 73-333; s. 3, ch. 74-133; s. 1, ch. 77-21; s. 137, ch. 77-104; s. 268, ch. 77-147; s. 2, ch. 77-369; s. 14, ch. 78-95; s. 2, ch. 78-437; s. 73, ch. 79-65; s. 1, ch. 79-130; s. 96, ch. 79-164; s. 160, ch. 79-400; s. 1, ch. 80-66; ss. 2, 5, ch. 81-228; s. 5, ch. 82-27; s. 1, ch. 82-79; s. 2, ch. 82-80; s. 66, ch. 83-310; s. 5, ch. 84-79; s. 1, ch. 84-338; s. 1, ch. 85-296; s. 5, ch. 85-345; s. 5, ch. 86-173; s. 52, ch. 86-186; s. 22, ch. 88-393; s. 31, ch. 89-279.

[1]**Note.**—Section 17-4.28(8)(a), Florida Administrative Code, was transferred to s. 17-4.280(8)(a) which was transferred to s. 17-12.150, Florida Administrative Code.

403.0615 Water resources restoration and preservation.—

(1) This section may be cited as the "Water Resources Restoration and Preservation Act."

(2) The Department of Environmental Regulation shall establish a program to assist in the restoration and preservation of bodies of water and to enhance existing public access when deemed necessary for the enhancement of the restoration effort. This program shall be funded from the General Revenue Fund, from funds available from the Pollution Recovery Fund, and from available federal moneys.

(3) The department shall adopt, by rule, criteria for the allocation of restoration and preservation funds. Such criteria shall include, but not be limited to, the following:

(a) The degree of water quality degradation;

(b) The degree to which sources of pollution which have contributed to the need for restoration or preservation have been abated;

(c) The public uses which can be made of the subject waters;

(d) The ecological value of the subject waters in relation to other waters proposed for restoration and preservation;

(e) The implementation by local government of regulatory or management programs to prevent further and subsequent degradation of the subject waters; and

(f) The commitment of local government resources to assist in the proposed restoration and preservation.

(4) There is hereby created the Water Resources Restoration and Preservation Trust Fund for the deposit and disbursement of funds available from the Pollution Recovery Fund and from federal moneys in accordance with the provisions of this act.

(5) The provisions of this act are for the benefit of the public and shall be liberally construed to accomplish the purposes set forth in this act.

History.—ss. 1, 4, 5, ch. 77-369; s. 2, ch. 79-130.

403.062 Pollution control; underground, surface, and coastal waters.—The department and its agents shall have general control and supervision over underground water, lakes, rivers, streams, canals, ditches, and coastal waters under the jurisdiction of the state insofar as their pollution may affect the public health or impair the interest of the public or persons lawfully using them.

History.—s. 2, ch. 29834, 1955; ss. 26, 35, ch. 69-106.

Note.—Former s. 381.43, s. 381.251.

[1]403.0625 Environmental laboratory certification; water quality tests conducted by a certified laboratory.

(1) To assure the acceptable quality, reliability, and validity of testing results, the department and the Department of Health and Rehabilitative Services shall jointly establish criteria for certification of laboratories that perform analyses of environmental water quality samples which are not covered by the provisions in s. 403.863 and that wish to be certified. The Department of Health and Rehabilitative Services shall have the responsibility for the operation and implementation of such laboratory certification. The Department of Health and Rehabilitative Services may charge and collect fees for the certification of such laboratories. The fee schedule shall be based on the number of analytical functions for which certification is sought. Such fees shall be sufficient to meet the costs incurred by the Department of Health and Rehabilitative Services in administering this program in coordination with the Department of Environmental Regulation. All fees collected pursuant to this section shall be deposited in a trust fund to be administered by the Department of Health and Rehabilitative Services and shall be used only for the purposes of this section.

(2) An environmental water quality test to determine the quality of the effluent of a domestic wastewater facility must be conducted by a laboratory certified under this section if such test results are to be submitted to the Department of Environmental Regulation or a local pollution control program pursuant to s. 403.182.

History.—s. 7, ch. 85-269; s. 3, ch. 88-89.

[1]**Note.**—Section 4, ch. 88-89, provides that "by October 1, 1989, the department shall develop and adopt rules to implement this act."

403.063 Ground water quality monitoring.—

(1) The department, in cooperation with other state and federal agencies, water management districts, and local governments, shall establish a ground water quality monitoring network designed to detect or predict contamination of the ground water resources of the state.

(2) The department may by rule determine the priority of sites to be monitored within such ground water quality monitoring network, based upon the following criteria:

(a) The degree of danger to the public health caused or potentially caused by contamination.

(b) The susceptibility of each site to contamination.

(3) This information shall be made available to state and federal agencies and local governments to facilitate their regulatory and land use planning decisions.

(4) To the greatest extent practicable, the actual sampling and testing of ground water pursuant to the provisions of this section may be conducted by local and regional agencies.

History.—s. 3, ch. 83-310.

403.064 Reuse of reclaimed water.—

(1) The encouragement and promotion of water conservation, and reuse of reclaimed water, as defined by the department, are state objectives. The Legislature

finds that for those wastewater treatment plants permitted and operated under an approved reuse program by the department, the reclaimed water shall be considered environmentally acceptable and not a threat to public health and safety.

(2) After January 1, 1992, all applicants for permits to construct or operate a domestic wastewater treatment facility in a critical water supply area shall evaluate the costs and benefits of reuse of reclaimed water as part of their application for the permit. The evaluation shall be performed by the applicant, and the applicant's evaluation shall be final.

(3) The requirements of this section for such evaluation shall apply to domestic wastewater treatment facilities located within, serving a population located within, or discharging within critical water supply problem areas.

(4) Local governments may and are encouraged to implement programs for the reuse of reclaimed water. Nothing in this chapter shall be construed to prohibit or preempt such local reuse programs.

(5) A local government that implements a reuse program under this section shall be allowed to allocate the costs in a reasonable manner.

(6) Pursuant to [1]chapter 367, the Florida Public Service Commission shall allow entities which implement reuse projects to recover the full cost of such facilities through their rate structure.

(7) In issuing consumptive use permits, the permitting agency shall take into consideration the local reuse program.

(8) A local government shall require a developer, as a condition for obtaining a development order, to comply with the local reuse program.

History.—s. 7, ch. 89-324.

[1]**Note.**—The reference to ch. 367 was substituted by the editors for a reference to ch. 366 because reference to ch. 366 which deals with "public utilities" appeared to be erroneous. The contextually consistent reference is ch. 367 which deals with "water and sewer systems."

403.081 Performance by other state agencies.—All state agencies, including the Department of Health and Rehabilitative Services, shall be available to the Department of Environmental Regulation to perform, at its direction, the duties required of the Department of Environmental Regulation under this act.

History.—s. 9, ch. 67-436, ss. 19, 26, 35, ch. 69-106, s. 269, ch. 77-147.

403.085 Sanitary sewage disposal units; advanced and secondary waste treatment; industrial waste, ocean outfall, inland outfall, or disposal well waste treatment.—

(1) Neither the Department of Health and Rehabilitative Services nor any other state agency, county, special district, or municipality shall approve construction of any ocean outfall or disposal well for sanitary sewage disposal which does not provide for secondary waste treatment and, in addition thereto, advanced waste treatment as deemed necessary and ordered by the Department of Environmental Regulation.

(2) Sanitary sewage disposal treatment plants which discharge effluent through ocean outfalls or disposal wells on July 1, 1970, shall provide for secondary waste treatment and, in addition thereto, advanced waste treatment as deemed necessary and ordered by the Department of [1][Environmental Regulation] by January 3, 1974. Failure to conform by said date shall be punishable by a fine of $500 for each 24-hour day or fraction thereof that such failure is allowed to continue thereafter.

(3) Neither the Department of Health and Rehabilitative Services nor any other state agency, county, special district, or municipality shall approve construction of any ocean outfall, inland outfall, or disposal well for the discharge of industrial waste of any kind which does not provide for secondary waste treatment or such other treatment as is deemed necessary and ordered by the Department of Environmental Regulation.

(4) Industrial plants or facilities which discharge industrial waste of any kind through ocean outfalls, inland outfalls, or disposal wells on July 1, 1971, shall provide for secondary waste treatment or such other waste treatment as deemed necessary and ordered by January 1, 1973, by the Department of [1][Environmental Regulation]. Failure to conform by said date shall be punishable as provided in s. 403.161(2).

History.—ss. 1, 2, ch. 70-82, s. 2, ch. 71-137, s. 1, ch. 71-274, s. 270, ch. 77-147, s. 74, ch. 79-65.

[1]**Note.**—Bracketed words substituted by the editors for words "Pollution Control." See s. 8, ch. 75-22, which transferred the Department of Pollution Control to the Department of Environmental Regulation.

403.086 Sewage disposal facilities; advanced and secondary waste treatment.—

(1)(a) Neither the Department of Health and Rehabilitative Services nor any other state agency, county, special district, or municipality shall approve construction of any facilities for sanitary sewage disposal which do not provide for secondary waste treatment and, in addition thereto, advanced waste treatment as deemed necessary and ordered by the Department of Environmental Regulation.

(b) No facilities for sanitary sewage disposal constructed after June 14, 1978, shall dispose of any wastes by deep well injection without providing for secondary waste treatment and, in addition thereto, advanced waste treatment deemed necessary by the Department of Environmental Regulation to protect adequately the beneficial use of the receiving waters.

(c) Notwithstanding any other provisions of this chapter or chapter 373, facilities for sanitary sewage disposal may not dispose of any wastes into Old Tampa Bay, Tampa Bay, Hillsborough Bay, Boca Ciega Bay, St. Joseph Sound, Clearwater Bay, Sarasota Bay, Little Sarasota Bay, Roberts Bay, Lemon Bay, or Charlotte Harbor Bay, or into any river, stream, channel, canal, bay, bayou, sound, or other water tributary thereto, without providing advanced waste treatment, as defined in subsection (4), approved by the Department of Environmental Regulation. This paragraph shall not apply to facilities which were permitted by February 1, 1987, and which discharge secondary treated effluent, followed by water hyacinth treatment, to tributaries of tributaries of the named waters; or to facilities permitted to discharge to the nontidally influenced portions of the Peace River.

(2) Any facilities for sanitary sewage disposal existing on July 1, 1971, shall provide for secondary waste treatment by January 1, 1973, and, in addition thereto, advanced waste treatment as deemed necessary and

ordered by the former Department of Pollution Control or its successor, the Department of Environmental Regulation. Failure to conform by said date shall be punishable by a civil penalty of $500 for each 24-hour day or fraction thereof that such failure is allowed to continue thereafter.

(3) This section shall not be construed to prohibit or regulate septic tanks or other means of individual waste disposal which are otherwise subject to state regulation.

(4) For purposes of this section, the term "advanced waste treatment" means that treatment which will provide a recovered water product that:

(a) Contains not more, on a permitted annual average basis, than the following concentrations:

1. Biochemical Oxygen Demand (CBOD5) 5mg/l
2. Suspended Solids.....5mg/l
3. Total Nitrogen, expressed as N.....3mg/l
4. Total Phosphorus, expressed as P 1mg/l

(b) Has received high level disinfection, as defined by rule of the Department of Environmental Regulation.

In those waters where the concentrations of phosphorus have been shown not to be a limiting nutrient or a contaminant, the department may waive or alter the compliance levels for phosphorus until there is a demonstration that phosphorus is a limiting nutrient or a contaminant.

(5)(a) Notwithstanding any other provisions of this chapter or chapter 373, when a recovered water product has been established to be in compliance with the standards set forth in subsection (4), that water shall be presumed to be allowable, and its discharge shall be permitted in the waters described in paragraph (c) of subsection (1) at a reasonably accessible point where such discharge results in minimal negative impact. This presumption may be overcome only by a demonstration that one or more of the following would occur:

1. That the discharge of recovered water that meets the standards set forth in subsection (4) will be, by itself, a cause of considerable degradation to an Outstanding Florida Water or to other waters and is not clearly in the public interest.
2. That the recovered water discharge will have a substantial negative impact on an approved shellfish harvesting area or a water used as a public domestic water supply.
3. That the increased volume of fresh water contributed by the recovered water product will seriously alter the natural fresh-salt water balance of the receiving water after reasonable opportunity for mixing.

(b) If one or more of the conditions described in subparagraphs 1.-3. of paragraph (a) has been demonstrated, remedies may include, but are not limited to, the following:

1. Require more stringent effluent limitations;
2. Order the point or method of discharge changed;
3. Limit the duration or volume of the discharge; or
4. Prohibit the discharge only if no other alternative is in the public interest.

(6) As of July 10, 1987, any facility covered in paragraph (c) of subsection (1) shall be permitted to discharge if it meets the standards set forth in subsections (4) and (5). Facilities that do not meet the standards in subsections (4) and (5) as of July 10, 1987, may be permitted to discharge under existing law until October 1, 1990. On and after October 1, 1990, all of the facilities covered in paragraph (c) of subsection (1) shall be required to meet the standards set forth in subsections (4) and (5).

History.—ss. 1, 2, 3, ch. 71-259; s. 2, ch. 71-137; s. 1, ch. 72-58; s. 271, ch. 77-147; s. 1, ch. 78-206; s. 75, ch. 79-65; s. 1, ch. 80-371; s. 1, ch. 81-246; s. 262, ch. 81-259; s. 2, ch. 86-173; s. 1, ch. 87-303.

403.0861 Scallop processing; discharge standards.—

(1) In furtherance of public policy established in s. 403.021, the department shall, not later than July 1, 1987, adopt rules establishing technology-based effluent limitations for waste resulting from the processing of scallops (Family: Pectinidae) which is discharged into waters of the state. The rules shall contain technology-based effluent limitations for biochemical oxygen demand and total suspended solids and for any other contaminant that the department deems appropriate. This section does not prohibit the department from establishing stricter effluent limitations based on the quality of receiving waters.

(2) Upon becoming effective, the rules required by this section shall be applicable to all permits or permit renewals allowing waste resulting from the processing of scallops to be discharged into waters of the state. Such rules shall be administered and enforced by the department in accordance with this chapter.

History.—s. 1, ch. 85-231; s. 9, ch. 86-186.

403.0862 Discharge of waste from state groundwater cleanup operations to publicly owned treatment works.—

(1) Upon agreement between a local governmental agency and the department, treated waste resulting from the department's cleanup or restoration of contaminated groundwater may be discharged to a publicly owned treatment works under the jurisdiction of the local governmental agency.

(2) Upon a demonstration by the local government that it incurred damages and costs, including attorney's fees, as a result of the discharge from the department's cleanup operations, the department shall pay for all actual damages and costs, including, but not limited to, the cost of bringing the facility into compliance with any state or federal requirements.

(3) Should the discharge from the department's cleanup operations exceed agreed upon pretreatment limits, the department shall pay the local government an agreed upon sum for each occasion that the discharge exceeds pretreatment limits without proof of damages as required by subsection (2).

(4) The limitation on damages provided by s. 768.28(5) shall not apply to any obligation or payment which may become due under this section.

History.—s. 10, ch. 86-186.

403.087 Permits; general issuance; denial; revocation; prohibition; penalty.—

(1) No stationary installation which will reasonably be expected to be a source of air or water pollution shall be operated, maintained, constructed, expanded, or modified without an appropriate and currently valid permit issued by the department, unless exempted by de-

partment rule. In no event shall a permit for a water pollution source be valid for more than 5 years. However, upon expiration, a new permit may be issued by the department in accordance with this act and the rules and regulations of the department. The renewal of a permit issued under s. 403.088 for the operation of a sanitary sewage system may be issued for periods of up to 10 years, provided:

(a) The system is not currently operating under a temporary operating permit and does not have any enforcement action pending against it by the Environmental Protection Agency or the department;

(b) The department has reviewed the operation reports required under department rule, which reports include the levels of oxygen, suspended solids and percentage of removal, and phosphorus and acidity/alkalinity present in the discharge, and the department is satisfied that the report is accurate;

(c) The department has conducted, within the 12 months prior to issuance of the 10-year permit, an inspection of the system and verified, in writing to the operator of the system, that the system is not exceeding capacity and is in proper working order; and

(d) The system has met all water quality standards within the last 2 years prior to the issuance of the 10-year permit, except for violations not attributable to the sanitary sewage system or its operator.

The operator of a system operating under a 10-year permit shall report to the department, in writing, within 48 hours, of the existence of any malfunctioning equipment or other conditions which would, if allowed to continue, cause water quality standards to be violated or would violate any other department rule or standard. The report should state any corrective measures that have been taken or a plan for correcting the malfunctioning equipment or other conditions so that the department can determine whether the corrective measures or plan are appropriate.

(2) The department shall adopt, amend, or repeal rules, regulations, and standards for the issuance, denial, and revocation of permits.

(3) The department shall issue permits on such conditions as are necessary to effect the intent and purposes of this section.

(4) The department shall issue permits to construct, operate, maintain, expand, or modify an installation which may reasonably be expected to be a source of pollution only when it determines that the installation is provided or equipped with pollution control facilities that will abate or prevent pollution to the degree that will comply with the standards or rules promulgated by the department, except as provided in s. 403.088, and which will comply with the prohibitions in 140 C.F.R. s. 124.41.

[2](5)(a) The department may require a processing fee in an amount sufficient to cover the costs of reviewing and acting upon any application for a permit or request for site-specific alternative criteria or for an exemption from water quality criteria and to cover the costs of surveillance and other field services associated with any permit issued pursuant to this chapter. However, when an application is received without the required fee, the department shall acknowledge receipt of the application and shall immediately return the unprocessed application to the applicant and shall take no further action until the application is received with the appropriate fee. The amount of the fees shall be adopted by rule, subject to the following limitations:

1. The permit fee for any of the following permits shall not exceed $5,000:
   a. Air pollution, construction permit.
   b. Hazardous waste, construction permit.
   c. Hazardous waste, closure permit.
   d. Solid waste, construction permit.
   e. Industrial waste, construction permit.
   f. Deep injection well, construction permit.
2. The permit fee for a temporary operation permit for an industrial waste source shall not exceed $4,000.
3. The permit fee for any of the following permits shall not exceed $3,000:
   a. Domestic waste, temporary operation permit.
   b. Dredge and fill, standard form permit.
   c. Hazardous waste, temporary operation permit.
   d. Hazardous waste, research and development permit.
   e. Solid waste, temporary operation permit.
   f. Solid waste, operation permit.
   g. Solid waste, closure permit.
   h. Deep injection well, operation permit.
4. The fee for any of the following permits shall not exceed $2,000:
   a. Air pollution, temporary operation permit.
   b. Air pollution, operation permit.
   c. Domestic waste, operation permit.
   d. Domestic waste, construction permit.
   e. Hazardous waste, operation permit.
   f. Industrial waste, operation permit.
5. The permit fee for a drinking water facility construction permit shall not exceed $1,000.
6. The permit fee for any of the following permits shall not exceed $500:
   a. Domestic waste, collection systems.
   b. Dredge and fill, short form.
   c. Drinking water, distribution system.
   d. Other injection wells, construction and operation.
7. The permit fee for any of the following permits shall not exceed $100:
   a. Domestic waste, general permit.
   b. Dredge and fill, general permit.
   c. Mangrove alteration.
   d. Solid waste, general permit.
   e. Industrial waste, general permit.
   f. Drinking water, general permit.
   g. Injection well, general permit.
   h. Injection well, abandonment.
   i. Stormwater.
8. The fee for a permit issued pursuant to s. 403.816 is $5,000, and the fee for any modification of such permit requested by the applicant is $1,000.

(b) Where new or existing multiple air pollution sources located at the same facility are substantially similar in nature, the applicant may submit a single application and permit fee for construction or operation of the sources at that facility. The department may develop by

rule criteria for determining what constitutes substantially similar sources.

(c) The fee schedule shall be adopted by rule based on a sliding scale relating to the size or type of installation which is proposed or operated by the applicant. The fee schedule shall provide for a reduced fee where the applicant seeks to renew an existing permit and there is no significant change in the authorized activity, and may provide for maximum permit fees to be paid during any 5-year period by the owner or operator of a single facility. The amount of each fee shall be reasonably related to the costs of permitting and field services for the particular activity taking into consideration standard cost-accounting principles and economies of scale. If the department requires by rule or by permit condition that a permit be renewed more frequently than once every 5 years, the permit fee shall be prorated based upon the permit fee schedule in effect at the time of permit renewal.

(d) Nothing in this subsection authorizes the construction or expansion of any stationary installation except to the extent specifically authorized by department permit or rule.

(6) A permit issued pursuant to this section shall not become a vested right in the permittee. The department may revoke any permit issued by it if it finds that the permitholder:

(a) Has submitted false or inaccurate information in his application;

(b) Has violated law, department orders, rules, or regulations, or permit conditions;

(c) Has failed to submit operational reports or other information required by department rule or regulation; or

(d) Has refused lawful inspection under s. 403.091.

(7) The department shall not issue a permit to any person for the purpose of engaging in, or attempting to engage in, any activity relating to the extraction of solid minerals not exempt pursuant to chapter 211 within any state or national park or state or national forest when the activity will degrade the ambient quality of the waters of the state or the ambient air within those areas. In the event the Federal Government prohibits the mining or leasing of solid minerals on federal park or forest lands, then, and to the extent of such prohibition, this act shall not apply to those federal lands.

(8) A violation of this section is punishable as provided in this chapter.

History.—s. 1, ch. 71-203; s. 4, ch. 74-133; s. 14, ch. 78-95; s. 14, ch. 82-27; s. 1, ch. 82-54; s. 1, ch. 82-122; s. 59, ch. 83-218; s. 24, ch. 84-338; s. 11, ch. 86-186; s. 2, ch. 87-125; s. 17, ch. 88-393.

[1]Note.—40 C.F.R. s. 124.41 is a definitions section containing no obvious reference to prohibitions.

[2]Note.—Section 20, ch. 88-393, provides that "the Department of Environmental Regulation shall begin rulemaking to implement the provisions of sections 17, 18, and 19 no later than 30 days after [July 6, 1988]."

403.0871 Florida Permit Fee Trust Fund.—There is established within the Department of Environmental Regulation a nonlapsing trust fund to be known as the "Florida Permit Fee Trust Fund." All funds received from applicants for permits pursuant to ss. 403.087(5) and 403.861(7) shall be deposited in the Florida Permit Fee Trust Fund and shall be used by the department with the advice and consent of the Legislature to supplement appropriations and other funds received by the department for the administration of its responsibilities under this chapter. In no case shall funds from the Florida Permit Fee Trust Fund be used for salary increases without the approval of the Legislature.

History.—s. 2, ch. 82-122; s. 12, ch. 86-186.

403.0875 Citation of rule.—In addition to any other provisions within this part or any rules promulgated hereunder, the permitting agency shall, when requesting information for a permit application pursuant to this part or such rules promulgated hereunder, cite a specific rule. If a request for information cannot be accompanied by a rule citation, failure to provide such information cannot be grounds to deny a permit.

History.—s. 7, ch. 79-161.

403.0876 Permits; processing.—

(1) Within 30 days after receipt of an application for a permit under this chapter, the department shall review the application and shall request submittal of all additional information the department is permitted by law to require. If the applicant believes any departmental request for additional information is not authorized by law or departmental rule, the applicant may request a hearing pursuant to s. 120.57. Within 30 days after receipt of such additional information, the department shall review it and may request only that information needed to clarify such additional information or to answer new questions raised by or directly related to such additional information. If the applicant believes the request of the department for such additional information is not authorized by law or departmental rule, the department, at the applicant's request, shall proceed to process the permit application.

(2)(a) A permit shall be approved or denied within 90 days after receipt of the original application, the last item of timely requested additional material, or the applicant's written request to begin processing the permit application.

(b) The failure of the department to approve or deny a permit for an underground injection well within the 90-day time period shall not result in the automatic approval or denial of the permit and shall not prevent the inclusion of specific permit conditions which are necessary to ensure compliance with applicable statutes and rules. If the department fails to approve or deny such a permit within the 90-day period, the applicant may petition for a writ of mandamus to compel the department to act consistently with applicable regulatory requirements.

(3)(a) The department shall establish a special unit for permit coordination and processing to provide expeditious processing of department permits which the district offices are unable to process expeditiously and to provide accelerated processing of certain permits or renewals for economic and operating stability. The ability of the department to process applications pursuant to this subsection in a more timely manner than allowed by subsections (1) and (2) is dependent upon the timely exchange of information between the applicant and the department and the intervention of outside parties as allowed by law. An applicant may request the processing of its permit application by the special unit if the application is from an area of high unemployment or low per capita income, is from a business or industry that is the

primary employer within an area's labor market, or is in an industry with respect to which the complexities involved in the review of the application require special skills uniquely available in the headquarters office. The department may require the applicant to waive the 90-day time limitation for department issuance or denial of the permit once for a period not to exceed 90 days. The department may require a special fee to cover the direct cost of processing special applications in addition to normal permit fees and costs. The special fee may not exceed $10,000 per permit required. Applications for renewal permits, but not applications for initial permits, required for facilities pursuant to the Electrical Power Plant Siting Act or the Transmission Line Siting Act may be processed under this subsection. Personnel staffing the special unit shall have lengthy experience in permit processing.

(b) At the applicant's discretion and notwithstanding any other provisions of chapter 120, a permit processed under this subsection is subject to an expedited administrative hearing pursuant to s. 120.57. To request such hearing, the applicant must notify the Division of Administrative Hearings, the department, and all other parties in writing within 15 days after his receipt of notice of assignment of a hearing officer from the division. The division shall conduct a hearing within 45 days after receipt of the request for such expedited hearing.

History.—s. 2, ch. 80-66; s. 25, ch. 84-338; s. 13, ch. 86-186; s. 14, ch. 88-393.

403.0877 Certification by professionals regulated by the Department of Professional Regulation.—

(1) Nothing in this section shall be construed as specific authority for a water management district or the department to require certification by a professional engineer licensed under chapter 471, a professional landscape architect licensed under part II of chapter 481, a professional geologist licensed under chapter 492, or a professional land surveyor licensed under chapter 472, for an activity that is not within the definition or scope of practice of the regulated profession.

(2) If an application for a permit or license to conduct an activity regulated under this chapter, chapter 373, chapter 376, or any permitting program delegated to a water management district by a state agency requires the services of a professional as enumerated in subsection (1), the department or governing board of a water management district may require, by rule, in conjunction with such an application or any submittals required as a condition of granting a permit or license, such certification by the professional as may be necessary to ensure that the proposed activity is designed, constructed, operated, and maintained in accordance with applicable law and rules of the department or district and in conformity with proper and sound design principles, or other such certification by the professional as may be necessary to ensure compliance with applicable law or rules of the department or district. The department or governing board of a water management district may further require as a condition of granting a permit or license, that the professional certify upon completion of the permitted or licensed activity that such activity has, to the best of his knowledge, been completed in substantial conformance with the plans and specifications approved by the department or board.

(3) The cost of such certifications by the professional shall be borne by the permittee.

(4) No permitted or licensed activity which is required to be so certified upon completion of the activity shall be placed into use or operation until the professional's certificate is filed with the department or board.

History.—s. 9, ch. 89-324.

403.088 Water pollution operation permits; temporary permits; conditions.—

(1) No person, without written authorization of the department, shall discharge into waters within the state any waste which, by itself or in combination with the wastes of other sources, reduces the quality of the receiving waters below the classification established for them. However, this section shall not be deemed to prohibit the application of pesticides to waters in the state for the control of insects, aquatic weeds, or algae, provided the application is performed pursuant to a program approved by the Department of Health and Rehabilitative Services, in the case of insect control, or the Department of Natural Resources, in the case of aquatic weed or algae control. The Department of Environmental Regulation is directed to enter into interagency agreements to establish the procedures for program approval. Such agreements shall provide for public health, welfare, and safety, as well as environmental factors. Approved programs must provide that only chemicals approved for the particular use by the Federal Environmental Protection Agency or by the Department of Agriculture and Consumer Services may be employed and that they be applied in accordance with registered label instructions, state standards for such application, and the provisions of the Florida Pesticide Law, chapter 487.

(2)(a) Any person intending to discharge wastes into the waters of the state shall make application to the department for an operation permit. Application shall be made on a form prescribed by the department and shall contain such information as the department requires.

(b) If the department finds that the proposed discharge will reduce the quality of the receiving waters below the classification established for them, it shall deny the application and refuse to issue a permit. If the department finds that the proposed discharge will not reduce the quality of the receiving waters below the classification established for them, it may issue an operation permit if it finds that such degradation is necessary or desirable under federal standards and under circumstances which are clearly in the public interest.

(c) A permit shall:

1. Specify the manner, nature, volume, and frequency of the discharge permitted;

2. Require proper operation and maintenance of any pollution abatement facility by qualified personnel in accordance with standards established by the department;

3. Contain such additional conditions, requirements, and restrictions as the department deems necessary to preserve and protect the quality of the receiving waters; and

4. Be valid for the period of time specified therein.

(d) An operation permit may be renewed upon application to the department. No renewal permit shall be is-

sued if the department finds that the proposed discharge will reduce the quality of the receiving waters below the classification established for them.

(3)(a) A person who does not qualify for an operation permit or has been denied an operation permit under paragraph (b) of subsection (2) may apply to the department for a temporary operation permit. Application shall be made on a form prescribed by the department and shall contain such information as the department may require. The department may require such person to submit any additional information reasonably necessary for proper evaluation.

(b) The department shall give notice to people resident in the drainage area of the receiving waters for the proposed discharge concerning the period during which they may present objections to the proposed discharge.

(c) After consideration of the application, any additional information furnished, and all written objections submitted, the department shall grant or deny a temporary operation permit. No temporary permit shall be granted by the department unless it affirmatively finds:

1. The proposed discharge does not qualify for an operation permit;

2. The applicant is constructing, installing, or placing into operation, or has submitted plans and reasonable schedules for constructing, installing or placing into operation, an approved pollution abatement facility or alternate waste disposal system, or that the applicant has a waste for which no feasible and acceptable method of treatment or disposal is known or recognized but is making a bona fide effort through research and other means to discover and implement such a method;

3. The applicant needs permission to pollute the waters within the state for a period of time necessary to complete research, planning, construction, installation, or operation of an approved and acceptable pollution abatement facility or alternate waste disposal system;

4. There is no present, reasonable, alternative means of disposing of the waste other than by discharging it into the waters of the state;

5. The denial of a temporary operation permit would work an extreme hardship upon the applicant;

6. The granting of a temporary operation permit will be in the public interest; or

7. The discharge will not be unreasonably destructive to the quality of the receiving waters.

(d) A temporary operation permit issued shall:

1. Specify the manner, nature, volume, and frequency of the discharge permitted;

2. Require the proper operation and maintenance of any interim or temporary pollution abatement facility or system required by the department as a condition of the permit;

3. Require the permitholder to maintain such monitoring equipment and make and file such records and reports as the department deems necessary to insure compliance with the terms of the permit and to evaluate the effect of the discharge upon the receiving waters;

4. Be valid only for the period of time necessary for the permit holder to place into operation the facility, system, or method contemplated in his application as determined by the department; and

5. Contain other requirements and restrictions which the department deems necessary and desirable to protect the quality of the receiving waters and promote the public interest.

(4)(a) The provisions of this section shall not be construed to repeal or restrict any other provisions of this chapter, but shall be cumulative thereto.

(b) This section shall not be construed to exempt any permittee from the pollution control requirements of any local air and water pollution control rule, regulation, ordinance, or code, or to authorize or allow any violation thereof.

(5) Notwithstanding any act to the contrary, if the discharge from any sewage disposal or treatment plant is permitted pursuant to this chapter and by a local pollution control program, the discharge shall be deemed lawful. Further, any person, firm, corporation, or public body that constructs, reconstructs, extends, or increases the capacity or volume of any sewage disposal or treatment plant pursuant to permits or authorizations under this chapter and through any local pollution control program shall not be subject to an action by the state attorney to restrain, enjoin, or otherwise prevent such construction, reconstruction, extension, or increase.

History.—ss. 2, 3, 5, ch. 71-203; s. 1, ch. 73-360; s. 5, ch. 74-133; s. 2, ch. 76-112; s. 1, ch. 77-174; s. 14, ch. 78-95; s. 2, ch. 78-98; s. 97, ch. 79-164; s. 60, ch. 83-218; s. 14, ch. 86-186.

403.0881 Sewage or disposal systems or water treatment works; construction permits.—The department may issue construction permits for sewage systems, treatment works, or disposal systems based upon review of a preliminary design report, application forms, and other required information, all of which shall be formulated by department rule. Detailed construction plans and specifications shall not be required prior to issuance of a construction permit unless such plans and specifications are required to secure federal funding and the project is expected to receive federal funding. Upon a demonstration that a constructed system operates as designed, the department shall issue a permit for operation of the system.

History.—s. 3, ch. 87-125.

403.0885 Establishment of federally approved state National Pollutant Discharge Elimination System (NPDES) program.—

(1) The Legislature finds and declares that it is in the public interest to promote effective and efficient regulation of the discharge of pollutants into waters of the state and eliminate duplication of permitting programs by the U.S. Environmental Protection Agency under Section 402 of the Clean Water Act, Pub. L. No. 92-500, as amended, 33 U.S.C. s. 1251 et seq., and the department under this chapter. It is further found that state implementation of the federal NPDES program, with sufficient time for legislative revision prior to the implementation of the state NPDES permit program by the department, would promote the orderly establishment of a state administered NPDES program. It is the specific intent of the Legislature that permit fees charged by the department for processing of federally approved NPDES permits be adequate to cover the entire cost to the de-

partment of program management, for reviewing and acting upon any permit application, and to cover the cost of surveillance and other field services of any permits issued pursuant to this section. Further, it is legislative intent, upon a finding by the department determining such additional costs for administering an NPDES program, to set permit fees by legislative act during the 1989 regular legislative session.

(2) To this end, the department shall apply no later than January 1, 1989, to the U.S. Environmental Protection Agency, pursuant to Section 402 of the Federal Clean Water Act, Pub. L. No. 92-500, as amended, for approval to operate an NPDES program. The department shall not process applications or issue or deny NPDES permits under this program until after January 1, 1990.

(3) The department is empowered to establish a state NPDES program in accordance with Section 402 of the Clean Water Act, as amended. The department shall have the power and authority to operate the NPDES permitting program in accordance with Section 402(b) of the Clean Water Act, as amended, and 40 C.F.R. Part 123. The state NPDES permit shall be the sole permit issued by the state under this chapter regulating the discharge of pollutants or wastes into surface waters within the state for discharges covered by the EPA approved state NPDES program. This legislative grant of authority is intended to be sufficient to enable the department to qualify for delegation of the Federal NPDES program to the state and operate such program in accordance with federal law.

(4) An application for an NPDES permit and other approvals from the state relating to the permitted activity shall be granted or denied by the department within the time allowed for permit review under 40 C.F.R. Part 123, subpart C. Other than for stormwater discharge permitting, the decision on issuance or denial of such permit may not be delegated to another agency or governmental authority. The department is specifically exempted from the time limitations provided in ss. 120.60 and 403.0876. However, if the department fails to render a permitting decision within the time allowed by 40 C.F.R. Part 123, subpart C, or a Memorandum of Agreement executed by the department and the U.S. Environmental Protection Agency, whichever is shorter, the applicant may apply for an order from the circuit court requiring the department to render a decision within a specified time.

(5) The department shall respond, in writing, to any written comments on a pending application for a state NPDES permit which the department receives from the Executive Director, or his designee, of the Game and Fresh Water Fish Commission or the Department of Natural Resources, on matters within the commenting agency's jurisdiction. The department's response shall not constitute agency action for purposes of s. 120.57 or other provisions of chapter 120.

History.—s. 23, ch. 88-393.

403.0891 State, regional, and local stormwater management plans and programs.—The department, the water management districts, and local governments shall have the responsibility for the development of mutually compatible stormwater management programs.

(1) The department shall include goals in the state water policy for the proper management of stormwater.

(2) Each water management district to which the state's stormwater management program is delegated shall establish district and, where appropriate, watershed or drainage basin stormwater management goals which are consistent with the goals adopted by the state and with plans adopted pursuant to ss. 373.451-373.4595, the Surface Water Improvement and Management Act.

(3)(a) Each local government required by chapter 163 to submit a comprehensive plan, whose plan is submitted after July 1, 1992, and the others when updated after July 1, 1992, in the development of its stormwater management program described by elements within its comprehensive plan shall consider state water policy, district stormwater management goals, plans approved pursuant to the Surface Water Improvement and Management Act, ss. 373.451-373.4595, and technical assistance information provided by the water management districts pursuant to s. 373.0391.

(b) Local governments are encouraged to consult with the water management districts, the Department of Transportation, and the department before adopting or updating their local government comprehensive plan or public facilities report as required by s. 189.415, whichever is applicable.

(4) The Department of Transportation shall inventory and map primary stormwater management systems constructed, operated, or maintained by the Department of Transportation in each water management district. The inventory shall include available design calculations, conditions, capacity, photographic and drainage maps, and other pertinent information and shall be submitted to the water management district in which the system is located by July 1, 1993. However, completion of both the inventory and the mapping effort shall be by July 1, 1991, for systems which affect designated priority water bodies under ss. 373.451-373.4595, the Surface Water Improvement and Management Act. The Department of Transportation shall submit an annual report of progress on the mapping effort to the Department of Environmental Regulation.

(5) The department, in coordination and cooperation with water management districts and local governments, shall conduct a continuing review of the costs of stormwater management systems and the effect on water quality and quantity, and fish and wildlife values. The department, the water management districts, and local governments shall use the review for planning purposes and to establish priorities for watersheds and stormwater management systems which require better management and treatment of stormwater with emphasis on the costs and benefits of needed improvements to stormwater management systems to better meet needs for flood protection and protection of water quality, and fish and wildlife values.

(6) The results of the review shall be maintained by the department and the water management districts and shall be provided to appropriate local governments or other parties on request. The results also shall be used in the development of the goals developed pursuant to subsections (1) and (2).

History.—s. 15, ch. 86-186; s. 32, ch. 89-279.

403.0893 Stormwater funding; dedicated funds for stormwater management.—In addition to any other funding mechanism legally available to local government to construct, operate, or maintain stormwater systems, a county or municipality may:

(1) Create one or more stormwater utilities and adopt stormwater utility fees sufficient to plan, construct, operate, and maintain stormwater management systems set out in the local program required pursuant to s. 403.0891(3);

(2) Establish and set aside, as a continuing source of revenue, other funds sufficient to plan, construct, operate, and maintain stormwater management systems set out in the local program required pursuant to s. 403.0891(3); or

(3) Create, alone or in cooperation with counties, municipalities, and special districts pursuant to the Interlocal Cooperation Act, s. 163.01, one or more stormwater management system benefit areas. All property owners within said area may be assessed a per acreage fee to fund the planning, construction, operation, maintenance, and administration of a public stormwater management system for the benefited area. Any benefit area containing different land uses which receive substantially different levels of stormwater benefits shall include stormwater management system benefit subareas which shall be assessed different per acreage fees from subarea to subarea based upon a reasonable relationship to benefits received. The fees shall be calculated to generate sufficient funds to plan, construct, operate, and maintain stormwater management systems called for in the local program required pursuant to s. 403.0891(3). For fees assessed pursuant to this section, counties or municipalities may use the non-ad valorem levy, collection, and enforcement method as provided for in chapter 197.

History.—s. 16, ch. 86-186; s. 34, ch. 89-279.

403.0896 Training and assistance for stormwater management system personnel.—The Stormwater Management Assistance Consortium of the State University System, working in cooperation with the community colleges in the state, interested accredited private colleges and universities, the department, the water management districts, and local governments, shall develop training and assistance programs for persons responsible for designing, building, inspecting, or operating and maintaining stormwater management systems.

History.—s. 33, ch. 89-279.

403.091 Inspections.—

(1)(a) Any duly authorized representative of the department may at any reasonable time enter and inspect, for the purpose of ascertaining the state of compliance with the law or rules and regulations of the department, any property, premises, or place, except a building which is used exclusively for a private residence, on or at which:

1. A hazardous waste generator, transporter, or facility or other air or water contaminant source;
2. A discharger, including any nondomestic discharger which introduces any pollutant into a publicly owned treatment works;
3. Any facility, as defined in s. 376.301; or
4. A resource recovery and management facility

is located or is being constructed or installed or where records which are required under this chapter, ss. 376.30-376.319, or department rule are kept.

(b) Any duly authorized representative may at reasonable times have access to and copy any records required under this chapter or ss. 376.30-376.319; inspect any monitoring equipment or method; sample for any pollutants as defined in s. 376.301, effluents, or wastes which the owner or operator of such source may be discharging or which may otherwise be located on or underlying the owner's or operator's property; and obtain any other information necessary to determine compliance with permit conditions or other requirements of this chapter, ss. 376.30-376.319, or department rules.

(c) No person shall refuse reasonable entry or access to any authorized representative of the department who requests entry for purposes of inspection and who presents appropriate credentials; nor shall any person obstruct, hamper, or interfere with any such inspection. The owner or operator of the premises shall receive a report, if requested, setting forth all facts found which relate to compliance status.

(2) An inspection pursuant to subsection (1) may be conducted only after:

(a) Consent for the inspection is received from the owner, operator, or person in charge; or

(b) The appropriate inspection warrant as provided in this section is obtained.

(3)(a) An inspection warrant as authorized by this chapter may be issued by a judge of any county court or circuit court of this state which has jurisdiction of the place or thing to be searched.

(b) Upon proper affidavit being made, an inspection warrant may be issued under the provisions of this chapter or ss. 376.30-376.319:

1. When it appears that the properties to be inspected may be connected with or contain evidence of the violation of any of the provisions of this chapter or ss. 376.30-376.319 or any rule properly promulgated thereunder; or
2. When the inspection sought is an integral part of a larger scheme of systematic routine inspections which are necessary to, and consistent with, the continuing efforts of the department to ensure compliance with the provisions of this chapter or ss. 376.30-376.319 and any rules adopted thereunder.

(c) The judge shall, before issuing the warrant, have the application for the warrant duly sworn to and subscribed by a representative of the department; and he may receive further testimony from witnesses, supporting affidavits, or depositions in writing to support the application. The affidavit and further proof, if had or required, shall set forth the facts tending to establish the grounds specified in paragraph (b) or [1]the reasons for believing that such grounds exist.

(d) Upon examination of the application and proofs submitted and if satisfied that cause exists for the issuing of the inspection warrant, the judge shall thereupon issue a warrant, signed by him with the name of his office, to any department representative, which warrant

will authorize the representative forth[illegible] to inspect the property described in the warrant.

History.—s. 10, ch. 67-436, ss. 26, 35, ch. 69-106, s. 1, ch. 80-302, s. 6, ch. 82-27, s. 26, ch. 84-338, s. 25, ch. 86-159, s. 9, ch. 89-188.

[1]Note.—The words "the reasons" were inserted by the editors.

403.092 Package sewage treatment facilities; inspection.—The Department of Environmental Regulation shall implement a program to conduct regular and continuing inspection of package sewage treatment facilities. To the greatest extent possible consistent with the abilities and the financial resources of local governments, the inspection program shall be delegated to local governments.

History.—s. 4, ch. 83-310.

[1]403.101 Classification and reporting; regulation of operators of water purification plants and wastewater treatment plants.—

(1) The department, by rule, may classify air and water contaminant sources, which sources in its judgment may cause or contribute to air or water pollution, according to levels and types of emissions and other characteristics which relate to air or water pollution, and may require reporting for any such class or classes. Classifications made pursuant to this section may be made for application to the state as a whole or to any designated area of the state, and shall be made with special reference to physical effects on property and effects on health, economic, social, and recreational factors.

(2) Any person operating, or responsible for the operation of, air or water contaminant sources of any class for which the rules of the department require reporting shall make reports containing information as may be required concerning location, size, and height of contaminant outlets, processes employed, fuels used, and the nature and time period or duration of emissions, and such other information as is relevant to air and water pollution and available or reasonably capable of being assembled.

(3) The department is authorized to establish qualifications for, and to examine and certify, water and wastewater treatment plant operators; to issue, deny, revoke, and suspend operator certificates pursuant to its rules and chapter 120; to charge a fee not in excess of $15 for certification; and to charge a fee not in excess of $30 for application processing and renewal of certification. In assessing fees authorized by this subsection, the department is directed to adjust the fees as needed within the established limits to ensure that generated revenues from the certification program will equal or exceed the cost of operation. Certificate renewal shall be biennial, effective January 1, 1980. A fee not to exceed $5 may be charged for the issuance of a duplicate certificate. Such fees shall be nonrefundable. Renewals of certification, issued as requested by the applicant pursuant to this section, shall be exempt from the provisions of s. 120.60(3), if the department provides each applicant with written notice either personally or by mail of the certification or renewal.

(4) No person shall perform the duties of operator of a water or wastewater treatment plant unless he holds a current operator's certificate issued by the department. However, this section shall not apply to public lodging establishments li[illegible]sed under chapter 509. No owner of a water or wastewater plant shall employ any person to perform the duties of an operator unless such person possesses a valid certificate at the required level of certification.

(5) All funds collected pursuant to this section shall be deposited in the General Revenue Fund.

(6) The department may promulgate rules and minimum standards to effectuate the provisions of this section and to ensure efficient, hygienic water purification and wastewater treatment operations in this state.

(7) For purposes of this section, "operator" means any person, including the owner, who is principally engaged in, and is in charge of, the actual operation, supervision, and maintenance of a drinking water purification plant or a domestic wastewater treatment plant and includes the person in charge of a shift or period of operation during any part of the day.

History.—s. 11, ch. 67-436, ss. 26, 35, ch. 69-106, s. 18, ch. 77-337, s. 161, ch. 79-400, s. 3, ch. 80-66, s. 2, ch. 81-318, ss. 1, 2, 3, ch. 82-44, s. 17, ch. 86-186.

[1]Note.—Expires October 1, 1992, pursuant to s. 3, ch. 82-44, and is scheduled for review pursuant to s. 11.61 in advance of that date.

403.111 Confidential records.—Any information, other than effluent data, relating to secret processes, methods of manufacture or production which may be required, ascertained, or discovered by inspection or investigation, shall not be disclosed in public hearings and shall be kept confidential by any member, officer, or employee of the department. Provided that nothing herein shall be construed to prevent the use of such records in judicial proceedings in connection with the prosecution of violations of this act, when ordered to be produced by appropriate subpoena or by order of the court. No such subpoena or order of the court shall abridge or alter the rights or remedies of persons affected in the protection of trade secrets or secret processes, in the manner provided by law, and such persons affected may take any and all steps available by law to protect such trade secrets or processes.

History.—s. 12, ch. 67-436; ss. 26, 35, ch. 69-106; s. 6, ch. 74-133.

403.121 Enforcement; procedure; remedies.—The department shall have the following judicial and administrative remedies available to it for violations of this chapter, as specified in s. 403.161(1).

(1) Judicial remedies:

(a) The department may institute a civil action in a court of competent jurisdiction to establish liability and to recover damages for any injury to the air, waters, or property, including animal, plant, and aquatic life, of the state caused by any violation.

(b) The department may institute a civil action in a court of competent jurisdiction to impose and to recover a civil penalty for each violation in an amount of not more than $10,000 per offense. However, the court may receive evidence in mitigation. Each day during any portion of which such violation occurs constitutes a separate offense.

(c) It shall not be a defense to, or ground for dismissal of, these judicial remedies for damages and civil penalties that the department has failed to exhaust its administrative remedies, has failed to serve a notice of violation, or has failed to hold an administrative hearing prior to the institution of a civil action.

(2) Administrative remedies:

(a) The department may institute an administrative proceeding to establish liability and to recover damages for any injury to the air, waters, or property, including animal, plant, or aquatic life, of the state caused by any violation. The department may order that the violator pay a specified sum as damages to the state. Judgment for the amount of damages determined by the department may be entered in any court having jurisdiction thereof and may be enforced as any other judgment.

(b) If the department has reason to believe a violation has occurred, it may institute an administrative proceeding to order the prevention, abatement, or control of the conditions creating the violation or other appropriate corrective action.

(c) An administrative proceeding shall be instituted by the department's serving of a written notice of violation upon the alleged violator by certified mail. The notice shall specify the provision of the law, rule, regulation, permit, certification, or order of the department alleged to be violated and the facts alleged to constitute a violation thereof. An order for corrective action may be included with the notice. However, no order shall become effective until after service and an administrative hearing, if requested within 20 days after service. Failure to request an administrative hearing within this time period shall constitute a waiver thereof.

(d) Nothing herein shall be construed as preventing any other legal or administrative action in accordance with law.

History.—s. 13, ch. 67-436; ss. 26, 35, ch. 69-106; s. 1, ch. 70-114; s. 1, ch. 70-139; s. 349, ch. 71-136; s. 112, ch. 71-355; s. 1, ch. 72-286; s. 138, ch. 77-104; s. 1, ch. 77-117; s. 14, ch. 78-95; s. 263, ch. 81-259.

403.131 Injunctive relief, cumulative remedies.—

(1) The department may institute a civil action in a court of competent jurisdiction to seek injunctive relief to enforce compliance with this chapter or any rule, regulation, permit certification, or order; to enjoin any violation specified in s. 403.161(1); and to seek injunctive relief to prevent irreparable injury to the air, waters, and property, including animal, plant, and aquatic life, of the state and to protect human health, safety, and welfare caused or threatened by any violation.

(2) All the judicial and administrative remedies in this section and s. 403.121 are independent and cumulative except that the judicial and administrative remedies to recover damages are alternative and mutually exclusive.

History.—s. 14, ch. 67-436; ss. 26, 35, ch. 69-106; s. 1, ch. 70-139; s. 1, ch. 70-439; s. 2, ch. 72-286.

403.135 Persons who accept wastewater for spray irrigation; civil liability.—

(1) Any person who in good faith accepts from any owner or operator of a permitted wastewater treatment or disposal plant any wastewater permitted and intended to be used for disposal through spray irrigation is not liable for any civil damages as a result of the acceptance and disposal of such wastewater through approved spray irrigation practices.

(2) Subsection (1) does not limit or otherwise affect the liability of:

(a) Any person for damages resulting from such person's negligence, gross negligence, or reckless, wanton, or intentional misconduct;

(b) Any person for the improper management and use of the wastewater after its delivery to such person by any permitted wastewater treatment or disposal plant owner or operator; or

(c) The owner or operator of the plant for damages caused as a result of the spray irrigation.

(3) Nothing in this section shall prohibit any governmental entity from taking such action within its jurisdiction as may be necessary to protect the public health, safety, or welfare or the environment.

(4) Terms used in this section have the meaning specified in this chapter and in the rules of the Department of Environmental Regulation under this chapter.

History.—s. 1, ch. 87-207.

403.141 Civil liability; joint and several liability.—

(1) Whoever commits a violation specified in s. 403.161(1) is liable to the state for any damage caused to the air, waters, or property, including animal, plant, or aquatic life, of the state and for reasonable costs and expenses of the state in tracing the source of the discharge, in controlling and abating the source and the pollutants, and in restoring the air, waters, and property, including animal, plant, and aquatic life, of the state to their former condition, and furthermore is subject to the judicial imposition of a civil penalty for each offense in an amount of not more than $10,000 per offense. However, the court may receive evidence in mitigation. Each day during any portion of which such violation occurs constitutes a separate offense. Nothing herein shall give the department the right to bring an action on behalf of any private person.

(2) Whenever two or more persons pollute the air or waters of the state in violation of this chapter or any rule, regulation, or order of the department so that the damage is indivisible, each violator shall be jointly and severally liable for such damage and for the reasonable cost and expenses of the state incurred in tracing the source of discharge, in controlling and abating the source and the pollutants, and in restoring the air, waters, and property, including the animal, plant, and aquatic life of the state, to their former condition. However, if said damage is divisible and may be attributed to a particular violator or violators, each violator is liable only for that damage attributable to his violation.

(3) In assessing damages for fish killed, the value of the fish is to be determined in accordance with a table of values for individual categories of fish which shall be promulgated by the department. At the time the table is adopted, the department shall utilize tables of values established by the Department of Natural Resources and the Game and Fresh Water Fish Commission. The total number of fish killed may be estimated by standard practices used in estimating fish population.

(4) The damage provisions of this section shall not apply to damage resulting from the application of federally approved or state-approved chemicals to the waters in the state for the control of insects, aquatic weeds, or algae, provided the application of such chemicals is done in accordance with a program approved pursuant

to s. 403.088(1) and provided said application is not done negligently.

History.—s. 15, ch. 67-436; ss. 26, 35, ch. 69-106; s. 1, ch. 70-141; s. 1, ch. 71-204; s. 3, ch. 72-286; s. 7, ch. 74-133; s. 1, ch. 76-112; s. 3, ch. 78-98.

403.151 Compliance with rules or orders of department.—All rules or orders of the department which require action to comply with standards adopted by it, or orders to comply with any provisions of this act, may specify a reasonable time for such compliance.

History.—s. 16, ch. 67-436; ss. 26, 35, ch. 69-106.

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.

403.165 Use of pollution awards; pollution recovery fund.—There is hereby created a Pollution Recovery Fund which is to be supervised and used by the department to restore polluted areas of the state, as defined by the department, to the condition they were in before pollution occurred or to otherwise enhance pollution control activities in polluted areas. The fund shall consist of all moneys recovered by the state as a result of actions against any person for violation of any of the provisions of this chapter. The moneys shall be disbursed first to pay all amounts necessary to restore the respective polluted areas which were the subjects of state actions or to otherwise enhance pollution control activities in such areas. Any moneys remaining in the fund shall then be used by the department, as it sees fit, to pay for any work needed to restore areas which required more money than the state was able to obtain by court action or otherwise or to restore other polluted areas. In determining what other areas should be chosen, the department shall give priority to restoring areas that are within the same districts, as defined in s. 373.069, as the areas where the violations occurred.

History.—s. 5, ch. 72-286; s. 18, ch. 86-186; s. 11, ch. 88-393.

403.1655 Environmental short-term emergency response program.—

(1) It is the purpose of this section to provide a mechanism through which the state can immediately respond to short-term emergencies involving a threat to or an actual contamination of surface and ground water. It is the intent of the Legislature that the department provide not only technical assistance when responding to these short-term emergencies, but also financial resources to respond to emergencies which pose an immediate environmental or public health threat.

(2) The department shall be the lead agency for interdepartmental coordination relating to water pollution, toxic substances, and hazardous waste and other environmental and health emergencies not specifically designated within other statutes.

(3) Based upon the nature of the incident, the Water Quality Assurance Trust Fund or the Inland Protection Trust Fund, whichever is appropriate, shall be utilized to enable the department to respond during an emergency to incidents which threaten the environment or public health when otherwise responsible parties do not adequately respond.

(4) The department shall adopt rules for the purposes of this section.

History.—s. 42, ch. 83-310; s. 26, ch. 86-159.

[1]403.1659 Florida Groundwater Protection Task Force.—

(1) The Florida Groundwater Protection Task Force is created within the Department of Environmental Regulation.

(a) The Groundwater Protection Task Force shall consist of the following members:

1. The Secretary of Community Affairs or his designee;

2. The Secretary of Environmental Regulation or his designee;

3. The Secretary of Health and Rehabilitative Services or his designee;

4. The Commissioner of Agriculture or his designee;

5. The Secretary of Transportation or his designee; and

6. Any additional state agency members as determined and appointed by the Governor in order to properly implement the provisions of this act.

(b) The Secretary of Environmental Regulation or a designee shall chair the task force.

(2) The Florida Groundwater Protection Task Force shall:

(a) Coordinate the temporary provision of potable water to every citizen whose drinking water supply has been deemed by the state to be unsafe, until such time as a permanent source of potable water has been made available.

(b) Ensure that public information is provided to all citizens and local governments in any area in which drinking water has been deemed by the state to be unsafe. The task force shall assure:

1. The development and maintenance of a mailing list of each citizen and each local government in an area with contaminated drinking water wells.

2. The preparation and distribution of information to all affected citizens and local governments describing state agency functions in the event of groundwater contamination.

3. The preparation and distribution of a newsletter as needed to all affected citizens and local governments, which newsletter shall contain a listing of upcoming scheduled activities, the answers to frequently submitted questions, and a listing of possible solutions or remedies to water contamination problems.

4. The availability of a toll-free telephone number to allow citizens of the state access to information regarding contaminated water supplies.

(c) Make recommendations to any person or governmental agency regarding groundwater contamination affecting public or private wells.

(d) Ensure that a current inventory of all groundwater contamination research activities by public and private universities in the state; federal, state, and local agencies; and private industry is developed and maintained. This inventory shall include, but is not limited to, a statewide listing of all facilities with groundwater testing capabilities in order to ensure that all citizens have their water tested within a reasonable period of time during a crisis situation.

(e) File, by October 1 annually, a report summarizing the activities of the task force during the past year. The report shall include, but is not limited to, a chronological listing of all groundwater contamination incidents, response strategy used by the state for each incident, actual costs for each incident, and an evaluation and recommendation concerning the needs of the state for the coming year with respect to groundwater contamination problems. A copy of the report shall be sent to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(3) The Florida Groundwater Protection Task Force shall meet as needed, at the call of the chairman, to carry out the provisions of this section.

History.—s. 27, ch. 84-338, s. 2, ch. 85-65.
[1]**Note.**—Repealed effective October 1, 1989.

403.1815 Construction of water distribution mains and sewage collection laterals; local regulation.—Notwithstanding any other provision of this chapter to the contrary, the department may, upon request, allow any county or municipality to regulate independently the construction of water distribution mains and sewage collection laterals of 10 inches or less in size which may be connected to any water system or sewerage system owned by the county or municipality. In considering such request, the department shall determine the administrative and engineering ability of a county or municipality to administer and comply with the requirements of this section. In the event the department allows any county or municipality to regulate independently the construction of such water distribution mains and sewage collection laterals, these types of construction projects shall be exempt from department permit requirements. However, nothing in this section shall relieve a county or a municipality from any requirement to obtain the necessary permits for construction activities in waters of the state or of the United States or from complying with all other provisions of this chapter and rules promulgated thereunder. The exemption provided by this section shall not apply to any lateral connection to any water or sewerage system which the department has deemed to be in substantial noncompliance with applicable laws and standards if the department has so notified the respective county or municipality. Each county or municipality granted such authority shall submit monthly reports to the department of the number of connections and geographical location of such connections made to any sewerage system owned by such county or municipality and shall, not later than July 1 of each year, submit an updated map of any water distribution system and sewage collection system owned by the county or municipality. Such map shall indicate the extensions of such water mains and sewer laterals constructed for the preceding year.

History.—s. 1, ch. 80-394.

403.182 Local pollution control programs.—

(1) Each county and municipality or any combination thereof may establish and administer a local pollution control program if it complies with this act. Local pollution control programs in existence on the effective date of this act shall not be ousted of jurisdiction if such local program complies with this act. All local pollution control programs, whether established before or after the effective date of this act, must:

(a) Be approved by the department as adequate to meet the requirements of this act and any applicable rules and regulations pursuant thereto.

(b) Provide by ordinance, regulation, or local law for requirements compatible with, or stricter or more extensive than those imposed by this act and regulations issued thereunder.

(c) Provide for the enforcement of such requirements by appropriate administrative and judicial process.

(d) Provide for administrative organization, staff, financial and other resources necessary to effectively and efficiently carry out its program.

(2) The department shall have the exclusive authority and power to require and issue permits; provided, however, that the department may delegate its power and authority to local pollution control organizations if the department finds it necessary or desirable to do so.

(3) If the department finds that the location, character or extent of particular concentrations of population, contaminant sources, the geographic, topographic or meteorological considerations, or any combinations thereof, are such as to make impracticable the maintenance of appropriate levels of air and water quality without an areawide pollution control program, the department may determine the boundaries within which such program is necessary and require it as the only acceptable alternative to direct state administration.

(4)(a) If the department has reason to believe that a pollution control program in force pursuant to this section is inadequate to prevent and control pollution in the jurisdiction to which such program relates, or that such program is being administered in a manner inconsistent with the requirements of this act, it shall proceed to determine the matter.

(b) If the department determines that such program is inadequate to prevent and control pollution in the municipality or county or municipalities or counties to which such program relates, or that such program is not accomplishing the purposes of this act, it shall require that necessary corrective measures be taken within a reasonable period of time, not to exceed 90 days.

(c) If the municipality, county, or municipalities or counties fail to take such necessary corrective action within the time required, the department shall administer within such municipality, county, or municipalities or counties all of the regulatory provisions of this act. Such pollution control program shall supersede all municipal or county pollution laws, regulations, ordinances and requirements in the affected jurisdiction.

(d) If the department finds that the control of a particular class of contaminant source because of its complexity or magnitude is beyond the reasonable capability of the local pollution control authorities or may be more efficiently and economically performed at the state level, it may assume and retain jurisdiction over that class of contaminant source. Classifications pursuant to this paragraph may be either on the basis of the nature of the sources involved or on the basis of their relationship to the size of the communities in which they are located.

(5) Any municipality or county in which the department administers its pollution control program pursuant to subsection (4) of this section may with the approval of the department establish or resume a municipal or county pollution control program which meets the requirements of subsection (1) of this section.

(6) Notwithstanding the existence of any local pollution control program, whether created by a county or municipality or a combination thereof or by a special law, the department shall have jurisdiction to enforce the provisions of this chapter and any rules, regulations, or orders issued pursuant to this chapter throughout the state, however, whenever rules, regulations, or orders of a stricter or more stringent nature have been adopted by a local pollution control program, the department, if it elects to assert its jurisdiction, shall then enforce the stricter rules, regulations, or orders in the jurisdiction where they apply.

(7) It shall be a violation of this chapter to violate, or fail to comply with, a rule, regulation, or order of a stricter or more stringent nature adopted by a local pollution control program, and the same shall be punishable as provided by s. 403.161. If any local program changes any rule, regulation, or order, whether or not of a stricter or more stringent nature, such change shall not apply to any installation or source operating at the time of such change in conformance with a currently valid permit issued by the Department of Environmental Regulation.

(8) Nothing in this act shall prevent any local pollution control program from enforcing its own rules, regulations, or orders. All remedies of the Department of Environmental Regulation under this chapter shall be available, as an alternative to local enforcement provisions, to each local pollution control program to enforce any provision of local law. When the department and a local program institute separate lawsuits against the same party for violation of a state or local pollution law, rule, regulation, or order arising out of the same act, the suits shall be consolidated when possible.

(9) Each local pollution control program shall cooperate with and assist the department in carrying out its powers, duties, and functions.

History.—s. 19, ch. 67-436; ss. 26, 35, ch. 69-106; s. 2, ch. 71-137; ss. 1, 2, ch. 73-256; s. 14, ch. 78-95; s. 76, ch. 79-65; s. 6, ch. 89-143.

403.1821 Water pollution control and sewage treatment.—Sections 403.1821-403.1832 shall be known and cited as the "Florida Water Pollution Control and Sewage Treatment Plant Grant Act."

History.—s. 1, ch. 70-251; s. 47, ch. 83-310.

403.1822 Definitions for ss. 403.1821-403.1832.—As used in ss. 403.1821-403.1832, the term:

(1) "Department" refers to the Department of Environmental Regulation.

(2) "Grants," "grant," "state grants," or "state grant" refers to disbursements from the State Water Pollution Control Trust Fund pursuant to s. 403.1825.

(3) "Local governmental agencies" refers to any municipality, county, district, or authority, or any agency thereof, or a combination of two or more of the foregoing, acting jointly in connection with a project, having jurisdiction over collection, transmission, treatment, or disposal of sewage, industrial wastes, stormwater, or other wastes and includes a district or authority the principal responsibility of which is to provide airport, industrial or research park, or port facilities to the public.

(4) "Project" means all or part of a sewage treatment or disposal facility, or other cost-effective alternative, and may include the construction or reconstruction of existing sewage collection or transmission lines.

History.—s. 2, ch. 70-251; s. 1, ch. 70-439; s. 2, ch. 71-137; s. 1[3], ch. 71-355; s. 77, ch. 79-65; s. 48, ch. 83-310; s. 1, ch. 87-107; s. 35, ch. 89-279.

403.1823 Department of Environmental Regulation; rulemaking authority; administration of funds.—The department shall:

(1) Promulgate rules and regulations to carry out the purposes of ss. 403.1821-403.1832.

(2) Administer and control all funds appropriated to or received by the department for the purposes of ss. 403.1821-403.1832.

History.—s. 3, ch. 70-251; s. 1, ch. 70-439; s. 49, ch. 83-310.

403.1824 State Water Pollution Control Trust Fund. A trust fund to be known as the "State Water Pollution Control Trust Fund" is established in the State Treasury to be used for state grants to local governmental agencies for the construction or reconstruction of sewage collection, transmission, treatment, or disposal facilities or cost-effective alternatives. All funds received by the department to carry out the purposes of ss. 403.1821-403.1832 shall be deposited in this fund; however, at least 45 percent of the funds received by the department and deposited in this fund shall be transferred to the Small Community Sewer Construction Assistance Trust Fund. The department may expend up to 2 percent of the State Water Pollution Control Trust Fund to cover the cost of reviewing and acting upon grant applications by a local governmental agency and the cost of surveillance and other field services associated with the application.

History.—s. 4, ch. 70-251; s. 1, ch. 70-439; s. 50, ch. 83-310.

403.1825 Grant payments.—Warrants for the payment of grants to local governmental agencies or increments thereof from the Water Pollution Control Trust Fund shall be issued by the State Comptroller upon certification to him by the department that such payments are due and payable under the department's published rules and regulations.

History.—s. 5, ch. 70-251; s. 1, ch. 70-439.

403.1826 Grants, requirements for eligibility.—

(1) Grants shall be made under ss. 403.1821-403.1832 for projects eligible as provided in rules of the department. Only those projects to be constructed after the effective date of this act are eligible for grants pursuant to this act.

(2) No grant may be made for any project unless such project and the plans and specifications therefor are approved by the department, subject to such requirements as the department imposes. The costs for advanced waste treatment facilities, or portions thereof, required for discharge to surface waters or ground water protection or protection of public health are eligible for funding.

(3) No grant may be made until the local governmental agency has available to it that part of the total cost of the project which is in excess of the applicable grant.

(4) The department shall require local governmental funds in the amount of 45 percent of eligible project costs as determined by rules of the department. The department is authorized to establish a maximum grant for each local governmental agency pursuant to this act.

(5) Grants made under ss. 403.1821-403.1832 shall be paid to the local governmental agency as provided by department rule.

(6) A grant may not be made unless the local governmental agency assures the department of the proper and efficient operation and maintenance of the project after construction. Revenue sufficient to ensure that the facility will be self-supporting shall be generated from sources which include, but are not limited to, service charges and connection fees. The revenue generated shall provide for financing future sanitary sewerage capital improvements. The grantee shall accumulate, during the design life of the grant-funded project, moneys in an amount equivalent to the grant amount adjusted for inflationary cost increases.

(7) No grant may be made unless the local governmental agency has filed properly executed forms and applications prescribed by the department.

(8) Any local governmental agency receiving assistance under ss. 403.1821-403.1832 shall keep such records as the department prescribes, including records which fully disclose the amount and disposition by the recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with such assistance given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit. The department and the Auditor General or any of their duly authorized representatives shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of the recipient that are pertinent to grants received under ss. 403.1821-403.1832. Upon project completion, the local governmental agency shall submit to the department a separate audit, by an independent certified public accountant, of the grant expenditures.

(9) Any project satisfactorily planned and designed in accordance with the requirements of the United States Environmental Protection Agency is eligible for funding under this act.

History.—s. 6, ch. 70-251; s. 1, ch. 70-439; s. 51, ch. 83-310; s. 28, ch. 84-338; s. 52, ch. 85-81; s. 36, ch. 89-279.

403.1829 Funding of projects; priorities.—Eligible projects shall be funded according to priorities established by department rule. Such priorities shall be established according to the extent each project is intended to remove, mitigate, or prevent adverse effects on surface or ground water quality and public health. Advanced waste treatment facilities or portions thereof which are required for discharge to surface waters or ground water protection or protection of public health, which are required by the department, and which are determined to be ineligible for federal funding are eligible for supplemental state funding under this act.

History.—s. 9, ch. 70-251; s. 1, ch. 70-439; s. 52, ch. 83-310.

403.1832 Department to accept federal aid.—The department is designated as the administrative agency of the state to apply for and accept any funds or other aid and to cooperate and enter into contracts and agreements with the Federal Government relating to the planning, design, construction, operation, maintenance, and enforcement activities of the program to provide clean water and pollution abatement of the waters of the state or to any other related purpose which the Congress of the United States has authorized or may authorize. The department is authorized in the name of the state to make such applications, sign such documents, give such assurances, and do such other things as are nec-

essary to obtain such aid from or cooperate with the United States Government or any agency thereof. The department may consent to enter into contracts and agreements and cooperate with any other state agency, local governmental agency, person, or other state when it is necessary to carry out the provisions of ss. 403.1821-403.1832.

History.—s. 12, ch. 70-251; s. 1, ch. 70-439; s. 53, ch. 83-310.

403.1834 State bonds to finance or refinance facilities; exemption from taxation.—

(1) The issuance of state bonds to finance or refinance the construction of water supply and distribution facilities, stormwater control and treatment facilities, and air and water pollution control and abatement and solid waste disposal facilities, payable primarily from the pledged revenues provided for by s. 14, Art. VII of the State Constitution or from such pledged revenues and the full faith and credit of any county, municipality, district, authority, or any agency thereof, and pledging the full faith and credit of the state as additional security, is authorized, subject and pursuant to the provisions of s. 14, Art. VII of the State Constitution, the provisions of the State Bond Act, ss. 215.57-215.83, as amended, and the provisions of this section.

(2) The State Board of Administration is designated as the state fiscal agency to make the determinations required by s. 14, Art. VII of the State Constitution in connection with the issuance of such bonds.

(3) The amount of the state bonds to be issued shall be determined by the Division of Bond Finance of the Department of General Services. However, the total principal amount issued shall not exceed $300 million in any state fiscal year. This limitation does not apply to bonds issued to refinance outstanding bonds that were issued pursuant to this section in a previous fiscal year.

(4) The facilities to be financed or refinanced with the proceeds of such state bonds shall be determined and approved by the Department of Environmental Regulation and may be constructed, acquired, maintained, and operated by any county, municipality, district, or authority, or any agency thereof, or by the department.

(5) The Department of Environmental Regulation and the Division of Bond Finance of the Department of General Services are hereby authorized to enter into lease-purchase agreements between such departments or to enter into lease-purchase agreements or loan agreements between either of such departments and any county, municipality, district, or authority, or any agency thereof, for such periods and under such other terms and conditions as may be mutually agreed upon by the parties thereto in order to carry out the purposes of s. 14, Art. VII of the State Constitution and this section.

(6) The Department of Environmental Regulation shall have power to fix, establish, and collect fees, rentals or other charges for the use or benefit of said facilities or may delegate such power to any county, municipality, district, authority, or any agency thereof under such terms and conditions and for such periods as may be mutually agreed upon.

(7) It is found and declared that said facilities will constitute a public governmental purpose necessary for the health and welfare of all the inhabitants of the state, and none of said facilities or said state bonds or the interest thereon shall ever be subject to taxation by the state or any political subdivision or agency thereof. However, a leasehold interest in property of the state or the facilities thereon may not be exempted from ad valorem taxation when a nongovernmental lessee uses such property for the operation of a multipurpose hazardous waste treatment facility. The exemption granted by this subsection shall not be applicable to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations.

(8) As used in this section, "water supply and distribution facilities" means a waterworks system as defined in s. 159.02(9) which is constructed, owned, or operated by a county, municipality, water management district created by chapter 373, or regional water supply authority created pursuant to chapter 373, or a water facility of an authority created by chapter 76-441, Laws of Florida, as amended by chapter 80-546, Laws of Florida.

History.—ss. 1, 2, 3, 4, 5, 6, 7, ch. 70-270; s. 1, ch. 70-439; s. 2, ch. 71-137; s. 4, ch. 73-256; s. 14, ch. 73-327; s. 78, ch. 79-65; s. 1, ch. 81-21; s. 61, ch. 83-218; s. 19, ch. 86-186; s. 1, ch. 87-203; s. 82, ch. 88-130.

403.1835 Wastewater facilities and stormwater management systems revolving loan program.—

(1) The purpose of this section is to assist in implementing the legislative declaration of public policy as contained in s. 403.021 by establishing a loan program to accelerate construction of wastewater facilities and stormwater management systems by local governmental agencies and to assist local governmental agencies in implementing stormwater management programs and to develop and implement estuary conservation and management plans.

(2) For the purposes of this section, the following terms, unless the context otherwise indicates, shall have the meanings ascribed to them in this subsection:

(a) "Local governmental agencies" means local governmental agencies as defined in s. 403.1822(3).

(b) "Wastewater facilities" means all facilities necessary, including land, for the collection, treatment, or disposal of domestic wastewater.

(c) "Bonds" means state bonds, certificates, or other obligations of indebtedness issued by the Division of Bond Finance of the Department of General Services pursuant to this section and the State Bond Act.

(3) The department is authorized to make loans to local governmental agencies to assist said agencies in the planning, designing, and construction of wastewater facilities and stormwater management systems and in the acquisition of land necessary for such construction. The department is also authorized to make loans to local governmental agencies for the implementation of stormwater management programs under s. 319 of the Federal Water Pollution Control Act and for development and implementation of estuary conservation and management plans under s. 320 of the Federal Water Pollution Control Act, as amended. The department is authorized to use the funds to provide loan guarantees, to purchase loan insurance, and to refinance local debt through the issue of new loans for projects approved by the department. Local governmental agencies are authorized to borrow funds made available pursuant to this section

and may pledge any revenue available to them to repay any funds borrowed.

(4) The term of loans made pursuant to this section shall not exceed 30 years. The interest rate on loans shall be no greater than that paid on the last bonds sold pursuant to s. 14, Art. VII, State Constitution.

(5)(a) The department is authorized to make rules necessary to carry out the purpose of this section, including rules to administer the state revolving fund authorized pursuant to the Federal Water Pollution Control Act, as amended.

(b) The department shall prepare an annual report detailing the amount loaned, interest earned, and loans outstanding at the end of each fiscal year.

(6) Prior to approval of a loan, the local government shall:

(a) Provide a repayment schedule.

(b) Submit plans and specifications for wastewater facilities or stormwater management systems.

(c) Provide assurance that records will be kept using accepted government accounting standards and that the department, the Auditor General, or their agents will have access to all records pertaining to the loan.

(d) Provide assurance that the facility will be properly operated and maintained.

(e) Document that the revenues generated will be sufficient to ensure that the facilities will be self-supporting.

(f) Provide assurance that annual financial audit reports, and a separate project audit prepared by an independent certified public accountant upon project completion, will be submitted to the department.

(7) Eligible projects shall be given priority according to the extent each project is intended to remove, mitigate, or prevent adverse effects on surface or ground water quality and public health.

(8) In the event a local governmental agency becomes delinquent on its loan, the department shall so certify to the Comptroller who shall forward the amount delinquent to the department from any unobligated funds due to the local governmental agency under any revenue sharing or tax sharing fund established by the state, except as otherwise provided by the State Constitution. Certification of delinquency shall not limit the department from pursuing other remedies available for default on a loan. The department may impose a penalty for delinquent loan payments in the amount of 6 percent of the amount due in addition to charging the cost to handle and process the debt. Penalty interest shall accrue on any amount due and payable beginning on the 30th day following the date upon which payment is due.

(9) A trust fund with revolving loan provisions to be known as the "Wastewater Treatment and Stormwater Management Revolving Loan Fund" is hereby established in the State Treasury to be used as a revolving fund by the department to carry out the purpose of this section. Any funds therein which are not needed on an immediate basis for loans may be invested pursuant to s. 215.49. The cost of administering the program shall, to the extent possible, be paid from federal funds and, when federal funds become no longer available, from reasonable service fees that may be imposed upon loans. Grants awarded by the Federal Government to fund revolving loans for local governmental agencies' wastewater facilities and stormwater management systems shall be deposited in the fund. All funds available in the fund are hereby designated to carry out the purpose of this section. The principal and interest of all loans repaid and investment earnings shall be deposited into this fund.

(10) Funds available in, or to become available in, the Wastewater Treatment and Stormwater Management Revolving Loan Fund and loan repayments to the department from local governmental agencies may be used to pay debt service on, or fund debt service reserve funds, rebate obligations, or other amounts with respect to bonds issued for purposes of the Wastewater Treatment and Stormwater Management Facilities Revolving Loan Program. Such bonds are hereby authorized to be issued pursuant to the provisions of s. 14, Art. VII of the State Constitution and s. 403.1834. All bonds issued pursuant to this section shall be issued by the Division of Bond Finance pursuant to the State Bond Act. Such bonds shall be secured by a debt service reserve which shall be funded at a level which is equal to the maximum annual debt service or the maximum sinking fund requirement where there are no annual payments of principal and interest, but shall not exceed the maximum amount allowed pursuant to the Internal Revenue Code of 1986, as amended. In lieu of such debt service reserve, the Division of Bond Finance may obtain a letter of credit, insurance policy, or other credit enhancement facility at the required level.

History.—s. 1, ch. 72-723; s. 79, ch. 79-65; s. 20, ch. 86-186; s. 37, ch. 89-279.

403.1838 Small Community Sewer Construction Assistance Act.—

(1) This section may be cited as the "Small Community Sewer Construction Assistance Act."

(2)(a) There is established within the Department of Environmental Regulation the Small Community Sewer Construction Assistance Trust Fund.

(b) The funds shall be used by the department to assist small communities with their needs for adequate sewer facilities. The term "small community" means an incorporated municipality with a population of 35,000 or less, according to the latest decennial census.

(3) The department may provide grants to small communities. Grants shall be made from the Small Community Sewer Construction Assistance Trust Fund in accordance with rules adopted by the Environmental Regulation Commission. The department may grant up to $3 million to any small community.

(4) The Environmental Regulation Commission shall:

(a) Require a 45-percent nonstate match, except that, for a grant of less than $50,000, the commission may waive all or a part of the matching requirement:

1. Where water quality standards have been exceeded by an amount that constitutes an immediate health hazard; or

2. In a community where the gross per capita income is below the state average, as determined by the United States Department of Commerce, and where sewer systems have failed to meet department standards.

(b) Require appropriate user charges and connection fees sufficient to ensure the long-term operation and maintenance of the facility to be constructed under any grant.

(c) Require compliance with all water quality standards.

(d) Establish a system to determine eligibility and relative priority for applications for grants by small communities.

(e) Require applications for grants to be submitted on appropriate forms with appropriate supporting documentation, require construction to be in accordance with plans approved by the department, and require record-keeping.

(5) Any project satisfactorily planned and designed in accordance with the requirements of the United States Environmental Protection Agency is eligible for funding under this act.

(6) A grant may not be made unless the local governmental agency assures the department of the proper and efficient operation and maintenance of the project after construction. Revenue sufficient to ensure that the facility will be self-supporting shall be generated from sources which include, but are not limited to, service charges and connection fees. The revenue generated shall provide for financing future sanitary sewerage capital improvements. The grantee shall accumulate, during the design life of the grant-funded project, moneys in an amount equivalent to the grant amount adjusted for inflationary cost increases.

(7) Any local government agency which receives assistance under this section shall keep such records as the department prescribes, including records which fully disclose the amount and disposition by the recipient of the proceeds of such assistance, the total cost of the project, the amount of that portion of the project supplied by other sources, and such other records as will facilitate effective audit. The department and the Auditor General or any of their duly authorized representatives shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of the recipient that are pertinent to grants received under this section. Upon project completion, the local government agency shall submit to the department a separate audit, by an independent certified public accountant, of the grant expenditures.

History.—s. 55, ch. 83-310; s. 29, ch. 84-338; s. 53, ch. 85-81; s. 38, ch. 89-279.

403.191 Construction in relation to other law.—

(1) It is the purpose of this act to provide additional and cumulative remedies to prevent, abate, and control the pollution of the air and waters of the state. Nothing contained herein shall be construed to abridge or alter rights of action or remedies in equity under the common law or statutory law, criminal or civil, nor shall any provisions of this act, or any act done by virtue thereof, be construed as estopping the state or any municipality, or person affected by air or water pollution, in the exercise of their rights in equity or under the common law or statutory law to suppress nuisances or to abate pollution.

(2) No civil or criminal remedy for any wrongful action which is a violation of any rule or regulation of the department shall be excluded or impaired by the provisions of this chapter.

(3) This act shall limit and restrict the application of chapter 24952, 1947, Laws of Florida, to any person operating any industrial plant that has located in the State of Florida in reliance thereon and exercised rights and powers granted thereby on and before the effective date of this act; provided such person shall henceforth in the exercise of such rights and powers install and use treatment works or control measures generally equivalent to those installed and used by other similar industrial plants pursuant to the requirements of the department.

History.—s. 20, ch. 67-436; ss. 26, 35, ch. 69-106.

403.201 Variances.—

(1) Upon application, the department in its discretion may grant a variance from the provisions of this act or the rules and regulations adopted pursuant hereto. Variances and renewals thereof may be granted for any one of the following reasons:

(a) There is no practicable means known or available for the adequate control of the pollution involved.

(b) Compliance with the particular requirement or requirements from which a variance is sought will necessitate the taking of measures which, because of their extent or cost, must be spread over a considerable period of time. A variance granted for this reason shall prescribe a timetable for the taking of the measures required.

(c) To relieve or prevent hardship of a kind other than those provided for in paragraphs (a) and (b). Variances and renewals thereof granted under authority of this paragraph shall each be limited to a period of 24 months, except that variances granted pursuant to part II may extend for the life of the permit or certification.

(2) No variance shall be granted from any provision or requirement concerning hazardous waste management which would result in the provision or requirement being less stringent than a comparable federal provision or requirement, except as provided in s. 403.7221.

(3) The department shall publish notice, or shall require a petitioner for a variance to publish notice, in the Florida Administrative Weekly and in a newspaper of general circulation in the area affected, of proposed agency action; and the department shall afford interested persons an opportunity for a hearing on each application for a variance. If no request for hearing is filed with the department within 14 days of published notice, the department may proceed to final agency action without a hearing.

(4) The department may require by rule a processing fee for and may prescribe such time limits and other conditions to the granting of a variance as it deems appropriate.

History.—s. 21, ch. 67-436; ss. 26, 35, ch. 69-106; s. 1, ch. 74-170; s. 14, ch. 78-95; s. 7, ch. 82-27; s. 21, ch. 86-186.

403.221 Pending proceedings.—No legal proceedings shall be abated because of any transfers made in this section, but the appropriate party exercising like authority or performing like duties or functions shall be substituted in said proceedings.

History.—s. 23, ch. 67-436.

403.231 Department of Legal Affairs to represent the state.—The Department of Legal Affairs shall represent the state and its agencies as legal adviser in carrying out the provisions of this act.
History.—s. 24, ch. 67-436, ss. 11, 35, ch. 69-106.

403.251 Safety clause.—The Legislature hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health and safety.
History.—s. 27, ch. 67-436.

403.261 Provisions specifying jurisdiction repealed.—All rulemaking jurisdiction over air and water pollution matters held by other agencies within the state on September 1, 1967, is hereby repealed including, but without limitation, such jurisdiction held by the Florida State Board of Health, the Game and Fresh Water Fish Commission, the State Board of Conservation and the several water management districts within the state.
History.—s. 1, ch. 67-436.

403.265 Peat mining; permitting.—

(1) Definitions.—As used in this section, the term:

(a) "Agricultural use of peat" means the use of peat as a soil medium, additive, enhancer, or fertilizer.

(b) "Peat" means a dark brown or black residuum produced by the partial decomposition and disintegration of mosses, sedges, trees, and other plants that grow in marshes and other wet places.

(c) "Peat mining activity" means the extraction of peat or peat soils for sale or consumption or the disturbance of vegetation or soils in anticipation of the extraction of peat or peat soils for sale or consumption. For the purposes of this part, the term "peat mining activity" does not include the removal of peat or peat soils for construction activities or the removal of overburden for other mining activities.

(d) "Peat soil" means soil which contains at least 75 percent dry weight of peat material. Such soil is rich in humus and gives an acid reaction.

(2) Each department permit which authorizes the mining of peat or peat soils or any mining activity associated with the anticipation of the extraction of peat or peat soils for sale or consumption shall require the permittee to institute and complete a reclamation program for the area mined, which program must include the following factors:

(a) Control of the physical and chemical quality of the water draining from the mining area;

(b) Soil stabilization, including contouring and vegetation;

(c) Elimination of health and safety hazards;

(d) Conservation and preservation of remaining natural resources; and

(e) A time schedule for the completion of the program and the various phases thereof.

(3) The department may adopt rules which are consistent with the powers and duties listed in s. 403.912 to govern the mining of peat, including stricter permitting and enforcement provisions for the mining for sale or consumption of peat or peat soils within or contiguous to the areas which have been designated as Outstanding Florida Waters or which were under consideration by the Environmental Regulation Commission for such designation on April 1, 1984.

(4) The mining of peat or peat soils of less than 5 acres per year, and all peat mining activities for the agricultural use of peat, are exempt from the provisions of this section.

(5) Nothing in this section limits the permitting authority of the department to regulate peat mining pursuant to other provisions of this chapter.
History.—s. 2, ch. 84-79.

403.281 Definitions; weather modification law.—As used in this chapter relating to weather modification:

(1) "Department" means the Department of Environmental Regulation.

(2) "Person" includes any public or private corporation.
History.—s. 1, ch. 57-128; ss. 26, 35, ch. 69-106; s. 2, ch. 71-137; s. 156, ch. 71-377; s. 80, ch. 79-65.
Note.—Former s. 373.261.

403.291 Purpose of weather modification law.—The purpose of this law is to promote the public safety and welfare by providing for the licensing, regulation and control of interference by artificial means with the natural precipitation of rain, snow, hail, moisture or water in any form contained in the atmosphere.
History.—s. 2, ch. 57-128.
Note.—Former s. 373.271.

403.301 Artificial weather modification operation; license required.—No person without securing a license from the department, shall cause or attempt to cause by artificial means condensation or precipitation of rain, snow, hail, moisture or water in any form contained in the atmosphere, or shall prevent or attempt to prevent by artificial means the natural condensation or precipitation of rain, snow, hail, moisture or water in any form contained in the atmosphere.
History.—s. 3, ch. 57-128; ss. 26, 35, ch. 69-106.
Note.—Former s. 373.281.

403.311 Application for weather modification licensing; fee.—

(1) Any person desiring to do or perform any of the acts specified in s. 403.301 may file with the department an application for a license on a form to be supplied by the department for such purpose setting forth all of the following:

(a) The name and post-office address of the applicant.

(b) The education, experience, and qualifications of the applicant, or if the applicant is not an individual, the education, experience, and qualifications of the persons who will be in control and in charge of the operation of the applicant.

(c) The name and post-office address of the person on whose behalf the weather modification operation is to be conducted if other than the applicant.

(d) The nature and object of the weather modification operation which the applicant proposes to conduct, including a general description of such operation.

(e) The method and type of equipment and the type and composition of materials that the applicant proposes to use.

(f) Such other pertinent information as the department may require.

[1](2) Each application shall be accompanied by a filing fee in the sum of $1,000 and proof of financial responsibility as required by s. 403.321.

History.—s. 4, ch. 57-128; ss. 26, 35, ch. 69-106; s. 18, ch. 88-393.

[1]Note.—Section 20, ch. 88-393, provides that "the Department of Environmental Regulation shall begin rulemaking to implement the provisions of sections 17, 18, and 19 no later than 30 days after [July 6, 1988]."

Note.—Former s. 373.291.

403.321 Proof of financial responsibility.—

(1) No license shall be issued to any person until he has filed with the department proof of ability to respond in damages for liability on account of accidents arising out of the weather modification operations to be conducted by him in the amount of $10,000 because of bodily injury to or death of one person resulting from any one incident, and subject to said limit for one person, in the amount of $100,000 because of bodily injury to or death of two or more persons resulting from any one incident, and in the amount of $100,000 because of injury to or destruction of property of others resulting from any one incident.

(2) Proof of financial responsibility may be given by filing with the department a certificate of insurance or a bond in the required amount.

History.—s. 5, ch. 57-128; ss. 26, 35, ch. 69-106.

Note.—Former s. 373.301.

403.331 Issuance of license; suspension or revocation; renewal.—

(1) The department shall issue a license to each applicant who:

(a) By education, skill and experience appears to be qualified to undertake the weather modification operation proposed in his application.

(b) Files proof of his financial responsibility as required by s. 403.321.

(c) Pays filing fee required in s. 403.311.

(2) Each such license shall entitle the licensee to conduct the operation described in the application for the calendar year for which the license is issued unless the license is sooner revoked or suspended. The conducting of any weather modification operation or the use of any equipment or materials other than those described in the application shall be cause for revocation or suspension of the license.

(3) The license may be renewed annually by payment of a filing fee in the sum of $50.

History.—s. 6, ch. 57-128; ss. 26, 35, ch. 69-106.

Note.—Former s. 373.311.

403.341 Filing and publication of notice of intention to operate; limitation on area and time.—Prior to undertaking any operation authorized by the license, the licensee shall file with the department and cause to be published a notice of intention. The licensee shall then confine his activities substantially within the time and area limits set forth in the notice of intention.

History.—s. 7, ch. 57-128; ss. 26, 35, ch. 69-106.

Note.—Former s. 373.321.

403.351 Contents of notice of intention.—The notice of intention shall set forth all of the following:

(1) The name and post-office address of the licensee.

(2) The name and post-office address of the persons on whose behalf the weather modification operation is to be conducted if other than the licensee.

(3) The nature and object of the weather modification operation which licensee proposes to conduct, including a general description of such operation.

(4) The method and type of equipment and the type and composition of the materials the licensee proposes to use.

(5) The area in which and the approximate time during which the operation will be conducted.

(6) The area which will be affected by the operation as nearly as the same may be determined in advance.

History.—s. 8, ch. 57-128.

Note.—Former s. 373.331.

403.361 Publication of notice of intention.—The licensee shall cause the notice of intention to be published at least once a week for 2 consecutive weeks in a newspaper having general circulation and published within any county wherein the operation is to be conducted and in which the affected area is located, or if the operation is to be conducted in more than one county or if the affected area is located in more than one county or is located in a county other than the one in which the operation is to be conducted, then such notice shall be published in like manner in a newspaper having a general circulation and published within each of such counties. In case there is no newspaper published within the appropriate county, publication shall be made in a newspaper having a general circulation within the county.

History.—s. 9, ch. 57-128.

Note.—Former s. 373.341.

403.371 Proof of publication.—Proof of publication shall be filed by the licensee with the department 15 days from the date of the last publication of notice. Proof of publication shall be by copy of the notice as published, attached to and made a part of the affidavit of the publisher or foreman of the newspaper publishing the notice.

History.—s. 10, ch. 57-128; ss. 26, 35, ch. 69-106.

Note.—Former s. 373.351.

403.381 Record and reports of operations.—

(1) Each licensee shall keep and maintain a record of all operations conducted by him pursuant to his license showing the method employed, the type and composition of materials used, the times and places of operation, the name and post office address of each person participating or assisting in the operation other than licensee and such other information as may be required by the department and shall report the same to the department at such times as it may require.

(2) The records of the department and the reports of all licensees shall be available for public examination.

History.—s. 11, ch. 57-128; ss. 26, 35, ch. 69-106.

Note.—Former s. 373.361.

403.391 Emergency licenses.—Notwithstanding any provisions of this act to the contrary, the department may grant a license permitting a weather modification operation without compliance by the licensee with the provisions of ss. 403.351-403.371, and without publication of notice of intention as required by s. 403.341 if the

operation appears to the department to be necessary or desirable in aid of the extinguishment of fire, dispersal of fog, or other emergency.

History.—s. 12, ch. 57-128; ss. 26, 35, ch. 69-106.
Note.—Former s. 373.371.

403.401 Suspension or revocation of license.—Any license may be revoked or suspended if the department finds that the licensee has failed or refused to comply with any of the provisions of this act.

History.—s. 13, ch. 57-128; s. 21, ch. 63-512; ss. 26, 35, ch. 69-106; s. 14, ch. 78-95.
Note.—Former s. 373.381.

403.411 Penalty.—Any person conducting a weather modification operation without first having procured a license, or who shall make a false statement in his application for license, or who shall fail to file any report or reports as required by this act, or who shall conduct any weather modification operation after revocation or suspension of his license, or who shall violate any other provision of this act, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083; and, if a corporation, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.083. Each such violation shall be a separate offense.

History.—s. 14, ch. 57-128; s. 351, ch. 71-136.
Note.—Former s. 373.391.

403.412 Environmental Protection Act.—

(1) This section shall be known and may be cited as the "Environmental Protection Act of 1971."

(2)(a) The Department of Legal Affairs, any political subdivision or municipality of the state, or a citizen of the state may maintain an action for injunctive relief against:

1. Any governmental agency or authority charged by law with the duty of enforcing laws, rules, and regulations for the protection of the air, water, and other natural resources of the state to compel such governmental authority to enforce such laws, rules, and regulations;

2. Any person, natural or corporate, or governmental agency or authority to enjoin such persons, agencies, or authorities from violating any laws, rules, or regulations for the protection of the air, water, and other natural resources of the state.

(b) In any suit under paragraph (a), the Department of Legal Affairs may intervene to represent the interests of the state.

(c) As a condition precedent to the institution of an action pursuant to paragraph (a), the complaining party shall first file with the governmental agencies or authorities charged by law with the duty of regulating or prohibiting the act or conduct complained of a verified complaint setting forth the facts upon which the complaint is based and the manner in which the complaining party is affected. Upon receipt of a complaint, the governmental agency or authority shall forthwith transmit, by registered or certified mail, a copy of such complaint to those parties charged with violating the laws, rules, and regulations for the protection of the air, water, and other natural resources of the state. The agency receiving such complaint shall have 30 days after the receipt thereof within which to take appropriate action. If such action is not taken within the time prescribed, the complaining party may institute the judicial proceedings authorized in paragraph (a). However, failure to comply with this subsection shall not bar an action for a temporary restraining order to prevent immediate and irreparable harm from the conduct or activity complained of.

(d) In any action instituted pursuant to paragraph (a), the court, in the interest of justice, may add as party defendant any governmental agency or authority charged with the duty of enforcing the applicable laws, rules, and regulations for the protection of the air, water, and other natural resources of the state.

(e) No action pursuant to this section may be maintained if the person (natural or corporate) or governmental agency or authority charged with pollution, impairment, or destruction of the air, water, or other natural resources of the state is acting or conducting operations pursuant to currently valid permit or certificate covering such operations, issued by the appropriate governmental authorities or agencies, and is complying with the requirements of said permits or certificates.

(f) In any action instituted pursuant to this section, other than an action involving a state NPDES permit authorized under s. 403.0885, the prevailing party or parties shall be entitled to costs and attorney's fees. Any award of attorney's fees in an action involving such a state NPDES permit shall be discretionary with the court. If the court has reasonable ground to doubt the solvency of the plaintiff or the plaintiff's ability to pay any cost or judgment which might be rendered against him in an action brought under this section, the court may order the plaintiff to post a good and sufficient surety bond or cash.

(3) The court may grant injunctive relief and impose conditions on the defendant which are consistent with and in accordance with law and any rules or regulations adopted by any state or local governmental agency which is charged to protect the air, water, and other natural resources of the state from pollution, impairment, or destruction.

(4) The doctrines of res judicata and collateral estoppel shall apply. The court shall make such orders as necessary to avoid multiplicity of actions.

(5) In any administrative, licensing, or other proceedings authorized by law for the protection of the air, water, or other natural resources of the state from pollution, impairment, or destruction, the Department of Legal Affairs, a political subdivision or municipality of the state, or a citizen of the state shall have standing to intervene as a party on the filing of a verified pleading asserting that the activity, conduct, or product to be licensed or permitted has or will have the effect of impairing, polluting, or otherwise injuring the air, water, or other natural resources of the state.

(6) Venue of any causes brought under this law shall lie in the county or counties wherein the cause of action is alleged to have occurred.

History.—ss. 1, 2, 3, 4, 5, 6, ch. 71-343; s. 24, ch. 88-393.

403.413 Florida Litter Law.—

(1) SHORT TITLE.—This section may be cited as the "Florida Litter Law."

(2) DEFINITIONS.—As used in this section:

(a) "Litter" means any garbage; rubbish; trash; re-

fuse; can; bottle; box; container; paper; tobacco product, tire; appliance; mechanical equipment or part; building or construction material; tool; machinery; wood; motor vehicle or motor vehicle part; vessel; aircraft; farm machinery or equipment; sludge from a waste treatment facility, water supply treatment plant, or air pollution control facility; or substance in any form resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations.

(b) "Person" means any individual, firm, sole proprietorship, partnership, corporation, or unincorporated association.

(c) "Law enforcement officer" means any officer of the Florida Highway Patrol, a county sheriff's department, a municipal law enforcement department, a law enforcement department of any other political subdivision, the Department of Natural Resources, or the Game and Fresh Water Fish Commission. In addition, and solely for the purposes of this section, "law enforcement officer" means any employee of a county or municipal park or recreation department designated by the department head as a litter enforcement officer.

(d) "Aircraft" means a motor vehicle or other vehicle that is used or designed to fly but does not include a parachute or any other device used primarily as safety equipment.

(e) "Commercial purpose" means for the purpose of economic gain.

(f) "Commercial vehicle" means a vehicle that is owned or used by a business, corporation, association, partnership, or sole proprietorship or any other entity conducting business for a commercial purpose.

(g) "Dump" means to dump, throw, discard, place, deposit, or dispose of.

(h) "Motor vehicle" means an automobile, motorcycle, truck, trailer, semitrailer, truck tractor, or semitrailer combination or any other vehicle that is powered by a motor.

(i) "Vessel" means a boat, barge, or airboat or any other vehicle used for transportation on water.

(3) RESPONSIBILITY OF LOCAL GOVERNING BODY OF A COUNTY OR MUNICIPALITY.—The local governing body of a county or a municipality shall determine the training and qualifications of any employee of the county or municipality or any employee of the county or municipal park or recreation department designated to enforce the provisions of this section if the designated employee is not a regular law enforcement officer.

(4) DUMPING LITTER PROHIBITED.—Unless otherwise authorized by law or permit, it is unlawful for any person to dump litter in any manner or amount:

(a) In or on any public highway, road, street, alley, or thoroughfare, including any portion of the right-of-way thereof, or any other public lands, except in containers or areas lawfully provided therefor. When any litter is thrown or discarded from a motor vehicle, the operator or owner of the motor vehicle, or both, shall be deemed in violation of this section;

(b) In or on any freshwater lake, river, canal, or stream or tidal or coastal water of the state, including canals. When any litter is thrown or discarded from a boat, the operator or owner of the boat, or both, shall be deemed in violation of this section; or

(c) In or on any private property, unless prior consent of the owner has been given and unless such litter will not cause a public nuisance or be in violation of any other state or local law, rule, or regulation.

(5) PENALTIES; ENFORCEMENT.—

(a) Any person who dumps litter in violation of subsection (4) in an amount not exceeding 15 pounds in weight or 27 cubic feet in volume and not for commercial purposes is guilty of a noncriminal infraction, punishable by a civil penalty of $50. In addition, the court may require the violator to pick up litter or perform other labor commensurate with the offense committed.

(b) Any person who dumps litter in violation of subsection (4) in an amount exceeding 15 pounds in weight or 27 cubic feet in volume, but not exceeding 500 pounds in weight or 100 cubic feet in volume and not for commercial purposes is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. In addition, the court shall require the violator to pick up litter or perform other community service commensurate with the offense committed. Further, if the violation involves the use of a motor vehicle, upon a finding of guilt, whether or not adjudication is withheld or whether imposition of sentence is withheld, deferred, or suspended, the court shall forward a record of the finding to the Department of Highway Safety and Motor Vehicles, which shall record a penalty of three points on the violator's driver's license pursuant to the point system established by s. 322.27.

(c) Any person who dumps litter in violation of subsection (4) in an amount exceeding 500 pounds in weight or 100 cubic feet in volume or in any quantity for commercial purposes, or dumps litter which is a hazardous waste as defined in s. 403.703, is guilty of a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083. In addition, the court may order the violator to:

1. Remove or render harmless the litter that he dumped in violation of this section;

2. Repair or restore property damaged by, or pay damages for any damage arising out of, his dumping litter in violation of this section; or

3. Perform public service relating to the removal of litter dumped in violation of this section or to the restoration of an area polluted by litter dumped in violation of this section.

(d) A court may enjoin a violation of this section.

(e) A motor vehicle, vessel, aircraft, container, crane, winch, or machine used to dump litter that exceeds 500 pounds in weight or 100 cubic feet in volume is declared contraband and is subject to forfeiture in the same manner as provided in ss. 932.703 and 932.704.

(f) If a person sustains damages arising out of a violation of this section that is punishable as a felony, a court, in a civil action for such damages, shall order the person to pay the injured party threefold the actual damages or $200, whichever amount is greater. In addition, the court shall order the person to pay the injured party's court costs and attorney's fees. A final judgment rendered in a criminal proceeding against a defendant under this section estops the defendant from asserting any issue in a subsequent civil action under this paragraph which he would be estopped from asserting if such judg-

ment were rendered in the civil action unless the criminal judgment was based upon a plea of no contest or nolo contendere.

(g) For the purposes of this section, if a person dumps litter from a commercial vehicle, that person is presumed to have dumped the litter for commercial purposes.

(h) In the criminal trial of a person charged with violating this section, the state does not have the burden of proving that the person did not have the right or authority to dump the litter or that litter dumped on private property causes a public nuisance. The defendant has the burden of proving that he had authority to dump the litter and that the litter dumped does not cause a public nuisance.

(i) It shall be the duty of all law enforcement officers to enforce the provisions of this section.

(6) ENFORCEMENT BY CERTAIN COUNTY OR MUNICIPAL EMPLOYEES.—Employees of counties or municipalities whose duty it is to ensure code compliance or to enforce codes and ordinances may be designated by the governing body of the county or the municipality to enforce the provisions of this section. Designation of such employees shall not provide the employees with the authority to bear arms or to make arrests.

(7) ENFORCEMENT OF OTHER REGULATIONS.—This section does not limit the authority of any state or local agency to enforce other laws, rules, or ordinances relating to litter or solid waste management.

History.—ss. 1, 2, 3, 4, 4A, ch. 71-239; s. 1, ch. 75-266; s. 1, ch. 77-82; s. 1, ch. 78-202; s. 7, ch. 80-382; s. 1, ch. 82-63; s. 1, ch. 88-79; s. 56, ch. 88-130; s. 12, ch. 89-175; s. 14, ch. 89-268.

[1]**Note.**—Section 775.084 was amended by s. 6, ch. 88-131, deleting all reference to misdemeanors.

403.4131 "Keep Florida Beautiful, Incorporated"; Clean Florida Commission; placement of signs.—

(1) It is the intent of the Legislature that a coordinated effort of interested state and local agencies of government and other public and private organizations and interests be developed to plan for and implement a solution to the litter problems in this state and that the state provide financial assistance for the establishment of a nonprofit organization with the name of "Keep Florida Beautiful, Incorporated" which shall be registered, incorporated, and operated in compliance with chapter 617. This nonprofit organization shall operate as the grassroots arm of the state's effort and shall serve as an umbrella organization for volunteer-based community programs dedicated to a cleaner environment through sustained litter prevention. The membership of the board of directors of this nonprofit organization may include representatives of the following organizations: the Florida League of Cities, the Florida Association of Counties, the Florida Chapter of the National Solid Waste Management Association, the Florida Audubon Society, the Florida Nature Conservancy, the Florida Chapter of the Sierra Club, the Associated Industries of Florida, the Florida Soft Drink Association, the Florida Petroleum Council, the Florida Retail Grocers Association, the Florida Retail Federation, the Pulp and Paper Association, the Florida Automobile Dealers Association, the Beer Industries of Florida, the Florida Beer Wholesalers Association, and the Distilled Spirits Wholesalers.

(2) As used in this section:

(a) "Department" means the Department of Transportation.

(b) "Litter" means any garbage, rubbish, trash, refuse, can, bottle, container, paper, lighted or unlighted cigarette or cigar, or flaming or glowing material.

(c) "Littering" means the act of throwing, discarding, placing, depositing, or otherwise disposing of litter improperly along public highways, on public or private lands, or in public waters.

[1](3) There is created within the Department of Transportation the Clean Florida Commission, which shall be responsible for coordinating a statewide litter prevention program involving state agencies, local governments, local organizations, and individuals. The Clean Florida Commission shall consist of the following members or their designees:

(a) The Secretary of Environmental Regulation, who shall be the chairman.

(b) The Secretary of Transportation.

(c) The Executive Director of the Department of Natural Resources.

(d) The Commissioner of Education.

(e) The Secretary of Commerce.

These members shall serve as ex officio members of the commission and shall be considered as the base members of the commission. Additional members from interested state agencies, local governments, and state and local organizations may serve on the commission by unanimous consent of the commission's base members.

[1](4) The commission shall have the following powers and duties:

(a) To appoint an executive director, who may employ such other administrative staff and clerical staff as are necessary to carry out the purpose of litter prevention in this state as identified in this section. Such employment by the commission may be pursuant to contract with a public or private entity.

(b) To establish an "adopt-a-highway" program to allow local organizations to be identified with specific highway cleanup and beautification projects.

(c) To contract for the development of a highly visible antilitter campaign which shall at a minimum:

1. Identify groups that habitually litter.

2. Design appropriate advertising to promote proper disposal of litter by groups that habitually litter.

3. Foster public awareness of the litter problem in this state and the litter prevention program.

4. Develop educational programs and materials to promote proper disposal of litter.

5. Use talent, equipment or expertise donated from the private sector for producing multimedia materials.

(d) To make and execute contracts necessary to the exercise of its powers, including interagency agreements.

(e) To engage in the planning of a litter prevention program.

(f) To conduct, direct, encourage, coordinate, and organize a continuous program of public education relating to litter prevention.

(g) To review, upon request, all plans and activities pertinent to reducing litter and littering and to coordi-

nate these activities with the various levels of government as well as other local organizations.

(h) To coordinate with state and local organizations to market programs promoting litter prevention and to facilitate the exchange of such programs between local organizations through annual conferences.

(i) To make available to elementary and secondary schools and other public forums educational programs and materials to promote proper disposal of litter.

(j) To develop and implement statewide incentive programs designed to motivate individual citizens, local organizations, local governments, and other groups interested in participating in litter prevention program activities.

(k) To provide grants to local governments and nonprofit organizations to be used to implement litter prevention programs through education and broad-based citizen involvement at the community level. Except as specifically appropriated, such grants may provide up to one-half of the first year costs to initiate and operate such programs, or $25,000, whichever is less. Such grants shall be awarded on a priority basis with applicants requesting funding for the establishment of local litter prevention systems receiving first priority.

(l) To monitor the effectiveness of the litter prevention program on an annual basis and to prepare an annual report of operations that includes the results of such monitoring. The annual report shall be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than February 1 of each year, beginning on February 1, 1990.

(5) The department shall place signs discouraging litter at all off-ramps of the interstate highway system in the state. The department shall place other highway signs as necessary to discourage littering through use of the antilitter program developed by the commission.

History.—s. 55, ch. 88-130; s. 1, ch. 89-37; s. 2, ch. 89-296.

*Note.—Repealed effective October 1, 1998, by s. 2, ch. 89-296, and scheduled for review pursuant to s. 11.611.

403.4132 Litter pickup and removal.—The Florida Youth Conservation Corps and local governments are encouraged to initiate programs to supplement the existing litter removal program for public places and highway systems operated by the Department of Transportation. To the extent that funds are available from the department for litter pickup and removal programs beyond those annually available to the Department of Corrections, priority shall be given to contracting for supplemental litter removal programs that use youth employment programs.

History.—s. 58, ch. 88-130.

403.4135 Litter receptacles.—

(1) DEFINITIONS.—As used in this section "litter" and "vessel" have the same meanings as provided in s. 403.413.

(2) RECEPTACLES REQUIRED.—All ports, terminal facilities, boatyards, marinas, and other commercial facilities which house vessels and from which vessels disembark shall provide or ensure the availability of litter receptacles of sufficient size and capacity to accommodate the litter and other waste materials generated on board the vessels using its facilities, except for large quantities of spoiled or damaged cargos not usually discharged by a ship. The Department of Environmental Regulation may enforce violations of this section pursuant to ss. 403.121 and 403.131.

History.—s. 13, ch. 89-175.

403.414 Pollution control awards program.—

(1) There is hereby created a pollution control awards program to be administered by the Department of Commerce.

(2) Awards under the pollution control awards program may be granted to agencies, municipalities, counties, or other governmental units and private organizations, institutions, industries, communication media, and residents of the state for efforts in preventing or cleaning up pollution as provided by rules and regulations promulgated by the Department of Commerce. Special awards may be granted to those agencies, municipalities, counties, or other governmental units and private organizations, institutions, industries, communication media, and residents of the state who have made an outstanding effort to prevent or clean up pollution as provided by rules and regulations promulgated by the Department of Commerce. All awards and special awards must be approved by the Department of Commerce, but the Department of Environmental Regulation shall have the power to veto any award which, in the opinion of the Department of Environmental Regulation, would be so controversial as to be unadvisable.

(3) Awards or special awards may be presented in the following categories:

(a) Water pollution.

(b) Air pollution.

(c) Noise pollution.

(d) Communication media on pollution problems.

(4) Any agency, municipality, county, or other governmental unit or private organization, institution, industry, communication medium, or resident of the state may submit to the Department of Commerce at any time the name of any agency, municipality, county, or other governmental unit or private organization, institution, industry, communication medium, or resident of the state for consideration for an award or special award. Prior to consideration by the Department of Commerce, nominees shall be required to submit to the department such additional information as the department may require, including, but not limited to, a list of all plant operations and subsidiaries in Florida. The Department of Commerce shall consider such nominations at least twice a year.

(5) The Department of Commerce shall adopt reasonable rules and regulations to carry out the intent and purposes of this act in accordance with chapter 120.

History.—ss. 1, 2, 3, 4, 5, 6, ch. 74-60; s. 81, ch. 79-65; s. 264, ch. 81-259.

403.415 Motor vehicle noise.—

(1) SHORT TITLE.—This act shall be known and may be cited as the "Florida Motor Vehicle Noise Prevention and Control Act of 1974."

(2)(a) LEGISLATIVE INTENT.—The intent of the Legislature is to implement the state constitutional mandate of s. 7, Art. II of the State Constitution to improve the quality of life in the state by limiting the noise of new mo-

tor vehicles sold in the state and the noise of motor vehicles used on the highways of the state.

(b) It is also the intent of the Legislature to recognize the proposed United States Environmental Protection Act Noise Commission Standards Regulations for medium and heavy-duty trucks as being the most comprehensive available and in the best interest of Florida's citizenry and, further, that such regulation shall preempt all state standards not identical to such regulation.

(3) DEFINITIONS.—The following words and phrases when used in this section shall have the meanings respectively assigned to them in this subsection, except where the context otherwise requires:

(a) "dB A" means the composite abbreviation for A-weighted sound level, and the unit of sound level, the decibel.

(b) "Gross combination weight rating" or "GCWR" means the value specified by the manufacturer as the loaded weight of a combination vehicle.

(c) "Gross vehicle weight rating" or "GVWR" means the value specified by the manufacturer as the loaded weight of a single vehicle.

(d) "Motor vehicle" means any vehicle which is self-propelled and any vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(e) "Motorcycle" means any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor or a moped.

(f) "Moped" means any vehicle with pedals to permit propulsion by human power, having a seat or saddle for the use of the rider and designed to travel on not more than three wheels, with a motor rated not in excess of 2 brake horsepower and not capable of propelling the vehicle at a speed greater than 30 miles per hour on level ground, and with a power-drive system that functions directly or automatically without clutching or shifting gears by the operator after the drive system is engaged. If an internal combustion engine is used, the displacement may not exceed 50 cubic centimeters.

(g) "Sound level" means the A-weighted sound pressure level measured with fast response using an instrument complying with the specification for sound level meters of the American National Standards Institute, Inc., or its successor bodies, except that only A-weighting and fast dynamic response need be provided.

(h) "Vehicle" means any device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

(i) "Department" means the Department of Environmental Regulation.

(4) NEW VEHICLE NOISE LIMITS.—No person shall sell, offer for sale, or lease a new motor vehicle that produces a maximum sound level exceeding the following limits at a distance of 50 feet from the center of the lane of travel under test procedures established under subsection (5):

(a) For motorcycles:

Date of manufacture	Sound level limit
From January 1, 1973, to December 31, 1974	86 dB A
On or after January 1, 1975	83 dB A

(b) For any motor vehicle with a GVWR over 10,000 pounds, for any school bus, and for any multipurpose passenger vehicle, which is defined as a motor vehicle with motive power designed to carry 10 persons or less and constructed either on a truck chassis or with special features for occasional off-road operation:

Date of manufacture	Sound level limit
From January 1, 1973, to December 31, 1976	86 dB A
On or after January 1, 1977	83 dB A

(5) TEST PROCEDURES.—The test procedures for determining compliance with this section shall be established by regulation of the Department of Environmental Regulation and in cooperation with the Department of Highway Safety and Motor Vehicles in substantial conformance with applicable standards and recommended practices established by the Society of Automotive Engineers, Inc., or its successor bodies, and the American National Standards Institute, Inc., or its successor bodies, for the measurement of motor vehicle sound levels. Regulations establishing these test procedures shall be promulgated no later than December 1, 1974.

(6) CERTIFICATION.—The manufacturer, distributor, importer, or designated agent thereof shall file a written certificate with the department stating that the specific makes and models of motor vehicles described thereon comply with the provisions of this section. No new motor vehicle shall be sold, offered for sale, or leased unless such certificate has been filed.

(7) NOTIFICATION OF CERTIFICATION.—The department shall notify the Department of Highway Safety and Motor Vehicles of all makes and models of motor vehicles for which valid certificates of compliance with the provisions of this section are filed.

(8) REPLACEMENT EQUIPMENT.—

(a) No person shall sell or offer for sale for use as a part of the equipment of a motor vehicle any exhaust muffler, intake muffler, or other noise abatement device which, when installed, will permit the vehicle to be operated in a manner that the emitted sound level of the vehicle is increased above that emitted by the vehicle as originally manufactured and determined by the test procedures for new motor vehicle sound levels established under this section.

(b) The manufacturer, distributor, or importer, or designated agent thereof, shall file a written certificate with the department that his products sold within this state comply with the requirements of this section for their intended applications.

(9) OPERATING VEHICLE NOISE MEASUREMENTS.—The department shall establish, with the cooperation of the Department of Highway Safety and Motor Vehicles, measurement procedures for determining compliance of operating vehicles with the noise limits of s. 316.293(2). The department shall advise the Depart-

ment of Highway Safety and Motor Vehicles on technical aspects of motor vehicle noise enforcement regulations, assist in the training of enforcement officers, and administer a sound-level meter loan program for local enforcement agencies.

(10) ENACTMENT OF LOCAL ORDINANCES LIMITED.—The provisions of this section shall be applicable and uniform throughout this state and in all political subdivisions and municipalities therein, and no local authority shall enact or enforce any ordinance on a matter covered by this section unless expressly authorized. However, this subsection shall not prevent any local authority from enacting an ordinance when such enactment is necessary to vest jurisdiction of violation of this section in the local court.

History.—ss. 1, 2, 3, ch. 74-110; ss. 1, 2, ch. 75-59; s. 1, ch. 76-289; s. 1, ch. 78-280; s. 82, ch. 79-65; s. 98, ch. 79-164; s. 1, ch. 80-338; s. 1, ch. 82-49; s. 22, ch. 87-161.

403.4151 Exempt motor vehicles.—The provisions of this act shall not apply to any motor vehicle which is not required to be licensed under the provisions of chapter 320.

History.—s. 7, ch. 74-110.

403.4153 Federal preemption.—On and after the date of promulgation of noise emission standards by the administrator of the United States Environmental Protection Agency for a class of new motor vehicles as described in paragraphs 403.415(4)(a), (b), or [1](c), the state sound level limits in effect at that time for that class of vehicles shall be maintained until the federal standards become effective.

History.—s. 2, ch. 76-289.

[1]**Note.**—Paragraph (4)(c) of s. 403.415 was repealed by s. 22, ch. 87-161. Note, however, that generally a specific cross-reference is unaffected by subsequent amendments to or repeal of the statute. See Preface.

PART II

ELECTRICAL POWER PLANT SITING

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403.501 Short title.—Sections 403.501-403.517 shall be known and may be cited as the "Florida Electrical Power Plant Siting Act."

History.—s. 1, ch. 73-33; s. 1, ch. 76-76.

403.502 Legislative intent.—The Legislature finds that the present and predicted growth in electric power demands in this state requires the development of a procedure for the selection and utilization of sites for electrical generating facilities and the identification of a state position with respect to each proposed site. The Legislature recognizes that the selection of sites and the routing of associated transmission lines will have a significant impact upon the welfare of the population, the location and growth of industry, and the use of the natural resources of the state. The Legislature finds that the efficiency of the permit application and review process at both the state and local level would be improved with the implementation of a process whereby a permit application would be centrally coordinated and all permit decisions could be reviewed on the basis of standards and recommendations of the deciding agencies. It is the policy of this state that, while recognizing the pressing need for increased power generation facilities, the state shall ensure through available and reasonable methods that the location and operation of electrical power plants will produce minimal adverse effects on human health, the environment, the ecology of the land and its wildlife, and the ecology of state waters and their aquatic life. It is the intent to seek courses of action that will fully balance the increasing demands for electrical power plant location

and operation with the broad interests of the public. Such action will be based on these premises:

(1) To assure the citizens of Florida that operation safeguards are technically sufficient for their welfare and protection.

(2) To effect a reasonable balance between the need for the facility and the environmental impact resulting from construction and operation of the facility, including air and water quality, fish and wildlife, and the water resources and other natural resources of the state.

(3) To provide abundant, low-cost electrical energy.

History.—s. 1, ch. 73-33.

403.503 Definitions.—

(1) "Applicant" means any electric utility which makes application for an electric power plant site certification pursuant to the provisions of this act.

(2) "Application" means the documents required by the department to be filed to initiate a certification proceeding and shall include the documents necessary for the department to render a decision on any permit required pursuant to any federally delegated or approved permit program.

(3) "Person" means an individual, partnership, joint venture, private or public corporation, association, firm, public service company, political subdivision, municipal corporation, government agency, public utility district, or any other entity, public or private, however organized.

(4) "Electric utility" means cities and towns, counties, public utility districts, regulated electric companies, electric cooperatives, and joint operating agencies, or combinations thereof, engaged in, or authorized to engage in, the business of generating, transmitting, or distributing electric energy.

(5) "Site" means any proposed location wherein an electrical power plant, or an electrical power plant alteration or addition resulting in an increase in generating capacity, will be located, including offshore sites within state jurisdiction.

(6) "Certification" means the written order of the board approving an application in whole or with such modifications or conditions as the board may deem appropriate.

(7) "Electrical power plant" means, for the purpose of certification, any steam or solar electrical generating facility using any process or fuel, including nuclear materials, and includes associated facilities and those directly associated transmission lines required to connect the electrical power plant to an existing transmission network or rights-of-way to which the applicant intends to connect, except that this term does not include any steam or solar electrical generating facility of less than 75 megawatts in capacity unless the applicant for such a facility elects to apply for certification under this act.

(8) "Department" means the Department of Environmental Regulation.

(9) "Board" means the Governor and Cabinet sitting as the Siting Board.

(10) "Agency," as the context requires, means an official, officer, commission, authority, council, committee, department, division, bureau, board, section, or other unit or entity of government, including a regional or local governmental entity.

(11) "State comprehensive plan" means that plan prepared in accordance with the provisions of [1]part I of chapter 23.

(12) "License" means a franchise, permit, certification, registration, charter, or similar form of authorization required by law, but it does not include a license required primarily for revenue purposes when issuance of the license is merely a ministerial act.

(13) "Designated hearing officer" means the hearing officer assigned by the Division of Administrative Hearings pursuant to chapter 120 to conduct the hearings required by this part.

(14) "Notice of intent" means that notice which is filed with the department on behalf of an electric utility prior to submission of an application pursuant to this act and which notifies the department of an intent to file an application.

(15) "Modification" means any change in the certification order after issuance, including a change in the conditions of certification.

(16) "Amendment" means any change in the application for certification made after the initial filing.

(17) "Federally delegated or approved permit program" means any environmental regulatory program approved by an agency of the Federal Government so as to authorize the department to administer and issue permits pursuant to federal law, including, but not limited to, new source review and prevention of significant deterioration permits under the Clean Air Act (42 U.S.C. s. 7401 et seq.), permits under sections 402 and 404 of the Clean Water Act (33 U.S.C. s. 1251 et seq.), and permits under the [2]Resource Conservation and Recovery Act (42 U.S.C. s. 6901 et seq.).

History.—s. 1, ch. 73-33; s. 1, ch. 76-76; s. 1, ch. 79-76; s. 3, ch. 81-131; s. 14, ch. 86-173; s. 22, ch. 86-186.

[1]Note.—Provisions relating to the state comprehensive plan were transferred by the reviser from ch. 23 to ch. 186 in 1984.

[2]Note.—The Resource Conservation and Recovery Act of 1976.

403.504 Department of Environmental Regulation; powers and duties enumerated.—The Department of Environmental Regulation shall have the following powers and duties in relation to this act:

(1) To adopt, promulgate, or amend reasonable rules to implement the provisions of this act, including rules setting forth environmental precautions to be followed in relation to the location and operation of electrical power plants.

(2) To prescribe the form and content of the notice of intent and the form, content, and necessary supporting documentation and studies to be prepared by the applicant for electric power plant site certification applications.

(3) To receive applications for electrical power plant site certifications and to determine the completeness and sufficiency thereof.

(4) To make, or contract for, studies of electrical power plant site certification applications.

(5) To administer the processing of applications for electric power plant site certifications and to ensure that the applications are processed as expeditiously as possible.

(6) To notify all affected agencies of the filing of an application within 15 days of receiving the complete application.

(7)(a) To require an application fee for certification not to exceed $50,000. The application fee shall be paid to the department upon the filing of each application for site certification. The fee shall be fixed by rule on a sliding scale related to the size, type, ultimate site capacity, or increase in generating capacity proposed by the application. A minimum fee of $5,000 shall be required for each application. All reasonable expenses and costs of the proceeding incurred by the department, the Division of Administrative Hearings, the Public Service Commission, the Department of Community Affairs, the water management district, created pursuant to chapter 373, in the jurisdiction of which the facility is to be located, or any other agency from which the department requests special studies pursuant to s. 403.507(1)(d), including those expenses and costs which are associated with the cost of publication of public notices, the preparation and conduct of the hearings, the recording and transcription of the proceedings, and the studies required of the agencies by this act, shall be paid from the application fee. Any sums remaining after the payment of authorized costs shall be refunded to the applicant within 90 days of the issuance or denial of certification or withdrawal of the application. The applicant shall be provided with an itemized accounting of the expenditures.

(b) To require a fee of $2,500 to be submitted to the department with a notice of intent. The notice-of-intent fee shall be used, disbursed, and refunded in the same manner as the application fee and shall be a credit toward the application fee.

(8) To prepare a written analysis which shall be filed with the designated hearing officer and served on all parties no later than 8 months after the complete application is filed with the department, and which shall include:

(a) A statement indicating whether the proposed electrical power plant and proposed ultimate site capacity will be in compliance with the rules of the department.

(b) The report from the Public Service Commission as required by ss. 403.507 and 403.519.

(c) The report of the Department of Community Affairs as required by s. 403.507.

(d) The report from the water management district as required by s. 403.507.

(e) The studies conducted pursuant to s. 403.507.

(f) The comments received by the department from any other agency.

(g) The recommendation of the department as to the disposition of the application and any proposed conditions of certification which the department believes should be imposed.

(h) Any notice of proposed department action regarding any permit required pursuant to a federally delegated or approved permit program.

(9) To provide adequate public notice of the filing of the application and of the proceedings conducted pursuant to this part, including the notice requirements applicable under any federally delegated or approved permit program.

(10) To prescribe the means for monitoring the effects arising from the construction and operation of electrical power plants to assure continued compliance with terms of the certification.

(11) To notify all agencies affected of the filing of a notice of intent within 15 days of receipt of the notice and to publish public notice that the department has received such notice of intent.

(12) To require a certification modification fee, not to exceed $5,000, from the party petitioning for the modification, which fee shall be submitted to the department with a formal petition for modification to the department pursuant to *s. 403.516(3). Any sums remaining after the proceeding shall be refunded to the petitioner within 90 days after approval or denial of the modification.

(13) To withhold from the application fee established by this section a reasonable sum sufficient to cover costs associated with postcertification review of activities required by any condition of certification. Such sums shall be specified as a part of each condition. Upon completion of any such reviews, any sums remaining shall be refunded to the applicant.

(14) To issue, simultaneously with the electrical power plant certification, any permit required pursuant to any federally delegated or approved permit program.

History.—s. 1, ch. 73-33; s. 1, ch. 76-76; s. 1, ch. 77-174; s. 132, ch. 79-190; s. 4, ch. 81-131; s. 35, ch. 81-167; s. 35, ch. 83-55; s. 23, ch. 86-186.

*Note.—Section 403.516 contains no subsection (3); however, it appears the information concerning petition for modification is contained in s. 403.516(1)(c).

403.506 Applicability and certification.—

(1) The provisions of this chapter shall apply to any electrical power plant as defined herein, except that the provisions of the Florida Electrical Power Plant Siting Act shall not apply to any electrical power plant or steam generating plant of less than 75 megawatts in capacity unless the applicant has elected to apply for certification under this act. No construction of any new electrical power plant or expansion in steam generating capacity of any existing electrical power plant may be undertaken after October 1, 1973, without first obtaining certification in the manner as herein provided, except that this act shall not apply to any such electrical power plant which is presently operating or under construction or which has, upon the effective date of chapter 73-33, Laws of Florida, applied for a permit or certification under requirements in force prior to the effective date of such act.

(2) Except as provided in the certification, modification of nonnuclear fuels, internal related hardware, or operating conditions not in conflict with certification which increase the electrical output of a unit to no greater capacity than the maximum operating capacity of the existing generator shall not constitute an alteration or addition to generating capacity which requires certification pursuant to this act.

(3) The application for any related department permit which is required pursuant to any federally delegated or approved permit program shall be processed within the time periods allowed by this act, in lieu of those specified in s. 120.60.

History.—s. 1, ch. 73-33; s. 3, ch. 76-76; s. 2, ch. 79-76; s. 5, ch. 81-131; s. 15, ch. 86-173; s. 24, ch. 86-186.

403.5063 Notice of intent to file application.—

(1) To expedite the processing of the application which may be filed subsequently, the applicant for a pro-

posed power plant may file a notice of intent to file an application with the department.

(2) The department shall establish, by rule, a procedure by which an applicant, after public notice, may enter into binding written agreements with the department and other affected agencies as to the scope, quantity, and level of information to be provided in the application, as well as the methods to be used in providing such information and the nature of the supporting documents to be included in the application.

History.—s. 6, ch. 81-131.

403.5065 Appointment of hearing officer; determination of completeness; amendment to the application.—

(1) Within 7 days of receipt of an application, whether complete or not, the department shall request the Division of Administrative Hearings to designate a hearing officer to conduct the hearings required by this act. The division director shall designate a hearing officer within 7 days of receipt of the request from the department. In designating a hearing officer for this purpose, the division director shall, whenever practicable, assign a hearing officer who has had prior experience or training in electric power plant site certification proceedings. Upon being advised that a hearing officer has been appointed, the department shall immediately file a copy of the application and all supporting documents with the designated hearing officer, who shall docket the application.

(2) Within 10 working days of receipt of an application, the department shall file a statement with the Division of Administrative Hearings and with the applicant declaring its position with regard to the completeness, not the sufficiency, of the application. If the department declares the application to be incomplete, then, within 15 working days of the receipt by the department of the application, the applicant shall file with the Division of Administrative Hearings and with the department a statement agreeing with the statement of the department and withdrawing the application or contesting the statement of the department. If the application is not withdrawn, the hearing officer shall schedule a hearing on the statement of completeness. The hearing shall be scheduled as expeditiously as possible, but no later than 30 days after the receipt of the application by the department. The designated hearing officer shall make his decision within 10 days of the hearing. If the designated hearing officer determines that the application was not complete as filed, then the applicant shall withdraw the application. If the hearing officer determines that the application was complete at the time it was filed, then the times provided in this act shall run from the date of the filing of such application.

(3) Any amendment made to the application after filing shall be served on all parties and agencies that have received the initial application.

History.—s. 4, ch. 76-76; s. 1, ch. 77-174; s. 7, ch. 81-131.

403.507 Reports and studies.—

(1) It shall be the duty of the department to provide copies of the application as filed, within 15 days of its receipt by the department, to the Department of Community Affairs, the Public Service Commission, and the water management district, created by chapter 373, in the jurisdiction of which the facility is to be located. The applicant, at its cost, shall furnish such information, studies, and data as the department may direct.

(a) Within 5 months of receipt of a copy of the complete application, the Department of Community Affairs shall present a report as to the compatibility of the proposed electrical power plant with the state comprehensive plan to the department. The Department of Community Affairs shall submit a preliminary report within 60 days of receipt of a copy of the complete application.

(b) The Public Service Commission shall prepare a report as to the present and future need for the electrical generating capacity to be supplied by the proposed electrical power plant. The report may include the comments of the commission with respect to any matters within its jurisdiction. It shall submit its report to the department within 5 months of receipt of a copy of the complete application. The commission shall submit a preliminary report within 60 days of receipt of a copy of the complete application.

(c) Within 5 months of receipt of a copy of the complete application, the water management district, as defined in chapter 373, in the jurisdiction of which the proposed electrical power plant is to be located shall prepare a report as to matters within its jurisdiction. The water management district shall submit a preliminary report within 60 days of receipt of a copy of the complete application.

(d) The department may request that any other agency perform studies and prepare reports as to matters within the jurisdiction of that agency which may be potentially affected by the proposed electrical power plant. Such studies or reports shall be submitted to the department within 5 months of receipt of a copy of the complete application by that agency.

(2) As needed to verify or supplement the studies made by the applicant in support of the application, it shall be the duty of the department to conduct, or contract for, studies of the proposed electrical power plant and site, including, but not limited to, the following:

(a) Cooling system requirements.

(b) Construction and operational safeguards.

(c) Proximity to transportation systems.

(d) Soil and foundation conditions.

(e) Impact on suitable present and projected water supplies for this and other competing uses.

(f) Impact on surrounding land uses.

(g) Accessibility to transmission corridors.

(h) Environmental impacts.

(i) Requirements applicable under any federally delegated or approved permit program.

(3) The department shall initiate the activities required by this section no later than 30 days after the complete application is filed. The department shall keep the applicant informed as to the progress of the studies and any issues raised thereby.

(4) The studies required by subsection (2) shall be completed no later than 7 months after the complete application is filed with the department.

History.—s. 1, ch. 73-33; s. 5, ch. 76-76; s. 133, ch. 79-190; s. 8, ch. 81-131; s. 33, ch. 81-169; s. 36, ch. 83-55; s. 25, ch. 86-186.

403.508 Proceedings, parties, participants.—

(1) The designated hearing officer shall conduct a land use hearing in the county of the proposed site within 90 days of receipt of a complete application for electrical power plant site certification by the department. The place of such hearing shall be as close as possible to the proposed site. The department shall arrange for publication of notice of the land use hearing and of the deadline for filing of notice of intent to be a party at least 45 days before the date set for the land use hearing.

(2) The sole issue for determination at the land use hearing shall be whether or not the proposed site is consistent and in compliance with existing land use plans and zoning ordinances. The designated hearing officer's recommended order shall be issued within 30 days of completion of the hearing and shall be reviewed by the board within 45 days of receipt of the recommended order by the board. If it is determined by the board that the proposed site does conform with existing land use plans and zoning ordinances in effect as of the date of the application, the responsible zoning or planning authority shall not thereafter change such land use plans or zoning ordinances so as to affect the proposed site unless certification is subsequently denied. If it is determined by the board that the proposed site does not conform, it shall be the responsibility of the applicant to make the necessary application for rezoning. Should the application for rezoning be denied, the applicant may appeal this decision to the board, which may, if it determines after notice and hearing that it is in the public interest to authorize a nonconforming use of the land as a site for an electrical power plant, authorize a variance to the existing land use plan and zoning ordinances. In the event a variance is denied, no further action may be taken on the complete application by the department until the proposed site conforms to existing land use plans or zoning ordinances.

(3) A certification hearing shall be held by the designated hearing officer no later than 10 months after the complete application is filed with the department; however, an affirmative determination of need by the Public Service Commission pursuant to s. 403.519 shall be a condition precedent to the conduct of the certification hearing. The certification hearing shall also constitute the sole hearing allowed by chapter 120 to determine the substantial interest of a party regarding any related permit required pursuant to any federally delegated or approved permit program. At the conclusion of the certification hearing, the designated hearing officer shall, after consideration of all evidence of record, submit to the board a recommended order no later than 12 months after receipt of the complete application by the department.

(4)(a) Parties to the proceeding shall include:

1. The applicant.
2. The Public Service Commission.
3. The Department of Community Affairs.
4. The water management district, as defined in chapter 373, in the jurisdiction of which the proposed electrical power plant is to be located.
5. The department.

(b) Upon the filing with the department of a notice of intent to be a party at least 15 days prior to the date set for the land use hearing, the following shall also be parties to the proceeding:

1. Any county or municipality in whose jurisdiction the proposed electrical power plant is to be located.
2. Any state agency not listed in paragraph (a) as to matters within its jurisdiction.
3. Any domestic nonprofit corporation or association formed, in whole or in part, to promote conservation or natural beauty; to protect the environment, personal health, or other biological values; to preserve historical sites; to promote consumer interests; to represent labor, commercial, or industrial groups; or to promote orderly development of the area in which the proposed electrical power plant is to be located.

(c) Notwithstanding paragraph (4)(d), failure of an agency described in subparagraphs (4)(b)1. or (4)(b)2. to file a notice of intent to be a party within the time provided herein shall constitute a waiver of the right of that agency to participate as a party in the proceeding.

(d) Other parties may include any person, including those persons enumerated in paragraph (4)(b) who have failed to timely file a notice of intent to be a party, whose substantial interests are affected and being determined by the proceeding and who timely file a motion to intervene pursuant to chapter 120 and applicable rules. Intervention pursuant to this paragraph may be granted at the discretion of the designated hearing officer and upon such conditions as he may prescribe any time prior to 15 days before the commencement of the certification hearing.

(e) Any agency whose properties or works are being affected pursuant to s. 403.509(2) shall be made a party upon the request of the department or the applicant.

(5) When appropriate, any person may be given an opportunity to present oral or written communications to the designated hearing officer. If the designated hearing officer proposes to consider such communications, then all parties shall be given an opportunity to cross-examine or challenge or rebut such communications.

(6) The designated hearing officer shall have all powers and duties granted to hearing officers by chapters 120 and 403 and by the rules of the department and the Administration Commission, including the authority to resolve disputes over the completeness of an application for certification.

History.—s. 1, ch. 73-33; s. 6, ch. 76-76; s. 1, ch. 77-174; s. 134, ch. 79-190; s. 9, ch. 81-131; s. 36, ch. 81-167; s. 37, ch. 83-55; s. 26, ch. 86-186.

403.509 Final disposition of application.—

(1) Within 60 days of receipt of the designated hearing officer's recommended order, the board shall act upon the application by written order, approving in whole, approving with modifications, or denying the issuance of a certificate, in accordance with the terms of this act, and stating the reasons for issuance or denial. If the certificate is denied, the board shall set forth in writing the action the applicant would have to take to secure the board's approval of the application.

(2) Simultaneously with the board's action on the application, the department shall issue or deny any permit required pursuant to any federally delegated or approved permit program. The department's decision to issue or deny the permit shall be based upon the record

and recommended order of the certification hearing. Unless the federally delegated or approved permit program provides otherwise, permits issued by the department under this subsection shall be effective for the term of the certification issued by the board. If renewal of any permit issued by the department pursuant to a federally delegated or approved permit program is required, such renewal shall not affect the certification issued by the board.

(3) In regard to the properties and works of any agency which is a party to the certification hearing, the board shall have the authority to decide issues relating to the use, the connection thereto, or the crossing thereof, for the electrical power plant and site and to direct any such agency to execute, within 30 days of the entry of certification, the necessary license or easement for such use, connection, or crossing, subject only to the conditions set forth in such certification.

(4) The issuance or denial of the certification by the board and the issuance or denial of any related department permit required pursuant to any federally delegated or approved permit program shall be the final administrative action required as to that application.

History.—s. 1, ch. 73-33; s. 7, ch. 76-76; s. 141, ch. 77-104; s. 27, ch. 86-186.

403.5095 Alteration of time limits.—Any time limitation in this part may be altered by the designated hearing officer upon stipulation between the department and the applicant or for good cause shown by any party.

History.—s. 8, ch. 76-76.

403.510 Superseded laws, regulations, and certification power.—

(1) If any provision of this act is in conflict with any other provision, limitation, or restriction which is now in effect under any law or ordinance of this state or any political subdivision or municipality, or any rule or regulation promulgated thereunder, this act shall govern and control, and such other law or ordinance or rule or regulation promulgated thereunder shall be deemed superseded for the purposes of this act.

(2) The state hereby preempts the regulation and certification of electrical power plant sites and electrical power plants as defined in this act.

(3) The board shall have the power to adopt reasonable procedural rules to carry out its duties under this act and to give effect to the legislative intent that this act is to provide an efficient, simplified, centrally coordinated, one-stop permitting process.

History.—s. 1, ch. 73-33; s. 9, ch. 76-76.

403.511 Effect of certification.—

(1) Subject to the conditions set forth therein, any certification signed by the Governor shall constitute the sole license of the state and any agency as to the approval of the site and the construction and operation of the proposed electrical power plant, except for the issuance of department permits required under any federally delegated or approved permit program and except as otherwise provided in subsection (4).

(2) The certification shall authorize the electric utility named therein to construct and operate the proposed electrical power plant, subject only to the conditions of certification set forth in such certification, and except for the issuance of department permits required under any federally delegated or approved permit program. Except as provided in subsection (4), the certification agreement may include conditions which constitute variances from nonprocedural standards or regulations of the department or any other standards or regulations of any other agency which were expressly considered during the proceeding and which otherwise would be applicable to the construction and operation of the proposed electrical power plant. However, no variance shall be granted from standards or regulations of the department applicable under any federally delegated or approved permit program, except as expressly allowed in such program.

(3) The certification shall be in lieu of any license, permit, certificate, or similar document required by any agency pursuant to, but not limited to, chapter 161, chapter 253, chapter 298, chapter 370, chapter 373, chapter 380, chapter 381, chapter 387, chapter 404, the Florida Transportation Code, or 33 U.S.C. s. 1341.

(4) This part shall not affect in any way the ratemaking powers of the Public Service Commission under chapter 366; nor shall this part in any way affect the right of any local government to charge appropriate fees or require that construction be in compliance with local building codes, standards, and regulations.

(5)(a) An electrical power plant certified pursuant to this act shall comply with rules adopted by the department subsequent to the issuance of the certification which prescribe new or stricter criteria, to the extent that the rules are applicable to electrical power plants. Except when express variances have been granted, subsequently adopted rules which prescribe new or stricter criteria shall operate as automatic modifications to certifications.

(b) Any holder of a certification issued pursuant to this act may choose to operate the certified electrical power plant in compliance with any rule subsequently adopted by the department which prescribes criteria more lenient than the criteria required by the terms and conditions in the certification which are not site-specific.

(c) No term or condition of certification shall be interpreted to preclude the postcertification exercise by any party of whatever procedural rights it may have under chapter 120, including those related to rulemaking proceedings. This subsection shall apply to previously issued certifications.

History.—s. 1, ch. 73-33; s. 2, ch. 74-170; s. 10, ch. 76-76; s. 1, ch. 77-174; s. 83, ch. 79-65; s. 28, ch. 86-186.

403.5111 County and municipal authority unaffected by chapter 75-22, Laws of Florida.—Except as provided in ss. 403.510 and 403.511, nothing in chapter 75-22, Laws of Florida, shall be construed to have altered the authority of county and municipal governments as provided by law.

History.—s. 22, ch. 75-22.

403.512 Revocation or suspension of certification. Any certification may be revoked or suspended:

(1) For any material false statement in the application or in the supplemental or additional statements of fact or studies required of the applicant when a true an-

swer would have warranted the board's refusal to recommend a certification in the first instance.

(2) For failure to comply with the terms or conditions of the certification.

(3) For violation of the provisions of this chapter or regulations or orders issued hereunder.

History.—s. 1, ch. 73-33, s. 11, ch. 76-76.

403.513 Review.—Proceedings under this part shall be subject to judicial review as provided in chapter 120. Separate appeals of the certification order issued by the board and of any department permit issued pursuant to a federally delegated or approved permit program shall be consolidated for purposes of judicial review.

History.—s. 1, ch. 73-33, s. 12, ch. 76-76; s. 29, ch. 86-186.

403.514 Enforcement of compliance.—Failure to obtain a certification, or to comply with the conditions thereof, or to comply with this part shall constitute a violation of this chapter.

History.—s. 1, ch. 73-33, s. 12, ch. 76-76.

403.515 Availability of information.—The department shall make available for public inspection and copying during regular office hours, at the expense of any person requesting copies, any information filed or submitted pursuant to this act.

History.—s. 1, ch. 73-33.

403.516 Modification of certification.—

(1) A certification may be modified after issuance in any one of the following ways:

(a) The board may delegate to the department the authority to modify specific conditions in the certification.

(b) The parties to the certification proceeding may modify the terms and conditions of the certification by mutual written agreement. Upon execution of the agreement by the parties, the provisions of s. 120.57 shall apply to the proceedings for approval or denial of the agreement by the board.

(c) If the parties to the certification proceeding are unable to reach a mutual written agreement on modification of the terms and conditions of the certification, a petition for modification setting forth:

1. The proposed modification,

2. The factual reasons asserted for the modification, and

3. The anticipated effects of the proposed modification on the applicant, the public, and the environment

shall be filed with the Division of Administrative Hearings. The provisions of s. 120.57 shall apply to the proceedings for approval or denial of the petition by the board.

(d) As required by s. 403.511(5).

(2) Any agreement or modification under this section must be in accordance with the terms of this act. No modification to a certification shall be granted that constitutes a variance from standards or regulations of the department applicable under any federally delegated or approved permit program, except as expressly allowed in such program.

History.—s. 13, ch. 76-76; s. 10, ch. 81-131; s. 30, ch. 86-186.

403.517 Supplemental applications for sites certified for ultimate site capacity.—

(1)(a) The department shall adopt rules governing the processing of supplemental applications for certification of the construction and operation of electrical power plants to be located at sites which have been previously certified for an ultimate site capacity pursuant to this part. Supplemental applications shall be limited to electrical power plants using the fuel type previously certified for that site. The rules adopted pursuant to this section shall include provisions for:

1. Prompt appointment of a designated hearing officer.

2. The contents of the supplemental application.

3. Resolution of disputes as to the completeness of supplemental applications by the designated hearing officer.

4. Public notice of the filing of the supplemental applications.

5. Time limits for prompt processing of supplemental applications.

6. Final disposition by the board within 7 months of the filing of a complete supplemental application.

(b) The time limits shall not exceed any time limitation governing the review of initial applications for site certification pursuant to this part, it being the legislative intent to provide shorter time limitations for the processing of supplemental applications for electrical power plants to be constructed and operated at sites which have been previously certified for an ultimate site capacity.

(c) Any time limitation in this section or in rules adopted pursuant to this section may be altered by the designated hearing officer upon stipulation between the department and the applicant or for good cause shown by any party. The parties to the proceeding shall adhere to the provisions of chapter 120 in considering and processing such supplemental applications. The department may charge a supplemental application fee not to exceed $25,000 to cover all reasonable expenses and costs of the review, processing, and proceedings of a supplemental application incurred by the department, the Division of Administrative Hearings, the Public Service Commission, the Department of Community Affairs, the water management district, or any other agency from which the department requests special studies pursuant to s. 403.507(1)(d). Any unused portion of the fee shall be refunded pursuant to s. 403.504.

(2) Supplemental applications shall be reviewed in accordance with the criteria and considerations of s. 403.507.

(3) The land use hearing requirements of s. 403.508(1) and (2) shall not be applicable to the processing of supplemental applications pursuant to this section so long as:

(a) The previously certified ultimate site capacity is not exceeded; and

(b) The lands required for the construction or operation of the electrical power plant which is the subject of the supplemental application are within the boundaries of the previously certified site.

(4) For the purposes of this part, the term "ultimate site capacity" means the maximum generating capacity for a site as certified by the board.

History.—s. 14, ch. 76-76, s. 11, ch. 81-131; s. 34, ch. 81-169; s. 38, ch. 83-55.

403.519 Exclusive forum for determination of need. On request by a utility or on its own motion, the commission shall begin a proceeding to determine the need for an electrical power plant subject to the Florida Electrical Power Plant Siting Act. The commission shall be the sole forum for the determination of this matter, which accordingly shall not be raised in any other forum or in the review of proceedings in such other forum. In making its determination, the commission shall take into account the need for electric system reliability and integrity, the need for adequate electricity at a reasonable cost, and whether the proposed plant is the most cost-effective alternative available. The commission shall also expressly consider the conservation measures taken by or reasonably available to the applicant or its members which might mitigate the need for the proposed plant and other matters within its jurisdiction which it deems relevant. The commission's determination of need for an electrical power plant shall create a presumption of public need and necessity and shall serve as the commission's report required by s. 403.507(1)(b).

History.—s. 5, ch. 80-65.

403.52 Short title.—Sections 403.52-403.536 may be cited as the "Transmission Line Siting Act."

History.—s. 1, ch. 80-65.

403.521 Legislative intent.—The legislative intent of this act is to establish a centralized and coordinated permitting process for the location of transmission line corridors and the construction and maintenance of transmission lines, which necessarily involves several broad interests of the public addressed through the subject matter jurisdiction of several agencies. The Legislature recognizes that transmission lines will have an effect upon the welfare of the population. Recognizing the need to ensure electric power system reliability and integrity, and in order to meet electrical energy needs in an orderly and timely fashion, the centralized and coordinated permitting process established by this act is intended to further the legislative goal of ensuring through available and reasonable methods that the location of transmission line corridors and the construction and maintenance of transmission lines produce minimal adverse effects on the environment and public health, safety, and welfare. It is the intent of this act to fully balance the need for transmission lines with the broad interests of the public in order to effect a reasonable balance between the need for the facility as a means of providing abundant low-cost electrical energy and the impact on the public and the environment resulting from the location of the transmission line corridor and the construction and maintenance of the transmission lines. The Legislature intends that the provisions of chapter 120 apply to this act and to proceedings pursuant to it except as otherwise expressly exempted by other provisions of this part.

History.—s. 1, ch. 80-65, s. 2, ch. 83-222.

403.522 Definitions.—As used in this act:

(1) "Agency," as the context requires, means an official, officer, commission, authority, council, committee, department, division, bureau, board, section, or other unit or entity of government within the state, including a county, municipality, or other regional or local governmental entity.

(2) "Amendment" means a material change in information provided in the application for certification made after the initial application filing.

(3) "Applicant" means any electric utility which applies for certification pursuant to the provisions of this act.

(4) "Application" means the documents required by the department to be filed to initiate a certification proceeding. An electric utility may file a comprehensive application encompassing all or a part of one or more proposed transmission lines.

(5) "Board" means the Governor and Cabinet sitting as the siting board.

(6) "Certification" means the approval by the board of a corridor proper for certification pursuant to subsection (9) and the construction and maintenance of transmission lines within such corridor with such modifications or conditions as the board deems appropriate. Certification shall be evidenced by a written order of the board.

(7) "Commission" means the Florida Public Service Commission.

(8) "Completeness" means that the application has addressed all applicable sections of the prescribed application format, but does not mean that those sections are sufficient in comprehensiveness of data or in quality of information provided.

(9) "Corridor" means the proposed area within which a transmission line right-of-way is to be located. The width of the corridor proposed for certification by an applicant or other party, at the option of the applicant, may be the width of the transmission line right-of-way or wider, not to exceed a width of 1 mile. After all property interests required for the transmission line right-of-way have been acquired by the applicant, the boundaries of the area certified shall narrow to only that land within the boundaries of the transmission line right-of-way. The corridors proper for certification shall be those addressed in the application, in amendments to the application filed pursuant to s. 403.5275, and in notices of acceptance of proposed alternate corridors filed by an applicant and the department pursuant to s. 403.527(5).

(10) "Department" means the Department of Environmental Regulation.

(11) "Local government" means a municipality or county in the jurisdiction of which the project is proposed to be located.

(12) "Modification" means any change in the certification order after issuance, including a change in the conditions of certification.

(13) "Regional planning council" means a regional planning council as defined in s. 186.503(4) in the jurisdiction of which the project is proposed to be located.

(14) "Sufficiency" means that the application is not only complete but that all sections are sufficient in com-

prehensiveness of data or in quality of information provided.

(15) "Transmission line" means any electrical transmission line extending from, but not including, an existing or proposed substation or power plant to, but not including, an existing or proposed transmission network or rights-of-way or substation to which the applicant intends to connect which defines the end of the proposed project and which is designed to operate at 230 kilovolts or more and which crosses a county line. The starting point and ending point of a transmission line must be specifically defined by the applicant and must be verified by the commission in its determination of need. A transmission line includes structures and maintenance and access roads that need to be constructed for the project to become operational. If the proposed location of a corridor is affected by the applicant's proposed intermediate substations, then the general location of the proposed intermediate substation, and not the permitting of such substation, shall be considered in the certification proceedings.

(16) "Transmission line right-of-way" means land necessary for the construction and maintenance of a transmission line. The typical width of the right-of-way shall be identified in the application. The right-of-way shall be located within the certified corridor and shall be identified by the applicant subsequent to certification in documents filed with the department prior to construction.

(17) "Water management district" means a water management district created pursuant to chapter 373 in the jurisdiction of which the project is proposed to be located.

(18) The following words have the same meaning as appears in s. 403.503:

(a) "Electric utility."

(b) "License."

(c) "Person."

History.—s. 1, ch. 80-65; s. 3, ch. 83-222; s. 54, ch. 85-81.

Note.—The reference to "s. 186.503(4)" was substituted by the editors for a reference to "s. 160.003(4)" to conform to the renumbering of s. 160.003 as s. 186.503 by the revisor incident to compiling the 1984 Supplement to the Florida Statutes 1983.

403.523 Department of Environmental Regulation; powers and duties.—The department shall have the following powers and duties:

(1) To adopt or amend reasonable procedural rules to implement the provisions of this act and to adopt or amend rules to implement the provisions of subsection (14).

(2) To prescribe the form, content, and necessary supporting documentation, and any required studies, for certification applications. All such data and studies shall be related to the jurisdiction of the agencies relevant to the application.

(3) To receive applications for transmission line and corridor certifications and initially determine the completeness and sufficiency thereof.

(4) To make or contract for studies of certification applications. All such studies shall be related to the jurisdiction of the agencies relevant to the application. For studies in areas outside the jurisdiction of the department and in the jurisdiction of another agency, the department may initiate such studies, but only with the consent of such agency.

(5) To administer the processing of applications for certification and ensure that the applications are processed as expeditiously as possible.

(6) To notify all affected agencies of the filing of an application and of the filing of subsequent amendments within 15 days after receiving the complete application or subsequent amendments.

(7) To require an application fee, which shall be paid to the department upon the filing of each application for corridor certification. The application fee shall be $750 for each mile of the proposed transmission line corridor. A minimum fee of $20,000 shall be required for each application. The application fee shall be used to pay those expenses associated with the cost of the preparation and conduct of the hearings, the recording and transcription of the proceedings, the studies required by this act, and agency travel and per diem. Salaries for full-time state agency employees, excluding other personal services employees, may not be charged against the fee. If any sums remain after payment of such expenses, the application fee shall be applied pro rata to reimburse all reasonable expenses pursuant to this act incurred by the agencies. Any sums remaining after the payment of all authorized costs shall be refunded to the applicant within 90 days after the issuance or denial of certification or the withdrawal of the application. The applicant shall be provided with an itemized accounting of the expenditures.

(8) To prepare a compilation of agency reports and summaries of the material contained therein which shall be filed with the hearing officer and served on all parties no later than 4 months after the complete application is filed with the department, and which shall include:

(a) The studies and reports required by ss. 403.526 and 403.537, including the recommendations of the department relating to the disposition of the application.

(b) Comments received from any other agency.

(9) To provide public notice of the filing of the application and of the proceedings conducted pursuant to this act.

(10) To prescribe the means for monitoring the effects arising from the location of the transmission line corridor and the construction and maintenance of the transmission lines to assure continued compliance with the terms of the certification.

(11) To require a certification modification fee. If no corridor alignment change is proposed by the applicant, the modification fee shall be $2,000. If a corridor alignment change is proposed by the applicant, the fee shall be $2,000 plus $750 for each mile of realignment. Such fee shall be submitted to the department upon notification by an applicant that modification pursuant to s. 403.5315(2) or (3) is sought, and which shall be used, disbursed, and accounted for in the same manner as the application fee.

(12) To make a determination of acceptability of any alternate corridor proposed for consideration pursuant to s. 403.527(5).

(13) To withhold from the fees established by this section a reasonable sum sufficient to cover the costs associated with postcertification review of activities required by any condition of certification. Such sums shall be specified as part of each condition.

(14) To set requirements that reasonably protect the public health and welfare from the electric and magnetic fields of transmission lines for which an application is filed after the effective date of this act.

(15) To present rebuttal evidence on any issue properly raised at the certification hearing.

History.—s. 1, ch. 80-65; s. 37, ch. 81-167; s. 265, ch. 81-259; s. 39, ch. 83-55; s. 4, ch. 83-222; s. 8, ch. 86-173; s. 55, ch. 86-186.

403.524 Applicability and certification.—

(1) The provisions of this act apply to each transmission line, except a transmission line certified pursuant to the Florida Electrical Power Plant Siting Act.

(2) Except as provided in subsection (1), no construction of any transmission line may be undertaken without first obtaining certification under this act, but the provisions of this act do not apply to:

(a) Transmission lines for which development approval has been obtained pursuant to chapter 380.

(b) Transmission lines which have been exempted by a binding letter of interpretation issued under s. 380.06(4), or in which the Department of Community Affairs or its predecessor agency has determined the utility to have vested development rights within the meaning of s. 380.05(18) or s. 380.06(20).

(c) Transmission line development in which all construction is limited to established rights-of-way. Established rights-of-way include such rights-of-way for roads, highways, railroads, gas, water, oil, electricity, or sewage and any other public purpose rights-of-way. Except for transmission line rights-of-way, established rights-of-way include rights-of-way created before or after October 1, 1983. For transmission line rights-of-way, established rights-of-way include rights-of-way created before October 1, 1983.

(d) Transmission lines less than 15 miles in length which cross a county line, unless the applicant has elected to apply for certification under the act.

(3) The exemption of a transmission line under this act does not constitute an exemption for the transmission line from other applicable permitting processes under other provisions of law or local government ordinances.

(4) A utility shall notify the department in writing, prior to the start of construction, of its intent to construct a transmission line exempted pursuant to this section. Such notice shall be only for information purposes, and no action by the department shall be required pursuant to such notice.

History.—s. 1, ch. 80-65; s. 14, ch. 81-131; s. 38, ch. 81-167; s. 40, ch. 83-55; s. 5, ch. 83-222; s. 49, ch. 85-55.

403.525 Appointment of hearing officer; determination of completeness or sufficiency.—

(1) Within 7 days after receipt of an application, whether complete or not, the department shall request the Division of Administrative Hearings to designate a hearing officer to conduct the hearings required by this act. The division director shall designate a hearing officer to conduct the hearings required by this act within 7 days after receipt of the request from the department. Whenever practicable, the division director shall assign a hearing officer who has had prior experience or training in this type of certification proceeding. Upon being advised that a hearing officer has been designated, the department shall immediately file a copy of the application and all supporting documents with the hearing officer, who shall docket the application.

(2) Within 20 working days after receipt of an application or an amendment, the department shall file a statement with the Division of Administrative Hearings and with the applicant, declaring its position with regard to the completeness, not the sufficiency, of the application or amendment. If the department declares the application or amendment to be incomplete, then, within 15 days after the filing of the statement by the department, the applicant shall file with the Division of Administrative Hearings and with the department a statement agreeing with the statement of the department and withdrawing the application or amendment, a statement contesting the statement of the department, or supplemental information which makes the application or amendment complete. If the determination by the department that an application or amendment is incomplete and is contested, the hearing officer shall schedule a hearing on the statement of completeness. The hearing shall be held as expeditiously as possible, but no later than 14 days from the filing of the statement contesting the determination of the department. The hearing officer shall make a decision within 10 days after the hearing. If the hearing officer determines that the application or amendment was not complete as filed, then the applicant shall withdraw the application or amendment or make such additional submittals so as to complete it. If the hearing officer determines that the application was complete at the time it was filed, then the time provided in this act shall run from the date of the filing of such application.

(3) The department may by rule adopt procedures similar to those set forth in subsection (2) for the determination of the sufficiency of an application by the department, based on the recommendations of the agencies required to submit reports pursuant to s. 403.526. If contested by the applicant, the final decision on sufficiency shall be made by the hearing officer.

History.—s. 1, ch. 80-65; s. 6, ch. 83-222.

403.526 Reports and studies.—

(1) It shall be the duty of the department to provide copies of each application, within 7 days after filing, to the commission, the Department of Natural Resources, the Department of Community Affairs, the Game and Fresh Water Fish Commission, each water management district, each regional planning council, and each local government in the jurisdiction of which the proposed transmission line or corridor is to be located.

(2) The department shall prepare a report as to the impact of each proposed transmission line or corridor as it relates to matters within its jurisdiction.

(3) The Department of Natural Resources shall prepare a report as to the impact of each proposed transmission line or corridor on matters within its jurisdiction and shall submit its report to the department within 90 days after receipt of a copy of the complete application.

(4) Each water management district in the jurisdiction of which a proposed transmission line or corridor is to be located shall prepare a report as to the impact on

water resources and other matters within its jurisdiction and shall submit its report to the department within 90 days after receipt of a copy of the complete application.

(5) The Department of Community Affairs shall prepare a report as to the impact of each proposed transmission line or corridor on land use and other matters within its jurisdiction and shall submit its report to the department within 90 days after receipt of the completed application.

(6) The Game and Fresh Water Fish Commission shall prepare a report as to the impact of each proposed transmission line or corridor on fish and wildlife resources and other matters within its jurisdiction and shall submit its report to the department within 90 days after receipt of the completed application.

(7) Each local government shall prepare a report as to the impact of each proposed transmission line or corridor on matters within its jurisdiction, or shall by resolution adopt the report prepared by the appropriate regional planning council as required by subsection (8). It shall submit its report or resolution to the department within 90 days after its receipt of the complete application.

(8) Each regional planning council shall prepare a report on the impacts of each proposed transmission line or corridor on matters within its jurisdiction. It shall submit its report within 90 days after its receipt of the complete application.

(9) The report shall contain the information on variances required by s. 403.531(2) and proposed conditions of certification on matters within the jurisdiction of each agency. For each condition proposed by an agency, the agency shall list the specific statute, rule, or ordinance, as applicable, which authorizes the proposed condition.

(10) Each reviewing agency shall initiate the activities required by this section no later than 15 days after the complete application is filed. Preliminary reports shall be submitted to the department no later than 60 days after the receipt of a completed application by the department. Such reports shall be made available to each local government for use as information for public meetings pursuant to s. 403.5272. Each agency shall keep the applicant informed as to the progress of its studies and any issues raised thereby.

(11) The failure of any agency to submit a preliminary report or a report, or to submit its preliminary report or report within the allowed time, shall not be grounds for the alteration of any time limitation in this act pursuant to s. 403.528. Neither the failure to submit a preliminary report or a report nor the inadequacy of the preliminary report or report shall be grounds to deny or condition certification.

History.—s. 1, ch. 80-65; s. 39, ch. 81-167; s. 41, ch. 83-55; s. 7, ch. 83-222.

403.527 Notice, proceedings, parties, participants.

(1)(a) No later than 15 days after the receipt of an application, the department shall arrange for publication of a notice of the application and of the proceedings required by this act.

(b) The department shall arrange for publication of a notice of the certification hearing and other public hearings provided for in this section and notice of the deadline for filing of notice of intent to be a party. Such notices shall be published at least 80 days before the date set for the hearing.

(c) The department shall arrange for publication of a reminder notice in the newspapers specified in paragraph (d) no more than 2 weeks prior to the certification hearing, reminding the public of the date and location of the hearing. This notice shall not constitute a point of entry for intervention in the proceeding.

(d) Notices shall be published:

1. In newspapers of general circulation within counties crossed by the transmission line corridors proper for certification. The required newspaper notices, other than the reminder notice, shall be one-half page in size in a standard-size newspaper or a full page in a tabloid-size newspaper. These notices shall include a map generally depicting all transmission corridors proper for certification. A newspaper of general circulation shall be the newspaper within a county crossed by a transmission line corridor proper for certification which newspaper has the largest daily circulation in that county and has its principal office in that county. If the newspaper with the largest daily circulation has its principal office outside the county, then the notices shall appear in both the newspaper having the largest circulation in that county and in a newspaper authorized to publish legal notices in that county;

2. In the Florida Administrative Weekly; and

3. By giving notice to any persons who have requested to be placed on the departmental mailing list for this purpose.

(e) The department shall adopt rules specifying the content of notices required by this section. All published notices shall be paid for by the applicant and shall be in addition to the application fee. The department shall arrange for publication of notices required by this section.

(2) No later than 150 days after receipt of a complete application by the department, the hearing officer shall conduct a certification hearing pursuant to s. 120.57 at a central location in proximity to the proposed transmission line or corridor. One public hearing where members of the public who are not parties to the certification hearing may testify shall be held within the boundaries of each county, at the option of any local government. The local government shall notify the hearing officer and all parties not later than 50 days after the receipt of a complete application as to whether the local government wishes to have such a public hearing. The local government shall be responsible for determining the location of the public hearing. Within 5 days of such notification, the hearing officer shall determine the date of such public hearing, which shall be held before or during the certification hearing. In the event two or more local governments within one county request such a public hearing, the hearing shall be consolidated so that only one such public hearing is held in any county. The location of a consolidated hearing shall be determined by the hearing officer. If a local government does not request a public hearing within 50 days after the receipt of a complete application, persons residing within the jurisdiction of such local government may testify at the public hearing portion of the certification hearing.

(3)(a) At the conclusion of the certification hearing, the hearing officer shall, after consideration of all evidence of record, issue a recommended order disposing of the application no later than 50 days after the transcript of the certification hearing and the public hearings is filed with the Division of Administrative Hearings.

(b) In the event the hearing officer fails to issue a recommended order within 50 days after the filing of the hearing transcript, the hearing officer shall submit a report to the board with a copy to all parties within 50 days after the filing of the hearing transcript to advise the board of the reason for the delay in the issuance of the recommended order and of the date by which the recommended order will be issued.

(4)(a) Parties to the proceeding shall be:

1. The applicant.
2. The department.
3. The commission.
4. The Department of Community Affairs.
5. The Department of Natural Resources.
6. The Game and Fresh Water Fish Commission.
7. Each water management district in the jurisdiction of which the proposed transmission line or corridor is to be located.
8. Any local government.
9. Regional planning councils.

(b) Any party listed in paragraph (a) may waive its right to participate in these proceedings. If any listed party fails to file a notice of its intent to be a party on or before the 30th day prior to the certification hearing, such party shall be deemed to have waived its right to be a party unless its participation would not prejudice the rights of any party to the proceeding.

(c) Notwithstanding the provisions of chapter 120 to the contrary, upon the filing with the hearing officer of a notice of intent to be a party by an agency or corporation or association described in subparagraphs 1. and 2. or a petition for intervention by a person described in subparagraph 3. no later than 30 days prior to the date set for the certification hearing, the following shall also be parties to the proceeding:

1. Any state agency not listed in paragraph (a) as to matters within its jurisdiction.
2. Any domestic nonprofit corporation or association formed, in whole or in part, to promote conservation of natural beauty; to protect the environment, personal health, or other biological values; to preserve historical sites; to promote consumer interests; to represent labor, commercial, or industrial groups; or to promote orderly development of the area in which the proposed transmission line or corridor is to be located.
3. Any person whose substantial interests are affected and being determined by the proceeding.

(d) Any agency whose properties or works may be affected shall be made a party upon the request of the agency or any party to this proceeding.

(5)(a) No later than 50 days prior to the certification hearing, any party may propose alternate transmission line corridor routes for consideration pursuant to the provisions of this act by filing a notice of a proposed alternate corridor with the hearing officer, all parties, and any local governments in whose jurisdiction the alternate is proposed. Such filing shall include the most recent United States Geological Survey 1:24000 quadrangle maps specifically delineating the corridor boundaries, a description of the proposed corridor, and a statement of the reasons the proposed alternate should be certified.

(b) Within 5 working days of receipt of such notice, the applicant and the department shall file with the hearing officer and all parties a notice of acceptance or rejection of a proposed alternate corridor for consideration. If the alternate corridor is rejected either by the applicant or the department, the certification hearing and the public hearings shall be held as scheduled. If both the applicant and the department accept a proposed alternate corridor for consideration, the certification hearing and the public hearings shall be rescheduled, if necessary.

(c) If rescheduled, the certification hearing shall be held no more than 80 days from the previously scheduled certification hearing, to provide sufficient time:

1. For the publication of notice pursuant to paragraphs (1)(b) and (c);
2. For the agencies listed in s. 403.526 to file supplementary reports addressing the proposed alternate corridors at least 30 days prior to the certification hearing; and
3. For agencies to submit supplementary notice pursuant to s. 403.531(2) at least 30 days prior to the certification hearing.

(d) Each party proposing an alternate corridor shall have the burden of providing data to the agencies listed in s. 403.526 necessary for the preparation of a supplementary report on the proposed alternate corridor within a time period established by the department and shall have the burden of proof on the certifiability of the alternate corridor at the certification hearing pursuant to s. 403.529(3). Nothing in this act shall be construed as requiring the applicant or agencies not proposing the alternate to submit data in support of such alternate corridor.

(e) Notwithstanding the rejection of a proposed alternate corridor by the applicant or the department, any party may present evidence at the certification hearing to show that a corridor proper for certification does not satisfy the criteria listed in s. 403.529 or that a rejected alternate corridor would meet the criteria set forth in s. 403.529. No evidence shall be admitted at the certification hearing on any alternate corridor, unless the alternate corridor was proposed by the filing of a notice at least 50 days prior to the certification hearing pursuant to this subsection. Rejected alternate corridors shall be considered by the board as provided in s. 403.529(3) and (4).

(f) If an alternate corridor is accepted by the applicant and the department pursuant to a notice of acceptance as provided in this subsection and such corridor is ultimately determined to be the corridor that would meet the criteria set forth in s. 403.529(3) and (4), the board shall certify that corridor.

(6) When appropriate, any person may be given an opportunity to present oral or written communications to the hearing officer. If the hearing officer proposes to consider such communications, all parties shall be given an opportunity to cross-examine or challenge or rebut such communications.

(7) The hearing officer shall have all powers and duties granted to hearing officers by chapter 120 and by the laws and rules of the department, including the authority to resolve disputes over the completeness or sufficiency of an application for certification.

History.—s. 1, ch. 80-65, s. 40, ch. 81-167, s. 42, ch. 83-55, s. 8, ch. 83-222, s. 55, ch. 85-81.

403.5272 Local governments; informational public meetings.—

(1) Local governments may hold informational public meetings in addition to the hearings specifically authorized by this act on any matter associated with the transmission line proceeding. Such informational public meetings should be held no later than 80 days after the application is filed. The purpose of an informational public meeting is for the local government to further inform the general public about the transmission line proposed, obtain comments from the public, and formulate its recommendation with respect to the proposed transmission line.

(2) Informational public meetings shall be held solely at the option of each local government. It is the legislative intent that local governments attempt to hold such public meetings. Parties to the proceedings under this act shall be encouraged to attend; however, no party shall be required to attend such informational public hearings.

(3) The failure to hold an informational public meeting or the procedure used for the informational public meeting shall not be grounds for the alteration of any time limitation in this act pursuant to s. 403.528 or grounds to deny or condition certification.

History.—s. 9, ch. 83-222.

403.5275 Amendment to the application.—

(1) Any amendment made to the application shall be sent by the applicant to the hearing officer and to all parties to the proceeding. No additional fee shall be required for the submittal of an amendment to the application if no corridor alignment change is proposed by the amendment. However, if a corridor alignment change is proposed by the applicant, an additional fee of a minimum of $2,000 and $750 per mile shall be submitted to the department for use in accordance with s. 403.523. Amendments that are required to address issues, including alternate corridors pursuant to s. 403.527(5), raised by the department or other parties do not require additional fees.

(2) Any amendment to the application made prior to certification shall be disposed of as part of the original certification proceeding. Amendment of the application may be considered "good cause" for alteration of time limits pursuant to s. 403.528.

History.—s. 1, ch. 80-65, s. 10, ch. 83-222.

403.528 Alteration of time limits.—Any time limitation in this act may be altered by the hearing officer upon stipulation between the department and the applicant unless objected to by any party within 5 days after notice or for good cause shown by any party.

History.—s. 1, ch. 80-65, s. 11, ch. 83-222.

403.529 Final disposition of application.—

(1) Within 30 days after receipt of the hearing officer's recommended order, the board shall act upon the application by written order, approving in whole, approving with such modification and conditions as the board deems appropriate, or denying the certification and stating the reasons for issuance or denial.

(2) If certification is denied, the board shall set forth in writing the action the applicant would have to take to secure the approval of the application by the board.

(3) In determining whether an application should be approved in whole, approved with modifications or conditions, or denied, the board shall consider whether, and the extent to which, the location of the transmission line corridor and the construction and maintenance of the transmission line will:

(a) Ensure electric power system reliability and integrity;

(b) Meet the electrical energy needs of the state in an orderly and timely fashion;

(c) Comply with nonprocedural requirements of agencies;

(d) Be consistent with applicable local government comprehensive plans; and

(e) Effect a reasonable balance between the need for the transmission line as a means of providing abundant low-cost electrical energy and the impact upon the public and the environment resulting from the location of the transmission line corridor and maintenance of the transmission lines.

(4)(a) Any transmission line corridor certified by the board shall meet the criteria of this section. When more than one transmission line corridor is proper for certification pursuant to s. 403.522(9) and meets the criteria of this section, the board shall certify the transmission line corridor that has the least adverse impact regarding the criteria in subsection (3), including costs.

(b) If the board finds that an alternate corridor rejected pursuant to s. 403.527(5) meets the criteria of subsection (3) and has the least adverse impact regarding the criteria in subsection (3), including cost, of all corridors that meet the criteria of subsection (3), then the board shall deny certification or shall allow the applicant to submit an amended application to include such corridor.

(c) If the board finds that two or more of the corridors that comply with the provisions of subsection (3) have the least adverse impacts regarding the criteria in subsection (3), including costs, and that such corridors are substantially equal in adverse impacts regarding the criteria in subsection (3), including costs, then the board shall certify the corridor preferred by the applicant if the corridor is one proper for certification pursuant to s. 403.522(9).

(5) The issuance or denial of the certification by the board shall be the final administrative action required as to that application.

History.—s. 1, ch. 80-65, s. 12, ch. 83-222.

403.531 Effect of certification.—

(1) Subject to the conditions set forth therein, certification shall constitute the sole license of the state and any agency as to the approval of the location of transmission line corridors and the construction and maintenance of transmission lines. The certification shall be

valid for the life of the transmission line, provided that construction on, or condemnation or acquisition of, the right-of-way is commenced within 5 years of the date of certification or such later date as may be authorized by the board.

(2) The certification shall authorize the applicant to locate the transmission line corridor and to construct and maintain the transmission lines subject only to the conditions of certification set forth in such certification. The certification may include conditions which constitute variances and exemptions, otherwise allowed by law, from nonprocedural standards or regulations of the department or any other agency, which were expressly considered during the proceeding unless waived by the agency as provided below and which otherwise would be applicable to the location of the proposed transmission line corridor or the construction and maintenance of the transmission lines. Each party shall notify the applicant and other parties at least 60 days prior to the certification hearing of any nonprocedural requirements not specifically listed in the application from which a variance or exception is necessary in order for the board to certify any corridor proposed for certification. Failure of such notification shall be treated as a waiver, variance, or exception, otherwise allowed by law, from nonprocedural standards or regulations of the department or any other agency.

(3) The certification shall be in lieu of any license, permit, certificate, or similar document required by any agency pursuant to, but not limited to, chapter 125, chapter 161, chapter 163, chapter 253, chapter 258, chapter 298, chapter 370, chapter 373, chapter 380, chapter 381, chapter 387, chapter 403, chapter 404, the Florida Transportation Code, or 33 U.S.C. s. 1341. On certification, any license, easement, or other interest in state lands, except those the title of which is vested in the Board of Trustees of the Internal Improvement Trust Fund, shall be issued by the appropriate agency as a ministerial act. The applicant shall be required to seek any necessary interest in state lands the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund from the board of trustees before, during, or after the certification proceeding, and certification may be made contingent upon issuance of the appropriate interest in realty. However, neither the applicant nor any party to the certification proceeding may directly or indirectly raise or relitigate any matter which was or could have been an issue in the certification proceeding in any proceeding before the Board of Trustees of the Internal Improvement Trust Fund wherein the applicant is seeking a necessary interest in state lands, but the information presented in the certification proceeding shall be available for review by the board of trustees and its staff.

(4) This part shall not in any way affect the ratemaking powers of the commission under chapter 366. This part shall also not in any way affect the right of any local government to charge appropriate fees or require that construction be in compliance with the National Electrical Safety Code, as prescribed by the commission.

(5) No term or condition of certification shall be interpreted to preclude the postcertification exercise by any party of whatever procedural rights it may have under chapter 120, including those related to rulemaking proceedings.

History.—s. 1, ch. 80-65; s. 766, ch. 81-259; s. 13, ch. 83-222.

403.5312 Recording of notice of certified corridor route.—Within 60 days after certification of a directly associated transmission line pursuant to ss. 403.501-403.517 or a transmission line corridor pursuant to ss. 403.52-403.536, the applicant shall file, in accordance with s. 28.222, with the clerk of the circuit court for each county through which the corridor will pass, a notice of the certified route. The notice shall consist of maps or aerial photographs in the scale of 1:24,000 which clearly show the location of the certified route and shall state that the certification of the corridor will result in the acquisition of rights-of-way within the corridor. Each clerk shall record the filing in the official record of the county for the duration of the certification or until such time as the applicant certifies to the clerk that all lands required for the transmission line rights-of-way within the corridor have been acquired within such county, whichever is sooner. The recording of this notice shall not constitute a lien, cloud, or encumbrance on real property.

History.—s. 12, ch. 81-131.

403.5315 Modification of certification.—A certification may be modified after issuance in any one of the following ways:

(1) The board may delegate to the department the authority to modify specific conditions in the certification.

(2) The department may modify the terms and conditions of the certification if no party objects in writing to such modification within 45 days after notice by mail to the last address of record in the certification proceeding, and if no other person whose substantial interests will be affected by the modification objects in writing within 30 days after issuance of public notice.

(3) If the parties to the certification proceeding are unable to reach a mutual written agreement on modification of the terms and conditions of the certification, the applicant may file a petition for modification with the department setting forth:

(a) The proposed modification;

(b) The factual reasons asserted for the modification; and

(c) The anticipated additional environmental effects of the proposed modification.

(4) Petitions filed pursuant to subsection (3) shall be disposed of in the same manner as an application but with shortened time periods commensurate with the significance of the modification requested.

History.—s. 1, ch. 80-65; s. 15, ch. 83-222.

403.532 Revocation or suspension of certification. Any certification may be revoked or suspended:

(1) For any material false statement in the application or in the supplemental or additional statements of fact or studies required of the applicant when a true answer would have warranted the board's refusal to recommend a certification in the first instance.

(2) For failure to comply with the terms or conditions of the certification.

(3) For violation of the provisions of this act or rules or orders issued hereunder.

History.—s. 1, ch. 80-65.

403.533 Enforcement of compliance.—Failure to obtain a certification, or to comply with the conditions thereof, or to comply with this part shall constitute a violation of this chapter.

History.—s. 1, ch. 80-65.

403.536 Superseded laws, regulations, and certification power.—

(1) If any provision of this act is in conflict with any other provision, limitation, or restriction which is now in effect under any law of this state or any ordinance of a local government, political subdivision, or municipality, or any rule or regulation adopted thereunder, this act shall control.

(2) The state hereby preempts the certification of transmission lines and transmission line corridors.

(3) The board shall have the power to adopt reasonable procedural rules to carry out its duties under this act and to give effect to the legislative intent that this act provide an efficient, centrally coordinated, one-stop permitting process.

History.—s. 1, ch. 80-65.

403.537 Determination of need for transmission line; powers and duties.—

(1)(a) Upon request by an electric utility or upon its own motion, the Florida Public Service Commission shall schedule a public hearing, after notice, to determine the need for a transmission line regulated by the Transmission Line Siting Act, ss. 403.52-403.536. Such notice shall be published at least 20 days before the date set for the hearing and shall be published in newspapers of general circulation, in the Florida Administrative Weekly, by giving notice to counties and regional planning councils in whose jurisdiction the transmission line could be placed, and by giving notice to any persons who have requested to be placed on the mailing list of the commission for this purpose. Within 21 days after receipt of a request for determination by an applicant, the commission shall set a date for the hearing. The hearing shall be held pursuant to s. 350.01 within 45 days after the filing of the request, and a decision shall be rendered within 60 days after such filing.

(b) In the determination of need, the commission shall take into account the need for electric system reliability and integrity, the need for abundant, low-cost electrical energy to assure the economic well-being of the citizens of this state, the appropriate starting and ending point of the line, and other matters within its jurisdiction deemed relevant to the determination of need.

(c) The determination by the commission of the need for the transmission line, as defined in s. 403.522(15), is binding on all parties to any certification proceeding pursuant to the Transmission Line Siting Act and is a condition precedent to the conduct of the certification hearing prescribed therein. An order entered pursuant to this section constitutes final agency action.

(2) The commission shall have the following powers and duties:

(a) To adopt or amend reasonable procedural rules to implement the provisions of this section.

(b) To prescribe the form, content, and necessary supporting documentation and the required studies for the determination of need.

(3) Any time limitation in this section may be altered by the commission upon stipulation between the commission and the applicant or for good cause shown by any party.

History.—s. 3, ch. 80-65; s. 13, ch. 81-131; s. 19, ch. 83-222.

403.539 Certification admissible in eminent domain proceedings; attorney's fees and costs.—

(1) Certification pursuant to ss. 403.52-403.536 shall be admissible as evidence of public need and necessity in proceedings under chapter 73 or chapter 74.

(2) No party may rely on this section or any provision of chapter 73 or chapter 74 to request the award of attorney's fees or costs incurred as a result of participation in the certification proceeding.

History.—s. 2, ch. 80-65; s. 20, ch. 83-222.

PART III

INTERSTATE ENVIRONMENTAL CONTROL COMPACT

403.60 Environmental Control Compact; execution authorized.

403.60 Environmental Control Compact; execution authorized.—The Governor on behalf of this state is hereby authorized to execute a compact, in substantially the following form, with any one or more of the states of the United States, and the Legislature hereby signifies in advance its approval and ratification of such compact:

MEMBER JURISDICTION.—The environmental compact is entered into with all jurisdictions legally joining therein and enacted into law in the following form:

INTERSTATE ENVIRONMENTAL COMPACT

ARTICLE I

FINDINGS, PURPOSES AND RESERVATIONS OF POWERS.—

A. Findings.—Signatory states hereby find and declare:

1. The environment of every state is affected with local, state, regional and national interests and its protection, under appropriate arrangements for intergovernmental cooperation, is a public purpose of the respective signatories.

2. Certain environmental pollution problems transcend state boundaries and thereby become common to adjacent states requiring cooperative efforts.

3. The environment of each state is subject to the effective control of the signatories, and coordinated, cooperative or joint exercise of control measures is in their common interests.

B. Purposes.—The purposes of the signatories in enacting this compact are:

1. To assist and participate in the national environment protection programs as set forth in federal legislation; to promote intergovernmental cooperation for multi-

state action relating to environmental protection through interstate agreements; and to encourage cooperative and coordinated environmental protection by the signatories and the Federal Government;

2. To preserve and utilize the functions, powers and duties of existing state agencies of government to the maximum extent possible consistent with the purposes of the compact.

C. Powers of the United States.—

1. Nothing contained in this compact shall impair, affect or extend the constitutional authority of the United States.

2. The signatories hereby recognize the power and right of the Congress of the United States at any time by any statute expressly enacted for that purpose to revise the terms and conditions of its consent.

D. Powers of the states.—Nothing contained in this compact shall impair or extend the constitutional authority of any signatory state, nor shall the police powers of any signatory state be affected except as expressly provided in a supplementary agreement under Article IV.

ARTICLE II

SHORT TITLE, DEFINITIONS, PURPOSES AND LIMITATIONS.—

A. Short title.—This compact shall be known and may be cited as the "Interstate Environmental Compact."

B. Definitions.—For the purpose of this compact and of any supplemental or concurring legislation enacted pursuant or in relation hereto, except as may be otherwise required by the context:

1. "State" shall mean any one of the 50 states of the United States of America, the Commonwealth of Puerto Rico and the Territory of the Virgin Islands, but shall not include the District of Columbia.

2. "Interstate environment pollution" shall mean any pollution of a stream or body of water crossing or marking a state boundary, interstate air quality control region designated by an appropriate federal agency or solid waste collection and disposal district or program involving the jurisdiction or territories of more than one state.

3. "Government" shall mean the governments of the United States and the signatory states.

4. "Federal Government" shall mean the government of the United States of America and any appropriate department, instrumentality, agency, commission, bureau, division, branch or other unit thereof, as the case may be, but shall not include the District of Columbia.

5. "Signator" shall mean any state which enters into this compact and is a party thereto.

ARTICLE III

INTERGOVERNMENTAL COOPERATION.—

Agreements with the Federal Government and other agencies.—Signatory states are hereby authorized jointly to participate in cooperative or joint undertakings for the protection of the interstate environment with the Federal Government or with any intergovernmental or interstate agencies.

ARTICLE IV

SUPPLEMENTARY AGREEMENTS, JURISDICTION AND ENFORCEMENT.—

A. Signatories may enter into agreements for the purpose of controlling interstate environmental problems in accordance with applicable federal legislation and under terms and conditions as deemed appropriate by the agreeing states under Paragraph F. and Paragraph H. of this Article.

B. Recognition of existing nonenvironmental intergovernmental arrangements.—The signatories agree that existing federal-state, interstate or intergovernmental arrangements which are not primarily directed to environmental protection purposes as defined herein are not affected by this compact.

C. Recognition of existing intergovernmental agreements directed to environmental objectives.—All existing interstate compacts directly relating to environmental protection are hereby expressly recognized and nothing in this compact shall be construed to diminish or supersede the powers and functions of such existing intergovernmental agreements and the organizations created by them.

D. Modification of existing commissions and compacts.—Recognition herein of multistate commissions and compacts shall not be construed to limit directly or indirectly the creation of additional multistate organizations or interstate compacts, nor to prevent termination, modification, extension, or supplementation of such multistate organizations and interstate compacts recognized herein by the Federal Government or states party thereto.

E. Recognition of future multistate commissions and interstate compacts.—Nothing in this compact shall be construed to prevent signatories from entering into multistate organizations or other interstate compacts which do not conflict with their obligations under this compact.

F. Supplementary agreements.—Any two or more signatories may enter into supplementary agreements for joint, coordinated or mutual environmental management activities relating to interstate pollution problems common to the territories of such states and for the establishment of common or joint regulation, management, services, agencies or facilities for such purposes or may designate an appropriate agency to act as their joint agency in regard thereto. No supplementary agreement shall be valid to the extent that it conflicts with the purposes of this compact and the creation of a joint agency by supplementary agreement shall not affect the privileges, powers, responsibilities or duties under this compact of signatories participating therein as embodied in this compact.

G. Execution of supplementary agreements and effective date.—The Governor is authorized to enter into supplementary agreements for the state and his official signature shall render the agreement immediately binding upon the state; provided that:

1. The legislature of any signatory entering into such a supplementary agreement shall at its next legislative session by concurrent resolution bring the supplementary agreement before it and by appropriate legisla-

tive action approve, reverse, modify or condition the agreement of that state.

2. Nothing in this agreement shall be construed to limit the right of Congress by act of law expressly enacted for that purpose to disapprove or condition such a supplementary agreement.

H. Special supplementary agreements.—Signatories may enter into special supplementary agreements with the District of Columbia or foreign nations for the same purposes and with the same powers as under Paragraph F., Article IV, upon the condition that such nonsignatory party accept the general obligations of signatories under this compact. Provided, that such special supplementary agreements shall become effective only after being consented to by the Congress.

I. Jurisdiction of signatories reserved.—Nothing in this compact or in any supplementary agreement thereunder shall be construed to restrict, relinquish or be in derogation of, any power or authority constitutionally possessed by any signatory within its jurisdiction, except as specifically limited by this compact or a supplementary agreement.

J. Complementary legislation by signatories.—Signatories may enact such additional legislation as may be deemed appropriate to enable its officers and governmental agencies to accomplish effectively the purposes of this compact and supplementary agreements recognized or entered into under the terms of this Article.

K. Legal rights of signatories.—Nothing in this compact shall impair the exercise by any signatory of its legal rights or remedies established by the United States Constitution or any other laws of this nation.

ARTICLE V

CONSTRUCTION, AMENDMENT AND EFFECTIVE DATE.—

A. Construction.—It is the intent of the signatories that no provision of this compact or supplementary agreement entered into hereunder shall be construed as invalidating any provision of law of any signatory and that nothing in this compact shall be construed to modify or qualify the authority of any signatory to enact or enforce environmental protection legislation within its jurisdiction and not inconsistent with any provision of this compact or a supplementary agreement entered into pursuant hereto.

B. Severability.—The provisions of this compact or of agreements hereunder shall be severable and if any phrase, clause, sentence or provisions of this compact, or such an agreement is declared to be contrary to the constitution of any signatory or of the United States or is held invalid, the constitutionality of the remainder of this compact or of any agreement and the applicability thereof to any participating jurisdiction, agency, person or circumstance shall not be affected thereby and shall remain in full force and effect as to the remaining participating jurisdictions and in full force and effect as to the signatory affected as to all severable matters. It is the intent of the signatories that the provisions of this compact shall be reasonably and liberally construed in the context of its purposes.

C. Amendments.—Amendments to this compact may be initiated by legislative action of any signatory and become effective when concurred in by all signatories and approved by Congress.

D. Effective date.—This compact shall become binding on a state when enacted by it into law and such state shall thereafter become a signatory and party hereto with any and all states legally joining herein.

E. Withdrawal from the compact.—A state may withdraw from this compact by authority of an act of its legislature 1 year after it notifies all signatories in writing of an intention to withdraw from the compact. Provided, withdrawal from the compact affects obligations of a signatory imposed on it by supplementary agreements to which it may be a party only to the extent and in accordance with the terms of such supplementary agreements.

History.—s. 1, ch. 71-79.

PART IV

RESOURCE RECOVERY AND MANAGEMENT

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403.702 Legislative findings; public purpose.—

(1) In order to enhance the beauty and quality of our environment; conserve and recycle our natural resources; prevent the spread of disease and the creation of nuisances; protect the public health, safety, and welfare; and provide a coordinated statewide solid waste management program, the Legislature finds that:

(a) Inefficient and improper methods of managing solid waste create hazards to public health, cause pollution of air and water resources, constitute a waste of natural resources, have an adverse effect on land values, and create public nuisances.

(b) Problems of solid waste management have become a matter statewide in scope and necessitate state action to assist local government in improving methods and processes to promote more efficient methods of solid waste collection and disposal.

(c) The continuing technological progress and improvements in methods of manufacture, packaging, and marketing of consumer products have resulted in an ever-mounting increase of the mass of material discarded by the purchasers of such products, thereby necessitating a statewide approach to assist local governments around the state with their solid waste management programs.

(d) The economic and population growth of our state and the improvements in the standard of living enjoyed by our population have required increased industrial production together with related commercial and agricultural operations to meet our needs, which have resulted in a rising tide of unwanted and discarded materials.

(e) The failure or inability to economically recover material and energy resources from solid waste results in the unnecessary waste and depletion of our natural resources, and, therefore, maximum resource recovery from solid waste and maximum recycling and reuse of such resources must be considered goals of the state.

(f) Certain solid waste, due to its quantity, concentration, or physical, chemical, biological, or infectious characteristics, is hazardous to human health, safety, and welfare and to the environment, and exceptional attention to the transportation, disposal, storage, and treatment of such waste is necessary to protect human health, safety, and welfare and the environment.

(g) This act should be integrated with other acts and parts of this chapter such that nonhazardous waste discharges currently regulated under this chapter, water or solid waste construction, modification, or operating permits, air emissions, special wastes, and other activities regulated under other more appropriate provisions of law remain in full force and effect and are not preempted by the requirements of this act.

(2) It is declared to be the purpose of this act to:

(a) Plan for and regulate in the most economically feasible, cost-effective, and environmentally safe manner the storage, collection, transport, separation, processing, recycling, and disposal of solid waste in order to protect the public safety, health, and welfare; enhance the environment for the people of this state; and recover resources which have the potential for further usefulness.

(b) Establish and maintain a cooperative state program of planning and technical and financial assistance for solid waste management.

(c) Provide the authority and require counties and municipalities to adequately plan and provide efficient, environmentally acceptable solid waste management and require counties to plan for proper hazardous waste management.

(d) Require review of the design, and issue permits for the construction, operation, and closure of solid waste management facilities.

(e) Promote the application of resource recovery systems which preserve and enhance the quality of air, water, and land resources.

(f) Ensure that hazardous waste is transported, disposed of, stored, and treated in a manner adequate to protect human health, safety, and welfare and the environment.

(g) Promote the reduction, recycling, reuse, or treatment of solid waste, specifically including hazardous waste, in lieu of disposal of such wastes.

(h) Promote the application of methods and technology for the treatment, disposal, and transportation of hazardous wastes which are practical, cost-effective, and economically feasible.

(i) Encourage counties and municipalities to utilize all means reasonably available to promote efficient and proper methods of managing solid waste and to promote the economical recovery of material and energy resources from solid waste, including, but not limited to, contracting with persons to provide or operate resource recovery services or facilities on behalf of the county or municipality.

(j) Promote the education of the general public and the training of solid waste professionals to reduce the production of solid waste, to ensure proper disposal of solid waste, and to encourage recycling.

(k) Encourage the development of waste reduction and recycling as a means of managing solid waste, conserving resources, and supplying energy through planning, grants, technical assistance, and other incentives.

(l) Encourage the development of the state's recycling industry by promoting the successful development of markets for recycled items and by promoting the acceleration and advancement of the technology used in manufacturing processes that use recycled items.

(m) Require all state agencies to aid and promote the development of recycling through their procurement policies for the general welfare and economy of the state.

(n) Require counties to develop and implement recycling programs within their jurisdictions to return valuable materials to productive use, to conserve energy and natural resources, and to protect capacity at solid waste management facilities.

(o) Ensure that biohazardous waste is transported, stored, treated, and disposed of in a manner adequate to protect human health, safety, and welfare and the environment.

(p) Require counties, municipalities, and state agencies to determine the full cost for providing, in an environmentally safe manner, storage, collection, transport, separation, processing, recycling, and disposal of solid waste material, and encourage counties, municipalities, and state agencies affected to contract with private persons for any or all such services in order to assure that such services are provided on the most cost-effective basis.

History.—s. 1, ch. 74-342; s. 3, ch. 80-302, s. 20, ch. 83-310, s. 30, ch. 84-338; s. 3, ch. 87-107, s. 2, ch. 88-130.

403.703 Definitions.—As used in this act, unless the context clearly indicates otherwise, the term:

(1) "Department" means the Department of Environmental Regulation or any successor agency performing a like function.

(2) "County," or any like term, means a political subdivision of the state established pursuant to s. 1, Art. VIII of the State Constitution and when s. 403.706(20) applies, means a special district or other entity.

(3) "Municipality," or any like term, means a municipality created pursuant to general or special law authorized or recognized pursuant to s. 2 or s. 6, Art. VIII of the State Constitution and when s. 403.706(20) applies, means a special district or other entity.

(4) "Person" means any and all persons, natural or artificial, including any individual, firm, or association; any municipal or private corporation organized or existing under the laws of this state or any other state; any county of this state; and any governmental agency of this state or the Federal Government.

(5) "Recyclable material" means those materials which are capable of being recycled and which would otherwise be processed or disposed of as solid waste.

(6) "Recycling" means any process by which solid waste, or materials which would otherwise become solid waste, are collected, separated, or processed and reused or returned to use in the form of raw materials or products.

(7) "Recovered materials" means those materials which have known recycling potential, can be feasibly recycled, and have been diverted or removed from the

solid waste stream for sale, use, or reuse, by separation, collection, or processing.

(8) "Solid waste management" means the process by which solid waste is collected, transported, stored, separated, processed, or disposed of in any other way, according to an orderly, purposeful, and planned program.

(9) "Resource recovery" means the process of recovering materials or energy from solid waste, excluding those materials or solid waste under control of the Nuclear Regulatory Commission.

(10) "Solid waste management facility" means any solid waste disposal area, volume reduction plant, transfer station, or other facility, the purpose of which is resource recovery or the disposal, recycling, processing, or storage of solid waste. The term does not include facilities which use or ship recovered materials unless such facilities are managing solid waste.

(11) "Solid waste disposal facility" means any solid waste management facility which is the final resting place for solid waste, including landfills and incineration facilities that produce ash from the process of incinerating municipal solid waste.

(12) "Resource recovery equipment" means equipment or machinery exclusively and integrally used in the actual process of recovering material or energy resources from solid waste.

(13) "Solid waste" includes garbage, refuse, yard trash, clean debris, white goods, special waste, ashes, sludge, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations.

(14) "Volume reduction plant" includes incinerators, pulverizers, compactors, shredding and baling plants, composting plants, and other plants which accept and process solid waste for recycling or disposal.

(15) "Yard trash" means vegetative matter resulting from landscaping maintenance and land-clearing operations.

(16) "Transfer station" means a site the primary purpose of which is to store or hold solid waste for transport to a processing or disposal facility.

(17) "Construction and demolition debris" means materials generally considered to be not water soluble and nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete, asphalt roofing material, pipe, gypsum wallboard, and lumber, from the construction or destruction of a structure as part of a construction or demolition project, and including rocks, soils, tree remains, trees, and other vegetative matter which normally results from land clearing or land development operations for a construction project. Mixing of construction and demolition debris with other types of solid waste, including material from a construction or demolition site which is not from the actual construction or destruction of a structure, will cause it to be classified as other than construction and demolition debris.

(18) "Class I solid waste disposal area" means a disposal facility which receives an average of 20 tons or more per day, if scales are available, or 50 cubic yards or more per day of solid waste, as measured in place after covering, and which receives an initial cover daily.

(19) "Class II solid waste disposal area" means a disposal facility which receives an average of less than 50 cubic yards per day of solid waste, as measured in place after covering, and which receives an initial cover at least once every 4 days.

(20) "Closure" means the cessation of operation of a solid waste management facility and the act of securing such facility so that it will pose no significant threat to human health or the environment.

(21) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or upon any land or water so that such solid waste or hazardous waste or any constituent thereof may enter other lands or be emitted into the air or discharged into any waters, including groundwaters, or otherwise enter the environment.

(22) "Generation" means the act or process of producing solid or hazardous waste.

(23) "Hazardous waste" means solid waste, or a combination of solid wastes, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, treated, or otherwise managed.

(24) "Hazardous waste facility" means any building, site, structure, or equipment at or by which hazardous waste is disposed of, stored, or treated.

(25) "Hazardous waste management" means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, recycling, and disposal of hazardous wastes.

(26) "Manifest" means the recordkeeping system used for identifying the concentration, quantity, composition, origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, storage, or treatment.

(27) "Operation," with respect to any solid waste management facility, means the disposal, storage, or processing of solid waste at and by the facility.

(28) "Storage" means the containment or holding of a hazardous waste, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such hazardous waste.

(29) "Transport" means the movement of hazardous waste from the point of generation or point of entry into the state to any offsite intermediate points and to the point of offsite ultimate disposal, storage, treatment, or exit from the state.

(30) "Treatment," when used in connection with hazardous waste, means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize it or render it nonhazardous, safe for transport, amenable to recovery, amenable to storage or disposal, or reduced in volume or concentration. The term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous.

(31) "Hazardous substance" means any substance which is defined as a hazardous substance in the United States Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 94 Stat. 2767.

(32) "Guarantor" means any person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator under this act.

(33) "Land disposal" means any placement of hazardous waste in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt bed formation, salt dome formation, or underground mine or cave.

(34) "Special wastes" means solid wastes that can require special handling and management, including, but not limited to, white goods, whole tires, used oil, mattresses, furniture, lead-acid batteries, and biological wastes.

(35) "Clean debris" means any solid waste which is virtually inert and which is not a pollution threat to groundwater or surface waters and is not a fire hazard and which is likely to retain its physical and chemical structure under expected conditions of disposal or use. The term includes uncontaminated concrete, including embedded pipe or steel, brick, glass, ceramics, and other wastes designated by the department.

(36) "Processing" means any technique designed to change the physical, chemical, or biological character or composition of any solid waste so as to render it safe for transport, amenable to recovery, storage or recycling, or safe for disposal, or reduced in volume or concentration.

(37) "Sludge" includes the accumulated solids, residues, and precipitates generated as a result of waste treatment or processing, including wastewater treatment, water supply treatment, or operation of an air pollution control facility, and mixed liquids and solids pumped from septic tanks, grease traps, privies, or similar waste disposal appurtenances.

(38) "White goods" includes inoperative and discarded refrigerators, ranges, water heaters, freezers, and other similar domestic and commercial large appliances.

(39) "Biohazardous waste" means any solid waste or liquid waste which may present a threat of infection to humans. The term includes, but is not limited to, nonliquid human tissue and body parts; laboratory and veterinary waste which contain human-disease-causing agents; used disposable sharps; human blood, and human blood products and body fluids; and other materials which in the opinion of the Department of Health and Rehabilitative Services represent a significant risk of infection to persons outside the generating facility.

(40) "Biohazardous waste generator" means a facility or person that produces or generates biohazardous waste. The term includes, but is not limited to, hospitals, skilled nursing or convalescent hospitals, intermediate care facilities, clinics, dialysis clinics, dental offices, health maintenance organizations, surgical clinics, medical buildings, physicians' offices, laboratories, veterinary clinics, and funeral homes.

(41) "Biological waste" means solid waste that causes or has the capability of causing disease or infection and includes, but is not limited to, biohazardous waste, diseased or dead animals, and other wastes capable of transmitting pathogens to humans or animals.

History.—s. 1, ch. 74-342; s. 2, ch. 78-329; s. 1, ch. 78-387; s. 84, ch. 79-65; s. 4, ch. 80-302; s. 1, ch. 81-45; s. 267, ch. 81-259; s. 31, ch. 83-310; s. 33, ch. 84-338; s. 31, ch. 86-186; s. 3, ch. 88-130.

403.704 Powers and duties of the department.—The department shall have responsibility for the implementation and enforcement of the provisions of this act. In addition to other powers and duties, the department shall:

(1) Develop and implement, in consultation with local governments, a state solid waste management program, as defined in s. 403.705, and update the program at least every 3 years. In developing rules to implement the state solid waste management program, the department shall hold public hearings around the state and shall give notice of such public hearings to all local governments and regional planning agencies.

(2) Provide technical assistance to counties, municipalities, and other persons, and cooperate with appropriate federal agencies and private organizations in carrying out the provisions of this act.

(3) Promote the planning and application of recycling and resource recovery systems which preserve and enhance the quality of the air, water, and other natural resources of the state and assist in and encourage, where appropriate, the development of regional solid waste management facilities.

(4) Serve as the official state representative for all purposes of the federal Solid Waste Disposal Act, as amended by Pub. L. No. 91-512, or as subsequently amended.

(5) Use private industry or the State University System through contractual arrangements for implementation of some or all of the requirements of the state solid waste management program and for such other activities as may be considered necessary, desirable, or convenient.

(6) Encourage recycling and resource recovery as a source of energy and materials.

(7) Assist in and encourage, as much as possible, the development within the state of industries and commercial enterprises which are based upon resource recovery, recycling, and reuse of solid waste.

(8) Charge reasonable fees for any services it performs pursuant to this act, provided user fees shall apply uniformly within each municipality or county to all users who are provided with solid waste management services.

(9) Acquire, at its discretion, personal or real property or any interest therein by gift, lease, or purchase for the purpose of providing sites for solid waste management facilities.

(10) Acquire, construct, reconstruct, improve, maintain, equip, furnish, and operate, at its discretion, such solid waste management facilities as are called for by the state solid waste management program.

(11) Receive funds or revenues from the sale of products, materials, fuels, or energy in any form derived from processing of solid waste by state-owned or state-operated facilities, which funds or revenues shall be deposited into the Solid Waste Management Trust Fund.

(12) Determine by rule the facilities, equipment, personnel, and number of monitoring wells to be provided at each Class I solid waste disposal area.

(13) Encourage, but not require, as part of a Class II solid waste disposal area, a potable water supply; an employee shelter; handwashing and toilet facilities; equipment washout facilities; electric service for operations and repairs; equipment shelter for maintenance and storage of parts, equipment, and tools; scales for weighing solid waste received at the disposal area; a trained equipment operator in full-time attendance during operating hours; and communication facilities for use in emergencies. The department may require an attendant at a Class II solid waste disposal area during the hours of operation if the department affirmatively demonstrates that such a requirement is necessary to prevent unlawful fires, unauthorized dumping, or littering of nearby property.

(14) Require a Class II solid waste disposal area to have at least one monitoring well which shall be placed adjacent to the site in the direction of groundwater flow unless otherwise exempted by the department. The department may require additional monitoring wells not farther than 1 mile from the site if it is affirmatively demonstrated by the department that a significant change in the initial quality of the water has occurred in the downstream monitoring well which adversely affects the beneficial uses of the water. These wells may be public or private water supply wells if they are suitable for use in determining background water quality levels.

(15) Adopt, repeal, or amend rules to implement, administer, and enforce this act, including requirements for the classification, construction, operation, maintenance, and closure of solid waste management facilities. When classifying solid waste management facilities, the department shall consider the hydrogeology of the site for the facility, the types of wastes to be handled by the facility, and methods used to control the types of waste to be handled by the facility and shall seek to minimize the adverse effects of solid waste management on the environment. Whenever the department adopts any rule stricter or more stringent than one which has been set by the United States Environmental Protection Agency, the procedures set forth in s. 403.804(2) shall be followed. The department shall not, however, adopt hazardous waste rules for solid waste for which special studies were required prior to October 1, 1988, under s. 8002 of the 'Resource Conservation and Recovery Act, 42 U.S.C. ss. 6982, as amended, until the studies are completed by the United States Environmental Protection Agency and the information is available to the department for consideration in adopting its own rule.

(16) Issue or modify permits on such conditions as are necessary to effect the intent and purposes of this act, and may deny or revoke permits.

(17) Conduct research, using the State University System, solid waste professionals from local governments, private enterprise, and other organizations, on alternative, economically feasible, cost-effective, and environmentally safe solid waste management and landfill closure methods which protect the health, safety, and welfare of the public and the environment and which may assist in developing markets and provide economic benefits to local governments, the state, and its citizens, and solicit public participation during the research process. The department shall incorporate such cost-effective landfill closure methods in the appropriate department rule as alternative closure requirements.

(18) Develop and implement or contract for services to develop information on recovered materials markets and strategies for market development and expansion for use of these materials. Additionally, the department shall maintain a directory of recycling businesses operating in the state and shall serve as a coordinator to match recovered materials with markets. Such directory shall be made available to the public and to local governments to assist with their solid waste management activities.

(19) Authorize variances from solid waste closure rules adopted pursuant to this part, provided such variances are applied for and approved in accordance with s. 403.201 and will not result in significant threats to human health or the environment.

(20) Establish accounts and deposit to the Solid Waste Management Trust Fund and control and administer moneys it may withdraw from the fund.

(21) Establish an account and deposit to the Hazardous Waste Management Trust Fund and control and administer moneys it may withdraw from the fund.

(22) Manage a program of grants, using funds from the Solid Waste Management Trust Fund and funds provided by the Legislature for solid waste management, for programs for recycling, litter control, and special waste management and for programs which provide for the safe and proper management of solid waste.

(23) Budget and receive appropriated funds and accept, receive, and administer grants or other funds or gifts from public or private agencies, including the state and the Federal Government, for the purpose of carrying out the provisions of this act.

(24) Delegate its powers, enter into contracts, or take such other actions as may be necessary to implement this act.

(25) Receive and administer funds appropriated for county hazardous waste management assessments.

(26) Provide technical assistance to local governments and regional agencies to ensure consistency between county hazardous waste management assessments; coordinate the development of such assessments with the assistance of the appropriate regional planning councils; and review and make recommendations to the Legislature relative to the sufficiency of the assessments to meet state hazardous waste management needs.

(27) Increase public education and public awareness of solid and hazardous waste issues by developing and promoting statewide programs of litter control, recycling, volume reduction, and proper methods of solid waste and hazardous waste management.

(28) Assist the hazardous waste storage, treatment, or disposal industry by providing to the industry any data produced on the types and quantities of hazardous waste generated.

(29) Institute a hazardous waste emergency response program which would include emergency telecommunication capabilities and coordination with appropriate agencies.

(30) Promulgate rules necessary to accept delegation of the hazardous waste management program from the

Environmental Protection Agency under the Hazardous and Solid Waste Amendments of 1984, Pub. L. No. 98-616.

(31) Not later than February 1, 1989, initiate rulemaking to address the management of biohazardous waste and biological waste within the state. Such rules shall address onsite and offsite incineration and shall regulate biohazardous waste from the point at which such waste is transported from a facility which generates such waste, for the purpose of offsite shipment for storage, treatment, or disposal, and shall include provisions for the registering of transporters of biohazardous waste.

History.—s. 1, ch. 74-342; s. 1, ch. 75-54; s. 2, ch. 78-387; s. 5, ch. 80-302; ss. 21, 32, ch. 83-310; s. 31, ch. 84-338; s. 32, ch. 86-186; s. 6, ch. 88-130.

*Note.—The Resource Conservation and Recovery Act of 1976.

403.7043 Compost standards and applications.—

(1) In order to protect the state's land and water resources, compost produced, utilized, or disposed of by the composting process at solid waste management facilities in the state must meet criteria established by the department.

(2) Within 6 months after October 1, 1988, the department shall initiate rulemaking to establish standards for the production of compost and shall complete and promulgate those rules within 12 months after initiating the process of rulemaking, including rules establishing:

(a) Requirements necessary to produce hygienically safe compost products for varying applications.

(b) A classification scheme for compost based on: the types of waste composted, including at least one type containing only yard trash; the maturity of the compost, including at least three degrees of decomposition for fresh, semi-mature, and mature; and the levels of organic and inorganic constituents in the compost. This scheme shall address:

1. Methods for measurement of the compost maturity.
2. Particle sizes.
3. Moisture content.
4. Average levels of organic and inorganic constituents, including heavy metals, for such classes of compost as the department establishes, and the analytical methods to determine those levels.

(3) Within 6 months after October 1, 1988, the department shall initiate rulemaking to prescribe the allowable uses and application rates of compost and shall complete and promulgate those rules within 12 months after initiating the process of rulemaking, based on the following criteria:

(a) The total quantity of organic and inorganic constituents, including heavy metals, allowed to be applied through the addition of compost to the soil per acre per year.

(b) The allowable uses of compost based on maturity and type of compost.

(4) If compost is produced which does not meet the criteria prescribed by the department for agricultural and other use, the compost must be reprocessed or disposed of in a manner approved by the department, unless a different application is specifically permitted by the department.

(5) Compost produced as a result of contracts with city or county governments entered into prior to October 1, 1988, shall not be required to meet the provisions of this section until 10 years after October 1, 1988.

(6) The provisions of s. 403.706 shall not prohibit any county or municipality which has in place a memorandum of understanding or other written agreement as of October 1, 1988, from proceeding with plans to build a compost facility.

History.—s. 7, ch. 88-130.

403.7045 Application of act and integration with other acts.—

(1) The following wastes or activities shall not be regulated pursuant to this act:

(a) Byproduct material, source material, and special nuclear material, the generation, transportation, disposal, storage, or treatment of which is regulated under chapter 404 or under the federal Atomic Energy Act of 1954, Chapter 1073, 68 Stat. 923, as amended;

(b) Suspended solids and dissolved materials in domestic sewage effluent or irrigation return flows or other discharges which are point sources subject to permits pursuant to provisions of this chapter or pursuant to s. 402 of the Clean Water Act, Pub. L. No. 95-217;

(c) Emissions to the air from a stationary installation or source regulated under provisions of this chapter or under the Clean Air Act, Pub. L. No. 95-95;

(d) Drilling fluids, produced waters, and other wastes associated with the exploration for, or development and production of, crude oil or natural gas which are regulated under chapter 377;

(e) Activities which are regulated pursuant to the Florida Hazardous Substances Law, ss. 501.061-501.121; or

(f) Recovered materials, if:

1. A majority of the recovered materials at a facility are demonstrated to be sold, used, or reused within 1 year;

2. The recovered materials or the products or byproducts of operations that process recovered materials are not discharged, deposited, injected, dumped, spilled, leaked, or placed into or upon any land or water so that such products or byproducts or any constituent thereof may enter other lands or be emitted into the air or discharged into any waters, including groundwaters, or otherwise enter the environment or pose a threat to public health and safety; and

3. The recovered materials are not hazardous wastes and have not been recovered from solid wastes which are defined as hazardous wastes under s. 403.703, and rules promulgated pursuant thereto.

(2) Except as provided in s. 403.704(15), the following wastes shall not be regulated as a hazardous waste pursuant to this act, except when determined by the United States Environmental Protection Agency to be a hazardous waste:

(a) Ashes and scrubber sludges generated from the burning of boiler fuel for generation of electricity or steam.

(b) Agricultural and silvicultural byproduct material and agricultural and silvicultural process waste from normal farming or processing.

(c) Discarded material generated by the mining and beneficiation and chemical or thermal processing of

phosphate rock, and precipitates resulting from neutralization of phosphate chemical plant process and nonprocess waters.

(3) The following wastes or activities shall be regulated pursuant to this act in the following manner:

(a) Dredge spoil or fill material shall be disposed of pursuant to a dredge and fill permit, but whenever hazardous components are disposed of within the dredge or fill material, the dredge and fill permits shall specify the specific hazardous wastes contained and the concentration of each such waste. The department may then limit or restrict the sale or use of the dredge and fill material and may specify such other conditions relative to this material as are reasonably necessary to protect the public from the potential hazards.

(b) Hazardous wastes which are contained in artificial recharge waters or other waters intentionally introduced into any underground formation and which are permitted pursuant to s. 373.106 shall also be handled in compliance with the requirements and standards for disposal, storage, and treatment of hazardous waste under this act.

(c) Solid waste or hazardous waste facilities which are operated as a part of the normal operation of a power generating facility and which are licensed by certification pursuant to the Florida Electrical Power Plant Siting Act, ss. 403.501-403.517, shall undergo such certification subject to the substantive provisions of this act.

(d) Biohazardous waste and biological waste shall be disposed of only as authorized by the department. However, any person who unknowingly disposes into a sanitary landfill any such waste which has not been properly segregated or separated from other solid wastes by the generating facility is not guilty of a violation under this act. Nothing in this paragraph shall be construed to prohibit the department from seeking injunctive relief pursuant to s. 403.131 to prohibit the unauthorized disposal of biohazardous waste or biological waste.

(4) Disposal of dead animals, including those which were diseased, shall be consistent with applicable federal and state laws and regulations.

(5) Ash generated by a solid waste management facility from the burning of solid waste shall be disposed of in a properly designed solid waste disposal area that complies with standards developed by the department for the disposal of such ash. Rulemaking shall be initiated and at least one public hearing held by February 1, 1989. The department shall work with solid waste management facilities which burn solid waste to identify and develop methods for recycling and reuse of incinerator ash or treated ash.

History.—s. 6, ch. 80-302; s. 3, ch. 82-125; s. 28, ch. 83-215; s. 62, ch. 83-218; s. 8, ch. 88-130.

403.7049 Determination of full cost for solid waste management; local solid waste management fees.—

(1) Within 1 year of October 1, 1988, or within 1 year after rules are established by the department, whichever occurs later, each county and each municipality shall determine the full cost for solid waste management within the service area of the county or municipality for the 1-year period beginning on October 1, 1988, and shall update the full cost every year thereafter. The department shall establish by rule the method for local governments to use in calculating full cost. Rulemaking shall be initiated and at least one public hearing shall be held by March 1, 1989. In developing the rule, the department shall examine the feasibility of the use of an enterprise fund process by local governments in operating their solid waste management systems.

(2)(a) Within 1 year from October 1, 1988, each municipality shall establish a system to inform, no less than once a year, residential and nonresidential users of solid waste management services within the municipality's service area of the user's share, on an average or individual basis, of the full cost for solid waste management as determined pursuant to subsection (1). Counties shall provide the information required of municipalities only to residential and nonresidential users of solid waste management services within the county's service area that are not served by a municipality. Municipalities shall include costs charged to them or persons contracting with them for disposal of solid waste in the full cost information provided to residential and nonresidential users of solid waste management services.

(b) Counties and municipalities are encouraged to operate their solid waste management systems through use of an enterprise fund.

(3) For purposes of this section, "service area" means the area in which the county or municipality provides, directly or by contract, solid waste management services. The provisions of this section shall not be construed to require a person operating under a franchise agreement to collect or dispose of solid waste within the service area of a county or municipality to make the calculations or to establish a system to provide the information required under this section, unless such person agrees to do so as part of such franchise agreement.

(4) In order to assist in achieving the municipal solid waste reduction goal and the recycling provisions of s. 403.706(4), a county or a municipality which owns or operates a solid waste management facility is hereby authorized to charge solid waste disposal fees which may vary based on a number of factors, including, but not limited to, the amount, characteristics, and form of recyclable materials present in the solid waste that is brought to the county's or the municipality's facility for processing or disposal.

(5) In addition to all other fees required or allowed by law, a county or a municipality, at the discretion of its governing body, may impose a fee for the services the county or municipality provides with regard to the collection, processing, or disposal of solid waste, to be used for developing and implementing a recycling program. For such fees, the local governing body of any county or municipality may use the non-ad valorem levy, collection, and enforcement method as provided for in chapter 197.

(6) This section does not prohibit a county, municipality, or other person from providing grants, loans, or other aid to low-income persons to pay part or all of the costs of such persons' solid waste management services.

History.—s. 9, ch. 88-130.

403.705 State solid waste management program.

(1) The state solid waste management program shall:

(a) Provide guidelines for the orderly collection, transportation, storage, separation, processing, recovery, recycling, and disposal of solid waste throughout the state;

(b) Encourage coordinated local activity for solid waste management within a common geographical area;

(c) Investigate the present status of solid waste management in the state with positive proposals for local action to correct deficiencies in present solid waste management processes;

(d) Provide planning, technical, and financial assistance to local governments and state agencies for reduction, recycling, reuse, and processing of solid waste and for safe and environmentally sound solid waste management and disposal;

(e) Assist in the development of solid waste reduction and recycling programs to properly manage solid waste and conserve resources; and

(f) Provide for the education of the general public and the training of solid waste management professionals to reduce the production of solid waste, to ensure proper processing and disposal of solid waste, and to encourage recycling and solid waste reduction.

(2) The state solid waste management program shall be initiated by the department by February 1, 1989, and the department shall begin adoption of rules necessary to implement the program by December 31, 1988. The program shall be updated at least once every 3 years.

(3) The state solid waste management program shall include, at a minimum:

(a) Procedures and requirements to ensure cooperative efforts in solid waste management by counties and municipalities and groups of counties and municipalities where appropriate.

(b) Provisions for the continuation of existing effective regional resource recovery, recycling, and solid waste management facilities and programs.

(c) Planning guidelines and technical assistance to counties and municipalities to aid in meeting the municipal solid waste reduction goals established in s. 403.706(4).

(d) Planning guidelines and technical assistance to counties and municipalities to develop and implement recycling programs.

(e) Technical assistance to counties and municipalities in determining the full cost for solid waste management as required in s. 403.7049(1).

(f) Planning guidelines and technical assistance to counties and municipalities to develop and implement programs for alternative disposal or processing or recycling of the solid wastes prohibited from disposal in landfills under s. 403.708(15) and for special wastes.

(g) A public education program, to be developed in cooperation with the Department of Education, local governments, other state agencies, and business and industry organizations, to inform the public of the need for and the benefits of recycling of solid waste and reducing the amounts of solid and hazardous waste generated and disposed of in the state. The public education program shall be implemented through public workshops and through the use of brochures, reports, public service announcements, and other materials.

(4) The department shall prepare by October 1, 1989, and every year thereafter, a report on the status of solid waste management efforts in the state. The report shall include, at a minimum:

(a) A comprehensive analysis, to be updated in each report, of solid waste generation and disposal in the state projected for the 20-year period beginning on October 1, 1988.

(b) The total amounts of solid waste generated, recycled, and disposed of, and the methods of solid waste recycling and disposal used during the calendar year prior to the year in which the report is published.

(c) An evaluation of the development and implementation of local solid waste management programs and county and municipal recycling programs.

(d) An evaluation of the success of each county or group of counties in meeting the municipal solid waste reduction goal established in s. 403.706(4).

(e) Recommendations concerning existing and potential programs for solid waste reduction and recycling that would be appropriate for local governments and state agencies to implement to meet the requirements of [1]this act.

(f) An evaluation of the markets for recycled materials and the success of state, local, and private industry efforts to enhance the markets for such materials.

(g) Recommendations to the Governor and the Legislature to improve the management and recycling of solid waste in this state.

(5) The Department of Environmental Regulation shall develop descriptive literature to inform local governments of the solid waste management responsibilities and opportunities described in [1]this act. The department shall also hold at least one regional workshop in each regional planning council region during fiscal year 1988-1989 for the purposes of:

(a) Informing the public and the private sector of the provisions of [1]this act; and

(b) Identifying solid waste management issues which may need to be discussed by the 1989 Legislature.

History.—s. 1, ch. 74-342; s. 2, ch. 75-54; s. 10, ch. 88-130.

[1]**Note.**—As enacted, the term "this act" refers to ch. 88-130.

403.706 Local government solid waste responsibilities.—

(1) The governing body of a county has the responsibility and power to provide for the operation of solid waste disposal facilities to meet the needs of all incorporated and unincorporated areas of the county. Unless otherwise approved by an interlocal agreement or special act, municipalities may not operate solid waste disposal facilities unless a municipality demonstrates by a preponderance of the evidence that the use of a county designated facility, when compared to alternatives proposed by the municipality, places a significantly higher and disproportionate financial burden on the citizens of the municipality when compared to the financial burden placed on persons residing within the county but out-

side of the municipality. However, a municipality may construct and operate a resource recovery facility and related onsite solid waste disposal facilities without an interlocal agreement with the county if the municipality can demonstrate by a preponderance of the evidence that the operation of such facility will not significantly impair financial commitments made by the county with respect to solid waste management services and facilities or result in significantly increased solid waste management costs to the remaining persons residing within the county but not served by the municipality's facility. This section shall not prevent a municipality from continuing to operate or use an existing disposal facility permitted on or prior to October 1, 1988. Any municipality which establishes a solid waste disposal facility under this subsection and subsequently abandons such facility shall be responsible for the payment of any capital expansion necessary to accommodate the municipality's solid waste for the remaining projected useful life of the county disposal facility. Pursuant to this section and notwithstanding any other provision of this chapter, counties shall have the power and authority to adopt ordinances governing the disposal of solid waste generated outside of the county at the county's solid waste disposal facility. In accordance with this section, municipalities are responsible for collecting and transporting solid waste from their jurisdictions to a solid waste disposal facility operated by a county or operated under a contract with a county. Counties may charge reasonable fees for the handling and disposal of solid waste at their facilities. The fees charged to municipalities at a solid waste management facility specified by the county shall not be greater than the fees charged to other users of the facility except as provided in s. 403.7049(4). Solid waste management fees collected on a countywide basis shall be used to fund solid waste management services provided countywide.

(2) Each county shall initiate a recyclable materials recycling program by July 1, 1989. Counties and municipalities are encouraged to form cooperative arrangements for implementing recycling programs. The following requirements shall apply:

(a) Construction and demolition debris must be separated from the solid waste stream and segregated in separate locations at a solid waste disposal facility or other permitted site.

(b) At a minimum, a majority of the newspaper, aluminum cans, glass, and plastic bottles must be separated from the solid waste stream prior to final disposal at a solid waste disposal facility and must be offered for recycling.

(c) Local governments are encouraged to separate all plastics, metal, and all grades of paper for recycling prior to final disposal and are further encouraged to recycle yard trash and other mechanically treated solid waste into compost available for agricultural and other acceptable uses.

(3) Each county shall ensure, to the maximum extent possible, that municipalities within its boundaries participate in the preparation and implementation of recycling and solid waste management programs through interlocal agreements pursuant to s. 163.01 or other means provided by law. Nothing in a county's solid waste management or recycling program shall affect the authority of a municipality to franchise or otherwise provide for the collection of solid waste generated within the boundaries of the municipality.

(4) A county's solid waste management and recycling programs shall be designed to provide for sufficient reduction of the amount of solid waste generated within the county and the municipalities within its boundaries in order to meet goals for the reduction of municipal solid waste prior to the final disposal or the incineration of such waste at a solid waste disposal facility. The goals shall provide, at a minimum, that the amount of municipal solid waste that would be disposed of in the absence of municipal solid waste recycling efforts undertaken within the county and the municipalities within its boundaries is reduced by at least 30 percent by the end of 1994. In determining whether the municipal solid waste reduction goal established by this subsection has been achieved, no more than one-half of the goal may be met with yard trash, white goods, construction and demolition debris, and tires that are removed from the total amount of municipal solid waste that would be disposed of in the absence of municipal solid waste recycling efforts.

(5) As used in this section, "municipal solid waste" includes any solid waste, except for sludge, resulting from the operation of residential, commercial, governmental, or institutional establishments that would normally be collected, processed, and disposed of through a public or private solid waste management service. The term includes yard trash but does not include solid waste from industrial, mining, or agricultural operations.

(6) The department may reduce or modify the municipal solid waste reduction goal that a county is required to achieve pursuant to subsection (4) if the county demonstrates to the department that:

(a) The achievement of the goal set forth in subsection (4) would have an adverse effect on the financial obligations of a county that are directly related to a waste-to-energy facility owned or operated by or on behalf of the county; and

(b) The county cannot remove normally combustible materials from solid waste that is to be processed at a waste-to-energy facility because of the need to maintain a sufficient amount of solid waste to ensure the financial viability of the facility.

The goal shall not be waived entirely and may only be reduced or modified to the extent necessary to alleviate the adverse effects of achieving the goal on the financial viability of a county's waste-to-energy facility. Nothing in this subsection shall exempt a county from developing and implementing a recycling program pursuant to [1]this act.

(7) In order to assess the progress in meeting the goal established in subsection (4), each county shall, by October 1, 1989, and each year thereafter, report to the department its annual solid waste management program and recycling activities. The report by the county must include:

(a) A description of its public education program on recycling;

(b) The amount of solid waste disposed of at solid waste disposal facilities, by type of waste such as yard trash, white goods, clean debris, tires, and unseparated solid waste;

(c) The amount and type of materials from the solid waste stream that were recycled;

(d) The percentage of the population participating in various types of recycling activities instituted;

(e) The percent reduction each year in municipal solid waste disposed of at solid waste disposal facilities;

(f) A description of the recycling activities attempted, their success rates, the perceived reasons for failure or success, and the recycling activities which are ongoing and most successful; and

(g) In its first report, a description of any recycling activities implemented prior to July 1, 1989.

(8) A county or municipality may enter into a written agreement with other persons, including persons transporting solid waste on October 1, 1988, to undertake to fulfill some or all of the county's or municipality's responsibilities under this section.

(9) In the development and implementation of a curbside recyclable materials collection program, a county or municipality shall enter into negotiations with a franchisee who is operating to exclusively collect solid waste within a service area of a county or municipality to undertake curbside recyclable materials collection responsibilities for a county or municipality. If the county or municipality and such franchisee fail to reach an agreement within 60 days from the initiation of such negotiations, the county or municipality may solicit proposals from other persons to undertake curbside recyclable materials collection responsibilities for the county or municipality as it may require. Upon the determination of the lowest responsible proposal, the county or municipality may undertake, or enter into a written agreement with the person who submitted the lowest responsible proposal to undertake, the curbside recyclable materials collection responsibilities for the county or municipality, notwithstanding the exclusivity of such franchise agreement.

(10) In developing and implementing recycling programs, counties and municipalities shall give consideration to the collection, marketing, and disposition of recyclable materials by persons engaged in the business of recycling on October 1, 1988, whether or not the persons were operating for profit. Counties and municipalities are encouraged to use for-profit and nonprofit organizations in fulfilling their responsibilities under this act.

(11) A county and the municipalities within the county's boundaries may jointly develop a recycling program, provided that the county and each such municipality must enter into a written agreement to jointly develop a recycling program. If a municipality does not participate in jointly developing a recycling program with the county within which it is located, the county may require the municipality to provide information on recycling efforts undertaken within the boundaries of the municipality in order to determine whether the goal for municipal solid waste reduction is being achieved.

(12) It is the policy of the state that a county and its municipalities may jointly determine, through an interlocal agreement pursuant to s. 163.01 or by requesting the passage of special legislation, which local governmental agency shall administer a solid waste management or recycling program.

(13) The county shall provide written notice to all municipalities within the county when recycling program development begins and shall provide periodic written progress reports to the municipalities concerning the preparation of the recycling program.

(14) Nothing in this act shall be construed to prevent the governing body of any county or municipality from providing by ordinance or regulation for solid waste management requirements which are stricter or more extensive than those imposed by the state solid waste management program and rules, regulations, and orders issued thereunder.

(15) Nothing in this act or in any rule adopted by any agency shall be construed to require any county or municipality to participate in any regional solid waste management or regional resource recovery program until the governing body of such county or municipality has determined that participation in such a program is economically feasible for that county or municipality. Nothing in this act or in any special or local act or in any rule adopted by any agency shall be construed to limit the authority of a municipality to regulate the disposal of solid waste within its boundaries or generated within its boundaries so long as a facility for any such disposal has been approved by the department, unless the municipality is included within a solid waste management program created by interlocal agreement or special or local act. If bonds had been issued to finance a resource recovery or management program or a solid waste management program in reliance on state law granting to a county the responsibility for the resource recovery or management program or a solid waste management program, nothing herein shall permit any governmental agency to withdraw from said program if said agency's participation is necessary for the financial feasibility of the project, so long as said bonds are outstanding.

(16) Nothing in this chapter or in any rule adopted by any state agency hereunder shall require any person to subscribe to any private solid waste collection service.

(17) To effect the purposes of this part, counties and municipalities are authorized, in addition to other powers granted pursuant to this part:

(a) To contract with persons to provide resource recovery services or operate resource recovery facilities on behalf of the county or municipality.

(b) To indemnify persons providing resource recovery services or operating resource recovery facilities for liabilities or claims arising out of the provision or operation of such services or facilities that are not the result of the sole negligence of the persons providing such services or operating such facilities.

(c) To waive sovereign immunity and immunity from suit in federal court by vote of the governing body of the county or municipality to the extent necessary to carry out the authority granted in paragraphs (a) and (b) of this subsection, notwithstanding the limitations prescribed in s. 768.28.

(18) On and after July 1, 1989, each operator of a solid waste management facility owned or operated by or on behalf of a county or municipality, except existing facili-

ties which will not be in use 1 year after October 1, 1988, shall weigh all solid waste when it is received. The scale used to measure the solid waste shall conform to the requirements of chapter 531 and any rules promulgated thereunder.

(19) A county listed in ch. 17-7, Florida Administrative Code, which was required to submit to the department a local resource recovery and management program shall revise its existing local resource recovery and management program if necessary to meet the requirements of [1]this act.

(20) In the event the power to manage solid waste has been granted to a special district or other entity by special act or interlocal agreement, any duty or responsibility or penalty imposed under this part on a county or municipality shall apply to such special district or other entity to the extent of the grant of such duty or responsibility or imposition of such penalty. To the same extent, such special district or other entity shall be eligible for grants or other benefits provided pursuant to this part.

(21) In addition to any other penalties provided by law, a local government that does not comply with the requirements of subsections (2) and (4) shall not be eligible for grants from the Solid Waste Management Trust Fund, and the department may notify the State Treasurer to withhold payment of all or a portion of funds payable to the local government by the department from the General Revenue Fund or by the department from any other state fund, to the extent not pledged to retire bonded indebtedness, unless the local government demonstrates that good faith efforts to meet the requirements of subsections (2) and (4) have been made or that the funds are being or will be used to finance the correction of a pollution control problem that spans jurisdictional boundaries.

History.—s. 1, ch. 74-342; s. 142, ch. 77-104; s. 1, ch. 77-466; s. 3, ch. 78-329; s. 1, ch. 79-118; s. 7, ch. 80-302; s. 2, ch. 87-107; s. 11, ch. 88-130.

[1]**Note.**—As enacted, the term "this act" refers to ch. 88-130.

403.7063 Use of private services in solid waste management.—In providing services or programs for solid waste management, local governments and state agencies should use the most cost-effective means for the provision of services and are encouraged to contract with private persons for any or all of such services or programs in order to assure that such services are provided on the most cost-effective basis. Notwithstanding any special or general law to the contrary, no county or municipality shall adopt or enforce regulations that discriminate against privately owned solid waste management facilities because they are privately owned. However, nothing in this section shall interfere with the county's or municipality's ability to control the flow of solid waste within its boundaries pursuant to this chapter.

History.—s. 62, ch. 88-130.

403.7065 Procurement of products or materials with recycled content.—

(1) Except as provided in [1]s. 287.045, any state agency or agency of a political subdivision of the state which is using state funds, or any person contracting with any such agency with respect to work performed under contract, is required to procure products or materials with recycled content when those products or materials are available at reasonable prices. A decision not to procure such items must be based on a determination that such procurement:

(a) Is not available within a reasonable period of time; or

(b) Fails to meet the performance standards set forth in the applicable specifications or fails to meet the reasonable performance standards of the agency.

When the requirements of [1]s. 287.045 are met, agencies shall be subject to the procurement requirements of that section for procuring products or materials with recycled content.

(2) For the purposes of this section, "recycled content" means materials that have been recycled that are contained in the products or materials to be procured, including, but not limited to, paper, aluminum, glass, and composted material. The term does not include internally generated scrap that is commonly used in industrial or manufacturing processes or waste or scrap purchased from another manufacturer who manufactures the same or a closely related product.

History.—s. 2, ch. 83-293; s. 12, ch. 88-130.

[1]**Note.**—The reference to "s. 287.045" was substituted by the editors for a reference to "s. 287.05." Section 287.05 was created by s. 48, ch. 88-130, and renumbered by the reviser to correct the use of an inactive section number.

403.707 Permits.—

(1) No solid waste management facility may be operated, maintained, constructed, expanded, modified, or closed without an appropriate and currently valid permit issued by the department. Effective October 1, 1989, solid waste construction permits issued under this section may include any permit conditions necessary to achieve compliance with the recycling requirements of [1]this act. The department shall pursue reasonable time frames for closure and construction requirements, considering pending federal requirements and implementation costs to the permittee. The department shall adopt a rule establishing performance standards for construction and closure of solid waste management facilities. The standards shall allow flexibility in design and consideration for site-specific characteristics.

(2) Except as provided in s. 403.722(6), no permit under this section is required for the following, provided no public nuisance or any condition adversely affecting the environment or public health is created and the activity does not violate other state or local laws, ordinances, rules, regulations, or orders:

(a) Disposal by persons of solid waste resulting from their own activities on their own property, provided such waste is either from their residential property or is rocks, soils, trees, tree remains, and other vegetative matter which normally result from land development operations.

(b) Storage in containers by persons of solid waste resulting from their own activities on their property, leased or rented property, or property subject to a homeowners or maintenance association for which the person contributes association assessments, if the solid waste in such containers is collected at least once a week.

(c) Disposal by persons of solid waste resulting from their own activities on their property, provided the environmental effects of such disposal on groundwater and surface waters are:

1. Addressed or authorized by a site certification order issued under part II of this chapter or a permit issued by the department pursuant to this chapter or rules adopted pursuant thereto; or

2. Addressed or authorized by, or exempted from the requirement to obtain, a groundwater monitoring plan approved by the department.

(d) Solid waste disposal areas limited solely to the disposal of construction and demolition debris, provided that all such areas must be covered, graded, and vegetated as necessary when disposal is completed. For situations where the department determines that additional regulation of offsite disposal is appropriate, the department shall, by December 31, 1988, initiate rulemaking to provide for a general permit pursuant to s. 403.814 for disposal of construction and demolition debris for offsite disposal areas. The department shall not require the applicant to publish the notice described in s. 403.814(3). The exemption under this paragraph is superseded by such general permit 90 days after implementing rules become effective, and shall remain superseded so long as these rules remain in effect. The department is authorized to delegate its authority under this paragraph to local governments where appropriate. Such general permit shall include, at a minimum, the following requirements:

1. Public access to the disposal site is controlled through fencing or other appropriate means until the site is closed as provided for in subparagraph 4.

2. Provisions must be made for proper disposal of solid waste which is not clean debris.

3. The department must have been advised of the location of the site and must have been given permission to inspect the site during normal business hours.

4. Provisions must be made for final cover, grading, and vegetation to prevent erosion.

(e) Disposal by persons of solid waste resulting from their own activities on their own property, provided that such disposal occurred prior to October 1, 1988.

(f) Disposal of solid waste resulting from normal farming operations as defined by department rule.

(g) The use of clean debris as fill material in any area. However, this paragraph does not exempt any person from obtaining a dredge and fill permit from the department, nor does it affect a person's responsibility to dispose of clean debris in permitted areas if it is not to be used as fill material.

(3) All applicable provisions of ss. 403.087 and 403.088, relating to permits and temporary operation permits, apply to the control of solid waste management facilities.

(4) When application for a permit for a Class I or Class II solid waste disposal area is made, it is the duty of the department to provide a copy of the application, within 7 days after filing, to the water management district having jurisdiction where the area is to be located. The water management district shall prepare an advisory report as to the impact on water resources. This report shall contain the district's recommendations as to the disposition of the application and shall be submitted to the department no later than 30 days prior to the deadline for final agency action by the department.

(5) The department may not issue a construction permit pursuant to this part for a new solid waste landfill within 3,000 feet of Class I surface waters.

(6) The department may issue a construction permit pursuant to this part only to a solid waste management facility which provides the conditions necessary to control the safe movement of wastes or waste constituents into surface or ground waters or the atmosphere and which will be operated, maintained, and closed by qualified and properly trained personnel. Such facility shall, if necessary:

(a) Use natural or artificial barriers which are capable of controlling lateral or vertical movement of wastes or waste constituents into surface or ground waters.

(b) Have a foundation or base which is capable of providing support for structures and waste deposits and capable of preventing foundation or base failure due to settlement, compression, or uplift.

(c) Provide for the most economically feasible, cost-effective, and environmentally safe control of leachate, gas, stormwater, and disease vectors and prevent the endangerment of public health and the environment.

Open fires shall not be allowed to be used as a means of disposal at a solid waste landfill.

(7) Prior to application for a construction permit, an applicant shall designate to the department temporary backup disposal areas or processes for the resource recovery facility. Failure to designate temporary backup disposal areas or processes shall result in a denial of the construction permit.

(8) After July 1, 1990, any person who transports biohazardous waste within the state must register with the department prior to engaging in the transport of biohazardous waste.

(9) The department may refuse to issue a permit to an applicant who by past conduct in this state has repeatedly violated pertinent statutes, rules, or orders or permit terms or conditions relating to any solid waste management facility and who is deemed to be responsible as defined by department rule. For the purposes of this subsection, an applicant includes the owner or operator of the facility, or if the owner or operator is a business entity, a parent of a subsidiary corporation, a partner, a corporate officer or director, or a stockholder holding more than 50 percent of the stock of the corporation.

History.—s. 1, ch. 74-342; s. 3, ch. 78-387; s. 14, ch. 82-101; s. 63, ch. 83-218; s. 33, ch. 83-310; s. 32, ch. 84-338; s. 1, ch. 85-269; s. 1, ch. 85-334; s. 13, ch. 88-130.

[1]**Note.**—As enacted, the term "this act" refers to ch. 88-130.

403.7072 Citation of rule.—In addition to any other provisions within this part or any rules promulgated hereunder, the permitting agency shall, when requesting information for a permit application pursuant to this part or such rules promulgated hereunder, cite a specific rule. If a request for information cannot be accompanied by a rule citation, failure to provide such information cannot be grounds to deny a permit.

History.—s. 8, ch. 79-161.

403.7075 Submission of plans for certain solid waste management facilities; conditions.—All plans and applications for a permit to construct and operate a solid waste management facility as provided in s. 403.707 may be prepared and submitted by any person acting as a public officer employed by a county or a municipality when said public officer states therein that the construction of the solid waste management facility is estimated to cost less than $10,000. Any law to the contrary notwithstanding, the construction cost of a solid waste management facility, for the purposes of this section, shall not include land acquisition cost or the cost of equipment used to construct and maintain same.

History.—s. 4, ch. 78-387; s. 14, ch. 88-130.

403.708 Prohibition; penalty.—

(1) No person shall:

(a) Place or deposit any solid waste in or on the land or waters located within the state except in a manner approved by the department and consistent with applicable approved programs of counties or municipalities. However, nothing in this act shall be construed to prohibit the disposal of solid waste without a permit as provided in s. 403.707(2).

(b) Burn solid waste except in a manner prescribed by the department and consistent with applicable approved programs of counties or municipalities.

(c) Construct, alter, modify, or operate a solid waste management facility or site without first having obtained from the department any permit required by s. 403.707.

(d) Transport biohazardous waste within the state without first having registered with the department as provided in s. 403.707.

(2) After January 1, 1989, no beverage shall be sold or offered for sale within the state in a beverage container designed and constructed so that the container is opened by detaching a metal ring or tab.

(3) After July 1, 1989, no container shall be sold or offered for sale within the state that is connected to other containers by a separate holding device constructed of plastic rings unless such rings are composed of material which is degradable within 120 days, or by any other device unless such device is composed of material which is degradable within 120 days. Notice of degradability shall be embossed or otherwise indicated on the holding device for ease of inspection.

(4) For purposes of subsections (2), (3), (10), and (11):

(a) "Degradable," with respect to any material, means that such material, after being discarded, is capable of decomposing to components other than heavy metals or other toxic substances, after exposure to bacteria, light, or outdoor elements.

(b) "Beverage" means soda water, carbonated natural or mineral water, or other nonalcoholic carbonated drinks; soft drinks, whether or not carbonated; beer, ale, or other malt drink of whatever alcoholic content; or a mixed wine drink or a mixed spirit drink.

(c) "Beverage container" means an airtight container which at the time of sale contains 1 gallon or less of a beverage, or the metric equivalent of 1 gallon or less, and which is composed of metal, plastic, or glass or a combination thereof.

(5) The Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation may impose a fine of not more than $100 on any person currently licensed pursuant to s. 561.14 for each violation of the provisions of subsection (2) or subsection (3). If the violation is of a continuing nature, each day during which such violation occurs shall constitute a separate and distinct offense and shall be subject to a separate fine.

(6) The Department of Agriculture and Consumer Services may impose a fine of not more than $100 on any person not currently licensed pursuant to s. 561.14 for each violation of the provisions of subsection (2) or subsection (3). If the violation is of a continuing nature, each day during which such violation occurs shall constitute a separate and distinct offense and shall be subject to a separate fine.

(7) Fifty percent of each fine collected pursuant to subsections (5) and (6) shall be deposited into the Solid Waste Management Trust Fund. The balance of fines collected pursuant to subsection (5) shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund for the use of the division for inspection and enforcement of the provisions of this section. The balance of fines collected pursuant to subsection (6) shall be deposited into the General Inspection Trust Fund for the use of the Department of Agriculture and Consumer Services for inspection and enforcement of the provisions of this section.

(8) The Division of Alcoholic Beverages and Tobacco and the Department of Agriculture and Consumer Services shall coordinate their responsibilities under the provisions of this section to ensure that inspections and enforcement are accomplished in an efficient, cost-effective manner.

(9) On or after July 1, 1990, no person shall distribute, sell, or expose for sale in this state any plastic container product unless the product has a molded label indicating the plastic resin used to produce the plastic container product. The label must appear on the bottom of the plastic container product and be clearly visible. This label must consist of a number placed inside a triangle and letters placed below the triangle. All plastic beverage containers and all nonsolid food liquid containers of less than 16 ounces and all rigid plastic containers of less than 8 ounces shall not be required to be labeled under this section. The numbers and letters shall be as follows:

(a) For polyethylene terephthalate, the letters "PET" and the number 1.

(b) For high density polyethylene, the letters "HDPE" and the number 2.

(c) For vinyl, the letter "V" and the number 3.

(d) For low density polyethylene, the letters "LDPE" and the number 4.

(e) For polypropylene, the letters "PP" and the number 5.

(f) For polystyrene, the letters "PS" and the number 6.

(g) For any other, including multilayer, the letters "OTHER" and the number 7.

(10)(a) After January 1, 1990, no plastic bag shall be provided at any retail outlet to any retail customer to use for the purpose of carrying items purchased by that cus-

tomer unless the bag is composed of material which is degradable within 120 days. Notice of degradability shall be printed on each bag.

(b) For purposes of this subsection, "retail outlet" means any establishment 80 percent or more of the income of which is from retail sales. This term does not mean any establishment whose primary purpose is to sell food prepared at such establishment for immediate consumption.

(c) The owner of a retail outlet violating this subsection shall be subject to a fine of $100 per location. Each day of a continuing violation shall be considered as a separate violation.

(d) One half of the fines collected pursuant to this subsection shall be deposited in the Solid Waste Management Trust Fund. The balance of such fines shall be deposited into the operating account of the enforcing agency.

(11) No person shall:

(a) On or after October 1, 1990, distribute, sell, or expose for sale in this state any product packaged in a container or packing material manufactured with fully halogenated chlorofluorocarbons (CFC). Producers of containers or packing material manufactured with chlorofluorocarbons (CFC) are urged to introduce alternative packaging materials which are environmentally compatible.

(b) Distribute, sell, or offer for sale in this state any polystyrene foam or plastic-coated paper product which is to be used in conjunction with food for human consumption unless such product is composed of material which is degradable within 12 months or less. This requirement shall be effective 1 year after such products have been certified as safe by the United States Food and Drug Administration and are made available in commercial quantities. Determination of the degradability of these products shall be made by the Secretary of Environmental Regulation based on a preponderance of evidence available from reputable private and government research agencies. Businesses and industries that use polystyrene foam and plastic-coated paper products that are not degradable as required by this paragraph are encouraged to formulate a 3-year plan to research, test, and implement production technologies that will allow the product to meet the degradability requirements by January 1, 1992.

(12) The packaging of products manufactured or sold in the state may not be controlled by governmental rule, regulation, or ordinance adopted after March 1, 1974, other than as expressly provided in 'this act.

(13) Violations of this part or rules, regulations, permits, or orders issued thereunder by the department and violations of approved local programs of counties or municipalities or rules, regulations, or orders issued thereunder shall be punishable by a civil penalty as provided in s. 403.141.

(14) The department or any county or municipality may also seek to enjoin the violation of, or enforce compliance with, this part or any program adopted hereunder as provided in s. 403.131.

(15) In accordance with the following schedule, no person who knows or who should know of the nature of such solid waste shall dispose of such solid waste in landfills:

(a) Lead-acid batteries, after January 1, 1989. Lead-acid batteries also shall not be disposed of in any waste-to-energy facility after January 1, 1989. To encourage proper collection and recycling, all persons who sell lead-acid batteries at retail shall accept used lead-acid batteries as trade-ins for new lead-acid batteries.

(b) Used oil, after October 1, 1988.

(c) Yard trash, after January 1, 1992, except in unlined landfills classified by department rule. Yard trash that is source separated from solid waste may be accepted at a solid waste disposal area where the area provides and maintains separate yard trash composting facilities.

(d) White goods, after January 1, 1990.

Prior to the effective dates specified in paragraphs (a)-(d), the department shall identify and assist in developing alternative disposal, processing, or recycling options for the solid wastes identified in paragraphs (a)-(d).

History.—s. 1, ch. 74-342, s. 15, ch. 88-130.

'**Note.**—As enacted, the term "this act" refers to ch. 88-130.

403.7084 Biohazardous waste tracking system.—

(1) The Department of Environmental Regulation shall promulgate rules for a system of tracking biohazardous waste:

(a) Tracking and packaging of biohazardous waste. Such system shall, at a minimum, provide for tracking of the transportation of the waste from the generator to the treatment facility, including a means for providing the generator of the waste with assurance that the waste is received by the treatment facility, and shall include the identification on the container of waste indicating the entity which transports the waste.

(b) Small quantities.—The department may establish transportation criteria for generators of small quantities of biohazardous waste as defined in s. 403.703(39), except that the department may exempt from these criteria any person who, or facility that, transports less than 25 pounds of such waste on any single occasion.

(c) Inspections; procedures.—Inspections may be conducted for purposes of compliance with this section. Any such inspection shall be commenced and completed with reasonable promptness. If the officer, employee, or representative of the department obtains any samples, prior to leaving the premises he shall give to the owner, operator, or agent in charge a receipt describing the sample obtained.

(2) Any person who fails to comply with the provisions of subsection (1) is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 1, ch. 89-138.

403.7085 Animal parts, fats, byproducts, waste products, vegetable oils disposal.—A commercial establishment, excluding an establishment licensed pursuant to chapter 509, that processes food products for human consumption may not dispose of any animal parts, fats, byproducts, waste products, or vegetable oils, liquid or solid, in a landfill unless approved by the department. The department may establish by rule ap-

propriate thresholds or amounts for these materials, as well as additional subcategories of these materials, that are exempt from this requirement. In making a determination for exemption the department shall find that such an exemption is not likely to be harmful to the public health, safety, or welfare.

History.—s. 16, ch. 88-130.

403.709 Solid Waste Management Trust Fund.—

(1) There is created the Solid Waste Management Trust Fund, to be administered by the Department of Environmental Regulation for the purposes of:

(a) Funding solid waste activities of the department, such as providing technical assistance to local governments, performing solid waste regulatory and enforcement functions, preparing solid waste documents, and implementing solid waste education programs;

(b) Making grants and awards to local governments as provided in [1]this act;

(c) Providing funding for demonstration projects as provided by [1]this act; and

(d) Providing funding for research by state universities and independent nonprofit colleges and universities within the state which are accredited by the Southern Association of Colleges and Schools as provided by [1]this act.

(2) Moneys allocated to the fund from waste tire fees shall be accounted for separately within the fund and shall be used in the following manner, in order of priority:

(a) To pay department administration costs for administering these funds and programs.

(b) To provide funding for research and demonstration projects relating to solving solid waste problems resulting from waste tires.

(c) To provide funds for removal of tires from an illegal waste tire site when the site owner is financially incapable of complying with the law.

(d) To provide grants to local governments as provided in [1]this act.

History.—s. 1, ch. 74-342; s. 17, ch. 88-130.

[1]Note.—As enacted, the term "this act" refers to ch. 88-130.

403.7095 Solid waste management grant program.

(1) The department shall develop a grant program to enable counties and municipalities to operate solid waste management recycling and education programs to carry out the purposes of this section. Counties and municipalities are encouraged to form interlocal agreements to implement solid waste recycling and education programs.

(2) Twenty-five percent of the funds available for recycling and education grants in subsections (4) and (5) shall be distributed as base portions of grants to counties and to municipalities with populations over 50,000. The base portion of grants shall be awarded in equal amounts to all applicants determined eligible by the department according to the provisions of this section.

(3) Seventy-five percent of the funds available for recycling and education grants in subsections (4) and (5) shall be distributed as incentive portions of grants based on the formula set forth in this subsection. Each county and each municipality with a population of greater than 50,000 may apply for the incentive portions of recycling and education grants individually, and counties may apply individually or in conjunction with other municipalities.

(a) The incentive portions of grants shall be available to municipalities with populations greater than 50,000 applying individually on a 50-percent matching basis. The incentive portion of grants shall be available to counties with unincorporated populations of greater than 30,000 applying individually or in combination with municipalities within the county on a 50-percent matching basis, except for such grant applications meeting the requirements of paragraph (c). Counties with populations of 30,000 or less applying individually or in combination with municipalities within the county shall not be required to match incentive portions of grants.

(b) In all cases, the incentive portions of grants shall be distributed based proportionately on the total population of each county and the municipalities within the counties applying jointly during a grant period. Counties shall be credited only with the population of the unincorporated areas, and municipalities shall be credited with their total population.

(c) However, the incentive portion of grants shall be available without a required match to counties with incorporated and unincorporated populations of greater than 30,000 jointly applying with municipalities constituting at least 75 percent of the total incorporated population within the county; except that when a county has at least one municipality within it that has a population exceeding 25 percent of the incorporated population of the county, such county shall not be required to match if municipalities constituting at least 75 percent of the remaining incorporated population of such county apply jointly with such county.

(d) Population of municipalities shall be determined by the most recent population census determination under s. 186.901.

(e) To effectuate the intent of this subsection, counties and municipalities shall enter into interlocal agreements that determine how the grant funds shall be used. These agreements shall be part of the joint grant application.

(4)(a) Solid waste recycling grants shall provide funding for capital costs and, if justified, temporary operating subsidies to assist local governments in recycling paper, glass, plastic, construction and demolition debris, white goods, and metals and in composting organic materials.

(b) The department shall consider the following factors in selecting recipients of recycling program grants:

1. The likelihood of project success.
2. The availability of an appropriate site.
3. A demonstration by the local government that the materials to be collected or processed, or both, are not presently being recovered to the extent necessary to meet the goal established in s. 403.706(4) and would not be so recovered otherwise but for the proposed recycling or composting project.
4. The business and accounting plans for the proposed project.
5. The need for a new or expanded recycling program in the area to be served relative to the needs of other areas in the state.

6. The availability of capacity at existing permitted solid waste management facilities that serve the area to be served by the proposed recycling program.

7. The demonstrated municipal, community, or volunteer interest in undertaking the recycling project.

(c) The department shall determine grant eligibility after receiving an application for a recycling grant from a local government.

(d) The department may not approve a grant unless the appropriate county or municipality provides sufficient data justifying the proposed program.

(5)(a) Solid waste education grants shall provide funds to local governments to promote recycling, volume reduction, the proper disposal of solid wastes, and market development for recyclable materials.

(b) The department shall consider the following factors in selecting recipients of solid waste education grants:

1. Whether the education program has measurable objectives.

2. The type and extent of followup or evaluation.

3. The level of commitment by local officials.

4. The extent to which the local government commits its own financial resources to the education project.

5. The extent to which selection of the project contributes to the achievement of a balanced distribution of grants throughout the state.

(c) The department may not approve a grant unless a local recycling project is planned or under way and the proposed education project directly promotes the use of that project.

(6) Beginning in fiscal year 1989-1990, each eligible county or municipality, or combination thereof acting under an interlocal agreement, which requests grants pursuant to this section shall include the following items as part of the grant application:

(a) A description of the type and the weight of solid waste generated within the county's or municipality's boundaries and the general type and the weight of solid waste that will be generated within the county's or municipality's boundaries in the 20-year period beginning on October 1, 1988.

(b) An identification and description of the facilities where solid waste is being disposed of or processed, the remaining available permitted capacity of such facilities, any anticipated increases in the capacity of such facilities.

(c) An analysis of the effect of current and planned recycling on solid waste disposed.

(d) A description and evaluation of solid waste that could be recycled, including, but not limited to:

1. The type and weight of solid waste that could be recycled, giving consideration at a minimum to the following materials: glass, aluminum, steel and bimetallic materials, office paper, yard trash, newsprint, corrugated paper, and plastics.

2. The compatibility of recycling with other solid waste processing or disposal methods, describing anticipated and available markets for materials collected through recycling programs, which markets ensure that those materials are returned to use in the form of raw materials or products.

3. Estimated costs of and revenue from operating and maintaining a recycling program.

4. An explanation of how anticipated solid waste reduction or recycling will affect the type and size of any proposed solid waste management facility.

(e) An explanation of how the recycling program relates to the future land use elements; sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge elements; intergovernmental coordination elements; and capital improvements elements of the local government comprehensive plans prepared pursuant to part II of chapter 163 by the county or the municipality.

(f) A description of how the county's or municipality's existing recycling programs will be continued. The continued programs shall be based on the recycling program initiated under s. 403.706(2) and, in addition to yard trash, shall involve the recycling of at least the materials required to be separated pursuant to s. 403.706(2).

(g) The recycling program shall contain at a minimum:

1. An explanation of the manner in which the recycling program will be implemented.

2. A timetable for the continued development and implementation of the recycling program.

3. Any contracts or agreements entered into or summaries of contemplated agreements or contracts to develop and implement the recycling program.

4. The estimated costs of the recycling program, including a description of the estimated avoided costs of solid waste disposal or processing resulting from the implementation of the recycling program.

The recycling program shall serve as the primary means of meeting the goals established for municipal solid waste reduction in s. 403.706(4).

(h) A description of a public education program for the recycling program.

(i) A description for a program for the management of special wastes. The county or municipality shall work with the construction industry to plan for and identify suitable construction and demolition debris disposal sites.

(7)(a) Annual solid waste and recycling grants shall be available to counties with populations of less than 30,000. The sum of $25,000 shall be available annually to each eligible county from the Solid Waste Management Trust Fund through 1993. These grants shall be made by October 1 of each year to any county applying to the department prior to August 1 of any given year.

(b) A county may use the grants authorized by this subsection for purchasing or repairing solid waste weight scales, annual solid waste management program operating costs, planning, construction, and maintenance of solid waste management facilities or recycling facilities, solid waste management education for employees or the public, or recycling demonstration projects. In fiscal year 1988-1989, counties which do not have operational weight scales at solid waste disposal facilities operated by or for the counties must purchase or require purchase of such scales or repair or require repair of inoperable scales prior to using the annual

grant for any other authorized uses unless the facility will be closed within 1 year of October 1, 1988.

(c) The department shall release the grant money authorized by this subsection for fiscal year 1988-1989 whether or not rules have been developed to regulate the use of these funds. However, the department shall adopt such rules within 9 months after October 1, 1988, to implement this annual grant program.

History.—s. 18, ch. 88-130.

403.712 Revenue bonds.—

(1) Revenue bonds payable from funds which result from the revenues derived from the operation of solid waste management facilities and from any revenues which may be pledged under s. 14, Art. VII of the State Constitution, and s. 403.1834, including, without limiting the generality of the foregoing, any legally available revenues derived from public or private sources, may be issued by the Division of Bond Finance of the Department of General Services on behalf of the state or any county or municipality in the manner provided by the State Bond Act, ss. 215.57 et seq., except as otherwise provided herein, and the Revenue Bond Act of 1953, as amended, part I, chapter 159. Such bonds shall be issued only to finance the cost of construction or maintenance of solid waste management facilities, which cost may include the acquisition of real property and easements therein for such purposes, and the closure of solid waste landfills.

(2) Upon a determination by the Division of Bond Finance of the Department of General Services that a public competitive sale is not feasible or that it would not be desirable to award such revenue bonds solely on the basis of the lowest net interest cost bid, the Division of Bond Finance may negotiate the sale of any such revenue bonds after the receipt of one or more proposals, taking into consideration the lowest total cost and such other factors as may be deemed appropriate.

History.—s. 1, ch. 74-342; s. 5, ch. 75-54; s. 19, ch. 88-130.

403.7125 Landfill management escrow account.—

(1) As used in this section:

(a) "Landfill" means any solid waste land disposal area for which a permit, other than a general permit, is required by s. 403.707 that receives solid waste for disposal in or upon land other than a land-spreading site, injection well, or a surface impoundment.

(b) "Closure" means the ceasing operation of a landfill and securing such landfill so that it does not pose a significant threat to public health or the environment and includes long-term monitoring and maintenance of a landfill.

(c) "Owner or operator" means, in addition to the usual meanings of the term, any owner of record of any interest in land whereon a landfill is or has been located and any person or corporation which owns a majority interest in any other corporation which is the owner or operator of a landfill.

(2) Every owner or operator of a landfill is jointly and severally liable for the improper operation and closure of the landfill, as provided by law.

(3) The owner or operator of a landfill shall establish a fee, or a surcharge on existing fees or other appropriate revenue-producing mechanism, to ensure the availability of financial resources for the proper closure of the landfill. However, the disposal of solid waste by persons [1]on their own property, as described in s. 403.707(2), is exempt from the provisions of this section.

(a) The revenue-producing mechanism must produce revenue at a rate sufficient to generate funds to meet state and federal landfill closure requirements.

(b) The revenue shall be deposited in an interest-bearing escrow account to be held and administered by the owner or operator. The owner or operator shall file with the department an annual audit of the account. The audit shall be conducted by a certified public accountant and shall be filed no later than December 31 of each year. Failure to collect or report such revenue, except as allowed in subsection (4), is a noncriminal violation punishable by a fine of not more than $5,000 for each offense. The owner or operator may make expenditures from the account and its accumulated interest only for the purpose of landfill closure and, if such expenditures do not deplete the fund to the detriment of eventual closure, for planning and construction of resource recovery or landfill facilities. Any moneys remaining in the account after paying for proper and complete closure, as determined by the department, shall, if the owner or operator does not operate a landfill, be deposited by the owner or operator into the general fund of the local government of jurisdiction.

(c) The revenue generated under this subsection and any accumulated interest thereon may be applied to the payment of, or pledged as security for, the payment of revenue bonds issued in whole or in part for the purpose of complying with state and federal landfill closure requirements. Such application or pledge may be made directly in the proceedings authorizing such bonds or in an agreement with an insurer of bonds to assure such insurer of additional security therefor.

(4) An owner or operator may establish proof of financial responsibility with the department in lieu of the requirements of subsection (3). Such proof may include surety bonds, certificates of deposit, securities, letters of credit, or other documents showing that the owner or operator has sufficient financial resources to cover, at a minimum, the costs of complying with landfill closure requirements. The owner or operator shall estimate such costs to the satisfaction of the department.

(5) This section does not repeal, limit, or abrogate any other law authorizing local governments to fix, levy, or charge rates, fees, or charges for the purpose of complying with state and federal landfill closure requirements.

(6) The department shall adopt rules to implement this section.

History.—s. 40, ch. 88-130.

[1]Note.—The word "on" was substituted by the editors for the word "or" to conform to the language of s. 403.707(2).

403.713 Transport of solid waste.—Nothing in this act or in any local act or ordinance shall be construed to limit the free flow of solid waste across municipal or county boundaries provided such solid waste is transported or disposed of pursuant to the provisions of this part. However, any local government that undertakes resource recovery of solid waste pursuant to general law or special act may control the collection and disposal of

solid waste, as defined by general law or such special act, which is generated within the territorial boundaries of such local government and other local governments which enter into interlocal agreements for the disposal of solid waste with the local government sponsoring the resource recovery facility. Any local government which undertakes resource recovery of solid waste pursuant to general law or special act may institute a flow control ordinance for the purpose of ensuring that the resource recovery facility receives an adequate quantity of solid waste from solid waste generated within its jurisdiction. Such solid waste shall not include that portion separated at the point of generation or after collection and intended to be held for purposes of recycling pursuant to requirements of this part; however, such solid waste shall be subject to applicable state and local public health and safety laws.

History.—s. 1, ch. 74-342; s. 1, ch. 83-293; s. 20, ch. 88-130.

403.714 Duties of state agencies.—

(1) It shall be the duty of each state agency, the judicial branch of state government, and the State University System, by September 1, 1989, to:

(a) Establish a program, in cooperation with the Department of Environmental Regulation and the Department of General Services, for the collection of all recyclable materials generated in state offices throughout the state, including, at a minimum, aluminum, high-grade office paper, and corrugated paper.

(b) Provide procedures for collecting and storing recyclable materials, containers for storing materials, and contractual or other arrangements with buyers of the recyclable materials.

(c) Evaluate the amount of recyclable material recycled and make all necessary modifications to said recycling program to ensure that all recyclable materials are effectively and practicably recycled.

(d) Establish and implement, in cooperation with the Department of Environmental Regulation and the Department of General Services, a solid waste reduction program for materials used in the course of agency operations. The program shall be designed and implemented to achieve the maximum feasible reduction of solid waste generated as a result of agency operations.

(2) The Department of Commerce shall assist and encourage the recycling industry in the state. Assistance and encouragement of the recycling industry shall include, but is not limited to:

(a) Identifying and analyzing, in cooperation with the Department of Environmental Regulation, components of the state's recycling industry and present and potential markets for recyclable materials in this state, other states, and foreign countries;

(b) Providing information on the availability and benefits of using recycled materials to businesses and industries in the state; and

(c) Distributing any material prepared in implementing this section to the public, businesses, industries, local governments, or other organizations upon request.

By September 1, 1989, and every other year thereafter, the Department of Commerce shall prepare a report assessing the recycling industry and recyclable materials markets in the state.

(3) The Department of Agriculture and Consumer Services shall investigate the potential markets for composted materials and shall submit its findings to the Department of Environmental Regulation for the waste registry informational program administered by the department in order to stimulate absorption of available composted materials into such markets.

(4) All state agencies, including, but not limited to, the Department of Transportation, the Department of Natural Resources, and the Department of General Services and local governments, are required to procure compost products when they can be substituted for, and cost no more than, regular soil amendment products, provided the compost products meet all applicable state standards, specifications, and regulations. This product preference shall apply to, but not be limited to, the construction of highway projects, road rights-of-way, highway planting projects, recultivation and erosion control programs, and other projects.

(5)(a) The Department of Education, in cooperation with the State University System and the Department of Environmental Regulation, shall develop, distribute, and encourage the use of guidelines for the collection of recyclable materials and for solid waste reduction in the state system of education. At a minimum, the guidelines shall address solid waste generated in administrative offices, classrooms, dormitories, and cafeterias. The guidelines shall be developed by September 1, 1989.

(b) In order to orient students and their families to the recycling of waste and to encourage the participation of schools, communities, and families in recycling programs, the school board of each school district in the state shall provide a program of student instruction in the recycling of waste materials. The instruction shall be provided at both the elementary and secondary levels of education.

(c) The Department of Education is directed to develop, from funds appropriated for environmental education, curriculum materials and resource guides for a recycling awareness program for instruction at the elementary, middle, and high school levels.

History.—s. 2, ch. 74-342; s. 85, ch. 79-65; s. 21, ch. 88-130.

403.7145 Capitol recycling demonstration area.—The Capitol and the House and Senate office buildings constitute the Capitol recycling demonstration area. The Florida House of Representatives, the Florida Senate, and the Office of the Governor, and each Cabinet officer who heads a department that occupies office space in the Capitol, shall, by January 1, 1989, institute a recycling program for their respective offices in the House and Senate office buildings and the Capitol. Provisions shall be made to collect and sell wastepaper and empty aluminum beverage cans generated by employee activities in these offices. The collection and sale of such materials shall be coordinated with Department of General Services recycling activities to maximize the efficiency and economy of this program. The Governor, the Speaker of the House of Representatives, the President of the Senate, and the Cabinet officers may authorize the use of proceeds from recyclable material sales for employee benefits and other purposes, in order to provide incentives to their respective employees for participation in

the recycling program. Such proceeds may also be used to offset any costs of the recycling program.
History.—s. 22, ch. 88-130.

403.715 Certification of resource recovery or recycling equipment.—For purposes of implementing the tax exemptions provided by s. 212.08(5)(e) and (7)(p), the department shall establish a system for the examination and certification of resource recovery or recycling equipment. Application for certification of equipment shall be submitted to the department on forms prescribed by it which include such pertinent information as the department may require. The department may require appropriate certification by a certified public accountant or professional engineer that the equipment for which these exemptions are being sought complies with the exemption criteria set forth in s. 212.08(5)(e) and (7)(p). Within 30 days after receipt of an application by the department, a representative of the department may inspect the equipment. Within 30 days after such inspection, the department shall issue a written decision granting or denying certification.
History.—s. 4, ch. 78-329; s. 29, ch. 87-6; s. 23, ch. 88-130.

403.716 Training of operators of solid waste management facilities.—

(1) The Department of Environmental Regulation shall establish qualifications for, and encourage the development of training programs for, operators of landfills, coordinators of local recycling programs and [1]operators of other solid waste management facilities.

(2) The department shall work with accredited community colleges, vocational technical centers, state universities, and private institutions in developing educational materials, courses of study, and other such information to be made available for persons seeking to be trained as operators of solid waste management facilities.

(3) A person may not perform the duties of an operator of a solid waste management facility after January 1, 1990, unless he has completed an operator training course approved by the department. An owner of a solid waste management facility may not employ any person to perform the duties of an operator unless such person has completed an approved solid waste management facility operator training course.

(4) The department may adopt rules and minimum standards to effectuate the provisions of this section and to ensure the safe, healthy, and lawful operation of solid waste management facilities in this state. The department may establish by rule various classifications for operators to cover the need for differing levels of training required to operate various types of solid waste management facilities due to different operating requirements at such facilities.

(5) For purposes of this section, the term "operator" means any person, including the owner, who is principally engaged in, and is in charge of, the actual operation, supervision, and maintenance of a solid waste management facility and includes the person in charge of a shift or period of operation during any part of the day.
History.—s. 39, ch. 88-130.
[1]Note.—The words "operators of" were inserted by the editors.

403.7165 Applications Demonstration Center for Resource Recovery from Solid Organic Materials.—

(1) The Applications Demonstration Center for Resource Recovery from Solid Organic Materials is hereby created, which shall be operated to demonstrate and evaluate advanced low-cost technologies for treatment of solid waste and improvement of water quality that were developed from research in the state for treating municipal solid waste and wastewater while producing methane gas and other beneficial products, which research was funded by the United States Department of Energy, the Environmental Protection Agency, the Gas Research Institute, United Gas Pipeline, Southern California Edison, and the State of Florida, and from similar research and development programs in this state and elsewhere directed toward developing resource recovery technologies applicable to brewery wastes, food-processing residues, municipal wastes, and other industrial organic wastes that threaten the quality of the environment in this state.

(2) The demonstration center shall use existing wastewater treatment channels and test-beds with engineered anaerobic digester devices, sludge, organic municipal solid waste, energy crops, and associated lands in cooperation with Reedy Creek Energy Services, Inc., the manager of the land and treatment plant, and the Gas Research Institute, the owner of the anaerobic digestion system.

(3) The Institute of Food and Agricultural Sciences at the University of Florida shall operate the demonstration center in cooperation with Reedy Creek Energy Services, Inc.

(4) The Florida Cooperative Extension Service shall conduct workshops at the Applications Demonstration Center for Resource Recovery from Solid Organic Materials to demonstrate applicable technologies to municipal, county, and industrial waste managers:

(a) For reducing the potential for eutrophication in offsite waterbodies and the adverse effects associated with conventional ways of treating solid organic wastes;

(b) For using energy crops to extract nutrients from wastewater and sludges spread on land; and

(c) For producing methane gas, compost, and other useful products in the process of managing wastes.

(5) There is hereby created a program advisory committee consisting of seven members to advise the Institute of Food and Agricultural Sciences in the operation of the Applications Demonstration Center for Resource Recovery from Solid Organic Materials. The Department of Environmental Regulation, the Department of Natural Resources, and the Governor's Energy Office shall each appoint a representative to serve as a member of the advisory committee. The Dean of the Cooperative Extension Service and the Director of Energy Extension Programs at the University of Florida shall appoint the other four members of the advisory committee for terms not exceeding 4 years.
History.—s. 61, ch. 88-130.

403.717 Waste tire and lead-acid battery requirements.—

(1) For purposes of this section and ss. 403.718, 403.7185, and 403.719:

(a) "Department" means the Department of Environmental Regulation.

(b) "Motor vehicle" means an automobile, motorcycle, truck, trailer, semitrailer, truck tractor and semitrailer combination, or any other vehicle operated on the roads of this state, used to transport persons or property and propelled by power other than muscular power, but the term does not include traction engines, road rollers, such vehicles as run only upon a track, bicycles, mopeds, or farm tractors and trailers.

(c) "Tire" means a continuous solid or pneumatic rubber covering encircling the wheel of a motor vehicle.

(d) "Waste tire" means a whole tire that is no longer suitable for its original intended purpose because of wear, damage, or defect.

(e) "Waste tire collection center" means a site where used or waste tires are collected from the public prior to being offered for recycling and where fewer than 1,000 tires are kept on the site on any given day.

(f) "Waste tire processing facility" means a site where equipment is used to cut, burn, or otherwise alter whole waste tires so that they are no longer whole.

(g) "Waste tire site" means a site at which 1,000 or more whole tires are accumulated.

(h) "Lead-acid battery" means those lead-acid batteries designed for use in motor vehicles, vessels, and aircraft, and includes such batteries when sold as a component part of a motor vehicle, vessel or aircraft.

(2) The owner or operator of any waste tire site shall, within 6 months after October 1, 1988, provide the department with information concerning the site's location, size, and the approximate number of waste tires that are accumulated at the site and shall initiate steps to comply with subsection (3).

(3) On or after July 1, 1989:

(a) A person may not maintain a waste tire site unless such site is an integral part of the person's permitted waste tire processing facility.

(b) It is unlawful for any person to dispose of waste tires in the state unless the waste tires are disposed of for processing, or collected for processing, at a permitted solid waste disposal facility, a waste tire site which is an integral part of a permitted waste tire processing facility, a permitted waste tire processing facility, or a waste tire collection center.

(c) Waste tires may not be deposited in a landfill as a method of ultimate disposal.

(4) By January 1, 1989, the department shall adopt rules to carry out the provisions of this section and ss. 403.718 and 403.719. Such rules shall:

(a) Provide for the administration of a waste tire processing facility permit, which may not exceed $250 annually;

(b) Provide for the administration of waste tire collector and collection center permits, which may not exceed $250 annually.

(c) Set standards for waste tire processing facilities and associated waste tire sites, waste tire collection centers, and waste tire collectors,

(d) Establish procedures for administering the waste tire grants program and issuing grants;

(e) Authorize the final disposal of waste tires at a permitted solid waste disposal facility provided the tires have been cut into sufficiently small parts to assure their proper disposal, and

(f) Allow waste tire material which has been cut into sufficiently small parts to be used as daily cover material for a landfill.

(5) A permit is not required for:

(a) A tire retreading business where fewer than 1,000 waste tires are kept on the business premises.

(b) A business that, in the ordinary course of business, removes tires from motor vehicles if fewer than 1,000 of these tires are kept on the business premises; or

(c) A retail tire-selling business which is serving as a waste tire collection center if fewer than 1,000 waste tires are kept on the business premises.

(6)(a) The department shall encourage the voluntary establishment of waste tire collection centers at retail tire-selling businesses, waste tire processing facilities, and solid waste disposal facilities, to be open to the public for the deposit of used and waste tires.

(b) The department is authorized to establish an incentives program for individuals to encourage them to return their used or waste tires to a waste tire collection center. The incentives used by the department may involve the use of discount or prize coupons, prize drawings, promotional giveaways, or other activities the department determines will promote collection, reuse, volume reduction, and proper disposal of used or waste tires.

(c) The department may contract with a promotion company to administer the incentives program.

History.—s. 41, ch. 88-130; s. 6, ch. 89-171.

403.718 Waste tire fees.—

(1) For the privilege of engaging in business, a fee for each new motor vehicle tire sold at retail is imposed on any person engaging in the business of making retail sales of new motor vehicle tires within this state. For the period January 1, 1989, through December 31, 1989, such fee shall be imposed at the rate of 50 cents for each new tire sold. The fee imposed under this section shall be stated separately on the invoice to the purchaser. Beginning January 1, 1990, and thereafter, such fee shall be imposed at the rate of $1 for each new tire sold. The fee imposed shall be paid to the Department of Revenue on or before the 20th day of the month following the calendar quarter in which the sale occurs. For purposes of this section, a motor vehicle tire sold at retail includes such tires when sold as a component part of a motor vehicle. The terms "sold at retail" and "retail sales" do not include the sale of new motor vehicle tires to a person solely for the purpose of resale provided the subsequent retail sale in this state is subject to the fee. This fee does not apply to recapped tires. Such fee shall be subject to all applicable taxes imposed in part I of chapter 212.

(2) The fee imposed by this section shall be reported to the Department of Revenue. The payment shall be accompanied by such form as the Department of Revenue may prescribe. The proceeds of the waste tire fee, less administrative costs, shall be transferred by the Department of Revenue into the waste tire account within the Solid Waste Management Trust Fund. For the purposes

of this section, "proceeds" of the fee shall mean all funds collected and received by the department hereunder, including interest and penalties on delinquent fees. The amount deducted for the costs of administration shall not exceed 3 percent of the total revenues collected hereunder and shall be only those costs solely and directly attributed to the fee.

(3)(a) The Department of Revenue shall administer, collect, and enforce the fee authorized under this section pursuant to the same procedures used in the administration, collection, and enforcement of the general state sales tax imposed under chapter 212, except as provided in this section. The provisions of this section regarding the authority to audit and make assessments, keeping of books and records, and interest and penalties on delinquent fees shall apply. The fee shall not be included in the computation of estimated taxes pursuant to s. 212.11(1)(a) nor shall the dealer's credit for collecting taxes or fees in s. 212.12 apply to this fee.

(b) The Department of Revenue, under the applicable rules of the [2]Career Service Commission, is authorized to employ persons and incur other expenses for which funds are appropriated by the Legislature. The department is empowered to adopt such rules and shall prescribe and publish such forms as may be necessary to effectuate the purposes of this section. The department is authorized to establish audit procedures and to assess delinquent fees.

History.—s. 42, ch. 88-130; s. 7, ch. 89-171; s. 17, ch. 89-324.

[1]**Note.**—As amended by s. 7, ch. 89-171, and s. 17, ch. 89-324. Section 14, ch. 89-171, provides that "[t]he Executive Director of the Department of Revenue is hereby authorized to adopt emergency rules pursuant to s. 120.54(9), Florida Statutes, for purposes of implementing the applicable provisions of this act. Rules of the Department of Revenue related to and in furtherance of the orderly implementation of the applicable provisions of this act shall not be subject to s. 120.54(17), Florida Statutes, drawout proceeding, but, once adopted, shall be subject to s. 120.56, Florida Statutes, invalidity challenge. Such rules shall be adopted by the Governor and Cabinet and shall become effective upon filing with the Department of State, notwithstanding the provisions of s. 120.54(13), Florida Statutes."

[2]**Note.**—Section 72, ch. 86-163, transferred "the statutory powers, duties and functions, records, and property of the Career Service Commission" to the Public Employees Relations Commission.

[1]403.7185 Lead-acid battery fees.—

(1) For the privilege of engaging in business, a fee for each new or remanufactured lead-acid battery sold at retail is imposed on any person engaging in the business of making retail sales of lead-acid batteries within this state. Beginning October 1, 1989, and thereafter, such fee shall be imposed at the rate of $1.50 for each new or remanufactured lead-acid battery sold. However, the fee shall not be imposed on any battery which has previously been taxed pursuant to s. 206.9935(2), provided the person claiming exemption from the tax can document payment of such tax. The fee imposed shall be paid to the Department of Revenue on or before the 20th day of the month following the calendar month in which the sale occurs. The department may authorize a quarterly return under the conditions described in s. 212.11(1)(c). A dealer selling motor vehicles, vessels, or aircraft at retail can purchase lead-acid batteries exempt as a sale for resale by presenting a sales tax resale certificate. However, if a dealer thereafter withdraws any such battery from inventory to put into a new or used motor vehicle, vessel, or aircraft for sale, to use on his own motor vehicle, vessel, or aircraft, to give away, or any purpose other than for resale, the dealer will owe the fee at the time the battery is withdrawn from inventory. If the dealer sells the battery at retail, that sale will be subject to the fee. If the dealer sells it to a purchaser who presents him a sales tax resale certificate, the dealer will owe no fee. The terms "sold at retail" and "retail sales" do not include the sale of new or remanufactured lead-acid batteries to a person solely for the purpose of resale; however, a subsequent retail sale in this state is subject to the fee. Such fee shall be subject to all applicable taxes imposed in part I of chapter 212. The provisions of s. 212.07(4) shall not apply to the provisions of this section. When a sale of a lead-acid battery, upon which the fee has been paid, is canceled or the battery is returned to the seller, and the sale price, taxes, and fees are refunded in full to the purchaser, the seller may take credit for the fee previously paid. If, instead of refunding the purchase price of the battery, the customer is given a new battery in exchange for the returned battery, the dealer cannot take credit for the fee on the returned battery, but no fee is due on the new battery that is given in exchange. However, no credit shall be taken by the dealer for returns resulting in partial refunds or partial credits on purchase of replacement batteries.

(2) The fee imposed by this section shall be reported to the Department of Revenue. The payment shall be accompanied by such form as the Department of Revenue may prescribe. The proceeds of the lead-acid battery fee, less administrative costs, shall be transferred by the Department of Revenue into the Water Quality Assurance Trust Fund. For the purposes of this section, "proceeds" of the fee shall mean all funds collected and received by the department hereunder, including interest and penalties on delinquent fees. The amount deducted for the costs of administration shall not exceed 3 percent of the total revenues collected hereunder and shall be only those costs solely and directly attributed to the fee.

(3)(a) The Department of Revenue shall administer, collect, and enforce the fee authorized under this section pursuant to the same procedures used in the administration, collection, and enforcement of the general state sales tax imposed under chapter 212, except as provided in this section. The provisions of chapter 212 regarding the authority to audit and make assessments, keeping of books and records, and interest and penalties on delinquent fees shall apply. The fee shall not be included in the computation of estimated taxes pursuant to s. 212.11(1)(a), nor shall the dealer's credit for collecting taxes or fees in s. 212.12 or the exemptions in chapter 212 apply to this fee.

(b) The Department of Revenue is authorized to employ persons and incur other expenses for which funds are appropriated by the Legislature. The department is empowered to adopt such rules and shall prescribe and publish such forms as may be necessary to effectuate the purposes of this section. The department is authorized to establish audit procedures and to assess delinquent fees.

History.—s. 8, ch. 89-171.

[1]**Note.**—As created by s. 8, ch. 89-171. Section 14, ch. 89-171, provides that "[t]he Executive Director of the Department of Revenue is hereby authorized to adopt emergency rules pursuant to s. 120.54(9), Florida Statutes, for purposes of implementing the applicable provisions of this act. Rules of the Department of Revenue related to and in furtherance of the orderly implementation of the applicable provisions of this act shall not be subject to s. 120.54(17), Florida Statutes, drawout pro-

ceeding, but, once adopted, shall be subject to s. 120.56, Florida Statutes, invalidity challenge. Such rules shall be adopted by the Governor and Cabinet and shall become effective upon filing with the Department of State, notwithstanding the provisions of s. 120.54(13), Florida Statutes."

403.719 Waste tire grants.—

(1) The department shall, by July 1, 1989, establish a program to make grants to counties which desire, individually or collectively, to:

(a) Construct or operate, or contract for the construction or operation of, a waste tire processing facility and equipment purchases therefor;

(b) Contract for a waste tire processing facility service within or outside the county or state;

(c) Remove or contract for the removal of waste tires from the county, region, or state;

(d) Perform or contract for the performance of research designed to facilitate waste tire recycling;

(e) Establishing waste tire collection centers at solid waste disposal facilities or waste tire processing facilities; or

(f) Provide incentives for establishing privately operated waste tire collection centers for the public.

(2) Each county shall be eligible for a pro rata share, based on population, of the available funds in the waste tire account. Counties may join together, pooling their financial resources, when utilizing their grants for the purposes described in subsection (1).

(3) The department shall provide technical assistance, upon request, to a county or groups of counties desiring assistance in applying for waste tire grants or choosing a method of waste tire management which would be an eligible use of the grant funds.

History.—s. 43, ch. 88-130.

[1]403.7195 Waste newsprint disposal fees.—

(1) On and after January 1, 1989, there is hereby imposed upon every producer or publisher within the state a product waste disposal fee of 10 cents per ton of newsprint consumed. The waste disposal fee imposed by this section shall be collected from producers or publishers based upon the total weight of newsprint actually consumed in their publications.

(2) The product waste disposal fee imposed by this section shall be reported and paid to the Department of Revenue quarterly. A credit of 10 cents per ton of newsprint against the fee obligation may be taken by the producer or publisher for overruns or such similar products not actually circulated or delivered. The credit of 10 cents per ton is also allowed against the fee obligation for each ton of recycled newsprint used in publication of products. The payment shall be accompanied by such form as the Department of Revenue may prescribe. The proceeds of the product waste disposal fee collected pursuant to this section, less administrative costs, shall be transferred to the Solid Waste Management Trust Fund. For the purposes of this section, "proceeds" of the fee shall mean all funds collected and received by the department hereunder, including interest and penalties on delinquent fees. The amount deducted for the costs of administration shall not exceed 3 percent of the total revenues collected hereunder and shall be only for those costs solely and directly attributable to the fee.

(a) The Department of Revenue shall administer, collect, and enforce the fee authorized under this section pursuant to the same procedures used in the administration, collection, and enforcement of the general state sales tax imposed under chapter 212, except as provided in this section. The provisions of this section regarding the authority to audit and make assessments, keeping of books and records, and interest and penalties on delinquent fees shall apply. The fees shall not be included in the computation of estimated taxes pursuant to s. 212.11(1)(a) nor shall the dealer's credit for collecting taxes or fees provided in s. 212.12 apply to this fee.

(b) The Department of Revenue, under the applicable rules of the [2]Career Service Commission, is authorized to employ persons and incur other expenses for which funds are appropriated by the Legislature. The department is empowered to adopt such rules and shall prescribe and publish such forms as may be necessary to effectuate the purposes of this section. The department is authorized to establish audit procedures and to assess delinquent fees.

(3) If the Department of Environmental Regulation determines on October 1, 1992, by the preponderance of evidence, that newsprint sold within the state is being recycled at a rate of 50 percent or more of the quantity sold within the state, the product waste disposal fee on newsprint shall be rescinded. If the department determines on that date, by a preponderance of evidence, that newsprint sold within the state is being recycled at a rate of less than 50 percent of the quantity sold within the state, the product waste disposal fee on newsprint shall be increased to 50 cents per ton and the credits authorized by subsection (2) shall be increased to 50 cents per ton, effective October 1, 1992. If the product waste disposal fee on newsprint is increased on October 1, 1992, the provisions of subsections (4) and (5) shall also be implemented effective on October 1, 1992.

(4) Any producer or publisher using newsprint in publications shall accept from a person for recycling purposes reasonably clean newsprint previously produced, published, or offered for sale by that producer or publisher. Publications accepted for recycling shall be accepted at the place where they were produced or published or at other convenient sites offered by the producers or publishers.

(5) The producer or publisher may claim a credit of 25 cents per ton of newsprint utilized in publications by their facility that have been returned and made available for recycling. Such claims shall be made quarterly to the Department of Revenue and shall be accompanied by such documentation of the claim as the Department of Revenue requires.

(6) In no event shall credits pursuant to this section exceed the fee obligation.

(7) For purposes of this section, "newsprint" means paper, the primary use of which is for the printing of newspapers.

History.—s. 71, ch. 88-130.

[1]**Note.**—Expires October 1, 1995, pursuant to s. 71, ch. 88-130, and is scheduled for review by the Legislature.

[2]**Note.**—Section 72, ch. 86-163, transferred "the statutory powers, duties and functions, records, and property of the Career Service Commission" to the Public Employees Relations Commission.

[1]403.7197 Advance disposal fee program.—

(1) The Legislature finds that containers which are made from plastic, glass, aluminum, plastic coated paper, or other metals and which are improperly discarded represent a significant solid waste problem in this state. Finding a solution to litter problems involving containers has been challenging and difficult for the public and private sectors. The Legislature has determined that a program operated with the established goals and implemented in phases is the most appropriate way to solve problems of litter involving containers. [2]This act is intended to create the necessary infrastructure to help solve comprehensive solid waste management problems facing the state over the next 5 years. However, if the recycling facilities and programs created under [2]this act are not adequate to meet the legislated recycling goals, additional mechanisms are provided to be implemented in phases to help assure that litter problems involving containers are solved and that the reduction of the solid waste stream can be accomplished.

(2) If the Department of Environmental Regulation determines on October 1, 1992, by a preponderance of evidence, that containers which are made of glass, plastic, aluminum, plastic coated paper, or other metals and which are sold in this state are not being recycled at a sustained rate of 50 percent of the quantities that these individual types of containers are sold within the state, the advance disposal fee program created by subsection (3) shall be implemented. The requirements of this section that apply to plastic containers shall apply individually to the categories of plastic containers identified in s. 403.708(9).

(3)(a) If the department makes the finding specified in subsection (2), there shall be an advance disposal fee of 1 cent per container charged by retail establishments on those types of containers sold in the state.

(b) The proceeds of the advance disposal fee collected pursuant to paragraph (a), less the cost of administration, shall be reported and paid quarterly and shall be transferred into the Container Recycling Trust Fund which is hereby created in the Department of Revenue. For the purposes of this section, "proceeds" of the fee shall mean all funds collected and received by the department hereunder, including interest and penalties on delinquent fees. The amount deducted for the costs of administration shall not exceed 3 percent of the total revenues collected hereunder and shall be only those costs solely and directly attributable to the fee. The Department of Revenue shall determine the amount which needs to be reserved in the Container Recycling Trust Fund each quarter for refunds and administrative costs. Any amount above that reserve shall be transferred quarterly to the Solid Waste Management Trust Fund for the purposes specified therein.

(c) The Department of Revenue shall administer, collect, and enforce the fee authorized under this section pursuant to the same procedures used in the administration, collection, and enforcement of the general state sales tax imposed under chapter 212 except as provided in this section. The provisions of this section regarding the authority to audit and make assessments, keeping of books and records, and interest and penalties on delinquent fees shall apply. The fees shall not be included in the computation of estimated taxes pursuant to s. 212.11(1)(a), nor shall the dealer's credit for collecting taxes or fees provided in s. 212.12 apply to this fee.

(d) The Department of Revenue, under the applicable rules of the [3]Career Service Commission, is authorized to employ persons and incur other expenses for which funds are appropriated by the Legislature. The department is empowered to adopt such rules and shall prescribe and publish such forms as may be necessary to effectuate the purposes of this section. The department is authorized to establish audit procedures and to assess delinquent fees.

(4) The Department of Environmental Regulation shall adopt rules to accomplish the following:

(a) Establishing reporting requirements necessary to obtain necessary sales and recycling information to implement this section and s. 403.7198;

(b) Establishing the criteria to determine whether the 50-percent recycling rate has been achieved; and

(c) Establishing the criteria for registration of public and private recycling centers.

(5) The information obtained for purposes of paragraph (4)(a) relating to sales information of individual businesses shall be exempt from the provisions of chapter 119. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. All other records and information shall be considered public records for purposes of chapter 119.

(6)(a) Containers for which an advance disposal fee has been charged may be returned to recycling centers which have registered with the department, pursuant to department rule, for a refund on the advance disposal fee in addition to payment for the market value of the product from which the container is made. Unclaimed moneys which remain in the Container Recycling Trust Fund shall be allocated to support container recycling programs as follows:

1. For capital assistance grants, 60 percent;
2. For litter control, 15 percent;
3. For promotion and education, 10 percent;
4. For technical assistance, 8 percent;
5. For research and development, 5 percent; and
6. For administration, 2 percent.

(b) No more than monthly, or at times determined by rule of the Department of Revenue, operators of registered recycling centers may certify to the Department of Revenue, on forms provided by the Department of Revenue, the amount of refunds of the advance disposal fee which have been paid to purchasers and shall receive a refund from the Container Recycling Trust Fund. The Department of Revenue shall establish audit procedures for registered recycling center operators.

(7) If the Department of Environmental Regulation determines by October 1, 1995, that containers made of glass, plastic, aluminum, plastic coated paper, or other metals and sold in the state are not being recycled at a rate of 50 percent of the quantities that these individual types of containers are sold within the state, the advance disposal fee program created by subsection (3) shall increase to 2 cents per container and the provisions of s. 403.7198 shall be implemented. Such fees shall not apply to those types of containers that are recycled at a rate of 50 percent or more.

History.—s. 72, ch. 88-130.
[1]**Note.**—Expires October 1, 1995, pursuant to s. 72, ch. 88-130, and is scheduled for review by the Legislature.
[2]**Note.**—As enacted, the term "this act" refers to ch. 88-130.
[3]**Note.**—Section 72, ch. 86-163, transferred "the statutory powers, duties and functions, records, and property of the Career Service Commission" to the Public Employees Relations Commission.

[1]403.7198 Containers; deposit; recycling and return.

(1) DEFINITIONS.—As used in s. 403.7197 and this section:

(a) "Container" means the individual, separate, and sealed glass, plastic, aluminum, plastic coated paper, or other metal can, bottle, or jar, not less than 5 ounces in capacity and in which the contents have been sealed by the manufacturer.

(b) "Consumer" means any person who purchases a container for consumption of its contents with no intent to resell such container.

(c) "Dealer" means any person in this state who engages in the sale of containers to a consumer, and the term includes an operator of a vending machine containing containers. This term does not include a person licensed pursuant to chapter 509 or chapter 561 who sells or offers for sale containers, the contents of which are consumed on the premises; nor a common carrier in the conduct of interstate passenger service who sells, offers for sale, or distributes to its passengers containers, the contents of which are consumed on the premises.

(d) "Distributor" means any person who engages in the sale of containers to a dealer in this state including any manufacturer who engages in such sales.

(e) "Manufacturer" means any person bottling, canning, or otherwise filling containers for sale to distributors or dealers.

(f) "Nonrefillable container" means a container which, after being used by a consumer, is not to be reused as a container by a manufacturer.

(g) "Refillable container" means a container which is intended to be reused as a container at least five times by a manufacturer after being initially used by a consumer.

(h) "Redemption center" means a business other than a dealer or distributor which offers to redeem for the amount of deposit any empty container.

(2) REFUND VALUE REQUIRED.—

(a) Every container sold or offered for sale in this state shall have a refund value established by the distributor of not less than 5 cents.

(b) Each container shall have the refund value, and the word "Florida" or the letters "Fla." clearly indicated by embossing, by a stamp, or by a label or other device securely fixed to any portion of the container other than the bottom. A dealer, redemption center, or distributor may refuse to accept from a person any empty container which does not state such information on the container. This subsection does not apply to containers sold by a distributor for use by a common carrier in the conduct of interstate passenger service.

(c) This subsection does apply to any refillable container having a brand name permanently marked thereon which, on the effective date of this act, has a refund value of not less than 10 cents.

(d) The requirements of this subsection relating to refund value shall not apply to those types of containers that meet the requirements of recycling of s. 403.7197(2).

(3) CONSUMERS, DEALERS, DISTRIBUTORS, AND VENDING MACHINE OPERATORS; REQUIRED PRACTICES.—

(a) Each consumer shall deposit with the dealer the refund value of each container purchased from that dealer. However, no deposit shall be required if the container is sold for consumption of the beverage contained therein on the premises.

(b) Except as provided in paragraph (d), a dealer shall accept from any consumer or other person not a dealer any empty, unbroken, and reasonably clean container of the type, size, and brand sold by the dealer within the past 60 days and shall pay in cash the refund value of the returned container.

(c) A dealer shall inform consumers that containers are returnable by placing a sign or shelf label, or both, in close proximity to any sales display of containers. The sign or label shall indicate the amount of deposit required for each container and that the containers are returnable. If a dealer participates in a redemption center, the location of that redemption center shall be posted.

(d) A dealer may limit the total number of containers that he will accept from any one consumer in any business day to 96 containers. The dealer may refuse to accept containers for a period of not more than 3 hours during any business day, provided that the hours during which containers will not be accepted are conspicuously posted.

(e) Each operator of a vending machine which sells containers shall post a conspicuous notice on the vending machine indicating that a refund is available on each container purchased and indicating where and from whom that refund may be obtained. This paragraph does not require vending machine operators to provide refunds at the premises wherein such vending machines are located.

(f) A distributor shall accept from a dealer any empty, unbroken, and reasonably clean container of the type, size, and brand sold by the distributor within the past 60 days and shall pay the dealer or his agent, within 10 working days, the refund value of the container plus a handling fee of at least 20 percent of the refund value of each container.

(g) A distributor may refuse to accept from any person who is not a dealer a quantity of fewer than 599 containers of the type, size, and brand sold by the distributor.

(h) A distributor shall not be required to pay a manufacturer a deposit on a nonrefillable container.

(i) Any person may establish a redemption center and may determine what type, size, and brand of container shall be accepted. The redemption center may contract with a dealer or a distributor to collect and provide for the recycling of empty containers. The distributor shall accept any empty, unbroken, and reasonably clean container of the type, size, and brand sold by the distributor within the past 60 days and shall pay to the redemption center, within 10 working days, the refund

value of the container, plus a handling fee of not less than 20 percent of the refund values.

(4) DEPARTMENT OF ENVIRONMENTAL REGULATION; POWERS AND DUTIES.—The Department of Environmental Regulation shall adopt rules necessary to administer this section, including rules for the regulation of redemption centers. The rules shall provide that state informational material, including, but not limited to, travel pamphlets and road maps, printed after December 31, 1988, shall contain information related to this section. Such informational material shall contain a statement relating to the deposit law urging travelers to avoid littering.

(5) EDUCATIONAL MATERIALS.—The Department of Education shall incorporate information concerning this section into educational materials distributed to primary and secondary schools within the state urging an end to littering.

(6) PENALTY.—Any person who violates any of the provisions of this section is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or [2]s. 775.084.

History.—ss. 72, 73, ch. 88-130.

[1]**Note.**—

A. Effective October 1, 1995.

B. Expires October 1, 1995, pursuant to s. 72, ch. 88-130, and is scheduled for review by the Legislature

[2]**Note.**—Section 775.084 was amended by s. 6, ch. 88-131, deleting all reference to misdemeanors.

403.72 Identification, listing, and notification.—

(1) The department shall adopt rules which list hazardous wastes and identify their characteristics and shall establish procedures by which hazardous waste may be identified. The department may consider ignitability, corrosivity, reactiveness, toxicity, infectiousness, radioactivity, mutagenicity, carcinogenicity, teratogenicity, bioaccumulative effect, and persistence and degradability in nature and any other characteristics relevant to each particular waste material.

(2) Any generator or transporter of, or any person who owns or operates a facility that disposes of, stores, or treats, hazardous waste which is identified or listed by rule of the department shall, within 90 days of the effective date of the rule, file a written notification with the department, unless previous notification was given to the United States Environmental Protection Agency pursuant to federal law. The notification shall state the location of the generator, transporter, or facility; shall generally describe the activity engaged in; and shall state the hazardous waste handled. The department shall adopt and make available to the public a notification form for this purpose.

History.—s. 8, ch. 80-302; s. 8, ch. 82-27.

403.721 Standards, requirements, and procedures for generators and transporters of hazardous waste and owners and operators of hazardous waste facilities.—

(1) Persons who generate or transport hazardous waste, or who own or operate a hazardous waste facility, shall comply with the applicable standards, requirements, and procedures of this act and the rules adopted pursuant to it.

(2) The department shall establish by rule such standards, requirements, and procedures as are needed to protect human health and the environment, which standards, requirements, and procedures shall apply to persons who generate or transport hazardous waste; to persons who own or operate hazardous waste disposal, storage, or treatment facilities; and to hazardous waste disposal facilities. The department may establish standards, requirements, and procedures which may vary based on differences in amounts of, types of, concentrations of, and methods of handling hazardous waste and on differences in the size and location of hazardous waste facilities and which may take into account standards, requirements, and procedures imposed by other laws not in conflict with this act. Solid waste determined to be special wastes by the United States Environmental Protection Agency shall be regulated pursuant to this act consistent with federal regulations for special wastes under Subtitle C of the [1]Resource Conservation and Recovery Act.

(3) The department, with respect to generators of hazardous waste identified or listed pursuant to this act, shall adopt rules governing:

(a) Recordkeeping practices that accurately identify the quantities of such hazardous waste generated, the constituents thereof which are significant in quantity or in potential harm to human health or the environment, and the method of disposal of such wastes;

(b) Labeling practices for any containers used for the disposal, storage, or transport of such hazardous waste which accurately identify such waste;

(c) The use of appropriate containers for such hazardous waste;

(d) The furnishing of information on the general elemental and chemical composition of such hazardous waste to persons transporting, treating, storing, or disposing of such wastes;

(e) The use of a manifest system to assure that all such hazardous waste generated is designated for treatment, storage, or disposal in treatment, storage, or disposal facilities, other than facilities on the premises where the waste is generated, for which a permit has been issued; and

(f) Submission of reports and inspection of manifests to describe the quantities of hazardous waste which are identified or listed pursuant to this act and which have been generated or transported during a particular time period to show their disposition and certification of the generator's efforts to reduce their amount and toxicity.

(4) The department, with respect to transporters of hazardous waste identified or listed pursuant to this act, shall adopt rules governing:

(a) Liability and financial responsibility for any liability which may be incurred in the transport of hazardous waste;

(b) Recordkeeping concerning the source, transport, and delivery of hazardous waste;

(c) The transportation of hazardous waste, requiring that such waste be properly labeled;

(d) Compliance with the manifest system required in paragraph (3)(e);

(e) The transportation of all such hazardous waste only to the hazardous waste treatment, storage, or disposal facilities designated by the shipper on the manifest form, which facility shall be a facility holding a permit; and

(f) The use of appropriate containers for transporting such hazardous waste.

(5) With respect to any hazardous waste and transporters of hazardous waste, which also meet the definitions and criteria for hazardous materials and transporters of hazardous materials regulated by the Hazardous Materials Transportation Act, 88 Stat. 2156, 49 U.S.C. ss. 1801 et seq., the department shall consider and adopt, as appropriate, rules which are consistent with such act and the rules adopted pursuant thereto.

(6) The department, with respect to owners and operators of hazardous waste disposal, storage, or treatment facilities, and with respect to such facilities, shall adopt rules governing:

(a) The maintenance of records concerning all hazardous wastes which are identified or listed pursuant to this act and which are treated, stored, or disposed of and the manner of treatment, storage, or disposal;

(b) Satisfactory reporting, monitoring, and inspection for compliance with the manifest system required in paragraph (3)(e);

(c) The treatment, storage, or disposal of all hazardous waste received by the facility pursuant to operating methods, techniques, and practices approved by the department;

(d) The location, design, and construction of such hazardous waste treatment, disposal, or storage facilities;

(e) Contingency plans for effective action to minimize unanticipated damage resulting from any accident occurring during the treatment, storage, or disposal of any such hazardous waste;

(f) The maintenance or operation of such facilities and the requirement of such additional qualifications as to ownership, continuity of operation, training for personnel, and financial responsibility as may be necessary or desirable; and

(g) Compliance with s. 403.722.

(h) Corrective action at a hazardous waste facility which shall be taken beyond a facility boundary where necessary to protect human health and the environment, unless the owner or operator demonstrates that despite his best efforts he was unable to obtain the necessary permission to undertake such action.

(i) Conditions on a permit which require cleanup of releases of hazardous waste from any solid waste management unit, regardless of when the waste was placed in the unit.

(j) Groundwater monitoring, unsaturated zone monitoring, and corrective action requirements for land disposal facilities accepting hazardous waste after July 26, 1982.

(k) The prohibition of the land disposal and storage of certain hazardous waste based on the requirements and criteria set forth in s. 201(g) through (j) of the Hazardous and Solid Waste Amendments of 1984, Pub. L. No. 98-616.

(7) The department shall adopt rules governing the production, burning, marketing, sale, and distribution of hazardous waste fuel. The department may provide for exemptions to such rules so long as the exemptions are no less stringent than those provided by federal law or regulation.

History.—s. 8, ch. 80-302; s. 22, ch. 83-310; s. 33, ch. 86-186.
[1]Note.—The Resource Conservation and Recovery Act of 1976.

403.7215 Tax on gross receipts of commercial hazardous waste facilities.—

(1) The owner or operator of each privately owned, permitted, commercial hazardous waste transfer, storage, treatment, or disposal facility shall, on or before January 25 of each year, file with the chief fiscal officer of the primary host local government a certified, notarized statement. The statement shall indicate the gross receipts from all charges imposed during the preceding calendar year for the storage, treatment, or disposal of hazardous waste at the facility.

(2) A 3-percent tax is hereby levied on the annual gross receipts of a privately owned, permitted, commercial hazardous waste transfer, storage, treatment, or disposal facility, which tax is payable annually on or before July 1 by the owner of the facility to the primary host local government.

(3) All moneys received by the appropriate local government pursuant to subsection (2) shall be appropriated and used to pay for:

(a) The costs of collecting the tax;

(b) Any local inspection costs incurred by the local government to ensure that the facility is operated pursuant to the provisions of this part and any rule adopted pursuant thereto;

(c) Additional security costs incurred as a result of operating the facility, including monitoring, fire protection, and police protection;

(d) Hazardous waste contingency planning implementation;

(e) Road construction or repair costs for public roads adjacent to and within 1,000 feet of the facility; and

(f) Any other cost incurred by the local government as a result of the operation of the facility, if all other costs specified in this section have been paid.

(4) The primary host local government is responsible for regulating, controlling, administering, and enforcing the provisions of this section.

History.—s. 17, ch. 83-310; s. 24, ch. 88-130; s. 33, ch. 88-393; s. 1, ch. 89-285.
Note.—Former s. 203.10.

403.722 Permits; hazardous waste disposal, storage, and treatment facilities.—

(1) Each person who intends to construct, modify, operate, or close a hazardous waste disposal, storage, or treatment facility shall obtain a construction, operation, or closure permit from the department prior to constructing, modifying, operating, or closing the facility. By rule, the department may provide for the issuance of a single permit instead of any two or more hazardous waste facility permits.

(2) Any owner or operator of a hazardous waste facility in operation on the effective date of the department rule listing and identifying hazardous wastes shall file an

application for a temporary operation permit within 6 months after the effective date of such rule. The department, upon receipt of a properly completed application, shall identify any department rules which are being violated by the facility and shall establish a compliance schedule. However, if the department determines that an imminent hazard exists, the department may take any necessary action pursuant to s. 403.726 to abate the hazard. The department shall issue a temporary operation permit to such facility within the time constraints of s. 120.60(2) upon submission of a properly completed application which is in conformance with this subsection. Temporary operation permits for such facilities shall be issued for up to 3 years only. Upon termination of the temporary operation permit and upon proper application by the facility owner or operator, the department shall issue an operation permit for such existing facilities if the applicant has corrected all of the deficiencies identified in the temporary operation permit and is in compliance with all other rules adopted pursuant to this act.

(3) Permit applicants shall provide any information which will enable the department to determine that the proposed construction, modification, operation, or closure will comply with this act and any applicable rules. In no instance shall any person construct, modify, operate, or close a facility in contravention of the standards, requirements, or criteria for a hazardous waste facility. Permits issued under this section may include any permit conditions necessary to achieve compliance with applicable hazardous waste rules and necessary to protect human health and the environment.

(4) The department may require, in a permit application, submission of information concerning matters specified in s. 403.721(6) as well as information respecting:

(a) Estimates of the composition, quantity, and concentration of any hazardous waste identified or listed under this act or combinations of any such waste and any other solid waste, proposed to be disposed of, treated, transported, or stored and the time, frequency, or rate at which such waste is proposed to be disposed of, treated, transported, or stored; and

(b) The site to which such hazardous waste or the products of treatment of such hazardous waste will be transported and at which it will be disposed of, treated, or stored.

(5) A permit issued pursuant to this section is not a vested right. The department may revoke or modify any such permit.

(a) Permits may be revoked for failure of the holder to comply with the provisions of this act, the terms of the permit, the standards, requirements, or criteria adopted pursuant to this act, or an order of the department; for refusal by the holder to allow lawful inspection; for submission by the holder of false or inaccurate information in the permit application; or if necessary to protect the public health or the environment.

(b) Permits may be modified, upon request of the permittee, if such modification is not in violation of this act or department rules or if the department finds the modification necessary to enable the facility to remain in compliance with this act and department rules.

(c) A land disposal facility operating with a temporary operation permit on October 1, 1986, must certify compliance with groundwater monitoring and financial responsibility requirements and must submit an application for an operation permit by November 8, 1986, or the temporary operation permit will be terminated.

(d) A temporary operation permit for a hazardous waste facility in existence on the date the department began permitting facilities shall automatically terminate on November 8, 1988.

(e) An owner or operator of a hazardous waste facility in existence on the effective date of a department rule changing an exemption or listing and identifying the hazardous wastes which require that facility to be permitted who notifies the department pursuant to s. 403.72, and who has applied for a permit, may continue to be issued a temporary operation permit.

(6) A hazardous waste facility permit issued pursuant to this section shall satisfy the permit requirements of s. 403.707(1). The permit exemptions provided in s. 403.707(2) shall not apply to hazardous waste.

(7) The department may establish permit application procedures for hazardous waste facilities, which procedures may vary based on differences in amounts, types, and concentrations of hazardous waste and on differences in the size and location of facilities and which procedures may take into account permitting procedures of other laws not in conflict with this act.

[1](8) For permits required by this section, the department may require that a fee be paid and may establish, by rule, a fee schedule based on the degree of hazard and the amount and type of hazardous waste disposed of, stored, or treated at the facility.

(9) It shall not be a requirement for the issuance of such a permit that the facility complies with an adopted local government comprehensive plan, local land use ordinances, zoning ordinances or regulations, or other local ordinances. However, such a permit issued by the department shall not override adopted local government comprehensive plans, local land use ordinances, zoning ordinances or regulations, or other local ordinances.

(10) Notwithstanding ss. 120.60(2) and 403.815:

(a) The time specified by law for permit review shall be tolled by the request of the department for publication of notice of proposed agency action to issue a permit for a hazardous waste treatment, storage, or disposal facility and shall resume 45 days after receipt by the department of proof of publication. If, within 45 days after publication of the notice of the proposed agency action, the department receives written notice of opposition to the intention of the agency to issue such permit and receives a request for a hearing, the department shall provide for a hearing pursuant to s. 120.57, if requested by a substantially affected party, or an informal public meeting, if requested by any other person. The failure to request a hearing within 45 days after publication of the notice of the proposed agency action constitutes a waiver of the right to a hearing under s. 120.57. The permit review time period shall continue to be tolled until the completion of such hearing or meeting and shall resume within 15 days after conclusion of a public hearing held on the application or within 45 days after the

recommended order is submitted to the agency and the parties, whichever is later.

(b) Within 60 days after receipt of an application for a hazardous waste facility permit, the department shall examine the application, notify the applicant of any apparent errors or omissions, and request any additional information the department is permitted by law to require. The failure to correct an error or omission or to supply additional information shall not be grounds for denial of the permit unless the department timely notified the applicant within the 60-day period, except that this paragraph does not prevent the department from denying an application if the department does not possess sufficient information to ensure that the facility is in compliance with applicable statutes and rules.

(c) The department shall approve or deny each hazardous waste facility permit within 135 days after receipt of the original application or after receipt of the requested additional information or correction of errors or omissions. However, the failure of the department to approve or deny within the 135-day time period does not result in the automatic approval or denial of the permit and does not prevent the inclusion of specific permit conditions which are necessary to ensure compliance with applicable statutes and rules. If the department fails to approve or deny the permit within the 135-day period, the applicant may petition for a writ of mandamus to compel the department to act consistently with applicable regulatory requirements.

(11) Hazardous waste facility operation permits shall be issued for no more than 5 years.

History.—s. 8, ch. 80-302; s. 2, ch. 82-79, s. 4, ch. 82-122; s. 64, ch. 83-218, s. 24, ch. 83-310; s. 34, ch. 86-186, s. 19, ch. 88-393.

*__Note.__—Section 20, ch. 88-393, provides that "the Department of Environmental Regulation shall begin rulemaking to implement the provisions of sections 17, 18, and 19 no later than 30 days after [July 6, 1988]."

403.7221 Research, development, and demonstration permits.—

(1) The department may issue a research, development, and demonstration permit to the owner or operator of any solid waste management facility who proposes to utilize an innovative and experimental solid waste treatment technology or process for which permit standards have not been promulgated. Permits shall:

(a) Provide for construction and operation of the facility for not longer than 1 year, renewable no more than 3 times.

(b) Provide for the receipt and treatment by the facility of only those types and quantities of solid waste which the department deems necessary for purposes of determining the performance capabilities of the technology or process and the effects of such technology or process on human health and the environment.

(c) Include requirements the department deems necessary which may include monitoring, operation, testing, financial responsibility, closure, and remedial action.

(2) The department may apply the criteria set forth in this section in establishing the conditions of each permit without separate establishment of rules implementing such criteria.

(3) For the purpose of expediting review and issuance of permits under this section, the department may, consistent with the protection of human health and the environment, modify or waive permit application and permit issuance requirements, except that there shall be no modification or waiver of regulations regarding financial responsibility or of procedures established regarding public participation.

(4) The department may order an immediate termination of all operations at the facility at any time upon a determination that termination is necessary to protect human health and the environment.

History.—s. 35, ch. 86-186, s. 80, ch. 88-130.

403.7222 Prohibition of hazardous waste landfills.

(1) As used in this section, the term "hazardous waste landfill" means a disposal facility or part of a facility at which hazardous waste that has not undergone treatment is placed in or on land, including an injection well, and which is not a land treatment facility. However, in no event may hazardous waste be disposed of through an injection well.

(2) The Legislature declares that, due to the permeability of the soil and high water table in Florida, future hazardous waste landfills shall be prohibited. Therefore, the Department of Environmental Regulation may not issue a permit pursuant to s. 403.722 for a newly constructed hazardous waste landfill. However, if by executive order the Governor declares a hazardous waste management emergency, the department may issue a permit for a temporary hazardous waste landfill. Any such landfill shall be used only until such time as an appropriate alternative method of disposal can be derived and implemented. In no event shall such a permit be issued for a period exceeding 6 months without a further declaration of the Governor.

(3) Nothing in this section shall prohibit the department from banning the disposal of hazardous waste in other types of waste management units in a manner consistent with federal requirements, except as provided under s. 403.804(2).

History.—s. 38, ch. 83-310, s. 36, ch. 86-186; s. 5, ch. 89-285.

403.7223 Waste elimination and reduction assistance program.—

(1) The Legislature finds that the reduction of the volume and toxicity of hazardous waste generated in the state is the most environmentally, economically, and technically efficient method of protecting the public health and the environment from the improper management of hazardous waste.

(2) The department shall establish a waste reduction and elimination assistance program designed to assist all persons in reducing the amount and toxicity of the hazardous waste generated in the state to the maximum extent possible. The waste reduction assistance program may include, but not be limited to:

(a) The establishment of a waste reduction clearinghouse of all available information concerning waste reduction, waste minimization, recycling programs, economic and energy savings, and production and environmental improvements;

(b) Assistance in transferring information concerning waste reduction technologies through workshops, conferences, and handbooks;

(c) Cooperation with university programs to develop waste reduction curricula and training;

(d) Onsite technical assistance for hazardous waste generators; and

(e) Researching and recommending incentive programs for innovative waste management and reduction programs.

History.—s. 6, ch. 88-393.

403.7225 Local hazardous waste management assessments.—

(1) The Legislature recognizes that there is a need for estimating the amount, type, and sources of hazardous waste generated in the state. There is also a need for facilitating proper storage, transportation, volume reduction, treatment, resource recovery, and disposal of these wastes. Proper management of these wastes is imperative in order to protect the public health, safety, and welfare and the environment.

(2) The Department of Environmental Regulation shall establish guidelines for local hazardous waste management assessments and shall specify a standard format. The local hazardous waste management assessments shall include, but not be limited to, the identification of the following:

(a) All hazardous waste generators within the county, including small quantity generators as defined pursuant to federal regulations under 40 C.F.R. pt. 261.5.

(b) The types and quantities of hazardous waste generated within the county.

(c) Current hazardous waste management practices of generators within the county.

(d) Effective waste management practices for hazardous waste generators requiring offsite services, including the identification of types of facilities needed to serve the hazardous waste generators within the county.

(e) Abandoned dump sites within the county.

(f) Operating procedures at sanitary landfills within the county.

(3) Each regional planning council shall coordinate the local hazardous waste management assessments for counties within its region and submit them to the department, according to a department-prescribed format. Each county shall prepare a local hazardous waste management assessment based on guidelines established by the department. The regional planning councils and the counties shall negotiate the proportionate share of each county of the sum appropriated to the region for this purpose. In the event that a regional planning council and a county cannot agree on such share, the secretary of the department shall settle the dispute. The share of the county shall be determined pursuant to the criteria specified in s. 27(2) of chapter 83-310, Laws of Florida. Once the allocation is made available to them, the counties shall have 30 days to decide whether or not they want to perform their own assessments. If a county declines to perform the local hazardous waste management assessment or fails to respond within the 30-day period, the regional planning council shall perform the assessment.

(4) Each county shall designate areas within the county in which a hazardous waste storage facility may be located. Counties may jointly designate areas or sites by interlocal agreement. Public hearings shall be held to determine the area locations. Each county shall amend its comprehensive plan, if necessary, in order to designate areas for storage facilities. Preference shall be given to appropriate public lands and industrial areas as designated on local comprehensive plans. However, this section does not prohibit a county from amending its comprehensive plan to designate other areas for this purpose or prohibit construction of a facility on any other locally approved or state-approved site.

(5) No county may amend its comprehensive plan or undertake rezoning actions in order to prevent areas from being designated for a hazardous waste storage facility.

(6) The regional planning councils shall:

(a) Assist with county hazardous waste management assessments and area selection procedures;

(b) Coordinate and assemble local hazardous waste management assessments, which shall then constitute a regional hazardous waste management facility needs assessment, and area selections;

(c) Provide any technical expertise needed by the counties in developing the assessments;

(d) Promote local and regional public information programs for citizens and generators of hazardous waste;

(e) Review storage facility area selections for the purpose of siting one or more regional storage facilities; and

(f) Select one or more regional storage facility sites.

(7) The selection of a regional storage facility site will not preclude the siting of a storage facility at some other site which is locally or state approved.

(8) Within 6 months after the completion of all local hazardous waste management assessments within a region, the regional planning council shall complete a regional hazardous waste management facility needs assessment utilizing procedures and guidelines developed by the department in order to ensure consistent development of these planning documents. Further, the regional planning council, in preparing the regional hazardous waste management facility needs assessment, shall utilize all data available from county hazardous waste management assessments. The regional planning council, according to a department-prescribed format, shall include in its regional hazardous waste management facility needs assessment the following:

(a) A summary of the quantities and types of hazardous waste generated within its jurisdiction.

(b) A summary of current hazardous waste management practices by generators in its jurisdiction.

(c) A profile of hazardous waste generators in its jurisdiction by industry, size, and county or city location.

(d) An assessment of the excess demand for offsite, commercial hazardous waste facilities and services.

(e) An assessment of the short-term need and the long-term need for hazardous waste management facilities in its jurisdiction.

(f) A plan to eliminate any excess demand for offsite hazardous waste management facilities or services with the local governments in its jurisdiction, with local gov-

ernments in other jurisdictions, or with other regional planning councils.

(9) The department shall:

(a)1. Assemble the regional hazardous waste management facility needs assessments and determine if the needs of hazardous waste generators will be met by regional hazardous waste storage facilities or if additional storage, treatment, or disposal facilities are needed in the state and, if needed, which regions have the greatest need; and

2. Submit its determinations to the Legislature.

(b) Prepare a progress report on the development of each regional hazardous waste management facility needs assessment and submit such report to the Legislature no later than January 1 of the year in which such plan is due.

(10) The schedule for completion of county hazardous waste management plans by region is as follows:

(a) For counties within the geographic areas of the Tampa Bay Regional Planning Council, the South Florida Regional Planning Council, the Northeast Florida Regional Planning Council, and the East Central Florida Regional Planning Council and for Volusia County; by January 1, 1985.

(b) For counties within the geographic areas of the Treasure Coast Regional Planning Council, the Southwest Florida Regional Planning Council, the West Florida Regional Planning Council, and the Central Florida Regional Planning Council; by July 1, 1985.

(c) For counties within the geographic areas of the the Apalachee Regional Planning Council, the North Central Florida Regional Planning Council, and the Withlacoochee Regional Planning Council and for Jefferson County; by July 1, 1986.

(11) The preparation of county hazardous waste management assessments, storage facility area selections, or regional storage facility site selections shall not prevent siting of storage or treatment facilities in any area of the state.

(12) Any county which undertakes and completes a hazardous waste management assessment and storage facility area selection prior to the scheduled completion dates for counties in the region shall receive a proportionate share of moneys available, determined pursuant to subsection (3), at the time it is appropriated for such purpose.

(13) Water management districts shall provide technical assistance, relative to water resources, to local and regional agencies during the selections of the local storage facility areas and regional transfer facility sites.

(14) The department and the regional planning councils shall administer any funds appropriated for the purpose of developing the local hazardous waste management assessments and storage facility area or site selections.

(15) Except as provided in this part, no local government law, ordinance, or rule pertaining to the subject of hazardous waste regulation may be more stringent than department rules adopted under the authority of this chapter.

(16) Local, regional, and state assessments shall be brought up to date by sending letters to each small quantity generator at 5-year intervals, based on the schedule for the initial local assessments. More frequent complete mail surveys shall not be required by the state. However, at their option, local and regional governing authorities may update such assessments at more frequent intervals. Alternatively, the assessment rolls shall be brought up to date before the end of the 5-year interval by including the applicable names from occupational licenses, building permits, and from not less than one complete survey of the business pages of the county local telephone systems. The roll shall be updated continuously thereafter in the same manner.

History.—s. 25, ch. 83-310; s. 34, ch. 84-338; s. 3, ch. 85-269; s. 11, ch. 87-374.

403.7226 Technical assistance by the department. The Department of Environmental Regulation shall:

(1) Provide technical assistance to county governments and regional planning councils to ensure consistency in coordinating local and regional hazardous waste assessments as provided in s. 403.7225. In order to ensure that each local assessment is properly prepared and that all information gathered during the assessment is uniformly compiled and documented, each county or regional planning council shall contact the department during the preparation of the local assessment to receive technical assistance. Each county and region shall follow guidelines established by the department in order to properly prepare these assessments.

(2) Identify short-term needs and long-term needs for hazardous waste facilities and services for the state on the basis of the information gathered through the county and regional hazardous waste assessments and other information from state and federal regulatory agencies and sources. The state needs assessment must be ongoing and must be updated when new data concerning waste generation and waste management technologies become available. The department shall annually send a copy of this assessment to the Governor and to the Legislature with the report required by s. 403.7225(9).

History.—s. 26, ch. 83-310, s. 2, ch. 89-285.

403.723 Siting of hazardous waste facilities.—It is the intent of the Legislature to facilitate siting of proper hazardous waste storage facilities in each region and any additional storage, treatment, or disposal facilities as required. The Legislature recognizes the need for facilitating disposal of waste produced by small generators, reducing the volume of wastes generated in the state, reducing the toxicity of wastes generated in the state, and providing treatment and disposal facilities in the state.

(1) Each county shall complete a hazardous waste management assessment and designate areas within the county at which a hazardous waste storage facility could be constructed to meet a demonstrated need.

(2) After each county designates areas for storage facilities, each regional planning council shall designate one or more sites at which a regional hazardous waste storage or treatment facility could be constructed.

(3) The department, within 30 days of receipt of a complete application for a hazardous waste facility construction or modification permit, shall notify each unit of local government within 3 miles of the proposed facility that a permit application has been received and shall

publish a notice in a newspaper of general circulation in the area of the proposed facility that a complete permit application has been received.

(4) Upon request by a person who has applied for a hazardous waste facility permit from the department, the local government having jurisdiction over the proposed site shall, within 90 days of such request, determine whether or not the proposed site is consistent and in compliance with adopted local government comprehensive plans, local land use ordinances, local zoning ordinances or regulations, and other local ordinances in effect at the time a hazardous waste facility construction or modification permit application is made or is an area or site designated for the purpose of such facility according to this act.

(5) If the local government determines within 90 days of the request that construction or modification of the facility does not comply with such plans, ordinances, regulations, or area or site designations pursuant to this act, the person requesting the determination may request a variance from such plans, ordinances, regulations, or designations.

(6) If the variance requested by the applicant is denied by local government or if there is no determination made by local government pursuant to subsection (4) within 90 days of the request, or if there is no action on the variance requested by the applicant within 90 days of the request for the variance, the person requesting such determination or variance may petition the Governor and Cabinet for a variance from the local ordinances, assessments, regulations, plans, or area and site designations.

(7) The Governor and Cabinet shall grant the variance from any local ordinances, assessments, area and site designations, regulations, or plans only if a hazardous waste permit has been issued by the department and if the Governor and Cabinet find, based upon competent substantial evidence that clearly and convincingly establishes, that the facility:

(a) Will not have a significant adverse impact on the environment, including ground and surface water resources, of the region; and

(b) Will not have a significant adverse impact on the economy of the region.

(8) The Governor and Cabinet shall also consider the record of the proceeding before the local government, when determining whether to grant a petition for a variance from local ordinances, regulations, or plans.

(9) The Governor and Cabinet may adopt rules of procedure that govern these proceedings.

History.—s. 8, ch. 80-302, s. 41, ch. 81-167; s. 269, ch. 81-259; s. 43, ch. 83-55; s. 28, ch. 83-310.

403.7234 Small quantity generator notification program.—

(1) Each county specified in s. 403.7225(10)(a), (b), and (c) shall send by mail a letter to each small quantity generator, as defined pursuant to federal regulations in 40 C.F.R. s. 261.5, on the January 1 preceding the date specified in such paragraphs for completion of its hazardous waste assessment, and the United States Postal Service certificate of mailing shall be retained as proof of mailing. In addition, within 14 days after a county completes its hazardous waste assessment, the county shall send such letter to each small quantity generator not notified on the preceding January 1. Thereafter, each county shall annually send such letter on July 1. The letter shall:

(a) Detail the legal responsibilities of the small quantity generator with regard to proper waste management practices, including penalties for noncompliance.

(b) Include a list of hazardous waste management alternatives which are available to the small quantity generator.

(2) Within 30 days of receipt of the letter, each small quantity generator identified in the county assessment shall disclose its management practices and the types and quantities of waste to the county government. Annually, each county shall verify the management practices of at least 20 percent of the small quantity generators. The procedure for verification used by the county shall be developed by rule by the department. The Department of Environmental Regulation may also regulate the waste management practices of small quantity generators in order to ensure proper management of hazardous waste in a manner consistent with federal requirements, except as provided under s. 403.804(2).

(3) Any small quantity generator who does not comply with the requirements of subsection (2) and who has received two subsequent certified letters from the county is subject to a fine of between $25 and $100 per day for a maximum of 100 days. The county may collect such fines and deposit them in its general revenue fund. Fines collected by the county shall be used to carry out the verification procedure established in subsection (2). If there are excess funds after the verification procedure has been completed, such funds shall be used for hazardous and solid waste management purposes only.

History.—s. 29, ch. 83-310; s. 35, ch. 84-338; s. 37, ch. 86-186; s. 12, ch. 87-374.

403.7236 Local government information to be sent to the department.—Before June 30 of any year, each county shall transmit the following information to the Department of Environmental Regulation regarding activities of the preceding year:

(1) A summary of the information gathered during the hazardous waste assessment program by each county at the 5-year interval when it occurs;

(2) Information gathered from each small quantity generator not notified previously; and

(3) Onsite information gathered annually.

History.—s. 30, ch. 83-310; s. 4, ch. 85-269.

403.724 Financial responsibility.—

(1) An owner or operator of a hazardous waste facility, as a prerequisite to the operation of a facility in the state, shall be bonded or insured to guarantee the financial responsibility of such owner or operator for any liability which may be incurred in the operation of the facility and to provide that, upon closure, abandonment, or interruption of operation of the facility, all appropriate measures are taken to prevent present and future damage to human health, safety, and welfare; the environment; and private and public property.

(2) Cash, surety bonds, or casualty insurance, or a combination thereof, may be used to satisfy the financial responsibility requirement. Any bond or insurance ob-

tained to satisfy this requirement shall be maintained in the amount established by the department and shall be maintained until the department determines that the waste is no longer a hazard and authorizes cancellation, modification, or liquidation of the bond or insurance.

(3) The amount of financial responsibility required shall be established by the department upon each issuance, renewal, or modification of a hazardous waste facility permit. The established financial responsibility requirements shall not be altered for the duration of the permit. Such factors as inflation rates and changes in operation may be considered when establishing financial responsibility for the duration of the permit. Once such a determination is made, it shall represent the maximum financial responsibility of the owner or operators of such a facility. The Department of Insurance shall be available to assist the department in making this determination. In establishing the amount of financial responsibility, the department shall consider:

(a) The amount and type of hazardous waste involved;

(b) The probable damage to human health and the environment;

(c) The danger and probable damage to private and public property near the facility;

(d) The probable time that the hazardous waste and facility involved will endanger the public health, safety, and welfare or the environment; and

(e) The probable costs of properly closing the facility.

(4) The department may adopt rules which establish the procedures and guidelines it will use to establish or modify the amount of the bond or insurance.

(5) Hazardous waste facilities in operation on October 1, 1980, shall, within 1 year after the effective date of rules regarding financial responsibility pursuant to this act, be bonded or insured or have the requirement waived.

(6) By rule, the department may create exemptions from the financial responsibility requirement when, due to the size or magnitude of the operation, waiving the requirement will not conflict with the purposes of the requirement.

(7) A transporter of hazardous waste shall be bonded or insured to guarantee the financial responsibility of such transporter for any liability which may be incurred in the transportation of such hazardous waste and to provide that all appropriate measures are taken to prevent damage to human health, safety, and welfare, to the environment, and to private and public property. Financial guarantees specified in subsection (2) shall be used to satisfy the financial responsibility requirement.

(8)(a) In any case where the owner or operator is in bankruptcy, reorganization, or arrangement pursuant to the Federal Bankruptcy Code or where with reasonable diligence jurisdiction in any state court or any of the federal courts cannot be obtained over an owner or operator likely to be solvent at the time of judgment, any claim arising from conduct for which evidence of financial responsibility must be provided under this section may be asserted directly against the guarantor providing such evidence of financial responsibility. In the case of any action pursuant to this subsection, such guarantor shall be entitled to invoke all rights and defenses which would have been available to the owner or operator if any action had been brought against the owner or operator by the claimant and which would have been available to the guarantor if an action had been brought against the guarantor by the owner or operator. The total liability of any guarantor shall be limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the owner or operator under this act.

(b)1. Nothing in this subsection shall be construed to limit any other state or federal statutory, contractual, or common law liability of a guarantor to its owner or operator, including, but not limited to, the liability of such guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim.

2. Nothing in this subsection shall be construed to diminish the liability of any person under s. 107 or s. 111 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, [1]Pub. L. No. 96-510, or other applicable law.

History.—s. 8, ch. 80-302, s. 23, ch. 83-310, s. 38, ch. 86-186.

[1]**Note.**—The citation "Pub. L. No. 96-510" was added by the editors.

403.725 Hazardous Waste Management Trust Fund.—

(1) The purpose of this section is to create a method to provide financial resources to abate or substantially reduce an imminent hazard due to hazardous waste, to maintain and monitor an area where hazardous waste has been disposed of, to prevent damage from hazardous waste, to pay for all provable property damages which are the proximate results of hazardous wastes released into the environment after the effective date of this act, and to pay for restoration of areas damaged by hazardous waste from abandoned hazardous waste sites. It shall be the responsibility of any person claiming damages from this fund to provide the department with documentation of the destruction to, or loss of, any real or personal property. The claimant shall also provide the department with documentation that the damages were the direct result of the release of hazardous waste into the environment. This section shall be liberally construed to effect the purposes set forth, such construction being especially imperative due to the danger which hazardous waste poses to human health, safety, and welfare; the environment; and private and public property.

(2) The Hazardous Waste Management Trust Fund is established and shall be used by the department for the purposes, and shall receive funds and be administered in the manner, specified in this section.

(3) Into the fund shall be deposited:

(a) Appropriations to the fund by the Legislature;

(b) Moneys collected from reimbursement requests and actions; and

(c) Grants, moneys, or gifts from public or private agencies which are specifically designated to be deposited into the fund for hazardous waste management.

(4) Moneys in the fund not currently needed to meet the obligations of the department in the exercise of its responsibilities under this act shall be deposited with the Treasurer to the credit of the fund and may be in-

vested in such manner as is provided by statute. Interest received on the investment shall be credited to the fund.

(5) Moneys in the fund shall not be expended to clean up hazardous waste which is being removed from navigable waters by a federal agency in accordance with the National Oil and Hazardous Substances Pollution Contingency Plan established pursuant to the Federal Water Pollution Control Act, Pub. L. No. 92-500, as amended, or which is being removed from any coastal waters, estuaries, tidal flats, beaches, or lands adjoining the coastline of the state by the Department of Natural Resources pursuant to chapter 376.

History.—s. 8, ch. 80-302; s. 9, ch. 82-27; s. 6, ch. 85-164.

403.726 Abatement of imminent hazard caused by hazardous substance.—

(1) The Legislature finds that hazardous waste which has been improperly generated, transported, disposed of, stored, or treated may pose an imminent hazard to the public health, safety, and welfare and the environment.

(2) The department shall take any action necessary pursuant to s. 403.121 or s. 403.131 to abate or substantially reduce any imminent hazard caused by a hazardous substance, including a spill into the environment of a hazardous substance. The department is authorized to use moneys from the Hazardous Waste Management Trust Fund or the Water Quality Assurance Trust Fund to finance such actions, and such expenditures from the fund shall be recoverable pursuant to s. 403.725(5) or s. 376.307.

(3) An imminent hazard exists if any hazardous substance creates an immediate and substantial danger to human health, safety, or welfare or to the environment. The department may institute action in its own name, using the procedures and remedies of s. 403.121 or s. 403.131, to abate an imminent hazard. However, the department is authorized to recover a civil penalty of not more than $25,000 for each day of continued violation. Whenever serious harm to human health, safety, and welfare; the environment; or private or public property may occur prior to completion of an administrative hearing or other formal proceeding which might be initiated to abate the risk of serious harm, the department may obtain, ex parte, an injunction without paying filing and service fees prior to the filing and service of process.

(4) The department may implement the provisions of chapter 386 and ss. 387.08 and 387.10 in its own name whenever a hazardous substance is being generated, transported, disposed of, stored, or treated in violation of those provisions of law.

(5) The department may issue a permit requiring prompt abatement of an imminent hazard.

(6) The department may remove or dispose of any hazardous substance which has become an imminent hazard, or take any other emergency action, when the owner or operator of a hazardous waste facility or a generator or transporter of a hazardous substance does not take appropriate action to abate or neutralize the hazard.

(7) Where a hazardous substance is discharged into waters of the state and abatement action is taken pursuant to this section, the department may require that the affected body of water be restored to meet, but not exceed, either the standards established by department rule for that particular body of water or ambient water quality prior to the discharge, whichever is higher. However, under no circumstances would the subject water have to be restored to a more pure state than ambient water quality prior to the discharge.

History.—s. 8, ch. 80-302; s. 36, ch. 84-338.

403.7264 Amnesty days for purging small quantities of hazardous wastes.—Amnesty days are authorized by the state for the purpose of purging small quantities of hazardous waste, free of charge, from the possession of homeowners, farmers, schools, state agencies, and small businesses. These entities have no appropriate economically feasible mechanism for disposing of their hazardous wastes at the present time. In order to raise public awareness on this issue, provide an educational process, accommodate those entities which have a need to dispose of small quantities of hazardous waste, and preserve the waters of the state, amnesty days shall be carried out in the following manner:

(1)(a) The Department of Environmental Regulation shall administer and supervise amnesty days and shall contract with a department-approved, bonded waste handling company for implementation. The waste collected from the entities named in this section shall be transported out of the state for proper disposal at a federally approved facility.

(b) If a local government has established a local or regional hazardous waste collection center pursuant to s. 403.7265(4) and such center is in operation, the department and the local government may enter into a contract whereby the local government shall administer and supervise amnesty days. If a contract is entered into, the department shall provide to the local government, from funds appropriated to the department for amnesty days, an amount of money as determined by the department that is equal to the amount of money that would have been spent by the department to administer and supervise amnesty days in the local government's area. A local government that wishes to administer and supervise amnesty days shall notify the department at least 30 days prior to the beginning of the state fiscal year during which the amnesty days are scheduled to be held in the local government's area. Local governments that wish to administer and supervise amnesty days during fiscal year 1988-1989 shall notify the department no later than July 30, 1988.

(2) The department shall establish maximum amounts of hazardous waste to be accepted from any one entity during amnesty days. Amnesty days shall continue, at no cost to participants reporting with less than 100 pounds of hazardous waste, until funds appropriated by the Legislature for this purpose have been exhausted.

(3) Local governments are required to participate in the program by selecting a highly visible site for amnesty days, publicizing the event, and sending a representative to work at amnesty days activities when they occur.

(4) Regional planning councils shall assist the department in site selection, public awareness, and pro-

gram coordination. However, the department shall retain full responsibility for the state amnesty days program.

(5) The state shall conduct amnesty days according to the following schedule:

(a) In counties within the geographic areas of the South Florida, Treasure Coast, and Southwest Florida Regional Planning Councils, amnesty days shall be held between January 1, 1989, and June 30, 1989.

(b) In counties within the geographic areas of the Withlacoochee, East Central Florida, Central Florida, and Tampa Bay Regional Planning Councils and in Volusia County, amnesty days shall be held between July 1, 1989, and June 30, 1990.

(c) In counties within the geographic areas of the West Florida, Apalachee, North Central Florida, and Northeast Florida Regional Planning Councils and in Jefferson County, amnesty days shall be held between July 1, 1990, and June 30, 1991.

(6) Amnesty days shall be funded on a continuing basis, as needed, from the Water Quality Assurance Trust Fund. The department is authorized to use up to 5 percent of the funds appropriated for amnesty days for administrative costs and up to 5 percent of such funds for public education related to amnesty days.

History.—s. 34, ch. 83-310; s. 37, ch. 84-338; s. 39, ch. 86-186; s. 7, ch. 88-393.

403.7265 Local hazardous waste collection program.—

(1) The Legislature recognizes the need for local hazardous waste collection centers throughout the state which can be operated to augment existing and future hazardous waste storage facilities. Local collection centers are to serve a purpose similar to the collection locations used in the amnesty days program described in s. 403.7264. Such collection centers are to be operated to provide a service to homeowners, farmers, and small businesses who generate small quantities of hazardous waste and to encourage proper hazardous waste disposal. Local collection centers will allow local governments the opportunity to provide a location for collection and temporary storage of small quantities of hazardous waste. A private concern should be responsible for collecting the waste within 90 days for transfer to a permitted recycling, storage, disposal, or treatment facility. In time, local collection centers are to become privately operated businesses in order to reduce the burden of hazardous waste collection on local government.

(2) The department, in cooperation with the regional planning councils and the counties, shall formulate and update a plan for collecting small quantities of hazardous waste from homeowners, farmers, and businesses in the state. The plan shall include:

(a) An assessment of private industry interest or involvement in hazardous waste collection in the state and recommendations to the Legislature for private industry collection incentives;

(b) A survey of businesses available to serve this function or alternative recycling or disposal functions with recommendations of approved firms to be used by local governments for the collection program;

(c) A method for encouraging private industry hazardous waste collection pilot projects in local and regional communities; and

(d) An assessment of the suitability of those areas designated by the regional planning councils as regional storage facility sites and a recommendation of a site for a multipurpose hazardous waste facility. The assessments and recommendation required by this paragraph shall be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than May 1, 1988.

(3) By March 1, 1991, the department shall develop a statewide local hazardous waste management plan which will ensure comprehensive collection and proper management of hazardous waste from small quantity generators and household hazardous waste in Florida. The plan shall address, at a minimum, a network of local collection centers, transfer stations, and expanded hazardous waste collection route services. The plan shall assess the need for additional compliance verification inspections, enforcement, and penalties. The plan shall include a strategy, timetable, and budget for implementation.

(4) For the purposes of this section, the phrase:

(a) "Collection center" means a secured site approved by the department to be used as a base for a hazardous waste collection facility.

(b) "Regional collection center" means a facility permitted by the department for the storage of hazardous wastes.

(5) The department shall establish a grant program for local governments which desire to provide a local or regional hazardous waste collection center. Grants shall be authorized to cover collection center costs associated with capital outlay for preparing a facility or site to safely serve as a collection center and to cover costs of administration, public awareness, and local amnesty days programs. The total cost for administration and public awareness shall not exceed 10 percent of the grant award. Grants shall be available on a competitive basis to local governments which:

(a) Comply with the provisions of ss. 403.7225 and 403.7264;

(b) Design a collection center which is approved by the department; and

(c) Provide up to 33 percent of the capital outlay money needed for the facility as matching money.

(6) The maximum amount of a grant for any local government participating in the development of a collection center shall be $100,000. If a regional collection facility is designed, each participating county shall be eligible for up to $100,000.

History.—s. 9, ch. 85-269; s. 40, ch. 86-186; s. 13, ch. 87-374; s. 8, ch. 88-393.

403.727 Violations; defenses, penalties, and remedies.—

(1) It is unlawful for any biohazardous or hazardous waste generator, transporter, or facility owner or operator to:

(a) Fail to comply with the provisions of this act or departmental rules or orders;

(b) Operate without a valid permit;

(c) Fail to comply with a permit;

(d) Cause, authorize, create, suffer, or allow an imminent hazard to occur or continue;

(e) Knowingly make any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to the provisions of this act;

(f) Fail to notify the department pursuant to s. 403.72(2); or

(g) Refuse lawful inspection.

(2) In addition to the "imminent hazard" provision, ss. 403.121 and 403.131 are available to the department to abate violations of this act.

(3) Violations of the provisions of this act are punishable as follows:

(a) Any person who violates the provisions of this act, the rules or orders of the department, or the conditions of a permit is liable to the state for any damages specified in s. 403.141 and for a civil penalty of not more than $50,000 for each day of continued violation, except as otherwise provided herein. The department may revoke any permit issued to the violator. In any action by the department against a small hazardous waste generator for the improper disposal of hazardous wastes, a rebuttable presumption of improper disposal shall be created if the generator was notified pursuant to s. 403.7234; the generator shall then have the burden of proving that the disposal was proper. If the generator was not so notified, the burden of proving improper disposal shall be placed upon the department.

(b) Any person who knowingly or by exhibiting reckless indifference or gross careless disregard for human health:

1. Transports or causes to be transported any biohazardous or hazardous waste, as defined in s. 403.703, to a facility which does not have a permit when such a permit is required under s. 403.707 or s. 403.722;

2. Disposes of, treats, or stores biohazardous or hazardous waste:

a. At any place but a hazardous waste facility which has a current and valid permit pursuant to s. 403.722 or, with regard to biohazardous waste, at any place except a facility that has a current and valid permit for the disposal or storage of biohazardous waste;

b. In knowing violation of any material condition or requirement of such permit if such violation has a substantial likelihood of endangering human health, animal or plant life, or property; or

c. In knowing violation of any material condition or requirement of any applicable rule or standard if such violation has a substantial likelihood of endangering human health, animal or plant life, or property;

3. Makes any false statement or representation or knowingly omits material information in any biohazardous or hazardous waste application, label, manifest, record, report, permit, or other document required by this act;

4. Generates, stores, treats, transports, disposes of, or otherwise handles any biohazardous or hazardous waste and who knowingly destroys, alters, conceals, or fails to file any record, application, manifest, report, or other document required to be maintained or filed for purposes of compliance with this act; or

5. Transports without a manifest, or causes to be transported without a manifest, any biohazardous or hazardous waste required by rules adopted by the department to be accompanied by a manifest

is, upon conviction, guilty of a felony of the third degree, punishable for the first such conviction by a fine of not more than $50,000 for each day of violation or imprisonment not to exceed 5 years, or both, and for any subsequent conviction by a fine of not more than $100,000 per day of violation or imprisonment of not more than 10 years, or both.

(4) In addition to any other liability under this chapter, and subject only to the defenses set forth in subsections (5), (6), and (7):

(a) The owner and operator of a facility;

(b) Any person who at the time of disposal of any hazardous substance owned or operated any facility at which such hazardous substance was disposed of;

(c) Any person who, by contract, agreement, or otherwise, arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances owned or possessed by such person or by any other party or entity at any facility owned or operated by another party or entity and containing such hazardous substances; and

(d) Any person who accepts or has accepted any hazardous substances for transport to disposal or treatment facilities or sites selected by such person,

is liable for all costs of removal or remedial action incurred by the department under this section and damages for injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing such injury, destruction, or loss resulting from the release or threatened release of a hazardous substance as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. No. 96-510.

(5) The following defenses are available to a person alleged to be in violation of this act, who shall plead and prove that the alleged violation was solely the result of any of the following or combination of the following:

(a) An act of war.

(b) An act of government, either state, federal, or local, unless the person claiming the defense is a governmental body, in which case this defense is available only by acts of other governmental bodies.

(c) An act of God, which means only an unforeseeable act exclusively occasioned by the violence of nature without the interference of any human agency.

(d) An act or omission of a third party other than an employee or agent of the defendant or other than one whose act or omission occurs in connection with a contractual relationship existing, directly or indirectly, with the defendant, except when the sole contractual arrangement arises from a published tariff and acceptance for carriage by a common carrier by rail, if the defendant establishes by a preponderance of the evidence that:

1. The defendant exercised due care with respect to the biohazardous or hazardous waste concerned, taking into consideration the characteristics of such biohazardous or hazardous waste, in light of all relevant facts and circumstances; and

2. The defendant took precautions against foreseeable acts or omissions of any such third party and against the consequences that could foreseeably result from such acts or omissions.

(6) A generator or transporter of biohazardous or hazardous wastes who has complied with this act and with the applicable rules promulgated under this act and who has contracted for the disposal of biohazardous or hazardous wastes with a licensed biohazardous or hazardous waste disposal or processing facility is relieved from liability for those wastes upon receipt of a certificate of disposal from the disposal or processing facility.

(7) A generator of biohazardous or hazardous waste who has complied with this act and with the applicable rules under this act and who has contracted for the transportation of biohazardous or hazardous waste to a licensed biohazardous or hazardous waste facility is relieved of liability to the extent that such liability is covered by the insurance or bond of the transporter obtained pursuant to this act.

(8) Notwithstanding any of the provisions of this section, a generator of biohazardous wastes who has complied with this act and with the applicable rules promulgated under this act and who has contracted for the transportation of biohazardous wastes with a transporter who is registered pursuant to Department of Environmental Regulation rules and regulations shall not be jointly and severally liable for any actions of the transporter.

History.—s. 8, ch. 80-302; s. 10, ch. 82-27; s. 35, ch. 83-310; s. 38, ch. 84-338; s. 41, ch. 86-186; s. 3, ch. 89-143.

403.728 Qualifications of operation personnel of hazardous waste facilities.—The owner and operator of a hazardous waste facility shall employ persons who are adequately trained, or who are registered in a training program, to operate and maintain a hazardous waste facility. The department may develop and conduct on-site or classroom training programs for persons who operate or maintain hazardous waste facilities. The department may do so through its employees or by contract. The program may include training in personal and public safety, emergency measures, properties of the waste, and such other items as the department deems necessary.

History.—s. 8, ch. 80-302.

403.73 Trade secrets.—Records, reports, or information obtained from any person under this act shall be available to the public, except upon a showing satisfactory to the department by any person that records, reports, or information, or a particular part thereof, contain trade secrets. Such trade secrets, or portions thereof, shall be confidential and not available to the public. However, such trade secrets may be disclosed to officers, employees, or authorized representatives of the department or of the United States Environmental Protection Agency, or when relevant in any proceeding under this act.

History.—s. 8, ch. 80-302.

403.74 Management of hazardous materials by governmental agencies.—

(1) For the purposes of this section, "hazardous materials" are those substances which are:

(a) Listed as constituents of waste streams F001, F002, F003, F004, and F005 in 40 C.F.R. s. 261.31, or

(b) Listed in 40 C.F.R. s. 261.33, including those substances which are "pesticides" as defined by s. 487.021(45).

(2) Every local, state, or other governmental agency and every institution of the State University System that disposes of hazardous materials shall:

(a) Notify the Department of Environmental Regulation of the type and approximate annual quantity of each hazardous material that is generated.

(b) Notify the department of the management practices used for disposal of its hazardous materials.

(3) Each such agency shall develop written plans for the management of the disposal of hazardous material.

(4) Each such agency shall develop plans for spill prevention control and countermeasures for hazardous materials incidents.

(5) Hazardous materials which are used by governmental agencies in annual quantities of less than 1 kilogram, except for those hazardous materials which are listed because of reactivity, are exempt from this section.

History.—s. 36, ch. 83-310; s. 39, ch. 84-338; s. 50, ch. 85-81.
Note.—Former s. 501.118.

403.75 Definitions relating to used oil.—As used in ss. 403.75-403.769 and s. 526.01, as amended by chapter 84-338, Laws of Florida, the term:

(1) "Public used oil collection center" means:

(a) Automotive service facilities or governmentally sponsored collection facilities, which in the course of business accept for disposal small quantities of used oil from households; and

(b) Facilities which store used oil in aboveground tanks, which are approved by the department, and which in the course of business accept for disposal small quantities of used oil from households.

(2) "Department" means the Department of Environmental Regulation.

(3) "Person" means any individual, private or public corporation, partnership, cooperative, association, estate, political subdivision, or governmental agency or instrumentality.

(4) "Reclaiming" means the use of methods, other than those used in rerefining, to purify used oil primarily to remove insoluble contaminants, making the oil suitable for further use; the methods may include settling, heating, dehydration, filtration, or centrifuging.

(5) "Recycling" means to prepare used oil for reuse as a petroleum product by rerefining, reclaiming, reprocessing, or other means or to use used oil in a manner that substitutes for a petroleum product made from new oil.

(6) "Rerefining" means the use of refining processes on used oil to produce high-quality base stocks for lubricants or other petroleum products. Rerefining may include distillation, hydrotreating, or treatments employing acid, caustic, solvent, clay, or other chemicals, or other physical treatments other than those used in reclaiming.

(7) "Used oil" means any oil which has been refined from crude oil or synthetic oil and, as a result of use, stor-

age, or handling, has become unsuitable for its original purpose due to the presence of impurities or loss of original properties, but which may be suitable for further use and is economically recyclable.

(8) "Used oil recycling facility" means any facility that recycles more than 10,000 gallons of used oil annually.

History.—s. 57, ch. 84-338; s. 25, ch. 88-130

403.751 Prohibited actions; used oil.—

(1)(a) No person may collect, transport, store, recycle, use, or dispose of used oil in any manner which endangers the public health or welfare.

(b) No person may discharge used oil into sewers, drainage systems, septic tanks, surface or ground waters, watercourses, or marine waters.

(c) No person may mix or commingle used oil with solid waste that is to be disposed of in landfills or directly dispose of used oil in landfills in Florida unless approved by the department.

(d) Any person who unknowingly disposes into a landfill any used oil which has not been properly segregated or separated from other solid wastes by the generator is not guilty of a violation under [1]this act.

(e) No person may mix or commingle used oil with hazardous substances that make it unsuitable for recycling or beneficial use.

(2) Used oil shall not be used for road oiling, dust control, weed abatement, or other similar uses that have the potential to release used oil into the environment.

History.—s. 58, ch. 84-338, s. 26, ch. 88-130.

[1]Note.—As enacted, the term "this act" refers to ch. 88-130.

403.753 Public educational program about collection and recycling of used oil.—The department shall conduct a public education program to inform the public of the needs for and benefits of collecting and recycling used oil and shall:

(1) Encourage persons who annually sell at retail, in containers for use off the premises, more than 500 gallons of oil to provide the purchasers with information on the locations of collection facilities and information on proper disposal practices.

(2) Establish, maintain, and publicize a used oil information center that disperses materials or information explaining local, state, and federal laws and rules governing used oil and informing the public of places and methods for proper disposal of used oil.

(3) Encourage the voluntary establishment of used oil collection and recycling programs and provide technical assistance to persons who organize such programs.

(4) Encourage the procurement of recycled automotive, industrial, and fuel oils, and oils blended with recycled oils, for all state and local government uses. Recycled oils procured under this section shall meet equipment manufacturer's specifications. A 5-percent price preference may be given in procuring these recycled products.

History.—s. 59, ch. 84-338, s. 27, ch. 88-130.

403.754 Registration of persons transporting, collecting, or recycling used oil; fees; reports and records.—

(1) The following persons shall register annually with the department pursuant to rules of the department on forms prescribed by it:

(a) Any person who transports over public highways more than 500 gallons of used oil annually.

(b) Any person who maintains a collection facility that receives more than 6,000 gallons of used oil annually. For purposes of registration, the amount received does not include used oil delivered to collection centers by individuals [1]who change their own personal motor oil.

(c) Any facility that recycles more than 10,000 gallons of used oil annually.

(2) An electric utility the operations of which generate used oil and which used oil is then reclaimed, recycled, or rerefined by the electric utility for use in its operations is not required to register or report pursuant to this section.

(3) An onsite burner which only burns a specification used oil generated by such burner is not required to register or report pursuant to this section, provided that such burning is done in compliance with any air permits issued by the department.

(4) The department may prescribe a fee for the registration required by this section in an amount which is sufficient to cover the cost of processing applications but which does not exceed $25.

(5) The department shall require each registered person to submit, no later than July 1 of each year, a report which specifies the type and quantity of used oil transported, collected, and recycled during the preceding calendar year, commencing in calendar year 1985.

(6) Each registered person who transports or recycles used oil shall maintain records which identify:

(a) The source of the materials transported or recycled;

(b) The quantity of materials received;

(c) The date of receipt; and

(d) The destination or end use of the materials.

(7) The department shall perform technical studies to sample used oil at facilities of representative used oil transporters and at representative recycling facilities to determine the incidence of contamination of used oil with hazardous, toxic, or other harmful substances.

History.—s. 60, ch. 84-338; s. 28, ch. 88-130.

[1]Note.—The word "who" was substituted for the word "that" by the editors.

403.7545 Regulation of used oil as hazardous waste.—Nothing in ss. 403.75-403.769 and s. 526.01, as amended by chapter 84-338, Laws of Florida, shall prohibit the department from regulating used oil as a hazardous waste in a manner consistent with s. 241 of the Hazardous and Solid Waste Amendments of 1984, Pub. L. No. 98-616.

History.—s. 42, ch. 86-186; s. 29, ch. 88-130.

403.756 Report to Legislature concerning oil recycling.—The department shall submit an annual report to the Legislature which summarizes information on used oil collection and recycling, analyzes the effectiveness of this act, and makes recommendations for any necessary changes.

History.—s. 61, ch. 84-338.

403.757 Coordination with other state agencies.—

(1) The department shall coordinate its activities and functions under ss. 403.75-403.769 and s. 526.01, as amended by chapter 84-338, Laws of Florida, with

the Governor's Energy Office and other state agencies to avoid duplication in reporting and information gathering.

(2) The nonprofit corporation established pursuant to s. 946.502 shall examine the feasibility of using used oil to fuel boilers and furnaces of state government buildings.

(3) The Department of Transportation shall examine the feasibility of using recycled oil products in road construction activities.

History.—s. 62, ch. 84-338; s. 30, ch. 88-130.

403.758 Enforcement and penalty.—

(1) Except as provided in subsection (2), the department may enforce ss. 403.75-403.769 and s. 526.01, as amended by chapter 84-338, Laws of Florida, pursuant to ss. 403.121 and 403.131.

(2) Any person who fails to register with the department as required by s. 403.754 and s. 526.01, as amended by chapter 84-338, Laws of Florida, is subject to a fine of $300.

History.—s. 63, ch. 84-338; s. 31, ch. 88-130.

403.759 Disposition of fees, fines, and penalties.— The proceeds from the registration fees, fines, and penalties imposed by ss. 403.75-403.769 and s. 526.01, as amended by chapter 84-338, Laws of Florida, shall be deposited into the Solid Waste Management Trust Fund for use by the department in implementing the provisions of ss. 403.75-403.769 and s. 526.01, as amended by chapter 84-338, Laws of Florida.

History.—s. 64, ch. 84-338; s. 32, ch. 88-130.

403.760 Public used oil collection centers.—

(1) The department shall encourage the voluntary establishment of public used oil collection centers and recycling programs and provide technical assistance to persons who organize such programs.

(2) All government agencies, and businesses that change motor oil for the public, are encouraged to serve as public used oil collection centers.

(3) A public used oil collection center must:

(a) Notify the department annually that it is accepting used oil from the public; and

(b) Annually report quantities of used oil collected from the public.

(4) The Department of Agriculture and Consumer Services shall assist the department in inspecting public used oil collection centers.

(5) No person may recover from the owner or operator of a used oil collection center any costs of response actions, as defined in s. 376.301, resulting from a release of either used oil or a hazardous substance or use the authority of ss. 376.307, 376.3071, and 403.724 against the owner or operator of a used oil collection center if such used oil is:

(a) Not mixed with any hazardous substance by the owner or operator of the used oil collection center;

(b) Not knowingly accepted with any hazardous substances contained therein;

(c) Transported from the used oil collection center by a certified transporter pursuant to s. 403.767;

(d) Stored in a used oil collection center that is in compliance with this section; and

(e) In compliance with s. 114(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended.

This subsection applies only to that portion of the public used oil collection center used for the collection of used oil and does not apply if the owner or operator is grossly negligent in the operation of the public used oil collection center. Nothing in this section shall affect or modify in any way the obligations or liability of any person under any other provisions of state or federal law, including common law, for injury or damage resulting from a release of used oil or hazardous substances. For the purpose of this section, the owner or operator of a used oil collection center may presume that a quantity of no more than 5 gallons of used oil accepted from any member of the public is not mixed with a hazardous substance, provided that such owner or operator acts in good faith.

History.—s. 33, ch. 88-130; s. 10, ch. 89-188.

403.761 Incentives program.—

(1) The department is authorized to establish an incentives program for individuals who change their own oil to encourage them to return their used oil to a used oil collection center.

(2) The incentives used by the department may involve the use of discount or prize coupons, prize drawings, promotional giveaways, or other activities the department determines will promote collection, reuse, or proper disposal of used oil.

(3) The department may contract with a promotion company to administer the incentives program.

History.—s. 34, ch. 88-130.

403.763 Grants to local governments.—

(1) The department shall develop a grants program for local governments to encourage the collection, reuse, and proper disposal of used oil. No grant may be made for any project unless such project is approved by the department.

(2) The department shall consider for grant assistance any local government project that uses one or more of the following programs or any activity that the department feels will reduce the improper disposal and reuse of used oil:

(a) Curbside pickup of used oil containers by a local government or its designee.

(b) Retrofitting of solid waste equipment to promote curbside pickup or disposal of used oil at used oil collection centers designated by the local government.

(c) Establishment of publicly operated used oil collection centers at landfills or other public places.

(d) Providing containers and other materials and supplies that the public can utilize in an environmentally sound manner to store used oil for pickup or return to a used oil collection center.

(e) Providing incentives for the establishment of privately operated public used oil collection centers.

(3) Eligible projects shall be funded according to provisions established by the department. However, in no case shall one grant exceed $25,000.

(4) The department shall initiate rules on or before January 1, 1989, necessary to carry out the purposes of this section.

History.—s. 35, ch. 88-130

403.767 Certification of used oil transporters.—

(1) Any person who transports over public highways after January 1, 1990, more than 500 gallons annually of used oil must be a certified transporter.

(2) The department shall develop a certification program for transporters of used oil and shall issue, deny, or revoke certifications authorizing the holder to transport used oil. Certification requirements shall help assure that a used oil transporter is familiar with appropriate rules and used oil management procedures.

(3) The department shall adopt rules governing certification, which shall include requirements for the following:

(a) Registration and annual reporting pursuant to s. 403.754.

(b) Evidence of familiarity with applicable state laws and rules governing used oil transportation.

(c) Proof of liability insurance or other means of financial responsibility for any liability which may be incurred in the transport of used oil.

History.—s. 36, ch. 88-130.

403.769 Permits for used oil recycling facilities.—

(1) Each person who intends to operate, modify, or close a used oil recycling facility shall obtain an operation or closure permit from the department prior to operating, modifying, or closing the facility.

(2) By January 1, 1990, the department shall develop a permitting system for used oil recycling facilities after reviewing and considering the applicability of the permit system for hazardous waste treatment, storage, or disposal facilities.

(3) Permits shall not be required under this section for the burning of used oil as a fuel, provided:

(a) A valid department air permit is in effect for the facility; and

(b) The facility burns used oil in accordance with applicable United States Environmental Protection Agency regulations, local government regulations, and the requirements of its department air permit.

(4) No permit is required under this section for the use of used oil for the beneficiation or flotation of phosphate rock.

History.—s. 37, ch. 88-130.

403.771 Assessment of risk potential due to accidental release of toxic or otherwise hazardous substances.—

(1) LEGISLATIVE INTENT.—The Legislature finds and declares that the release of a sufficient quantity of a toxic or otherwise hazardous substance directly or indirectly into the atmosphere could readily affect a community area beyond the boundaries of an industrial facility or other source and could thereby pose a serious and acute threat to the health and safety of the citizens of this state and to the environment. It is therefore the legislative intent that a speedy and effective procedure be established to provide for the expeditious assessment of the potential risk faced in this state from accidents of this type, in order to minimize that risk.

(2) DEFINITIONS.—As used in this section, the following terms shall have the ascribed meanings unless the context otherwise requires:

(a) "Release" means any leakage, emission, or other release of a toxic or otherwise hazardous substance into the environment due to structural or operational failure, human error, or loss of control over the applicable storage or process conditions. However, the term "release" shall not be construed to include emission of air contaminants from motor vehicles; safety valve emissions which are of limited duration and are part of the normal, safe operation of a facility; routine discharges or other emissions which are permitted as part of the normal, safe operation of a facility under chapter 17-2 of the Florida Administrative Code; or releases during production, use, transportation, or storage of radioactive substances which are regulated under Title 10, Parts 0-199, of the Code of Federal Regulations.

(b) "Department" means the Department of Environmental Regulation.

(c) "Toxic or otherwise hazardous substance" means vapors, gases, or highly volatile liquids, which are produced, used, transported, or stored in containers or within piping systems under pressure or at a reduced temperature in order to lower vapor pressure, and which, if released directly or indirectly into the atmosphere, may pose a serious and acute threat to public health or safety or to the environment.

(3) SURVEY DESIGN.—By October 1, 1985, the department shall develop a survey form or forms for the purpose of collecting information required under subsection (4). Pursuant thereto:

(a) The department shall consult with those agencies to which information is required to be disseminated under paragraphs (7)(a)-(h) with respect to design of the survey form or forms to ensure, to the extent possible, that the information sought will serve the needs of such agencies and will permit coordination of regulatory programs in order to protect the citizens of this state from the dangers inherent in releases of toxic or otherwise hazardous substances into the environment.

(b) The survey form or forms developed to collect information required under subsection (4) shall require only the minimum necessary information from respondents.

(4) COLLECTION, COMPILATION, AND CORRELATION OF INFORMATION.—The department, as the state air and water quality protection agency, shall collect, compile, and correlate such information as is deemed necessary to assess the risk potential in this state from the release of toxic or otherwise hazardous substances into the environment. To accomplish such purpose:

(a) The department may require probable owners, producers, users, transporters, and storers of substances within the state which potentially are toxic or otherwise hazardous substances to submit information needed for such assessment, including, but not limited to:

1. The types and amounts of substances produced, used, transported, or stored in this state;

2. The types of tanks, piping systems, or other containers in which substances are produced, used, transported, or stored;

3. The location, number, and capacity of such containers and any relevant special storage or process conditions which are applied;

4. Any safety mechanisms, procedures, or programs which have been established in relation to the use, transportation, or storage of such substances; and

5. The name, title, address, and telephone number of one or more persons who can be reached as contacts in the event of an emergency.

(b) The department may require chemical manufacturers, formulators, importers, distributors, and bulk retailers engaged in operations in this state to submit information needed for such assessment, including, but not limited to:

1. The types and amounts of chemicals manufactured, formulated, imported, distributed, or sold thereby which have the potential to be toxic or otherwise hazardous substances and which are sold or distributed in, or for use in, this state;

2. Any special conditions pertaining to the production, use, transportation, or storage of such chemicals which may apply;

3. Any safety mechanisms, procedures, or programs which have been established or are recommended thereby in relation to the production, use, transportation, or storage of such substances; and

4. The name, title, address, and telephone number of one or more persons who can be reached as contacts in the event of an emergency.

(c) The department may require persons engaged in operations in this state which involve the manufacture, distribution, retail, or installation of tanks, piping systems, or other containers in which toxic or otherwise hazardous substances may be produced, used, transported, or stored to submit information needed for such assessment, including, but not limited to:

1. The types, individual capacities, and number of such containers which are sold, distributed, or installed in, or for use in, this state;

2. The types and quantities of substances such containers were designed to safely accommodate and any recommended limitations or restrictions with respect thereto;

3. Any special conditions which may apply with respect to the handling, installation, or use of such containers for the production, use, transportation, or storage of toxic or otherwise hazardous substances;

4. Any safety mechanisms, procedures, or programs which are recommended thereby in relation to the installation, production, use, transportation, or storage of toxic or otherwise hazardous substances in such containers; and

5. The name, title, address, and telephone number of one or more persons who can be reached as contacts in the event of an emergency.

(5) TRADE SECRETS, CLAIM CONDITIONS; CONFIDENTIALITY.—

(a) A claim of trade secret or confidential proprietary information may be made by any person disclosing information under subsection (4), hereinafter referred to as "the claimant," and the specific chemical identity of a toxic or otherwise hazardous substance, design specifications, or other protected information may be held confidential pursuant to such claim if:

1. The survey response indicates that the protected information which is being held confidential is a trade secret or confidential proprietary information;

2. The claim that the information is a trade secret or confidential proprietary information can be supported;

3. Detailed alternative information is provided as to the properties and effects of a substance for which the chemical identity is being held confidential, or as to the operational or safety features of a device for which design specifications are being held confidential; and

4. The protected information is submitted together with the survey response to the department under separate cover and clearly marked "confidential." Any such information shall be deemed confidential records as provided in s. 403.772, and disclosure thereof shall subject the violator to the penalties provided therein.

(b) Any state or local agency, hereinafter referred to as "agency," receiving information disseminated pursuant to the provisions of subsection (7) may obtain from the claimant the protected information for which a claim of trade secret or confidential proprietary information has been made, subject to the following conditions:

1. The agency shall supply the claimant with a written statement of need and shall enter into a bilateral written confidentiality agreement with the claimant affirming that neither the agency nor any of its agents or employees will use the protected information for any purpose other than the purpose asserted in the written statement of need, or release such protected information under any circumstances, except as may be specifically authorized by the terms of the agreement, by the claimant, or, in an emergency, by a representative of the claimant who has been designated as a contact person pursuant to subsection (4).

2. The written confidentiality agreement may provide for appropriate legal remedies in the event of a breach of the agreement, including stipulation of a reasonable preestimate of likely damages.

3. The written confidentiality agreement may not include requirements for posting of a penalty bond.

Nothing in this paragraph shall be construed to preclude the parties from pursuing noncontractual remedies to the extent permitted by law.

(6) EMERGENCIES, DUTY OF CONTACT PERSON TO PROVIDE INFORMATION.—In the event of a developing or existing emergency situation resulting from the release of a toxic or otherwise hazardous substance in such quantity or concentration as may pose a serious and acute threat to public health or safety or to the environment, and upon request of the Division of Emergency Management of the Department of Community Affairs or a county emergency management director, the contact person designated under subsection (4) shall, without delay, provide whatever information is deemed necessary to provide for emergency assessment, mitigation, response, or recovery. If a claim of trade secret or confidential proprietary information is or has been made with respect to such information, a written statement of need and a written confidentiality agreement may be required

by the claimant, in accordance with the provisions of subsection (5), as soon as circumstances permit.

(7) DISSEMINATION OF INFORMATION.—Upon completion of the information gathering phase of its responsibilities under subsection (3), but no later than April 1, 1986, the department shall begin correlating such information, excluding information held confidential pursuant to a claim of trade secret or confidential proprietary information, as provided in subparagraph (5)(a)4., and shall compile such information into a document, copies of which shall be disseminated by July 1, 1986, to the following state agencies:

(a) The Division of Emergency Management of the Department of Community Affairs.

(b) The Division of Local Law Enforcement Assistance of the Department of Law Enforcement.

(c) The Division of State Fire Marshal within the Department of Insurance.

(d) The Department of Transportation.

(e) The Department of Labor and Employment Security.

(f) The Division of Inspection of the Department of Agriculture and Consumer Services.

(g) The Department of Natural Resources.

(h) The Office of the Deputy Assistant Secretary for Health within the Department of Health and Rehabilitative Services.

(i) The Hazardous Materials Task Force.

(j) The Toxicological Research Coordinating Committee.

The Division of Emergency Management of the Department of Community Affairs shall, without delay, provide copies of relevant portions of such document to county emergency management directors for their use and for further distribution to such other local emergency management officials as they may deem appropriate. Those agencies receiving documents pursuant to paragraphs (b)–(h) are encouraged to also provide copies of relevant portions thereof to appropriate local government officials performing a similar governmental function on the local level. In disseminating such information as required or encouraged herein, each such agency shall invite the response of, and solicit recommendations from, local officials with respect to ways their particular functions may be facilitated or improved in light of such information. Additionally, each of the foregoing state agencies shall review its own existing regulatory or oversight programs in light of such information and, by October 1, 1986, shall make recommendations to the Department of Environmental Regulation with respect to the adequacy of such programs, and with respect to the adequacy of local programs, for inclusion in the department's final report under subsection (8).

(8) REPORTS TO THE GOVERNOR AND LEGISLATURE.—

(a) By January 1, 1986, the department shall make a report to the Governor and the Legislature on the status of the assessment effort, describing the progress made during the preceding 6 months; including a statement as to the scope, status, and quality of the assessment and the costs associated therewith; and presenting the department's preliminary findings and recommendations.

(b) By January 1, 1987, the department shall make a final written report to the Governor and the Legislature which shall update the information required under paragraph (a) and shall also include:

1. An evaluation section based upon the responses of the state and local agencies to which information is disseminated under subsection (7), including an agency-by-agency analysis as to the sufficiency of existing regulatory or oversight programs and as to ways such programs may be facilitated or improved, both statewide and locally.

2. The department's findings and recommendations, based upon its own analysis and evaluation of both the survey results and the responses of other agencies with regulatory or oversight responsibility. Under this section, the department shall include its recommendations with respect to the need for improvement in the coordination of the department's existing regulatory programs with the existing regulatory programs of such other agencies, and with respect to its own or any other such agency's need for expanded regulatory authority, in order to adequately protect the people of this state from the dangers inherent in the release of toxic or otherwise hazardous substances into the environment and to provide for appropriate future emergency management planning with respect to such releases.

(9) LIST COMPILATION.—The department shall compile a list of toxic or otherwise hazardous substances as defined herein.

(10) EXPIRATION DATE.—The provisions of this section shall expire on January 2, 1987.

History.—s. 12, ch. 85-269; s. 2, ch. 85-277; s. 15, ch. 86-220; s. 46, ch. 87-225

403.772 Disclosure of confidential information prohibited; penalties; exception.—Any protected information which is submitted to the Department of Environmental Regulation and is held confidential pursuant to a claim of trade secret or confidential proprietary information as provided in paragraph (5)(a) of s. 403.771 shall not be disseminated or disclosed in public hearings and shall be kept confidential by any officer, employee, or agent, or former officer, employee, or agent, of the department. Whoever willfully and knowingly, and without specific authorization of the claimant, discloses such confidential information is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the offense is committed for the purpose of devising or executing any scheme or artifice to obtain any property, the offender is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. However, nothing in this section shall be construed to prevent the use of such records in judicial proceedings in connection with the prosecution of violations of law, when ordered to be produced by appropriate subpoena or by order of the court. No such subpoena or order of the court shall abridge or alter the rights or remedies of persons affected in the protection of trade secrets or confidential proprietary information in the manner otherwise provided by law, and such persons affected may take any and all steps available by law to protect such trade secrets or confidential proprietary information.

History.—s. 14, ch. 85-269; s. 4, ch. 85-277; s. 47, ch. 87-225.

403.7721 Rule of construction; chapters 85-269 and 85-277, Laws of Florida.—The provisions of chapters 85-269 and 85-277, Laws of Florida, shall be construed to supplement rather than to diminish or supersede the powers presently exercised by the Department of Environmental Regulation under chapters 376 and 403. In accordance with chapters 376 and 403, the department may fully exercise its authority under said chapters to collect information for other purposes and may coordinate such efforts with the information gathering duties imposed by chapters 85-269 and 85-277, where deemed practicable and advisable, in order to provide for cost-effective use of state resources.
History.—s. 15, ch. 85-269, s. 5, ch. 85-277.

403.78 Short title.—Sections 403.78-403.7893 may be cited as the "Statewide Multipurpose Hazardous Waste Facility Siting Act."
History.—s. 4, ch. 89-285.

403.781 Legislative intent.—The legislative intent of ss. 403.78-403.7893 is to establish a centralized and coordinated permitting process for the location, construction, operation, and maintenance of statewide multipurpose hazardous waste facilities, which necessarily involve several broad interests of the public addressed through the subject matter jurisdiction of several agencies. The Legislature recognizes that statewide multipurpose hazardous waste facilities will have an effect upon the welfare of the population. Recognizing the need to ensure adequate availability, in an orderly, timely, and continuing fashion, of hazardous waste treatment, storage, and disposal capacity for hazardous wastes generated in this state, the centralized and coordinated permitting process established by ss. 403.78-403.7893 is intended to further the legislative goal of ensuring through available and reasonable methods that the location, construction, operation, and maintenance of statewide multipurpose hazardous waste facilities produce minimal adverse effects on the environment and public health, safety, and welfare. It is the intent of ss. 403.78-403.7893 to fully balance the need for statewide multipurpose hazardous waste facilities with the broad interests of the public in order to effect a reasonable balance between the need for the facility as a means of providing adequate hazardous waste treatment, storage, and disposal capacity and the impact on the public and the environment resulting from the location, construction, operation, and maintenance of statewide multipurpose hazardous waste facilities. The Legislature intends that the provisions of chapter 120 apply to ss. 403.78-403.7893 and to proceedings pursuant to it except as otherwise expressly exempted.
History.—s. 4, ch. 89-285.

403.782 Definitions.—As used in ss. 403.78-403.7893:

(1) "Agency," as the context requires, means an official, officer, commission, authority, council, committee, department, division, bureau, board, section, or other unit or entity of government within the state, including a county, municipality, or other regional or local governmental entity.

(2) "Amendment" means a material change in information provided in the application for certification made after the initial application filing.

(3) "Applicant" means any person proposing to construct and operate a statewide multipurpose hazardous waste facility and who files an application for certification.

(4) "Application" means the documents required by ss. 403.78-403.7893 to be filed to initiate a certification proceeding.

(5) "Board" means the Governor and Cabinet sitting as the siting board.

(6) "Certification" means the written order of the board approving an application in whole or with such modifications or conditions as the board may deem appropriate.

(7) "Local government" means a municipality, county, or special district in the jurisdiction of which the project is proposed to be located.

(8) "Statewide multipurpose hazardous waste facility" means a hazardous waste management facility, which stores, treats, or disposes of hazardous waste.

(9) "Project" means any proposed statewide multipurpose hazardous waste facility.
History.—s. 4, ch. 89-285.

403.783 Department of Environmental Regulation; powers and duties.—The department shall have the following powers and duties:

(1) To make findings or make or contract for studies of certification applications on matters within the department's jurisdiction.

(2) To administer the processing of applications for certification and ensure that the applications are processed as expeditiously as possible.

(3) To require the payment of fees as specified in ss. 403.78-403.7893.

(4) To provide public notice of the filing of the application and of the proceedings conducted pursuant to ss. 403.78-403.7893.

(5) To prescribe the means for monitoring the effects arising from the location, construction, operation, and maintenance of the project to assure continued compliance with the terms of the certification.

(6) To present rebuttal evidence on any issue properly raised at the certification hearing.
History.—s. 4, ch. 89-285.

403.784 Applicability and certification.—The provisions of chapter 120 shall apply to this act, except as alternative proceedings are expressly provided herein. The provisions of ss. 403.78-403.7893 apply to the siting of multipurpose hazardous waste facilities. Disputes relating to the designation of the site and the selection of the contractor by the department shall be resolved by the hearing officer and the board as part of the certification proceedings.
History.—s. 4, ch. 89-285.

403.7841 Application for certification.—

(1) To initiate the certification process, the applicant shall file five copies of an application for the proposed project in accordance with this section. The application shall include completed application forms and other

supporting documentation which would be required by the department or any other relevant agency or local government to obtain any permit, approval, license, lease, consent of use, or other grant of authority which would have been applicable to the proposed project in the absence of ss. 403.78-403.7893. Each applicable form shall be completed in a manner consistent with requirements applicable to the relevant permit or authorization. The composite application required herein shall include at a minimum the following:

(a) A description of the project including a map showing its location.

(b) The means to be employed to attain compliance of the project with department standards relating to water quality, air quality, fish and wildlife, and cultural resources.

(c) The means to be employed to attain compliance of the project with any other applicable agency standards.

(d) A marketing analysis of the economic viability and economic benefits of the proposed project.

(e) An analysis of transportation corridor impacts related to the proposed facility.

(f) An analysis of the availability of adequate means for transporting hazardous wastes to a multipurpose facility established for the purposes of this section, particularly from small-quantity generators and very-small-quantity generators.

(2) In order to avoid duplication of information provided in the composite application, the applicant may include cross-references from one form or one supporting document to another, provided that all required information is included in the application as submitted.

(3) Within 7 days after filing the application with the department, the applicant shall provide two copies of the application as filed to each of the following: the Department of Community Affairs, the water management district which has jurisdiction over the area wherein the proposed project is to be located, the Department of Transportation, the Department of Natural Resources, the Game and Fresh Water Fish Commission, the Department of Health and Rehabilitative Services, the Department of Agriculture and Consumer Services, and the local governmental entities which have jurisdiction.

History.—s. 4, ch. 89-285.

403.7842 Fees.—

(1) The applicant shall submit to the department with a certification application a filing fee of $75,000. The department may reject any application for failure to timely file the application fee.

(2) Any amendment to the application initiated by and filed by the applicant involving a substantial change in the size, location, or method of operation of the facility or requiring additional studies by governmental agencies shall be accompanied by an application amendment fee of $5,000.

(3) Reasonable expenses and costs of the processing of the application by the department, and other governmental agencies required to prepare reports on the application, shall be paid, in an amount as determined by the department, from the application or application amendment fees.

(4) As a condition of certification, the board may impose an annual inspection and monitoring fee in an amount not to exceed actual annual costs of the department for those activities related to the project.

History.—s. 4, ch. 89-285.

403.785 Appointment of hearing officer.—Within 7 days after receipt of an application, whether complete or not, the department shall request the Division of Administrative Hearings to designate a hearing officer to conduct the hearings required by ss. 403.78-403.7893. The division director shall designate a hearing officer within 7 days after receipt of the request from the department. The designated hearing officer shall give priority to this proceeding, and his workload shall be adjusted by the division to facilitate the prompt conclusion of this matter. Upon being advised that a hearing officer has been appointed, the department shall immediately file a copy of the application and all supporting documents with the hearing officer, who shall docket the application. All other time limits provided in ss. 403.78-403.7893 shall run from the date of the filing of the application with the Division of Administrative Hearings.

History.—s. 4, ch. 89-285.

403.786 Report and studies.—

(1) The Department of Community Affairs, the water management district which has jurisdiction over the area wherein the proposed project is to be located, the Department of Transportation, the Department of Natural Resources, the Game and Fresh Water Fish Commission, the Department of Health and Rehabilitative Services, the Department of Agriculture and Consumer Services, and each local government which has jurisdiction shall each submit a report of matters within their jurisdiction to the department within 90 days after their receipt of the application. Any other agency may submit comments relating to matters within its jurisdiction to the department within 90 days after the filing of the application with the Division of Administrative Hearings.

(2) Each report required by this section shall include specific findings regarding variances, compliance or noncompliance on all nonprocedural requirements and any proposed condition of certification within the jurisdiction of the reporting agency. For each finding of noncompliance and each proposed condition, the agency shall list the specific statute, rule, or ordinance authorizing it.

(3) Any nonprocedural requirement not specifically addressed in a report required by this section is waived.

(4) It shall be the duty of the department to make findings on the proposed project, including, but not limited to, the following:

(a) The potential for compliance of the project, with department standards relating to water quality, air quality, fish and wildlife, and cultural resources.

(b) Compliance of the project with any other applicable agency standards, including the criteria established pursuant to s. 37 of chapter 83-310, Laws of Florida.

(c) Whether a workable plan can be developed for transporting hazardous wastes to a multipurpose facility established for the purposes of this section, particularly from small-quantity generators and very-small-quantity generators.

(d) Whether the applicant has adequately addressed the items set forth in s. 403.7841(1).

(5) The department shall prepare a report as to the findings required by subsection (4) and the department's recommendation as to the disposition of the application and any proposed conditions of certification which the department believes should be imposed and shall submit the report to the hearing officer within 135 days after the filing of the application with the Division of Administrative Hearings. This report shall address relevant issues raised by and comments received from any agency listed in subsection (1) contained in the required report.

(6) Each agency shall file 10 copies of its report with the department and at the same time shall submit a copy to the applicant, each affected agency, and person who has filed a notice of intent to become a party.

History.—s. 4, ch. 89-285.

403.787 Notice, proceedings, parties, participants.

(1)(a) No later than 15 days after the receipt of an application, the department shall arrange for publication of a notice of the application and of the proceedings required by ss. 403.78-403.7893.

(b) The department shall arrange for publication of a notice of the certification hearing and other public hearings provided for in this section and notice of the deadline for filing of notice of intent to be a party. Such notices shall be published at least 60 days before the date set for the hearing, or such other time as necessary to comply with applicable federal requirements.

(c) The department shall arrange for publication of a reminder notice in the newspapers no more than 2 weeks prior to the certification hearing, reminding the public of the date and location of the hearing. This notice shall not constitute a point of entry for intervention in the proceeding.

(d) Notices shall be published:

1. By newspaper notice as provided in chapter 50, within the county in which the project is proposed to be sited;

2. In the Florida Administrative Weekly; and

3. By giving notice to any persons who have requested to be placed on the departmental mailing list for this purpose.

(e) All published notices shall be paid for by the applicant and shall be in addition to the application fee. The department shall arrange for publication of notices required by this section.

(2) No later than 180 days after receipt of an application by the department, the hearing officer shall conduct a certification hearing pursuant to s. 120.57(1), except as otherwise provided herein, at a central location in proximity to the proposed project. The certification hearing shall be completed within 60 days of commencement of the hearing, unless a longer time is necessary to afford the parties due process of law.

(3) At the conclusion of the certification hearing, the hearing officer shall, after consideration of all evidence of record, and with due regard to the criteria and standards set forth in this act, issue a recommended order disposing of the application no later than 50 days after the transcript of the certification hearing and the public hearings is filed with the Division of Administrative Hearings.

(4)(a) Parties to the proceeding shall be:

1. The applicant.

2. The department.

3. The Department of Community Affairs.

4. The Department of Natural Resources.

5. The Game and Fresh Water Fish Commission.

6. Each water management district in the jurisdiction of which the proposed project is to be located.

7. Any affected local government.

(b) If any person, including the parties listed in this section, fails to file a notice of its intent to be a party on or before the 30th day prior to the certification hearing, such person shall be deemed to have waived its right to be a party unless its participation is necessary to satisfy statutory requirements or to afford due process of law.

(c) Notwithstanding the provisions of chapter 120 to the contrary, upon the filing with the hearing officer of a notice of intent to be a party, the following shall be parties to the proceeding:

1. Any state agency not listed in paragraph (a) as to matters within its jurisdiction.

2. Any domestic nonprofit corporation or association formed, in whole or in part, to promote conservation of natural beauty; to protect the environment, personal health, or other biological values; to preserve historical sites; to promote consumer interests; to represent labor, commercial, or industrial groups; or to promote orderly development of the area in which the proposed project is to be located.

3. Any person whose substantial interests are affected and being determined by the proceeding.

(d) Any agency whose properties or works may be affected shall be made a party upon the request of the agency or any party to this proceeding.

(5) At an appropriate time during the hearing, any person who is not a party may be given an opportunity to present oral or written communications to the hearing officer. All parties shall be given an opportunity to cross-examine, challenge, or rebut such communications.

(6) The hearing officer shall have all powers and duties granted to hearing officers by chapter 120 and by the laws and rules of the department.

History.—s. 4, ch. 89-285.

403.7871 Public meetings.—

(1) At the request of any affected local government, the department shall conduct one public meeting regarding the certification application to assure that there is substantial input from the affected community in order to:

(a) Receive public input on matters within the jurisdiction of the local government; and

(b) Formulate recommendations with respect to the project.

(2) If more than one local government requests that a public meeting be conducted as specified in this section, scheduling shall be coordinated such that only one public meeting will be held.

(3) The public meeting held pursuant to this section shall be held in a locality affected by the proposed project.

History.—s. 4, ch. 89-285.

403.7872 Amendment to the application.—

(1) Any amendment made to the application shall be sent by the applicant to the hearing officer and to all parties to the proceeding.

(2) Any amendment to the application made prior to certification shall be disposed of as part of the original certification proceeding. Amendment of the application may be considered "good cause" for alteration of time limits pursuant to s. 403.7873.

History.—s. 4, ch. 89-285.

403.7873 Alteration of time limits.—Any time limitation in ss. 403.78-403.7893 may be altered by the hearing officer upon stipulation between the department and the applicant unless objected to by any party within 5 days after notice or for good cause shown by any party.

History.—s. 4, ch. 89-285.

403.788 Final disposition of application.—

(1) For the purposes of issuing a final order, the board shall serve as the agency head. Within 45 days after receipt of the hearing officer's recommended order, the board shall issue a final order as provided by s. 120.57(1)(b)10., approving the application in whole, approving the application with such modifications or conditions as the board deems appropriate, or denying the issuance of a certification and stating the reasons for issuance or denial.

(2) In regard to the properties and works of any agency which is a party to the certification hearing, the board shall have the authority to decide issues relating to the use thereof, the connection thereto, or the crossing thereof for the project and to direct such state agency to execute, within 30 days of the entry of certification, the necessary license or easement for such use, connection, or crossing, subject only to the conditions set forth in such certification.

(3) If certification is denied, the board shall set forth in writing the action the applicant would have to take to secure the approval of the application by the board.

(4) In determining whether an application shall be approved in whole, approved with modifications or conditions, or denied, the board shall consider whether, and the extent to which, the proposed project will:

(a) Ensure adequate capacity for treatment, storage, and disposal of hazardous wastes generated in the state;

(b) Meet the hazardous waste treatment, storage, and disposal needs of the state in an orderly and timely fashion;

(c) Comply with the nonprocedural standards of s. 403.722 pertaining to permitting of hazardous waste facilities;

(d) Comply with applicable nonprocedural requirements of affected agencies;

(e) Be consistent with applicable siting criteria.

(5) Any project certified by the board shall meet the criteria of this section.

(6) The issuance or denial of the certification by the board shall be final agency action. Proceedings under this act shall be subject only to judicial review as provided in s. 120.68.

History.—s. 4, ch. 89-285.

403.7881 Terms and conditions of certification.—

The board is authorized to incorporate such terms and conditions in the certification as it deems appropriate to comply with applicable standards of the department and other applicable requirements of this chapter, including, but not limited to, a timetable for securing necessary funding and commencing and completing construction.

History.—s. 4, ch. 89-285.

403.789 Effect of certification.—

(1) Subject to the conditions set forth therein, certification shall constitute the sole license of the state and any agency as to the approval of the location, construction, operation, and maintenance of the project, except that permits for operation or closure of the hazardous waste treatment, storage or disposal facility must be renewed pursuant to s. 403.722 every 5 years.

(2) The certification shall authorize the applicant to locate, construct, operate, and maintain the project subject only to the conditions of certification set forth in such certification. The certification may include conditions which constitute variances and exemptions, otherwise allowed by law, from nonprocedural standards or regulations of the department or any other agency, which were expressly considered during the proceeding unless waived by the agency as provided in ss. 403.78-403.7893 and which otherwise would be applicable to the location, construction, operation, or maintenance of the project.

(3) The certification shall be in lieu of any license, permit, certificate, or similar document required by any agency pursuant to, but not limited to, chapter 125, chapter 161, chapter 163, chapter 166, chapter 253, chapter 258, chapter 298, chapter 370, chapter 373, chapter 380, chapter 381, chapter 387, chapter 403 (except as provided in s. 403.789(1)), chapter 404, the Florida Transportation Code, or 33 U.S.C. s. 1341. Upon certification, any license, lease, easement, or other interest in state lands, the title of which is vested in the Board of Trustees of the Internal Improvement Trust Fund, shall be issued as a ministerial act.

(4) Nonprocedural requirements of the department adopted subsequent to the issuance of certification by the board and applicable to the project may be incorporated into subsequent renewals of the hazardous waste facility permit pursuant to s. 403.722 and other applicable requirements of this chapter.

History.—s. 4, ch. 89-285.

403.7891 Revocation, suspension, or modification of certification.—

(1) Any certification may be revoked or suspended, or additional conditions may be imposed:

(a) For any material false statement in the application or in the supplemental or additional statements of fact or studies required of the applicant.

(b) For failure to comply with the terms or conditions of the certification.

(c) For violation of the provisions of ss. 403.78–403.7893 or rules or orders issued thereunder.

(2) Any certification may be modified by the board upon request of the department or the applicant whenever the applicant proposes, after certification, to significantly expand the size of the facility or to significantly alter the type of hazardous waste management activity conducted at the facility. The department may modify a certification without board action if the department and the applicant stipulate to the modification.

History.—s. 4, ch. 89-285.

403.7892 Enforcement of compliance.—Failure to obtain a certification, or to comply with the conditions thereof, or to comply with this part constitutes a violation of, and shall be enforceable pursuant to, this chapter.

History.—s. 4, ch. 89-285.

403.7893 Superseded laws, regulations, and certification power.—

(1) If any provision of ss. 403.78–403.7893 is in conflict with any other provision, limitation, or restriction which is now in effect under any law of this state or any ordinance of a local government, political subdivision, or municipality, or any rule or regulation adopted thereunder, ss. 403.78–403.7893 shall control.

(2) The state hereby preempts the certification of statewide multipurpose hazardous waste treatment, storage, and disposal facilities sited pursuant to ss. 403.78–403.7893.

(3) The board and the department shall have the power to adopt reasonable procedural rules to carry out their duties under ss. 403.78–403.7893 and to give effect to the legislative intent that ss. 403.78–403.7893 provide an efficient, expedited, centrally coordinated, one-stop permitting process.

(4) Nothing in ss. 403.78–403.7893 prohibits a local government from assessing reasonable impact fees, special assessments, service charges, or user fees with respect to the proposed project, provided that those fees are specifically set forth in the certification.

(5) Sections 403.78–403.7893 do not preempt the department's authority under s. 403.726.

History.—s. 4, ch. 89-285.

PART V

ENVIRONMENTAL REGULATION

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403.801 Short title.—Chapter 75-22, Laws of Florida, shall be known and may be cited as the "Florida Environmental Reorganization Act of 1975."

History.—s. 1, ch. 75-22.

403.802 Declaration of policy.—Reasserting the policies of the Governmental Reorganization Act of 1969 and the Florida Environmental Reorganization Act of 1975 which recognize that structural reorganization should be a continuing process, and recognizing that many years have passed since the passage of those acts, it is the intent of the Legislature to promote more efficient, effective, and economical operation of certain environmental agencies by transferring decisionmaking authority to environmental district centers and delegating to the water management districts permitting functions related to water quality. Further, it is the intent of this act to promote proper administration of Florida's landmark environmental laws.

History.—s. 2, ch. 75-22, s. 61, ch. 83-310.

403.803 Definitions.—When used in this act, the term, phrase, or word:

(1) "Branch office" means a geographical area, the boundaries of which may be established as a part of a district.

(2) "Canal" is a manmade trench, the bottom of which is normally covered by water with the upper edges of its sides normally above water.

(3) "Channel" is a trench, the bottom of which is normally covered entirely by water, with the upper edges of its sides normally below water.

(4) "Commission" means the Environmental Regulation Commission.

(5) "Department" means the Department of Environmental Regulation.

(6) "District" or "environmental district" means one of the geographical areas, the boundaries of which are established pursuant to this act.

(7) "Drainage ditch" or "irrigation ditch" is a manmade trench dug for the purpose of draining water from the land or for transporting water for use on the land and is not built for navigational purposes.

(8) "Environmental district center" means the facilities and personnel which are centralized in each district for the purposes of carrying out the provisions of this act.

(9) "Headquarters" means the physical location of the offices of the secretary and the division directors of the department.

(10) "Insect control impoundment dikes" means artificial structures, including earthen berms, constructed and used to impound waters for the purpose of insect control.

(11) "Manager" means the head of an environmental district or branch office who shall supervise all environmental functions of the department within such environmental district or branch office.

(12) "Secretary" means the secretary of the Department of Environmental Regulation.

(13) "Standard" means any rule of the Department of Environmental Regulation relating to air and water quality, noise, solid-waste management, and electric and magnetic fields associated with electrical transmission and distribution lines and substation facilities. The term "standard" does not include rules of the department which relate exclusively to the internal management of the department, the procedural processing of applications, the administration of rulemaking or adjudicatory proceedings, the publication of notices, the conduct of hearings, or other procedural matters.

(14) "Swale" means a manmade trench which:

(a) Has a top width-to-depth ratio of the cross-section equal to or greater than 6:1, or side slopes equal to or greater than 3 feet horizontal to 1 foot vertical;

(b) Contains contiguous areas of standing or flowing water only following a rainfall event;

(c) Is planted with or has stabilized vegetation suitable for soil stabilization, stormwater treatment, and nutrient uptake; and

(d) Is designed to take into account the soil erodibility, soil percolation, slope, slope length, and drainage area so as to prevent erosion and reduce pollutant concentration of any discharge.

History.—s. 3, ch. 75-22; s. 62, ch. 83-310; s. 40, ch. 84-338, s. 9, ch. 86-173; s. 56, ch. 86-186.

403.804 Environmental Regulation Commission; powers and duties.—

(1) The commission shall exercise the exclusive standard-setting authority of the department, except as provided in subsection (2) and ss. 120.54(9) and 373.114. The commission may adopt procedural rules governing the conduct of its meetings and hearings.

(2) The department shall have a study conducted of the economic and environmental impact which sets forth the benefits and costs to the public of any proposed standard that would be stricter or more stringent than one which has been set by federal agencies pursuant to federal law or regulation. Such study as is provided for in this subsection shall be submitted to the commission, which shall initially adopt the standard. Final action shall be by the Governor and Cabinet, who shall accept, reject, modify, or remand for further proceedings the standard within 60 days from the submission. Such review shall be appellate in nature. Hearings shall be in accordance with the provisions of chapter 120.

(3) The commission shall establish priorities and have final state approval on applications for, and disbursements of, federal and state grants for the construction of wastewater or water treatment works. In establishing priorities for state grants under this act, an application shall not receive a lower priority solely because the proposed project includes reserve capacity for which the incremental costs will be paid by the applicant in accordance with s. 403.1826(6).

History.—s. 6, ch. 75-22, ss. 4, 5, ch. 80-66, s. 54, ch. 83-310, s. 41, ch. 84-338, s. 1, ch. 88-343.

403.805 Secretary; powers and duties.—The secretary shall have the powers and duties of heads of departments set forth in chapter 20, including the power to adopt rules under chapter 253, chapter 373, chapter 376, and this chapter, except that the Environmental Regulation Commission shall exercise the exclusive standard-setting authority of the department pursuant to s. 403.804. The secretary shall employ legal counsel to represent the department in matters affecting the department. Except for appeals on permits specifically assigned by this act to the Governor and Cabinet, and unless otherwise prohibited by law, the secretary may delegate the authority assigned to the department by this act to the assistant secretary, division directors, and district and branch office managers and to the water management districts.

History.—s. 6, ch. 75-22; s. 6, ch. 80-66, s. 2, ch. 80-394; s. 63, ch. 83-310, s. 3, ch. 87-337; s. 10, ch. 87-374, s. 13, ch. 88-393.

403.8055 Department adoption of federal standards.—Notwithstanding ss. 120.54 and 403.804, the secretary is empowered to adopt rules substantively identical to regulations adopted in the Federal Register by the United States Environmental Protection Agency pursuant to federal law, in accordance with the following procedures:

(1) The secretary shall publish notice of intent to adopt a rule pursuant to this section in the Florida Administrative Weekly at least 21 days prior to filing the rule with the Department of State. The secretary shall mail a copy of the notice of intent to adopt a rule to the Administrative Procedures Committee at least 21 days prior to the date of filing with the Department of State. Prior to filing the rule with the Department of State, the secretary shall consider any written comments received within 21 days after the date of publication of the notice of intent to adopt a rule. The rule shall be adopted upon filing with the Department of State. Substantive changes from the rules as noticed shall require republishing of notice as required in this section.

(2) Any rule adopted pursuant to this section shall become effective upon the date designated in the rule by the secretary; however, no such rule shall become effective earlier than the effective date of the substantively identical United States Environmental Protection Agency regulation.

(3) The secretary shall stay any terms or conditions of a permit implementing department rules adopted pursuant to this section if the substantively identical provisions of a United States Environmental Protection Agency regulation have been stayed under federal judicial review. A stay issued pursuant to this subsection shall terminate upon completion of federal judicial review.

(4) Any domestic for-profit or nonprofit corporation or association formed, in whole or in part:

(a) To promote conservation or natural beauty;
(b) To protect the environment, personal health, or other biological values;
(c) To preserve historical sites,
(d) To promote consumer interests;
(e) To represent labor, commercial, or industrial groups, or
(f) To promote orderly development;

and any other substantially affected person may, within 14 days after the date of publication of the notice of intent to adopt a rule, file an objection to rulemaking with the Environmental Regulation Commission. The objection shall specify the portions of the proposed rule to which the person objects and the reasons for the objection. The secretary shall not have the authority under this section to adopt those portions of a proposed rule specified in such objection. Objections which are frivolous shall not be considered sufficient to prohibit the secretary from adopting rules under this section.

(5) Whenever all or part of any rule proposed for adoption by the department is substantively identical to a regulation adopted in the Federal Register by the United States Environmental Protection Agency pursuant to federal law, such rule shall be written in a manner so that the rule specifically references such regulation whenever possible.

History.—s. 7, ch. 80-66; s. 11, ch. 82-27; s. 38, ch. 88-130.

403.809 Environmental districts; establishment; managers; functions.—

(1) The secretary shall establish environmental districts. The boundaries of the environmental districts shall coincide with the boundaries of the water management districts, and a water management district may be divided into more than one environmental district. The secretary has the authority to adjust the environmental district boundaries upon a determination that exceptional circumstances require such adjustment in order to more properly serve the needs of the public or the environment. The secretary may establish branch offices for the purpose of making services more accessible to the citizens of each district. In the Suwannee River Water Management District, a branch office may serve as the environmental district center. By July 1, 1984, the department shall collocate part of its permitting operations with each of the central offices of the water management districts, and the water management districts shall collocate part of their permitting operations with each of the district offices of the department.

(2) There shall be a manager for each environmental district who shall be appointed by, and serve at the pleasure of, the secretary. The district manager shall maintain his office in the environmental district center, which shall be collocated with an office of a water management district. Each branch office shall have a branch office manager. The water management districts are encouraged to collocate part of their permitting operations with the branch offices of the department to the maximum extent practicable.

(3)(a) Field services and inspections required in support of the decisions of the department relating to the issuance of permits, licenses, certificates, or exemptions shall be accomplished at the environmental district center level to the maximum extent practicable, except where otherwise delegated by the secretary.

(b) The processing of all applications for permits, licenses, certificates, and exemptions shall be accomplished at the district center or the branch office, except for those applications specifically assigned elsewhere in the department pursuant to s. 403.805 or to the water management districts under s. 403.812 and those applications assigned by interagency agreement as provided in this act. However, the secretary, as head of the department, may not delegate to district or subdistrict managers, water management districts, or any unit of local government the authority to act on the following types of permit applications:

1. Certification of national pollutant discharge elimination system permits pursuant to Pub. L. No. 92-500, s. 401.
2. Construction of major air pollution sources.
3. Certifications under the Florida Electrical Power Plant Siting Act or the Transmission Line Siting Act.

History.—ss. 4, 6, ch. 75-22; s. 67, ch. 83-310; s. 42, ch. 84-338; s. 15, ch. 88-393.

403.812 Dredge and fill permitting in stormwater management systems.—The department shall not require dredge and fill permits for stormwater management systems where such systems are located landward of the point of connection to waters of the state and are designed, constructed, operated, and maintained for stormwater treatment, flood attenuation, or irrigation. The waters within such systems, unless designed, constructed, operated, and maintained for in-water recreational uses, such as swimming and boating, shall not be considered waters of the state; however, if the system provides other incidental uses and is accessible to the public, then the department may require reasonable assurance that water quality within the system will not adversely impact public health, fish and wildlife in adjacent waters, or adjacent waters. The department shall not require dredge and fill permits for structures designed solely to connect stormwater management systems to waters of the state provided that the connection of such system to waters of the state is regulated pursuant to chapter 373. The department shall initiate rulemaking to implement the provisions of this section.

History.—s. 6, ch. 75-22; s. 68, ch. 83-310; s. 6, ch. 84-79; s. 3, ch. 85-154; s. 39, ch. 89-279.

403.813 Permits issued at district centers; exceptions.—

(1) The secretary shall adopt procedural rules providing for a short-form application for, and issuance at the district centers of, permits for:

(a) Projects which affect less than 10 acres of jurisdictional area and are within the landward extent of waters of the state that are directly impacted by dredging or filling, including other areas severed from or connected to waters of the state as a result of dredge and fill activities.

(b) Docking facilities of less than 10 wet slips, which facilities do not provide commercial or marine supplies or services.

(c) New seawalls or similar structures which do not exceed 500 linear feet of shoreline.

(d) The installation of subaqueous transmission and distribution lines laid on, or embedded in, the bottoms of waters of the state carrying water, electricity, communication cables, oil, and gas, except as exempted by paragraph (2)(m) or paragraph (2)(n).

(e) Other similar projects that are limited in scope as specified by rule.

(2) No permit under this chapter, chapter 373, chapter 61-691, Laws of Florida, or chapter 25214 or chapter 25270, Laws of Florida, 1949, shall be required for activities associated with the following types of projects; however, nothing in this subsection relieves an applicant from any requirement to obtain permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund or any water management district in its governmental or proprietary capacity or from complying with applicable local pollution control programs authorized under this chapter or other requirements of county and municipal governments:

(a) The installation of overhead transmission lines, with support structures which are not constructed in waters of the state and which do not create a navigational hazard.

(b) The installation and repair of mooring pilings and dolphins associated with private docking facilities and the installation of private docks, any of which docks:

1. Has 500 square feet or less of over-water surface area for a dock which is located in an area designated as Outstanding Florida Waters or 1,000 square feet or less of over-water surface area for a dock which is located in an area which is not designated as Outstanding Florida Waters;

2. Is constructed on or held in place by pilings or is a floating dock which is constructed so as not to involve filling or dredging other than that necessary to install the pilings;

3. Shall not substantially impede the flow of water or create a navigational hazard;

4. Is used for recreational, noncommercial activities associated with the mooring or storage of boats and boat paraphernalia; and

5. Is the sole dock constructed pursuant to this exemption as measured along the shoreline for a distance of 65 feet, unless the parcel of land or individual lot as platted is less than 65 feet in length along the shoreline, in which case there may be one exempt dock allowed per parcel or lot.

Nothing in this paragraph shall prohibit the department from taking appropriate enforcement action pursuant to this chapter to abate or prohibit any activity otherwise exempt from permitting pursuant to this paragraph if the department can demonstrate that the exempted activity has caused water pollution in violation of this chapter.

(c) The installation and maintenance to design specifications of boat ramps on artificial bodies of water where navigational access to the proposed ramp exists or the installation of boat ramps open to the public in any waters of the state where navigational access to the proposed ramp exists and where the construction of the proposed ramp will be less than 30 feet wide and will involve the removal of less than 25 cubic yards of material from the waters of the state, and the maintenance to design specifications of such ramps; however, the material to be removed shall be placed upon a self-contained upland site so as to prevent the escape of the spoil material into the waters of the state.

(d) The replacement or repair of existing docks, except that no fill material is to be used and provided that the replacement or repaired dock is in the same location and of the same configuration and dimensions as the dock being replaced or repaired.

(e) The restoration of seawalls at their previous locations or upland of, or within 1 foot waterward of, their previous locations. However, this shall not affect the permitting requirements of chapter 161, and department rules shall clearly indicate that this exception does not constitute an exception from the permitting requirements of chapter 161.

(f) The performance of maintenance dredging of existing manmade canals, channels, and intake and discharge structures where the spoil material is to be removed and deposited on a self-contained, upland spoil site which will prevent the escape of the spoil material into the waters of the state, provided that no more dredging is to be performed than is necessary to restore the canals, channels, and intake and discharge structures to original design specifications and provided that control devices are utilized to prevent turbidity and prevent toxic or deleterious substances from discharging into adjacent waters during maintenance dredging. This exemption applies to all canals constructed prior to April 3, 1970, and to those canals constructed on or after April 3, 1970, pursuant to all necessary state permits. This exemption does not apply to the removal of a natural or manmade barrier separating a canal or canal system from adjacent waters. When no previous permit has been issued by the Board of Trustees of the Internal Improvement Trust Fund or the United States Army Corps of Engineers for construction or maintenance dredging of the existing manmade canal or intake or discharge structure, such maintenance dredging shall be limited to a depth of no more than 5 feet below mean low water. The Board of Trustees of the Internal Improvement Trust Fund may fix and recover from the permittee an amount equal to the difference between the fair market value and the actual cost of the maintenance dredging for material removed during such maintenance dredging. However, no charge shall be exacted by the state for material removed during such maintenance dredging by a public port authority. The removing party may subsequently sell such material; however, proceeds from such sale that exceed the costs of maintenance dredging shall be remitted to the state and deposited in the Internal Improvement Trust Fund.

(g) The maintenance of existing insect control structures, dikes, and irrigation and drainage ditches, provided that spoil material is deposited on a self-contained, upland spoil site which will prevent the escape of the spoil material into waters of the state. In the case of insect control structures, if the cost of using a self-contained upland spoil site is so excessive, as determined by the Department of Health and Rehabilitative Services, pursuant to s. 403.088(1), that it will inhibit proposed insect control, then existing spoil sites or dikes may be used, upon notification to the department. In the

case of insect control where upland spoil sites are not used pursuant to this exemption, turbidity control devices shall be used to confine the spoil material discharge to that area previously disturbed when the receiving body of water is used as a potable water supply, is designated as shellfish harvesting waters, or functions as a habitat for commercially or recreationally important shellfish or finfish. In all cases, no more dredging is to be performed than is necessary to restore the dike or irrigation or drainage ditch to its original design specifications.

(h) The repair or replacement of existing functional pipes or culverts the purpose of which is the discharge or conveyance of stormwater. In all cases, the invert elevation, the diameter, and the length of the culvert shall not be changed. However, the material used for the culvert may be different from the original.

(i) The construction of private docks and seawalls in artificially created waterways where such construction will not violate existing water quality standards, impede navigation, or affect flood control.

(j) The construction and maintenance of swales.

(k) The installation of aids to navigation and buoys associated with such aids, provided the devices are marked pursuant to s. 327.40.

(l) The replacement or repair of existing open-trestle foot bridges and vehicular bridges that are 100 feet or less in length and two lanes or less in width, provided that no more dredging or filling of submerged lands is performed other than that which is necessary to replace or repair pilings and that the structure to be replaced or repaired is the same length, the same configuration, and in the same location as the original bridge. No debris from the original bridge shall be allowed to remain in the waters of the state.

(m) The installation of subaqueous transmission and distribution lines laid on, or embedded in, the bottoms of waters in the state, except in Class I and Class II waters and aquatic preserves, provided no dredging or filling is necessary.

(n) The replacement or repair of subaqueous transmission and distribution lines laid on, or embedded in, the bottoms of waters of the state.

(o) The construction of private seawalls in waters of the state where such construction is between and adjoins at both ends existing seawalls, follows a continuous and uniform seawall construction line with the existing seawalls, is no more than 150 feet in length, and does not violate existing water quality standards, impede navigation, or affect flood control. However, this shall not affect the permitting requirements of chapter 161, and department rules shall clearly indicate that this exception does not constitute an exception from the permitting requirements of chapter 161.

(p) The restoration of existing insect control impoundment dikes which are less than 100 feet in length. Such impoundments shall be connected to tidally influenced waters for 6 months each year beginning September 1 and ending February 28 if feasible or operated in accordance with an impoundment management plan approved by the department. A dike restoration may involve no more dredging than is necessary to restore the dike to its original design specifications. For the purposes of this paragraph, restoration does not include maintenance of impoundment dikes of operating insect control impoundments.

(q) The construction, operation, or maintenance of stormwater management facilities which are designed to serve single family residential projects, including duplexes, triplexes, and quadruplexes, if they are less than 10 acres total land and have less than 2 acres of impervious surface and if the facilities:

1. Comply with all regulations or ordinances applicable to stormwater management and adopted by a city or county;

2. Are not part of a larger common plan of development or sale; and

3. Discharge into a stormwater discharge facility exempted or permitted by the department under this chapter which has sufficient capacity and treatment capability as specified in this chapter and is owned, maintained, or operated by a city, county, special district with drainage responsibility, or water management district, however, this exemption does not authorize discharge to a facility without the facility owner's prior written consent.

(3) The provisions of subsection (2) are superseded by general permits established pursuant to ss. 373.118 and 403.814 which include the same activities. Until such time as general permits are established, or should general permits be suspended or repealed, the exemptions under subsection (2) shall remain or shall be reestablished in full force and effect.

History.—s. 7, ch. 75-22; s. 143, ch. 77-104; s. 4, ch. 78-98; s. 1, ch. 78-146; s. 86, ch. 79-65; s. 1, ch. 80-44; s. 8, ch. 80-66; s. 3, ch. 82-80; s. 6, ch. 82-185; s. 65, ch. 83-218; s. 69, ch. 83-310; s. 43, ch. 84-338; s. 39, ch. 85-55; s. 12, ch. 86-138; s. 44, ch. 86-186; ss. 1, 3, ch. 89-324.

403.8135 Citation of rule.—In addition to any other provisions within this part or any rules promulgated hereunder, the permitting agency shall, when requesting information for a permit application pursuant to this part or such rules promulgated hereunder, cite a specific rule. If a request for information cannot be accompanied by a rule citation, failure to provide such information cannot be grounds to deny a permit.

History.—s. 9, ch. 79-161.

403.814 General permits; delegation.—

(1) The secretary is authorized to adopt rules establishing and providing for a program of general permits under chapters 253 and 403 for projects, or categories of projects, which have, either singly or cumulatively, a minimal adverse environmental effect. Such rules shall specify design or performance criteria which, if applied, would result in compliance with appropriate standards adopted by the commission. Except as provided for in subsection (3), any person complying with the requirements of a general permit may use the permit 30 days after giving notice to the department without any agency action by the department.

(2) After giving public notice and, upon the request of any person, holding a public hearing in the area affected, the department may issue a general permit in the Biscayne Bay Aquatic Preserve for the placement of riprap waterward of vertical seawalls or as replacement for vertical seawalls, for the purpose of enhancing the water

quality and fish and wildlife habitats of the Biscayne Bay area. No other general permits shall be issued within the preserve. Nothing herein shall be construed to abrogate the rights of any person under the provisions of chapter 120. In addition to the public notice required by this subsection, public notice shall be provided by United States mail to any person who requests, in writing, to have his name placed on a mailing list by the department. Notice of activities allowed pursuant to such general permit shall also be mailed, at least monthly, to all persons on the list.

(3) The department may publish or by rule require the applicant to publish, or the applicant may elect to publish, in a newspaper of general circulation in the area affected, notice of application for a general permit. If published, such public notice of application shall be published within 14 days after the applicant notifies the department; and, within 21 days after publication of notice, any person whose substantial interests are affected may request a hearing in accordance with s. 120.57. The failure to request a hearing within 21 days after publication of notice constitutes a waiver of any right to a hearing under s. 120.57. If notice is published, no person shall begin work pursuant to a general permit until after the time for requesting a hearing has passed or until after a hearing is held and a decision is rendered.

(4) The department is authorized to delegate any of its general permit authority to the district offices of the department or to water management districts.

(5) Notwithstanding the procedures set forth in subsections (1) and (3), the department may specify by rule alternative notice procedures for certain activities which are of a routine and repetitive nature and which are an integral part of agricultural activities or silvicultural activities or are activities of another state agency.

History.—s. 9, ch. 80-66; s. 12, ch. 82-27; s. 7, ch. 84-79, s. 60, ch. 86-186; s. 2, ch. 86-295

403.815 Public notice; waiver of hearings.—The department may publish or by rule require the applicant to publish, or the applicant may elect to publish, in a newspaper of general circulation in the area affected, notice of application for a permit submitted under this chapter or chapter 253. The notice of application shall be published within 14 days after the application is filed with the department. Notwithstanding any provision of s. 120.60, the department may publish or by rule require the applicant to publish, or the applicant may elect to publish, in a newspaper of general circulation in the area affected, notice of proposed agency action on any permit application submitted under this chapter or chapter 253. The department shall require the applicant for a permit to construct or expand a solid waste facility to publish such notice. The notice of proposed agency action shall be published at least 14 days prior to final agency action. The 90-day time period specified in s. 120.60(2) shall be tolled by the request of the department for publication of notice of proposed agency action and shall resume 14 days after receipt by the department of proof of publication. However, if a petition is filed for a proceeding pursuant to s. 120.57, the time periods and tolling provisions of s. 120.60 shall apply. The cost of publication of notice under this section shall be paid by the applicant. The secretary may, by rule, specify the format and size of such notice. Within 14 days after publication of notice of proposed agency action, any person whose substantial interests are affected may request a hearing in accordance with s. 120.57. The failure to request a hearing within 14 days after publication of notice of proposed agency action constitutes a waiver of any right to a hearing on the application under s. 120.57.

History.—s. 10, ch. 80-66; s. 13, ch. 82-27; s. 44, ch. 84-338; s. 48, ch. 87-225

403.816 Permits for maintenance dredging of deepwater ports and beach restoration projects.—

(1) The department shall establish a permit system under this chapter and chapter 253 which provides for the performance, for up to 25 years from the issuance of the original permit, of maintenance dredging of permitted navigation channels, port harbors, turning basins, harbor berths, and beach restoration projects approved pursuant to chapter 161. However, permits issued for dredging river channels which are not a part of a deepwater port shall be valid for no more than five years. No charge shall be exacted by the state for material removed during such maintenance dredging by a public port authority.

(2) The provisions of s. 253.77 do not apply to a permit for maintenance dredging and spoil site approval when there is no change in the size or location of the spoil disposal site and when the applicant provides documentation to the department that the appropriate lease, easement, or consent of use for the project site issued pursuant to chapter 253 is recorded in the county where the project is located.

(3) The provisions of this section relating to ports apply only to the port waters, spoil disposal sites, port harbors, navigation channels, turning basins, and harbor berths used for deepwater commercial navigation in the ports of Jacksonville, Tampa, Port Everglades, Miami, Port Canaveral, Ft. Pierce, Palm Beach, Port Manatee, Port St. Joe, Panama City, St. Petersburg, Port Bartow, Florida Power Corporation's Crystal River Canal, Boca Grande, Green Cove Springs, and Pensacola.

History.—ss. 3, 5, ch. 81-228; s. 8, ch. 84-79; s. 2, ch. 85-296; s. 13, ch. 86-138; s. 20, ch. 89-175; s. 4, ch. 89-324

403.8163 Sites for disposal of spoil from maintenance dredge operations; selection.—Lands created by spoil or used as dredge spoil sites must be given priority consideration as sites for disposal of spoil in maintenance dredge operations, except when the Division of Beaches and Shores of the Department of Natural Resources determines that the spoil, or some substantial portion thereof, may be placed as compatible sediment into the littoral system of an adjacent sandy beach or coastal barrier dune system for the preservation and protection of such beach or dune system.

History.—s. 48, ch. 84-338; s. 14, ch. 86-138.

403.817 Legislative intent; determination of the natural landward extent of waters for regulatory purposes.—

(1) It is recognized that the levels of the waters of the state naturally rise and fall, depending upon tides and other hydrological, meteorological, and geological circumstances and features. The natural rise and fall of

the waters is essential to good water quality, but often makes it difficult to determine the natural landward extent of the waters. Therefore, it is the intent of the Legislature that the Department of Environmental Regulation establish a method of making such determinations, based upon ecological factors which represent these fluctuations in water levels.

(2) In order to accomplish the legislative intent expressed in subsection (1), the department is authorized to establish by rule, pursuant to chapter 120, the method for determining the landward extent of the waters of the state for regulatory purposes. Such extent shall be defined by species of plants or soils which are characteristic of those areas subject to regular and periodic inundation by the waters of the state. The application of plant indicators to any areas shall be by dominant species. However, no landowner shall suffer any property loss or gain because of vegetation changes due to mosquito control activities conducted upon his property, provided these activities are or have been undertaken as part of a governmental mosquito control program. To the extent that certain lands have come within department jurisdiction pursuant to this section or chapter 253 solely due to insect control activities, these lands shall not be subject to permitting requirements for the discharge of dredge or fill material.

(3) Amendments adopted after April 5, 1977, to the rules of the department adopted before April 5, 1977, relating to dredging and filling and which involve additions or deletions of the vegetation or soil indexes or the addition or deletion of exemptions shall be submitted in bill form to the Speaker of the House of Representatives and to the President of the Senate for their consideration and referral to the appropriate committees. Such rule amendments shall become effective only upon approval by act of the Legislature. However, whenever the Legislature amends any exemption relating to dredging and filling, the department may amend its rules to make them consistent with changes made by the Legislature.

(4) To the extent that any plant or soil indicators are enacted into law by the Legislature for the purpose of defining the landward extent of the waters of the state for regulatory purposes, the plant or soil indicators adopted by the department regarding areas covered by legislation shall be consistent with said legislation.

(5) The landward extent of waters as determined by the rules authorized by this section shall be for regulatory purposes only and shall have no significance with respect to sovereign ownership.

History.—ss. 1, 2, ch. 77-170; s. 5, ch. 78-98; s. 5, ch. 85-269; s. 2, ch. 85-334.

403.8171 Ratification of [1]Rule 17-4.022, Florida Administrative Code, with additions and deletions to the vegetation and soil indexes and with limitations on the determination of landward extent of waters.—Pursuant to s. 403.817, the Legislature ratifies the rule adopted on January 25, 1984, by the Environmental Regulation Commission with the following changes:

(1)(a) In [1]Rule 17-4.022(2), Florida Administrative Code, the following shall be removed: *Blechnum serrulatum*, *Carex leptalea*, *Carex stipata*; *Carya aquatica*, *Conocarpus erectus*; *Crataegus viridis*; *Cymodocea filiformis*; *Cyperus odoratus*; *Dichromena spp.*; *Dryopteris ludoviciana*, *Gleditsia aquatica*; *Gratiola ramosa*, *Halodule beaudettei*; *Hypericum fasciculatum*; *Illicium floridanum*; *Liriodendron tulipifera* in all counties south of Taylor, Lafayette, Suwannee, Columbia, Baker, and Duval; *Lycopus rubellus*, *Myrica inodora*; *Osmunda spp.*; *Panicum repens*; *Panicum virgatum*; *Pluchea spp.*; *Polygala cymosa*, *Populus deltoides*; *Rhexia*, all species except *R. alifanus*, *R. lutea*, *R. mariana*, *R. petiolata*, and *R. virginica*; *Sabatia bartramii*; *Sarracenia spp.*; *Schizachyrium rhizomatum*; *Sesuvium maritimum*; *Sesuvium portulacastrum*; *Spartina spp.*; *Thalassia testudinum*; and *Woodwardia spp.*

(b) In [1]Rule 17-4.022(2), Florida Administrative Code, the following shall be added: *Muhlenbergia capillaris*; *Muhlenbergia schreberi*; *Osmunda regalis*; *Rhexia parviflora*; *Rhexia salicifolia*; and *Spartina*, all species except *S. bakerii*.

(2)(a) In [1]Rule 17-4.022(3), Florida Administrative Code, the following shall be removed: *Acer spp.*; *Baccharis halimifolia*; *Carya glabra* in all counties west of Dixie, Gilchrist, and Columbia; *Cliftonia monophylla*, *Cyrilla racemiflora*, *Liriodendron tulipifera* in all counties north and west of and including Taylor, Lafayette, Suwannee, Columbia, Baker, and Duval; *Melaleuca quinquenervia*, *Muhlenbergia spp.*; *Rhexia alifanus*; *Rhexia lutea*; *Rhexia mariana*; *Rhexia petiolata*; *Rhexia virginica*; *Sabal palmetto*; *Schinus terebinthifolius*; and *Ulmus spp.*

(b) In [1]Rule 17-4.022(3), Florida Administrative Code, the following shall be added: *Acer rubrum*; *Acer saccharinum*; *Acer negundo*; *Blechnum serrulatum*; *Carex leptalea*; *Carex stipata*; *Carya aquatica*; *Conocarpus erectus*; *Crataegus viridis*; *Cyperus odoratus*; *Dichromena spp.*; *Dryopteris ludoviciana*; *Gleditsia aquatica*; *Gratiola ramosa*; *Hypericum fasciculatum*; *Illicium floridanum*; *Liriodendron tulipifera*; *Lycopus rubellus*; *Myrica inodora*; *Osmunda cinnamomea*; *Panicum repens*; *Panicum virgatum*; *Pluchea spp.*; *Polygala cymosa*; *Populus deltoides*; *Rhexia*, all species except *R. parviflora* and *R. salicifolia*; *Sabatia bartramii*; *Sarracenia spp.*; *Schizachyrium rhizomatum*; *Sesuvium maritimum*; *Sesuvium portulacastrum*; *Spartina bakerii*; *Ulmus*, all species except *U. rubra*; and *Woodwardia spp.*

(3) In [1]Rule 17-4.022(1)(d), Florida Administrative Code, the following sentences shall be added: "If both parties agree to use more than one stratum, the following methods for a combination of strata shall be used in a manner to ensure that sufficient representative data will be generated. The methods described in subparagraphs (c)1., 2., and 3. shall be used for the appropriate strata. The percentages obtained shall be added and the sum divided by the number of strata examined. The number generated by this procedure shall be substituted for areal extent in paragraph (a) or paragraph (b) above. When a combination of strata is used, the following shall be added to [1]Rule 17-4.022(2), Florida Administrative Code: *Blechnum serrulatum*, *Carex leptalea*, *Carex stipata*, *Crataegus viridis*, *Osmunda spp.*, *Pluchea spp.*, and *Woodwardia spp.* Concurrently the following shall be added to [1]Rule 17-4.022(3), Florida Administrative Code: *Axonopus furcatus*, *Flaveria spp.*, *Metopium toxiferum*, *Myrica cerifera*, *Sabal minor*, and *Sympolcos tinctoria*."

(4) *Cliftonia monophylla*, *Cyrilla racemiflora*, *Melaleuca quinquenervia*, *Sabal palmetto*, and *Schinus terebinthifolius* shall not be considered submerged, transitional, or upland species. In areas vegetated by any of these five species, the department shall determine the landward extent of waters using the remaining plant species or other indicators of regular and periodic inundation as provided in [1]Rule 17-4.022(1), Florida Administrative Code.

(5). In all areas of the state, the landward extent of waters shall be demarcated by [1]Rule 17-4.022, Florida Administrative Code; however, in no case shall the landward extent of such waters extend above the elevation of the 1-in-10-year recurring flood event or the area of land with standing or flowing water for more than 30 consecutive days per year calculated on an average annual basis, whichever is more landward. The extent of the flood line shall be developed by appropriate engineering techniques, and a description of the surveyed line shall be prepared and certified by a professional land surveyor registered in this state. The burden for determining the surveyed flood line shall be with the party wishing to use this alternative. Notwithstanding the above, for waters which are saline or brackish, or for rivers the major sources of flow of which are from springs, the landward extent of waters shall be demarcated solely by [1]Rule 17-4.022, Florida Administrative Code. The provisions of this subsection shall not operate to reduce the landward extent of the jurisdiction of the department as such jurisdiction existed prior to January 24, 1984.

History.—s. 9, ch. 84-79.

[1]**Note.**—Rule 17-4.022, Florida Administrative Code, was transferred to Rule 17-3.022, Florida Administrative Code.

PART VI

DRINKING WATER

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403.850 Short title.—This act may be cited as the "Florida Safe Drinking Water Act."

History.—s. 1, ch. 77-337.

403.851 Declaration of policy; intent.—It is the policy of the state that the citizens of Florida shall be assured of the availability of safe drinking water. Recognizing that this policy encompasses both environmental and public health aspects, it is the intent of the Legislature to provide a water supply program operated jointly by the Department of Environmental Regulation, in a lead-agency role of primary responsibility for the program, and by the Department of Health and Rehabilitative Services and its units, including county health departments, in a supportive role with specific duties and responsibilities of its own. Without any relinquishment of Florida's sovereign powers and responsibilities to provide for the public health, public safety, and public welfare of the people of Florida, the Legislature intends:

(1) To give effect to Pub. L. No. 93-523 promulgated under the commerce clause of the United States Constitution, to the extent that interstate commerce is directly affected.

(2) To encourage cooperation between federal, state, and local agencies, not only in their enforcement role, but also in their service and assistance roles to city and county elected bodies.

(3) To provide for safe drinking water at all times throughout the state, with due regard for economic factors and efficiency in government.

History.—s. 2, ch. 77-337; s. 162, ch. 79-400.

403.852 Definitions.—As used in ss. 403.850-403.864:

(1) "Department" means the Department of Environmental Regulation, which is charged with the primary responsibility for the administration and implementation of the Florida Safe Drinking Water Act.

(2) "Public water system" means a community or noncommunity system for the provision to the public of piped water for human consumption, provided that such system has at least 15 service connections or regularly serves at least 25 individuals daily at least 60 days out of the year. The term includes:

(a) Any collection, treatment, storage, and distribution facility or facilities under control of the operator of such system and used primarily in connection with such system.

(b) Any collection or pretreatment storage facility or facilities not under control of the operator of such system but used primarily in connection with such system.

(3) "Community water system" means a public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

(4) "Noncommunity water system" means a public water system for provision to the public of piped water for human consumption, which serves at least 25 individuals daily at least 60 days out of the year, but which is not a community water system; except that a water system for a wilderness educational camp is a noncommunity water system.

(5) "Person" means an individual, public or private corporation, company, association, partnership, munici-

pality, agency of the state, district, federal agency, or any other legal entity, or its legal representative, agent, or assigns.

(6) "Municipality" means a city, town, or other public body created by or pursuant to state law or an Indian tribal organization authorized by law.

(7) "Federal agency" means any department, agency, or instrumentality of the United States Government.

(8) "Supplier of water" means any person who owns or operates a public water system.

(9) "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.

(10) "Administrator" means the Administrator of the United States Environmental Protection Agency.

(11) "Federal act" means the Safe Drinking Water Act, Pub. L. No. 93-523.

(12) "Primary drinking water regulation" means a rule which:

(a) Applies to public water systems;

(b) Specifies contaminants which, in the judgment of the department, after consultation with the Department of Health and Rehabilitative Services, may have an adverse effect on the health of the public;

(c) Specifies for each such contaminant either:

1. A maximum contaminant level if, in the judgment of the department, it is economically and technologically feasible to ascertain the level of such contaminant in water in public water systems; or

2. Each treatment technique known to the department which leads to a reduction in the level of the contaminant sufficient to satisfy the requirements of s. 403.853 if, in the judgment of the department, it is not economically or technologically feasible to ascertain the level of such contaminant; and

(d) Contains criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels, including quality control and testing procedures to assure compliance with such levels and to ensure proper operation and maintenance of the system, and which contains requirements as to:

1. The minimum quality of water which may be taken into the system; and

2. Siting for new facilities for public water systems.

(13) "Secondary drinking water regulation" means a rule which:

(a) Applies to public water systems; and

(b) Specifies the maximum contaminant levels which, in the judgment of the department after public hearings, are requisite to protect the public welfare. Such regulation may apply to any contaminant in drinking water:

1. Which may adversely affect the odor or appearance of such water and consequently may cause a substantial number of the persons served by the public water system providing such water to discontinue its use; or

2. Which may otherwise adversely affect the public welfare.

Such regulations may vary according to geographic and other circumstances.

(14) "National primary drinking water regulations" means primary drinking water regulations promulgated by the administrator pursuant to the federal act.

(15) "National secondary drinking water regulations" means secondary drinking water regulations promulgated by the administrator pursuant to the federal act.

(16) "Sanitary survey" means an onsite review of the water source, facilities, equipment, operation, and maintenance of a public water system for the purpose of evaluating the adequacy of such source, facilities, equipment, operation, and maintenance for producing and distributing safe drinking water.

(17) "Nontransient noncommunity water system" means a public water system that is not a community water system and that regularly serves at least 25 of the same persons over 6 months per year.

History.—s. 3, ch. 77-337, s. 1, ch. 82-80; s. 10, ch. 89-324.

403.853 Drinking water standards.—

(1) The department shall adopt and enforce:

(a)1. State primary drinking water regulations that shall be no less stringent at any given time than the complete interim or revised national primary drinking water regulations in effect at such time; and

2. State secondary drinking water regulations patterned after the national secondary drinking water regulations.

(b) Primary and secondary drinking water regulations for noncommunity water systems, which shall be no more stringent than the corresponding national primary or secondary drinking water regulations in effect at such time, except that nontransient, noncommunity systems shall monitor and comply with additional primary drinking water regulations as determined by the department.

(2) Subject to the exceptions authorized pursuant to s. 403.854, state primary drinking water regulations apply to each public water system in the state, except that such regulations do not apply to any public water system which meets all of the following criteria; namely, that the system:

(a) Consists of distribution and storage facilities only and does not have any collection or treatment facilities;

(b) Obtains all of its water from, but is not owned or operated by, a public water system to which such regulations apply;

(c) Does not sell water to any person; and

(d) Is not a carrier which conveys passengers in interstate commerce.

(3) The department shall adopt and implement adequate rules specifying procedures for the enforcement of state primary and secondary drinking water regulations, including monitoring and inspection procedures, that comply with regulations established by the administrator pursuant to the federal act.

(4) The department shall keep such records and make such reports, with respect to its activities under subsections (1) and (3), as may be required by regulations established by the administrator pursuant to the federal act. Such records and reports shall be available for public inspection.

(5) No state primary drinking water regulation may require the addition of any substance for preventive

health care purposes unrelated to the contamination of drinking water.

(6) Upon the request of the owner or operator of a noncommunity water system serving businesses, other than restaurants or other public food service establishments, and using ground water as a source of supply, the department, or a local county health unit designated by the department, shall perform a sanitary survey of the facility. Upon receipt of satisfactory survey results according to department criteria, the department shall reduce the requirements of such owner or operator from monitoring and reporting on a quarterly basis to performing these functions on an annual basis. Any revised monitoring and reporting schedule approved by the department under this subsection shall apply until such time as a violation of applicable state or federal primary drinking water standards is determined by the system owner or operator, by the department, or by an agency designated by the department, after a random or routine sanitary survey. Certified operators are not required for noncommunity water systems of the type and size covered by this subsection. Any reports required of such system shall be limited to the minimum as required by federal law. When not contrary to the provisions of federal law, the department may, upon request and by rule, waive additional provisions of state drinking water regulations for such systems.

(7) Unless otherwise required by federal act, the department may require testing of public water supply systems only for those contaminants for which maximum contaminant levels have been set by the administrator or the department or for which the United States Environmental Protection Agency or the department has established a correlation between pollutant concentration and human health effects.

History.—s. 4, ch. 77-337; s. 1, ch. 79-358; s. 45, ch. 84-338; s. 45, ch. 86-186; s. 11, ch. 89-324.

403.8535 Citation of rule.—In addition to any other provisions within this part or any rules promulgated hereunder, the permitting agency shall, when requesting information for a permit application pursuant to this part or such rules promulgated hereunder, cite a specific rule. If a request for information cannot be accompanied by a rule citation, failure to provide such information cannot be grounds to deny a permit.

History.—s. 10, ch. 79-161.

403.854 Variances, exemptions, and waivers.—

(1) The department may authorize variances or exemptions from the regulations issued pursuant to s. 403.853 under conditions and in such manner as it deems necessary and desirable, provided that such variances or exemptions are authorized under such conditions and in such manner as are no less stringent than the conditions under which and the manner in which variances and exemptions may be granted under the federal act.

(2)(a) The department shall exempt public water systems from any requirements respecting a maximum contaminant level or any treatment technique requirement, or both, when:

1. Due to compelling factors (which may include economic factors), the public water system is unable to comply with such contaminant level or treatment technique requirement;

2. The public water system was in operation on the effective date of such contaminant level or treatment technique requirement; and

3. The granting of the exemption will not result in an unreasonable risk to health.

(b) Proposed additions to existing treatment plants not under contract for construction on July 1, 1977, shall not be automatically exempt.

(3)(a) When the department receives an application for exemption, it shall act upon such application within a time period under s. 1416(g) of Pub. L. No. 93-523 or the Florida Administrative Procedure Act, whichever is earlier.

(b) The department shall prescribe a compliance schedule for the exempted system and shall notify the Environmental Protection Agency Administrator personally by certified mail pursuant to Pub. L. No. 93-523, s. 1416(b) and (c).

(4)(a) The department shall, except upon a showing of good cause, waive on a case-by-case basis any chlorination requirement applicable to noncommunity water systems existing on July 18, 1980, upon an affirmative showing by the supplier of water that no hazard to health will result. This showing shall be based upon the following:

1. The completion of a satisfactory sanitary survey;

2. The history of the quality of water provided by the system and monthly monitoring tests for bacteriological contamination;

3. Evaluation of the well and the site on which it is located, including geology, depth of well, casing, grouting, and other relevant factors which have an impact on the quality of water supplied; and

4. The number of connections and size of the distribution system.

(b) The department may as a condition of waiver require a monitoring program of sufficient frequency to assure that safe drinking water standards are being met.

(5) The department shall, except upon a showing of good cause, waive on a case-by-case basis any requirement for a certified operator for a noncommunity water system having a design flow of less than 10,000 gallons per day upon an affirmative showing by the supplier of water that the system can be properly maintained without a certified operator. The department shall consider:

(a) The results of a sanitary survey if deemed necessary;

(b) The operation and maintenance records for the year preceding an application for waiver;

(c) The adequacy of monitoring procedures for maximum contaminant levels included in primary drinking water regulations;

(d) The feasibility of the supplier of water becoming a certified operator; and

(e) Any threat to public health that could result from nonattendance of the system by a certified operator.

(6) A waiver shall be granted for 3 years and shall be renewable upon application to the department pursuant to subsection (4) or subsection (5).

(7) The department may revoke any waiver to protect the public health, provided the department finds, on the basis of technical evidence, that revocation is necessary to achieve compliance with state quality standards for safe drinking water or that the supplier of water fails to comply with any conditions of the waiver. The department may proceed under s. 403.855 or s. 403.860.

(8) Neither the department nor any of its employees shall be held liable for money damages for any injury, sickness, or death sustained by any person as a result of drinking water from any noncommunity water system granted a waiver under subsection (4) or subsection (5).

History.—s. 5, ch. 77-337; s. 1, ch. 80-417.

403.855 Imminent hazards.—In coordination with the Department of Health and Rehabilitative Services, the department, upon receipt of information that a contaminant which is present in, or is likely to enter, public or private water supplies may present an imminent and substantial danger to the public health, may take such actions as it may deem necessary in order to protect the public health. Department actions shall include, but are not limited to:

(1) Adopting emergency rules pursuant to s. 120.54(9).

(2) Issuing such corrective orders as may be necessary to protect the health of persons who are or may be users of such supplies, including travelers. An order issued by the department under this section shall become effective upon service of such order on the alleged violator, notwithstanding the provisions of s. 403.860(3).

(3) Establishing a program designed to prevent contamination or to minimize the danger of contamination to potable water supplies.

(4) Contracting for clinical tests on samples of the affected population if the department determines there is a real and immediate danger to the public health.

(5) Commencing a civil action for appropriate relief, including a restraining order or permanent or temporary injunction.

History.—s. 6, ch. 77-337; s. 163, ch. 79-400; s. 5, ch. 83-310.

403.856 Plan for emergency provision of water.—The department shall adopt an adequate plan, after consultation with the Department of Health and Rehabilitative Services, for the provision of safe drinking water under emergency circumstances. When, in the judgment of the department, emergency circumstances exist in the state with respect to a need for safe drinking water, it may issue such rule or order as it may deem necessary in order to provide such water where it would not otherwise be available.

History.—s. 7, ch. 77-337.

403.857 Notification of users and regulatory agencies.—Whenever a public water supply system:

(1) Is not in compliance with the state primary and secondary drinking water regulations;

(2) Fails to perform monitoring required by rules or regulations adopted by the department;

(3) Is subject to a variance granted for an inability to meet a maximum contaminant level requirement;

(4) Is subject to an exemption; or

(5) Fails to comply with the requirements prescribed by a variance or exemption,

the owner or operator of the system shall, as soon as practicable, notify the local public health departments, the department, and the communications media serving the area served by the system of that fact and of the extent, nature, and possible health effects of such fact. Such notice shall also be given by the owner or operator of the system by publication in a newspaper of general circulation, as determined by the department, within the area served by such water system at least once every 3 months as long as the violation, variance, or exemption continues. Such notice shall also be given with the water bills of the system as long as the violation, variance, or exemption continues, as follows: if the water bills of a public water system are issued at least as often as once every 3 months, such notice shall be included in at least one water bill of the system for each customer every 3 months; if the system issues its water bills less often than once every 3 months, such notice shall be included in each of the water bills issued by the system for each customer. However, the provisions of this section notwithstanding, the department may prescribe by rule reasonable alternative notice requirements.

History.—s. 8, ch. 77-337.

403.858 Inspections.—Any duly authorized representative of the department or of the Department of Health and Rehabilitative Services may enter, take water samples from, and inspect any property, premises, or place, except a building which is used exclusively for a private residence, on or at which a public water system is located or is being constructed or installed, at any reasonable time, for the purpose of ascertaining the state of compliance with the law or with rules or orders of the department.

History.—s. 9, ch. 77-337.

403.859 Prohibited acts.—The following acts and the causing thereof are prohibited and are violations of this act:

(1) Failure by a supplier of water to comply with the requirements of s. 403.857 or dissemination by such supplier of any false or misleading information with respect to notices required pursuant to s. 403.857 or with respect to remedial actions being undertaken to achieve compliance with state primary and secondary drinking water regulations.

(2) Failure by a supplier of water to comply with regulations adopted pursuant to s. 403.853, with any rule adopted by the department pursuant to this act, or with conditions for variances or exemptions authorized under s. 403.854.

(3) Failure by any person to comply with any order issued by the department pursuant to this act.

(4) Failure by a supplier of water to allow any duly authorized representative of the department or of the Department of Health and Rehabilitative Services to conduct inspections pursuant to s. 403.858.

(5) Submission by any person of any false statement or representation in any application, record, report, plan, or other document filed, or required to be filed by this act or rules adopted by the department pursuant to its lawful authority.

(6) Failure by a supplier of water to comply with any approved plans and specifications or condition to the

approval of plans and specifications issued by the department pursuant to this act.

(7) The artificial recharge by the direct pumping of treated or untreated waste into any geologic formation of the Floridan Aquifer or the Biscayne Aquifer containing total dissolved solids of 500 milligrams per liter or less, except such injection from wastewater reuse facilities presently being considered and conceptually approved by the department before June 1, 1983, on the following conditions:

(a) There will be a minimum 2-year operational test period during which no other such project will be permitted.

(b) During the test period, no effluent will be injected into the Floridan Aquifer or the Biscayne Aquifer.

(c) The effluent quality must meet the water quality standards established by the Department of Environmental Regulation as part of the permit to construct the treatment facility.

(d) By January 1, 1984, the Department of Environmental Regulation shall promulgate by rule effluent standards for any project proposing wastewater reuse by injection into the Floridan Aquifer or Biscayne Aquifer.

(e) At the end of the 2-year operational test, there will be a peer review of data. The review shall be broadly distributed to competent, impartial, and experienced national authorities such as the United States Environmental Protection Agency and the National Academy of Sciences. The decision by the department to permit injection shall take into consideration the reports of the review.

(f) In the event a facility does not receive an operation permit which assures compliance with department rules promulgated pursuant to this subsection, the treated or untreated waste shall be returned to the sewage treatment plant from which the wastewater was diverted during the 2-year period or another legally acceptable alternative.

The provisions of this subsection do not apply to treated or untreated waste currently discharging into the Floridan Aquifer or Biscayne Aquifer on June 22, 1983.

History.—s. 10, ch. 77-337; s. 164, ch. 79-400; s. 1, ch. 83-161.

403.860 Penalties and remedies.—

(1) A fine, not to exceed $5,000 for each day in which a violation occurs, may be imposed by a court of competent jurisdiction on any person who violates s. 403.859 (1), (2), (4), (5), or (6).

(2) A fine, not to exceed $5,000 for each day in which such violation occurs or failure to comply continues, may be imposed by a court of competent jurisdiction upon any person who violates, or fails or refuses to comply with, any order issued by the department pursuant to this act.

(3) The department may initiate an administrative proceeding to establish liability and require corrective action. Such proceeding shall be instituted by the department's serving a written notice of violation upon the alleged violator by certified mail. The notice shall specify the provision of law or rule of the department alleged to have been violated and the facts alleged to constitute a violation thereof. An order for corrective action may be included with the notice. However, no order shall become effective until after service and an administrative hearing, if requested within 20 days after service. Failure to request an administrative hearing within this time period shall constitute a waiver thereof. A department order, entered after a hearing pursuant to chapter 120 or a waiver thereof, shall be final and constitute a final adjudication of the matters alleged. Such order may require, in addition to corrective action, that the violator pay the state for its reasonable costs and expenses incurred in investigating the violation and prosecuting the administrative proceeding.

(4) The department may institute a civil action in any court of appropriate jurisdiction for injunctive relief to prevent violation of any order, rule, or regulation issued pursuant to this act, in addition to any other remedies provided under this section.

History.—s. 11, ch. 77-337.

403.861 Department; powers and duties.—The department shall have the power and the duty to carry out the provisions and purposes of this act and, for this purpose, to:

(1) Administer and enforce the provisions of this act and all rules and orders adopted, issued, or made effective hereunder.

(2) Enter into agreements, contracts, or cooperative arrangements, under such terms and conditions as it deems appropriate, with other local, state, federal, or interstate agencies; municipalities; political subdivisions; educational institutions; or other organizations or persons.

(3) Receive financial and technical assistance from the Federal Government and other public or private agencies.

(4) Participate in related programs conducted by federal agencies, other states, interstate agencies, or other public or private agencies or organizations.

(5) Establish adequate fiscal controls and accounting procedures to assure proper disbursement of, and accounting for, funds appropriated or otherwise provided for the purpose of carrying out provisions of this act.

(6) Delegate those responsibilities and duties deemed appropriate for the purpose of administering requirements of this act.

(7) Require a fee in an amount sufficient to cover the costs of viewing and acting upon any application for the construction and operation of a public water supply system and the costs of surveillance and other field services associated with any permit issued, but the amount in no case shall exceed $1,000. The fee schedule shall be adopted by rule based on a sliding scale relating to the size or type of treatment which is proposed by the applicant.

(8) Adopt, modify, and repeal such rules as are necessary or appropriate to carry out its functions under this act.

(9) Require department or county health department review and approval of complete plans and specifications prior to the installation, operation, alteration, or extension of any public water system.

(10) Establish and maintain laboratories for radiological, microbiological, and chemical analyses of water samples from public water systems, if the department determines that an additional laboratory capability beyond that provided by the Department of Health and Rehabilitative Services is necessary.

(11) Plan, develop, and coordinate program activities for the management and implementation of the state primary and secondary drinking water regulations, including taking sanitary surveys.

(12) Collect and disseminate information and conduct educational and training programs relating to drinking water and public water systems.

(13) Conduct data management activities to maintain essential records needed for administration of the public water system supervision program and for submission to the administrator, including the maintenance of an inventory for all public water systems.

(14) Establish and collect fees for conducting state laboratory analyses as may be necessary, to be collected and used by either the department or the Department of Health and Rehabilitative Services in conducting its public water supply laboratory functions.

(15) Require suppliers of water to collect samples of water as required by state primary drinking water regulations, to submit such samples to an appropriate laboratory for analysis, and to keep sampling records as required under the federal act and make such records available to the department upon request.

(16) Require suppliers of water to submit periodic operating reports and testing data which the department determines are reasonably necessary to ascertain the adequacy of water supply systems.

(17) Issue such orders as may be necessary to effectuate the intent and purposes of this act.

(18) Assist state and local agencies in the determination and investigation of suspected waterborne disease outbreaks, including diseases associated with chemical contaminants.

(19) Encourage public involvement and participation in the planning and implementation of the state public water system supervisory plans.

History.—s. 12, ch. 77-337; s. 165, ch. 79-400; s. 46, ch. 86-186.

403.862 Department of Health and Rehabilitative Services; public water supply duties and responsibilities; coordinated budget requests with Department of Environmental Regulation.—

(1) Recognizing that supervision and control of units of the Department of Health and Rehabilitative Services is retained by the secretary of that agency, and that public health aspects of the state public water supply program require joint participation in the program by the Department of Health and Rehabilitative Services and its units and the department, the Department of Health and Rehabilitative Services shall:

(a) Establish and maintain laboratories for the conducting of radiological, microbiological, and chemical analyses of water samples from public water systems, which are submitted to such laboratories for analysis. Copies of the reports of such analyses and quarterly summary reports shall be submitted to the appropriate department district or subdistrict office.

(b) Require each county health department to:

1. Collect such water samples for analysis as may be required by the terms of this act, from public water systems within its jurisdiction. The duty to collect such samples may be shared with the appropriate department district or subdistrict office and shall be coordinated by field personnel involved.

2. Submit the collected water samples to the appropriate laboratory for analysis.

3. Maintain reports of analyses for its own records.

4. Conduct complaint investigation of public water systems to determine compliance with federal, state, and local standards and permit compliance.

5. Notify the appropriate department district or subdistrict office of potential violations of federal, state, and local standards and permit conditions by public water systems and assist the department in enforcement actions with respect to such violations to the maximum extent practicable.

6. Review and evaluate laboratory analyses of water samples from private water systems.

(c) Require those county health departments designated by the Department of Health and Rehabilitative Services and approved by the department as having qualified sanitary engineering staffs, in addition to the duties prescribed in paragraph (1)(b), to:

1. Review, evaluate, and approve or disapprove each application for the construction, modification, or expansion of a public water system to determine compliance with federal, state, and local requirements. A copy of the completed permit application and a report of the final action taken by the county health department shall be forwarded to the appropriate department district office.

2. Review, evaluate, and approve or disapprove applications for the expansion of distribution systems. Written notification of action taken on such applications shall be forwarded to the appropriate department district or subdistrict office.

3. Maintain inventory, operational, and bacteriological records and carry out monitoring, surveillance, and sanitary surveys of public water systems to ensure compliance with federal, state, and local regulations.

4. Participate in educational and training programs relating to drinking water and public water systems.

(d) Require those county health departments designated by the Department of Health and Rehabilitative Services as having the capability of performing bacteriological analyses, in addition to the duties prescribed in paragraph (1)(b), to:

1. Perform bacteriological analyses of water samples submitted for analysis.

2. Submit copies of the reports of such analyses to the appropriate department district or subdistrict office.

(e) Make available to the central and branch laboratories funds sufficient, to the maximum extent possible, to carry out the public water supply functions and responsibilities required of such laboratories as provided in this section.

(f) Have general supervision and control over all private water systems and all public water systems not covered or included in this act.

(g) Assist state and local agencies in the determination and investigation of suspected waterborne disease outbreaks, including diseases associated with chemical contaminants.

(h) Upon request, consult with and advise any county or municipal authority as to water supply activities.

(2) Funds appropriated to support activities of county health departments of the Department of Health and Rehabilitative Services pursuant to this act shall be deposited to the County Health Department Trust Fund and used exclusively for the purposes of this act.

(3) The Department of Health and Rehabilitative Services and the department shall coordinate their respective budget requests for the fiscal year 1978-1979 and for subsequent fiscal years to ensure that sufficient funding is provided to the Department of Health and Rehabilitative Services in order that it may carry out its public water supply functions and responsibilities as provided in this section. In the event the Department of Health and Rehabilitative Services lacks sufficient funds in any fiscal year to the extent that it is unable adequately to carry out its public water supply duties, an interagency agreement may be entered into between the two departments in order to remedy administratively, either through the transfer of funds or of services, the lack of sufficient public water supply funds within the Department of Health and Rehabilitative Services.

(4) If the department determines that a county health department or other unit of the Department of Health and Rehabilitative Services is not performing its public water supply responsibilities satisfactorily, the secretary of the department shall certify such determination in writing to the Secretary of Health and Rehabilitative Services. The Secretary of Health and Rehabilitative Services shall evaluate the determination of the department and shall inform the secretary of the department of his evaluation. Upon concurrence, the Secretary of Health and Rehabilitative Services shall take immediate corrective action.

(5) Nothing in this section shall serve to negate the powers, duties, and responsibilities of the Secretary of Health and Rehabilitative Services relating to the protection of the public from the spread of communicable disease, epidemics, and plagues.

History.—s. 13, ch. 77-337; s. 166, ch. 79-400; s. 12, ch. 89-324.

403.863 State public water supply laboratory certification program.—

(1) Within 120 days of the effective date of this act, the department and the Department of Health and Rehabilitative Services shall jointly develop a state program, and the Department of Health and Rehabilitative Services shall adopt rules for the evaluation and certification of all laboratories in the state, other than the principal state laboratory, which perform or make application to perform analyses pursuant to the Florida Safe Drinking Water Act. Such joint development shall be funded in part through the use of a portion of the State Public Water Systems Supervision Program grants received by the department from the Federal Government in order to implement the federal act.

(2) The Department of Health and Rehabilitative Services shall have the responsibility for the operation and implementation of the state laboratory certification program, except that, upon completion of the evaluation and review of the laboratory certification application, the evaluation shall be forwarded, along with recommendations, to the department for review and comment, prior to final approval or disapproval.

(3) Any federal grant funds received by the department for the operation and implementation of the state laboratory certification program shall be transferred to the Department of Health and Rehabilitative Services by interagency agreement between the two departments. Such agreement shall require the Department of Health and Rehabilitative Services to provide the department with a quarterly accounting of the funds transferred.

(4) Within 60 days of the effective date of the rules adopted pursuant to this section, no laboratory in the state, except the principal state laboratory, shall perform analyses pursuant to the Florida Safe Drinking Water Act without having applied for and received certification under the state certification program to perform such analyses.

(5) For the purposes of this section, the term "principal state laboratory" means the central laboratory of the Department of Health and Rehabilitative Services.

(6) For the purposes of this section, the term "certification" means regulatory recognition given to a laboratory that performs analyses pursuant to the Florida Safe Drinking Water Act, that it meets minimum analytical performance standards.

History.—s. 14, ch. 77-337; s. 167, ch. 79-400.

403.8635 State drinking water sample laboratory certification program.—

(1) In addition to certifying laboratories pursuant to s. 403.863, the Department of Health and Rehabilitative Services is authorized to establish a periodic certification and approval program for laboratories that perform analyses of drinking water samples, which program will assure the acceptable quality, reliability, and validity of all testing results.

(2) The Department of Health and Rehabilitative Services has the responsibility for the operation and implementation of laboratory certification pursuant to this section, except that, upon completion of the evaluation and review of an application for laboratory certification, the evaluation shall be forwarded, along with recommendations, to the Department of Environmental Regulation for review and comment prior to final approval or disapproval.

(3) The Department of Health and Rehabilitative Services is authorized to charge and collect fees for the evaluation and certification of laboratories pursuant to this part. The fee schedule shall be based on the number of analytical functions for which certification is sought. Such fees shall be sufficient to meet the costs incurred by the Department of Health and Rehabilitative Services in the administration and operation of this program. All fees shall be deposited in a trust fund administered by the Department of Health and Rehabilitative Services to be used for the sole purpose of this section.

History.—s. 49, ch. 84-338.

403.864 Public water supply accounting program.

(1) It is the intent of the Legislature to require a year-

ly accounting of funds, overhead, personnel, and property used by the department and the Department of Health and Rehabilitative Services and its units, including each of the county health departments, in conducting their respective responsibilities for the state public water supply program. Such accounting shall be presented to the Governor, the President of the Senate, and the Speaker of the House of Representatives by the department and the Department of Health and Rehabilitative Services no later than February 1 of each year. The first accounting shall be due by February 1, 1979, and shall cover the state fiscal year 1978-1979.

(2) In furtherance of this intent, the Department of Health and Rehabilitative Services, the department, and the Auditor General shall jointly develop an accounting program for use by the department and the Department of Health and Rehabilitative Services and its units, including the county health departments, to determine the funds, overhead, personnel, and property used by each of the departments in conducting its respective public water supply functions and responsibilities for each fiscal year. The accounting program shall provide information sufficient to satisfy state auditing and federal grant and aid reporting requirements and shall include provisions requiring the Department of Health and Rehabilitative Services to:

(a) Segregate, from an accounting standpoint, funds distributed to county health departments for public water supply functions from other county health department trust funds.

(b) Segregate, from an accounting standpoint, funds distributed to the central and branch laboratories of the Department of Health and Rehabilitative Services for public water supply functions from other laboratory funds.

(c) Require each county health department, the central and each branch laboratory of the Department of Health and Rehabilitative Services, and any other entity of the Department of Health and Rehabilitative Services involved in and carrying out public water supply functions to account to the Department of Health and Rehabilitative Services on a semiannual basis for the funds received, from whatever source, and used for public water supply functions.

(d) Require each county health department, the central and each branch laboratory of the Department of Health and Rehabilitative Services, and any other entity of the Department of Health and Rehabilitative Services involved in carrying out public water supply functions either wholly or partially with funds, either federal or state, received from the department through an interagency agreement or other means to account to the department on a semiannual basis for such funds received and used for public water supply functions.

History.—s. 15, ch. 77-337; s. 100, ch. 79-164.

PART VII

MISCELLANEOUS

403.90 Judicial review relating to permits and licenses.

403.90 Judicial review relating to permits and licenses.—

(1) As used in this section, unless the context otherwise requires:

(a) "Agency" means any official, officer, commission, authority, council, committee, department, division, bureau, board, section, or other unit or entity of state government.

(b) "Permit" means any permit or license required by this chapter.

(2) Any person substantially affected by a final action of any agency with respect to a permit may seek review within 90 days of the rendering of such decision and request monetary damages and other relief in the circuit court in the judicial circuit in which the affected property is located; however, circuit court review shall be confined solely to determining whether final agency action is an unreasonable exercise of the state's police power constituting a taking without just compensation. Review of final agency action for the purpose of determining whether the action is in accordance with existing statutes or rules and based on competent substantial evidence shall proceed in accordance with chapter 120.

(3) If the court determines the decision reviewed is an unreasonable exercise of the state's police power constituting a taking without just compensation, the court shall remand the matter to the agency which shall, within a reasonable time:

(a) Agree to issue the permit;

(b) Agree to pay appropriate monetary damages; however, in determining the amount of compensation to be paid, consideration shall be given by the court to any enhancement to the value of the land attributable to governmental action; or

(c) Agree to modify its decision to avoid an unreasonable exercise of police power.

(4) The agency shall submit a statement of its agreed-upon action to the court in the form of a proposed order. If the action is a reasonable exercise of police power, the court shall enter its final order approving the proposed order. If the agency fails to submit a proposed order within a reasonable time not to exceed 90 days which specifies an action that is a reasonable exercise of police power, the court may order the agency to perform any of the alternatives specified in subsection (3).

(5) The court shall award reasonable attorney's fees and court costs to the agency or substantially affected person, whichever prevails.

(6) The provisions of this section are cumulative and shall not be deemed to abrogate any other remedies provided by law.

History.—ss. 1, 2, 3, 4, 5, 6, ch. 78-85.

PART VIII

PERMITTING OF ACTIVITIES IN WETLANDS

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403.938 Variance relief.

403.91 Short title.—Sections 403.91-403.929 shall be known and may be cited as the "Warren S. Henderson Wetlands Protection Act of 1984."
History.—s. 1, ch. 84-79.

403.911 Definitions of terms used in ss. 403.91-403.929.—As used in ss. 403.91-403.929:

(1) The term "department" means the Department of Environmental Regulation.

(2) The term "dredging" means excavation, by any means, in waters. It also means the excavation, or creation, of a water body which is, or is to be, connected to waters, directly or via an excavated water body or series of excavated water bodies.

(3) The term "estuary" means a semienclosed, naturally existing coastal body of water which has a free connection with the open sea and within which seawater is measurably diluted with fresh water derived from riverine systems.

(4) The term "filling" means the deposition, by any means, of materials in waters.

(5) The term "lagoon" means a naturally existing coastal zone depression which is below mean high water and which has permanent or ephemeral communications with the sea, but which is protected from the sea by some type of naturally existing barrier.

(6) The term "seawall" means a manmade wall or encroachment, except riprap, which is made to break the force of waves and to protect the shore from erosion.

(7) For purposes of dredge and fill permitting activities by the department, "wetlands" are defined as those areas within the jurisdiction of the department pursuant to s. 403.817.
History.—s. 1, ch. 84-79, s. 69, ch. 84-338.

403.912 Powers and duties of department in permitting of activities in wetlands.—

(1) Consistent with the powers, jurisdiction, and duties listed in s. 403.061, the department is authorized to adopt rules to carry out the provisions of ss. 403.91-403.929, including appropriate regulatory provisions governing activities in waters to their landward extent pursuant to s. 403.817. Such rules may include stricter permitting and enforcement provisions within Outstanding Florida Waters, aquatic preserves, areas of critical state concern, and areas subject to chapter 380 resource management plans adopted by rule by the Administration Commission, when the plans for an area include waters that are particularly identified as needing additional protection, which provisions are not inconsistent with the applicable rules adopted for the management of such areas by the department and the Governor and Cabinet.

(2) The department shall periodically review and reevaluate its application forms for permits for activities regulated by ss. 403.91-403.929 to ensure that such forms efficiently and effectively meet the needs of the department and of applicants for permits.
History.—s. 1, ch. 84-79.

403.913 Determination of jurisdiction over surface waters; criteria; when permits required.—

(1) No person shall dredge or fill in, on, or over surface waters without a permit from the department, unless exempted by statute or department rule.

(2) The landward extent of waters shall be determined as provided in s. 403.817, except that the department may exert its jurisdiction to the ordinary or mean high-water line of waters whenever the landward extent, if determined in accordance with [1]Rule 17-4.022, Florida Administrative Code, occurs waterward of the ordinary or mean high-water line. The determinations made pursuant to this subsection shall be to establish the regulatory jurisdiction of the department and are not intended to be a delineation of the boundaries of lands for purposes of title.

(3) When the department determines its jurisdiction based on dominant vegetation, the permit applicant or person requesting the jurisdictional determination, at his option, may request that the department, in cooperation with the United States Department of Agriculture Soil Conservation Service, determine whether hydric soils at the site corroborate the finding of jurisdiction based on vegetation. A request by an applicant that a soils assessment be made pursuant to this section shall toll the 90-day time period provided in s. 403.0876 to approve or deny the permit; that time shall begin to run again upon receipt by the department of the information provided by the Soil Conservation Service. When the soils assessment indicates the presence of hydric soils in conjunction with dominant vegetation, the department shall be presumed to have jurisdiction. When the soils assessment indicates the absence of hydric soils, the department shall be presumed not to have jurisdiction.

(4) Within those areas of the state where a water management district has been delegated stormwater permitting by the department, no dredge or fill permit is required for the construction of, and dredging and filling in, irrigation or drainage ditches constructed in the uplands, including those connecting otherwise isolated ar-

eas owned entirely by one person and dominated by the plant indicator species adopted pursuant to s. 403.817. This exemption only applies to a ditch for which the point of connection to other waters of the state is no more than 35 square feet in total cross-sectional area and which normally has a water depth of no more than 3 feet. The total cross-sectional area at the point of connection to other waters of the state shall be maintained by the landowner so as not to exceed the design limitations of this exemption. This exemption does not authorize dredging in waters of the state other than in ditches as described in this subsection. All applicable permits except dredge and fill permits are required for discharges to these ditches or connected areas. This exemption does not apply to ditches in or connected to the waters described in s. 403.031(12)(a) and (b), Outstanding Florida Waters, Class I waters, or Class II waters.

(5) For the purposes of dredge and fill permitting, surface waters do not include intermittent streams or intermittent tributaries, unless there is a continuation of jurisdiction as determined pursuant to [1]Rule 17-4.022, Florida Administrative Code. Standard hydrological methods shall be used to determine which streams constitute intermittent streams and intermittent tributaries. An intermittent stream or intermittent tributary means a stream that flows only at certain times of the year, flows in direct response to rainfall, and is normally an influent stream except when the groundwater table rises above the normal wet season level. Those portions of a stream or tributary which are intermittent and are located upstream of all nonintermittent portions of the stream or tributary are not subject to dredge and fill permitting.

(6) The expanded dredge and fill jurisdiction and permitting criteria granted to the department under ss. 403.91-403.929 do not apply to any development in which 30 percent or more of the lots in a subdivision approved for sale as homesites subsequent to January 1, 1970, pursuant to chapter 498 have been sold; to any residential development for which a development order pursuant to s. 380.06 has been issued or which is exempt pursuant to s. 498.025(2)(a) and (4)(a); or to any activity for which a dredge and fill permit has been issued by the department prior to October 1, 1984. A development or activity which meets any of these conditions shall continue to be regulated pursuant to the dredge and fill jurisdiction of the department as such jurisdiction existed prior to January 24, 1984. Dredge and fill permit applications relating to such developments and activities which meet the conditions previously described shall be reviewed by the department using the permit criteria which existed prior to January 24, 1984, for 12 months after the department adopts a rule implementing ss. 403.91-403.929. Dredge and fill permit applications filed 12 months after the department adopts its rules implementing ss. 403.91-403.929 are subject to the permit criteria established by this chapter. The developer of a development or a permitholder for an activity which meets any of the conditions previously described and who asserts that the development or activity is qualified under this provision shall notify the department of such assertion within 180 days of the publication of a notice by the department of the existence of this provision. The failure to timely notify the department serves as a waiver of the benefits conferred by this provision.

(7) As to other developments the lands of which were approved for sale pursuant to chapter 498 prior to October 1, 1984, the department shall give special consideration to an application for a dredge and fill permit when the lands subject to the permit application constitute a part of the contractual obligations of the applicant incurred pursuant to land sales contracts and when there has been a continuing, bona fide effort since the date of recording of the plat to fulfill the plan of development set forth in the plat and required to be undertaken by the terms of such contractual obligations. The department must be notified of any development or activity as to which it is asserted that it is qualified for the special consideration within 180 days of the publication of a notice by the department of the existence of this provision. The failure to timely notify the department serves as a waiver of the benefits conferred by this provision.

(8) The expanded dredge and fill jurisdiction granted to the department under ss. 403.91-403.929 does not apply to any sand, limerock, or limestone mining activity which is currently operating in compliance with department rules or for which the department has previously determined that it has no jurisdiction in areas east of the Dade-Broward Levee or which holds a department permit on October 1, 1984. Such sand, limerock, or limestone mining activity shall continue to be regulated pursuant to the dredge and fill jurisdiction of the department as such jurisdiction existed prior to January 24, 1984, for a period of 10 years from October 1, 1984, provided such activity is continuous and carried out on land contiguous to mining operations which were in existence on or before October 1, 1984. Any lands acquired or leased subsequent to June 1, 1984, for such mining activity are not subject to the provisions of this subsection. Dredge and fill permit applications related to such activities shall be reviewed by the department using the existing permit criteria set forth in Rule 17-4, Florida Administrative Code, as of January 24, 1984, for 12 months after the department adopts a rule implementing ss. 403.91-403.929, at which time subsequently filed permit applications will be subject to the permit criteria of ss. 403.91-403.929. The department must be notified of any such mining activity as to which it is asserted that it is qualified under this provision within 180 days after the publication of a notice by the department of the existence of this provision. The failure to timely notify the department serves as a waiver of the benefits conferred by this provision. All such sand, limerock, or limestone mining activities are subject to jurisdiction under ss. 403.91-403.929 for any activities carried out after 10 years from October 1, 1984.

(9) The provisions of ss. 403.91-403.929 do not apply to any application which was complete prior to October 1, 1984, unless the applicant chooses to come under ss. 403.91-403.929.

History. s. 1, ch. 84-79; s. 49, ch. 87-225.

[1]**Note.** Rule 17-4.022, Florida Administrative Code, was transferred to Rule 17-4.022, Florida Administrative Code.

403.914 Jurisdictional declaratory statements.—

(1) Before applying for a permit to dredge or fill, a property owner, an entity which has the power of emi-

nent domain, or another person with a legal or equitable interest in property may petition the department for a declaratory statement of the dredge and fill jurisdiction of the department. The department shall, by rule, specify information which must be provided and may require authorization to enter upon the property. The department may require a fee of at least $250 and not more than $10,000 to cover the direct costs of acting upon the petition. The fee shall be based, by rule, upon the size and environmental complexity of the site for which the jurisdictional declaratory statement is sought.

(a) Within 30 days of the receipt of a petition for a jurisdictional declaratory statement, the department shall notify the applicant of any additional information which may be necessary. The department shall complete the assessment and issue notice of the proposed agency action within 60 days of receipt of a complete petition. The notice shall be published by the petitioner in the Florida Administrative Weekly. The provisions of ss. 120.57 and 120.59 are applicable to declaratory statements under this section. Any person whose substantial interests will be affected may petition for a hearing within 14 days of the publication of notice. If no petition for a hearing is filed, the department shall issue the jurisdictional declaratory statement within 10 days.

(b) Such jurisdictional declaratory statement is binding for a period of 5 years, so long as physical conditions on the site do not change so as to alter jurisdiction during this time period.

(c) A petitioner who disputes the proposed agency action may withdraw the petition without prejudice at any point prior to final agency action.

(d) The department may revoke a jurisdictional declaratory statement if it finds that the petitioner has submitted inaccurate information in the petition.

(2) The department also may issue informal preapplication jurisdictional determinations or otherwise institute jurisdictional determinations on its own initiative as provided by law.

(3) A jurisdictional declaratory statement obtained pursuant to this section is final agency action and is in lieu of a declaratory statement of jurisdiction obtainable pursuant to s. 120.565.

History.—s. 1, ch. 84-79; s. 5, ch. 89-324.

403.916 Local participation in permitting process.

(1) Within 10 days after the receipt of an application for a permit pursuant to ss. 403.91-403.929, the department shall transmit a copy of the application to the chief executive officer or his designee in each county and each municipality which has jurisdiction over the area for which the permit is requested.

(2) The county and municipality shall have the opportunity to file objections to a short-form dredge and fill permit application within 20 days after mailing of the application to the county or municipality, but shall have up to 60 days after mailing to file objections to any other dredge and fill permit application. The county and municipality shall have the opportunity to participate as a party to the proceeding and may request a hearing pursuant to s. 120.57 within 14 days after a notice of intended agency action has been received by the county and municipality.

(3) Nothing in ss. 403.91-403.929 alters or modifies the powers of local government or precludes a local government from adopting a dredge and fill regulatory program, provided the local governmental program is first approved by the department pursuant to s. 403.182.

History.—s. 1, ch. 84-79; s. 47, ch. 86-186.

403.918 Criteria for granting or denying permits.—

(1) A permit may not be issued under ss. 403.91-403.929 unless the applicant provides the department with reasonable assurance that water quality standards will not be violated. The department, by rule, shall establish water quality criteria for wetlands within its jurisdiction, which criteria give appropriate recognition to the water quality of such wetlands in their natural state.

(2) A permit may not be issued under ss. 403.91-403.929 unless the applicant provides the department with reasonable assurance that the project is not contrary to the public interest. However, for a project which significantly degrades or is within an Outstanding Florida Water, as provided by department rule, the applicant must provide reasonable assurance that the project will be clearly in the public interest.

(a) In determining whether a project is not contrary to the public interest, or is clearly in the public interest, the department shall consider and balance the following criteria:

1. Whether the project will adversely affect the public health, safety, or welfare or the property of others;
2. Whether the project will adversely affect the conservation of fish and wildlife, including endangered or threatened species, or their habitats;
3. Whether the project will adversely affect navigation or the flow of water or cause harmful erosion or shoaling;
4. Whether the project will adversely affect the fishing or recreational values or marine productivity in the vicinity of the project;
5. Whether the project will be of a temporary or permanent nature;
6. Whether the project will adversely affect or will enhance significant historical and archaeological resources under the provisions of s. 267.061; and
7. The current condition and relative value of functions being performed by areas affected by the proposed activity.

(b) If the applicant is unable to otherwise meet the criteria set forth in this subsection, the department, in deciding to grant or deny a permit, shall consider measures proposed by or acceptable to the applicant to mitigate adverse effects which may be caused by the project. If the applicant is unable to meet water quality standards because existing ambient water quality does not meet standards, the department shall consider mitigation measures proposed by or acceptable to the applicant that cause net improvement of the water quality in the receiving body of water for those parameters which do not meet standards. Reclamation and restoration programs conducted pursuant to s. 211.32 may be considered as mitigation to the extent that they restore or improve the water quality and the type, nature, and function of biological systems present at the site prior to the commencement of mining activities.

(3) It is the intent of the Legislature to provide for the use of certain waters as a natural means of stormwater management and to incorporate these waters into comprehensive stormwater management systems when such use is compatible with the ecological characteristics of such waters and with sound resource management. To accomplish this, within 6 months following October 1, 1984, the department shall, by rule, establish performance standards for the issuance of stormwater permits for the use of certain waters for stormwater management. The compliance with such standards creates a presumption in favor of the issuance of the stormwater management permit. Performance standards shall be adopted for waters which are dominated by those plant species listed pursuant to s. 403.817 and:

(a) Which are connected to other watercourses by artificial watercourses; or

(b) Which are connected to other waters solely by an intermittent watercourse.

(4) It is the intent of the Legislature to provide for the use of certain waters that are dominated by those plant species that are listed pursuant to s. 403.817 to receive and treat domestic wastewater that at a minimum has been treated to secondary standards. No later than December 31, 1985, the department shall, by rule, establish criteria for this activity, which criteria protect the type, nature, and function of the wetlands receiving the wastewater.

(5)(a) It is the intent of the Legislature to protect estuaries and lagoons from the damage created by construction of vertical seawalls and to encourage construction of environmentally desirable shore protection systems, such as riprap and gently sloping shorelines which are planted with suitable aquatic and wetland vegetation.

(b) No permit for dredging or filling or other construction to create a vertical seawall may be issued by the department unless one of the following conditions exists:

1. The proposed construction is located within a port as defined in s. 315.02 or s. 403.021;

2. The proposed construction is necessary for the creation of a marina, the vertical seawalls are necessary to provide access to watercraft, or the proposed construction is necessary for public facilities;

3. The proposed construction is located within an existing manmade canal and the shoreline of such canal is currently occupied in whole or in part by vertical seawalls; or

4. The proposed construction is to be conducted by a public utility when such utility is acting in the performance of its obligation to provide service to the public.

(c) When considering an application for a permit to repair or replace an existing vertical seawall, the department shall generally require such seawall to be faced with riprap material, or to be replaced entirely with riprap material unless a condition specified in subparagraph 1., subparagraph 2., subparagraph 3., or subparagraph 4. of paragraph (b) exists.

(d) This subsection shall in no way hinder any activity previously exempt or permitted or those activities permitted pursuant to chapter 161.

History.—s. 1, ch. 84-79; ss. 70, 71, ch. 84-338; s. 6, ch. 85-269; s. 4, ch. 85-334.

403.919 Equitable distribution.—The department, in deciding whether to grant or deny a permit for an activity which will affect waters, shall consider:

(1) The impact of the project for which the permit is sought.

(2) The impact of projects which are existing or under construction or for which permits or jurisdictional determinations have been sought.

(3) The impact of projects which are under review, approved, or vested pursuant to s. 380.06, or other projects which may reasonably be expected to be located within the jurisdictional extent of waters, based upon land use restrictions and regulations.

History.—s. 1, ch. 84-79; s. 48, ch. 86-186.

403.92 Notice of intent to deny a permit or notice of denial of a permit; contents.—In the event that the department issues a notice of intent to deny a permit or denies a permit required pursuant to ss. 403.91-403.929, such notice or denial shall contain an explanation by the department of the reasons for denial and an explanation, in general terms, of what changes, if any, in the permit application are necessary in order for the department to approve the proposed project.

History.—s. 1, ch. 84-79.

403.921 Permits; duration; fees.—

(1)(a) A permit issued under ss. 403.91-403.929 shall be valid for a period not to exceed 10 years. However, except for permits issued for dredging river channels, the department may issue a permit for a period not to exceed 25 years if the applicant provides the department with reasonable assurances that:

1. The activity for which the permit is granted cannot reasonably be expected to be completed within 10 years after commencement of construction; or

2. The activity for which the permit is granted will cover an area of such size that it would not allow the department to accurately assess the total impact of the project and the potential for mitigation or restoration, if permitted by separate permits;

and the applicant supplies the department with sufficient information to allow the department to accurately assess the impact of the project for the permitted period.

(b) Notwithstanding the provisions of chapter 120, the department shall adopt by rule a timetable for processing permits which will be granted for periods of more than 10 years. In no event shall the timetable exceed 135 days after receipt of a complete application.

(c) Every permit issued for a period of time in excess of 5 years shall be reviewed at the expiration of the first 5-year period and every 5 years thereafter:

1. To ensure that the conditions of the permit are being met by the applicant, and

2. To automatically include as permit conditions all applicable rules adopted during the prior 5-year period. If the permit applicant has acted in reliance upon a permit which was issued for a period of 10 years or more, this subparagraph will not apply until the expiration of the initial 10-year period.

(d) This subsection does not apply to any permit issued pursuant to s. 403.816.

(2) The department is authorized to establish a sliding scale of appropriate fees for projects which seek permits for a period of time which exceeds 5 years, based on the duration of the permit, with a minimum fee of $1,250 and a maximum fee of $25,000. Such funds shall be deposited in the Florida Permit Fee Trust Fund created by s. 403.0871.

History.—s. 1, ch. 84-79; s. 21, ch. 89-175; s. 6, ch. 89-324.

403.922 Applications for activities on state sovereignty lands or other state lands.—If sovereignty lands or other lands owned by the state are the subject of a proposed activity, the issuance of a permit by the department shall be conditioned upon the receipt by the applicant of all necessary approvals and authorizations from the Board of Trustees of the Internal Improvement Trust Fund prior to the undertaking of such activity. The department shall issue its permit conditioned upon the securing of the necessary consent or approvals from the Board of Trustees of the Internal Improvement Trust Fund by the applicant. If the approval or authorization of the board is required, the applicant may not commence any excavation, construction, or other activity until such approval or authorization has been issued.

History.—s. 1, ch. 84-79.

403.923 Effect of issuance of permit on need to obtain other permits under this chapter.—The issuance of a permit under ss. 403.91-403.929 does not relieve the applicant from the requirement of obtaining any other permit which may be required under the other provisions of this chapter.

History.—s. 1, ch. 84-79.

403.924 Enforcement of ss. 403.91-403.929.—

(1) A violation of the requirements of ss. 403.91-403.929 or a rule, permit, or order issued hereunder by the department or of an approved local program is punishable by a civil penalty as provided in s. 403.141 or a criminal penalty as provided in s. 403.161.

(2) The department or any approved local program may seek to enjoin the violation of or to enforce compliance with the provisions of ss. 403.91-403.929, or any rule, permit, or order issued hereunder, as provided in ss. 403.121, 403.131, 403.141, and 403.161.

(3) A permit issued under ss. 403.91-403.929 may be revoked upon the same grounds as are provided in s. 403.087.

(4) The department or the Board of Trustees of the Internal Improvement Trust Fund has the authority to direct an abutting upland owner to remove from submerged sovereignty lands or state-owned lands any fill created in violation of ss. 403.91-403.929, except that the department or the board may consider the time at which the submerged land was filled, the length of upland ownership by the current owner, and any other equitable consideration. In the event that the abutting upland owner does not remove such fill as directed, the department or board may remove it at its own expense, and the costs of removal will become a lien upon the property of such abutting upland owner. However, the department and board may, if they choose, allow such fill to remain as state-owned land and may employ a surveyor to determine the boundary between such state land and that of the abutting upland owner. The amount of the cost of such survey will become a lien on the property of the abutting upland owner. Nothing herein may be construed to grant the department or the board authority to direct an upland owner to adjust, alter, or remove silt, fill, or other solid material which has accumulated or has been deposited seaward of his property, through no fault of the owner.

History.—s. 1, ch. 84-79; s. 6, ch. 89-143.

403.925 Review of departmental action.—Final actions of the department under ss. 403.91-403.929 shall be reviewed pursuant to chapter 120.

History.—s. 1, ch. 84-79.

403.927 Use of water in farming and forestry activities.—

(1) The Legislature recognizes the great value of farming and forestry to this state and that continued agricultural activity is compatible with wetlands protection. In order to avoid unnecessary expense and delay from duplicative programs, it is the intent of the Legislature to provide for the construction and operation of agricultural water management systems under authority granted to water management districts and to control, by the department or by delegation of authority to water management districts, the ultimate discharge from agricultural water management systems.

(2) Agricultural activities and agricultural water management systems are authorized by this section and are not subject to the provisions of s. 403.087 or ss. 403.91-403.929, nor shall the department enforce water quality standards within an agricultural water management system. The department may require a stormwater permit or appropriate discharge permit at the ultimate point of discharge from an agricultural water management system or a group of connected agricultural water management systems. Impacts of agricultural activities and agricultural water management systems on groundwater quality shall be regulated by water management districts.

(3) If land served by a water management system is converted to a use other than an agricultural use, the water management system, or the portion of the system which serves that land, will be subject to the provisions of this chapter.

(4) As used in this section, the term:

(a) "Agricultural activities" includes all necessary farming and forestry operations which are normal and customary for the area, such as site preparation, clearing, fencing, contouring to prevent soil erosion, soil preparation, plowing, planting, harvesting, construction of access roads, and placement of bridges and culverts, provided such operations do not impede or divert the flow of surface waters.

(b) "Agricultural water management systems" means farming and forestry water management or irrigation systems and farm ponds which are permitted pursuant to chapter 373 or which are exempt from the permitting provisions of that chapter.

History.—s. 1, ch. 84-79.

403.929 Wetlands monitoring system.—

(1) The department, in cooperation with the water

management districts and other state agencies, shall establish a central wetlands monitoring system that will

(a) Determine the general location and acreages of wetland areas in the state.

(b) Identify impacts to and losses of wetlands due to permits issued by either the department or the water management districts and identify known losses of wetlands from unregulated or exempted activities or from changes in natural conditions.

(c) Compile and maintain a statistical record of all action taken on permits, including the number granted, denied, or withdrawn; the area permitted to be disturbed, and, where applicable, the acreage preserved or restored as a result of mitigation or permit conditions.

(2) It is the intent of the Legislature that the department utilize existing, available information to the greatest extent practicable in developing this inventory of wetlands, including Landsat digital data, federal agency data, and data currently in the possession of the department, the water management districts, and other state, regional, or local agencies. The department shall annually prepare a report reflecting the information requested in paragraphs (1)(b) and (c), to be delivered to the Legislature on or before February 1 of each year. The information contained in this report shall not be used for regulatory purposes.

History.—s. 1, ch. 84-79, s. 57, ch. 85-81.

403.93 Definitions of terms used in ss. 403.93-403.938.—For the purposes of ss. 403.93-403.938, the term:

(1) "Alter" means to cut, remove, defoliate, or otherwise destroy but does not mean selective trimming which does not eliminate the biological integrity of the individual plant.

(2) "Mangrove" means any specimen of the species *Laguncularia racemosa* (white mangrove), *Rhizophora mangle* (red mangrove), or *Avicennia germinans* (black mangrove).

History.—s. 50, ch. 84-338.

403.931 Alteration of mangroves; permit procedure.—

(1) No person may alter or cause to be altered any mangrove in waters where a permit is required for dredging or filling except pursuant to a permit issued by the department or as otherwise provided by ss. 403.93-403.938. Any violation of this section shall be presumed to have occurred with the knowledge and consent of any owner, trustee, or other person who directly or indirectly has charge, control, or management, either exclusively or with others, of the property upon which such violation occurs. However, this presumption may be rebutted by competent, substantial evidence that the violation was not authorized by the owner, trustee, or other person.

(2) No separate application is required for an alteration permit if the alteration is addressed in an application for a dredge or fill permit or certification or application for boat dock or walkway under this chapter; the procedures for dredge or fill permitting will control in such instances.

(3) The department, on or before September 30, 1986, shall adopt a general permit in accordance with s. 403.814, which permit authorizes the alteration of mangroves in accordance with procedures designed to protect the integrity of mangrove trees. The department, on or before September 30, 1986, shall establish a special general permit to allow for alteration of mangroves in manmade canals constructed after January 1, 1957, which were upland of waters of the state as defined in s. 403.817 and are not directly connected to a Class II water body or to Outstanding Florida Waters.

(4) The provisions of ss. 403.93-403.938 do not apply to any alteration that was addressed in a dredge and fill application which was complete prior to July 1, 1984, unless the applicant chooses to come under this act.

(5) Notwithstanding the provisions in subsection (3), a landowner has the right to selectively trim individual mangrove plants in order to better enjoy the coastal water vistas and other aesthetic qualities associated with the ownership of riparian lands.

History.—s. 51, ch. 84-338, s. 49, ch. 86-186.

403.932 Exceptions and authorized alterations of mangroves.—The provisions of this act do not apply to

(1) The alteration of mangrove trees by a duly constituted communication, water, sewerage, electrical, or other utility company or a federal, state, county, or municipal agency, or engineers or surveyors working under a contract with such utility company or agency, when such alteration is done as a governmental function of such agency.

(2) The alteration of mangrove trees by a duly constituted communication, water, sewerage, electrical, or other utility company in or adjacent to a public or private easement or right-of-way, provided such alteration is limited to those areas where it is necessary for the maintenance of existing lines or facilities or for the construction of new lines or facilities in furtherance of providing utility service to its customers and provided such alteration is conducted so as to avoid any unnecessary alteration of mangrove trees.

(3) The alteration of mangrove trees by a duly constituted communication, water, sewer, or electrical utility company on the grounds of a water treatment plant, sewage treatment plant, or electric power plant or substation in furtherance of providing utility service to its customers, provided such alteration is conducted so as to avoid any unnecessary alteration of mangrove trees.

(4) The alteration of a mangrove tree by a state-licensed land surveyor in the performance of his duties provided such alteration is to individual trees. The alteration of mangrove trees by a surveyor, which alteration requires trimming a swath greater than 3 feet in width requires approval by the department prior to such alteration.

History.—s. 56, ch. 84-338, s. 50, ch. 86-186.

403.933 Alteration of mangroves; criteria.—By June 1, 1985, the department shall adopt a rule which specifies criteria for altering mangroves and a procedure for issuing permits to do so. Such criteria shall be based solely upon the dredge and fill permit criteria set forth in this chapter.

History.—s. 54, ch. 84-338.

403.935 Restoration of unlawfully altered mangroves.—In the event that a violator does not restore al

tered mangroves to the standards of the Department of Environmental Regulation, the department may restore the altered mangroves at its own expense, and the cost of the restoration will become a lien upon the property of the violator.

History.—s. 52, ch. 84-338.

403.936 Enforcement of provisions relating to mangroves.—The responsibility of the department for the enforcement of the provisions of ss. 403.93-403.938 shall be pursuant to ss. 403.141 and 403.161.

History.—s. 53, ch. 84-338; s. 6, ch. 89-143.

403.938 Variance relief.—Upon application, the department may grant a variance from the provisions of ss. 403.93-403.938 if compliance therewith would impose a unique and unnecessary hardship on the owner or any other person in control of the affected property. Relief may be granted only upon demonstration that such hardship is peculiar to the affected property and is not self-imposed and that the grant of the variance will be consistent with the general intent and purpose of ss. 403.93-403.938. The department may grant variances as it deems appropriate.

History.—s. 55, ch. 84-338.

CHAPTER 404

RADIATION

404.011 Short title.
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404.22 Radiation machines and components; inspection.
404.30 Southeast Interstate Low-Level Radioactive Waste Management Compact; party state.
404.31 Florida participation.

[1]404.011 Short title.—This chapter shall be known and may be cited as the "Florida Radiation Protection Act."

History.—s. 1, ch. 78-373, s. 2, ch. 81-318, ss. 17, 18, ch. 84-190.

[1]Note.—Repealed effective October 1, 1994, by s. 18, ch. 84-190, and scheduled for review pursuant to s. 11.61 in advance of that date.

Note.—Former s. 290.011.

[1]404.022 Declaration of policy.—It is the responsibility of the State of Florida, for protection of the public health and safety:

(1) To institute and maintain a program to permit development and utilization of sources of radiation for purposes consistent with the health and safety of the public.

(2) To prevent any associated harmful effects of radiation upon the public through the institution and maintenance of a regulatory program for all sources of radiation, providing for:

(a) A single effective system of regulation within the state.

(b) A system consonant with those of other states.

(c) Compatibility with the standards and regulatory programs of the Federal Government for byproduct, source, and special nuclear materials.

History.—s. 1, ch. 78-373, s. 2, ch. 81-318, ss. 17, 18, ch. 84-190.

[1]Note.—Repealed effective October 1, 1994, by s. 18, ch. 84-190, and scheduled for review pursuant to s. 11.61 in advance of that date.

Note.—Former s. 290.021.

[1]404.031 Definitions.—As used in this chapter, unless the context clearly indicates otherwise, the term:

(1) "Agreement materials" means those materials licensed by the state, under agreement with the United States Nuclear Regulatory Commission or its successor agency, which include byproduct, source, or special nuclear materials in a quantity not sufficient to form a critical mass, as defined by the Atomic Energy Act of 1954, as amended.

(2) "Agreement state" means any state which has consummated an agreement with the United States Nuclear Regulatory Commission under the authority of s. 274 of the Atomic Energy Act of 1954, as amended, as authorized by compatible state legislation providing for acceptance by that state of licensing authority for agreement materials and the discontinuance of such activities by the United States Nuclear Regulatory Commission.

(3) "Byproduct material" means any radioactive material, except special nuclear material, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.

(4) "Commercial low-level radioactive waste management facility" means a parcel of land, together with the structures, equipment, and improvements thereon or appurtenant thereto, which is used or is being developed by a person for the treatment, storage, or disposal of low-level radioactive waste other than that person's own generated waste.

(5) "Commercial low-level radioactive waste management license" means a specific license issued, after application, to a person to construct, operate, or provide for the closure and stabilization of a treatment, storage, or disposal facility in order to treat, store, or dispose of low-level radioactive waste other than that person's own generated waste.

(6) "Department" means the Department of Health and Rehabilitative Services.

(7) "Emergency" means any condition existing outside the bounds of nuclear operating sites owned or licensed by a federal agency, and further means any condition existing within or outside the jurisdictional confines of a facility licensed by the department and arising from byproduct material, source material, special nuclear materials, or other radioactive materials, which is endangering, or could reasonably be expected to endanger, the health and safety of the public or to contaminate the environment.

(8) "General license" means a license effective pursuant to rules promulgated under the provisions of this chapter without the filing of an application to transfer,

acquire, own, possess, or use quantities of, or devices or equipment utilizing, byproduct, source, or special nuclear materials or other radioactive materials occurring naturally or produced artificially.

(9) "Ionizing radiation" means gamma rays and X rays, alpha and beta particles, high-speed electrons, protons, neutrons, and other nuclear particles, but not sound or radio waves or infrared, ultraviolet, or visible light.

(10) "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state, or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing, other than the United States Nuclear Regulatory Commission, or any successor thereto, and other than Federal Government agencies licensed by the United States Nuclear Regulatory Commission, or any successors thereto.

(11) "Radiation" means ionizing radiation.

(12) "Radiation machine" means any device designed to produce, or which produces, radiation or nuclear particles when the associated control devices of the machine are operated.

(13) "Radioactive material" means any solid, liquid, or gas which emits ionizing radiation spontaneously; however, this definition does not include radioactive wastes regulated pursuant to the hazardous waste management sections of the federal Resource Conservation and Recovery Act of 1976 or the Department of Environmental Regulation's assumption of that program.

(14) "Radioactive waste" means any equipment or materials which are radioactive or have radioactive contamination and which are required pursuant to any governing laws, regulations, or licenses to be stored, treated, or disposed of as radioactive waste. The term "radioactive waste" is further defined as follows:

(a) "High-level waste" means irradiated reactor fuel, liquid wastes from reprocessing irradiated reactor fuel, and solids into which such liquid wastes have been converted.

(b) "Low-level waste" means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in s. 11(e)(2) of the Atomic Energy Act of 1954.

(c) "Transuranic waste" means waste material containing transuranic elements with contamination levels greater than 10 nanocuries per gram of waste.

(15) "Registration" means the registering of a radiation machine with the department in accordance with the rules promulgated pursuant to this chapter.

(16) "Source material" means:

(a) Uranium, thorium, or any other material which the department declares to be source material after the United States Nuclear Regulatory Commission, or any successor thereto, has determined the material to be such; or

(b) Ores containing one or more of the foregoing materials in such concentration to be source material.

(17) "Sources of radiation" means, collectively, radioactive material and radiation machines.

(18) "Special nuclear material" means:

(a) Plutonium, uranium 233, uranium 235, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the department declares to be a special nuclear material after the United States Nuclear Regulatory Commission, or any successor thereto, has determined the material to be such, but does not include source material; or

(b) Any material artificially enriched by any of the foregoing, but does not include source material.

(19) "Specific license" means a license, issued after application, to use, manufacture, produce, transfer, receive, acquire, own, or possess quantities of, or devices or equipment utilizing, byproduct material, source material, special nuclear material, or other radioactive material occurring naturally or produced artificially.

(20) "United States Nuclear Regulatory Commission" means the United States Nuclear Regulatory Commission or its successor agency.

History.—s. 1, ch. 78-373; s. 2, ch. 81-318; ss. 3, 22, ch. 82-186; ss. 1, 17, 18, ch. 84-190.

[1]**Note.**—Expires October 1, 1994, pursuant to s. 18, ch. 84-190, and is scheduled for review pursuant to s. 11.61 in advance of that date.

Note.—Former s. 290.031

[1]404.042 Designation of state radiation protection agency.—The department is hereby designated the state agency to administer a statewide radiation protection program consistent with the provisions of this chapter.

History.—s. 1, ch. 78-373; s. 2, ch. 81-318; ss. 4, 22, ch. 82-186; ss. 17, 18, ch. 84-190.

[1]**Note.**—Repealed effective October 1, 1994, by s. 18, ch. 84-190, and scheduled for review pursuant to s. 11.61 in advance of that date.

Note.—Former s. 290.041.

[1]404.051 Powers and duties of the Department of Health and Rehabilitative Services.—For protection of the public health and safety, the department is authorized to:

(1) Develop comprehensive policies and programs for the evaluation, determination, and amelioration of hazards associated with the use, possession, or disposal of sources of ionizing radiation. Such policies and programs shall be developed with due regard for compatibility or consistency with federal programs for regulation of radiation machines and byproduct, source, and special nuclear materials.

(2) Advise, consult, and cooperate with other agencies of the state, the Federal Government, other states, interstate agencies, political subdivisions, and other organizations concerned with the safe use of sources of radiation.

(3) Encourage, participate in, or conduct studies, investigations, public hearings, training, research, and demonstrations relating to the control of sources of ionizing radiation, the measurement of ionizing radiation, the effect upon public health and safety of exposure to ionizing radiation, and related problems.

(4) Adopt, promulgate, amend, and repeal rules and standards which may provide for licensure, registration, or regulation relating to the manufacture, production, transportation, use, possession, handling, treatment, storage, disposal, sale, lease, or other disposition of radioactive material, including naturally occurring radioactive material and low-level radioactive waste, and radiation machines as may be necessary to carry out the provisions of this chapter. The recommendations of nation-

ally recognized bodies in the field of radiation protection shall be taken into consideration in the adoption, promulgation, amendment, and repeal of such rules and standards.

(5) Require the submission of plans, specifications, and reports for new construction and material alterations on the design and protective shielding of installations for radioactive material and radiation machines, excluding X-ray machines of less than 200,000 volts potential, and on systems for the disposal of radioactive wastes, for the determination of any ionizing radiation hazard, and it may render opinions and approve or disapprove such plans and specifications.

(6) Require all sources of ionizing radiation to be shielded, transported, handled, used, possessed, treated, stored, or disposed of in a manner to provide compliance with the provisions of this chapter and rules and standards adopted hereunder.

(7) Conduct evaluations of the levels of radioactive materials in the environment for the purpose of determining whether there is compliance with, or violation of, the provisions or standards contained in this chapter or the rules issued pursuant hereto or to otherwise protect the public health and safety.

(8) Collect and disseminate information relating to the control of sources of ionizing radiation, including, but not limited to:

(a) Maintenance of files of all radioactive material license applications, issuances, denials, amendments, transfers, renewals, modifications, suspensions, and revocations.

(b) Maintenance of files of all radiation machine registrants requiring registration under the provisions of this chapter.

(c) Maintenance of files of department licensees and nuclear power plant licensees of the United States Nuclear Regulatory Commission that generate low-level radioactive waste, recording the quarterly amount of low-level radioactive waste shipped by each licensee to commercial low-level radioactive waste management facilities.

(9) Require, on forms prescribed and furnished by the department, registration and periodic reregistration of radiation machines, and licensing and periodic renewal of licenses for radioactive materials.

(10) Exempt certain sources of ionizing radiation, or kinds of uses or users, from the licensing or registration requirements set forth in this chapter when the department determines that the exemption of such sources of ionizing radiation, or kinds of users or uses, will not constitute a significant risk to the health and safety of the public.

(11) Promulgate rules pursuant to this chapter which may provide for the recognition of other state and federal licenses as the department deems desirable, subject to such registration requirements as it may prescribe.

(12) Respond to any emergency which involves possible or actual release of radioactive materials, carry out or supervise any required decontamination, and otherwise protect the public health and safety.

(13) Act as the designated state agency in this state responsible for ensuring compliance with the provisions of the Southeast Interstate Low-Level Radioactive Waste Compact and for assessing penalties for noncompliance with such provisions as prescribed in ss. 404.161 and 404.162.

(14) Require department licensees and nuclear power plant licensees of the United States Nuclear Regulatory Commission to take appropriate measures to reduce the volume of low-level radioactive waste they generate, and to monitor the progress of department licensees and nuclear power plant licensees of the commission in reducing such volume.

(15) Develop and implement a responsible data-management program for the purpose of collecting and analyzing statistical information necessary to protect the public health and safety and to reply to requests from the Southeast Interstate Low-Level Radioactive Waste Commission for data and information.

(16) Accept and administer loans, grants, or other funds or gifts, conditional or otherwise, in furtherance of its functions from the Federal Government and from other sources, public or private.

History.—s. 1, ch. 78-373; s. 2, ch. 81-318; ss. 5, 22, ch. 82-186; ss. 2, 17, 18, ch. 84-190.

[1]**Note.**—Expires October 1, 1994, pursuant to s. 18, ch. 84-190, and is scheduled for review pursuant to s. 11.61 in advance of that date.

Note.—Former s. 290.052.

[1]404.056 Environmental radiation standards and programs; radon protection.—

(1) STANDARDS.—To preserve and protect the public health, the department is authorized to establish, by rule, environmental radiation standards for buildings, and to conduct programs designed to reduce human exposure to such harmful environmental radiation. In the establishment of such standards, the department shall consider:

(a) Existing federal standards or guidelines.

(b) The recommendations of nationally recognized bodies which are expert in the field of radiation protection.

(c) The radiation effect of water supplies.

(d) The use made, or to be made, of the land for residential dwellings, public or private schools, health care facilities, or other purposes.

(e) The availability of measures to mitigate the effect of the radiation.

For the purposes of this section, "building" means any structure that encloses space used for sheltering any occupancy. Each portion of a building separated from other portions by a firewall shall be considered a separate building.

[2](2) RADON RESEARCH.—Research, training, and service activities related to the detection, control, and abatement of radon conducted by state universities shall be coordinated by the Board of Regents through the Office of the Chancellor. State university-related research conducted under this subsection shall result in specific recommendations for the development of standards for building codes for radon-resistant buildings and shall result in the drafting of a building code for radon-resistant buildings. Such activities shall be carried out in consultation with the Department of Community Affairs. State university proposals for research contracts and grants, state university public service assignments, and state university responses to requests for in-

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LISTING OF AMENDMENTS 17

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17-101.010 Agency Description.

(1) The Department of Environmental Regulation is a component of the executive branch of the State of Florida authorized by Section 20.261, Florida Statutes. It was created by the Florida Environmental Reorganization Act of 1975 (Chapter 75-22, Laws of Florida).

(2) The Secretary, pursuant to Subsection 20.261(1), F.S., is the head of the Department of Environmental Regulation, and is appointed by the Governor and confirmed by the Senate. In addition to the powers and duties delegated to the Secretary by Chapter 75-22, Laws of Florida (1975), Section 403.805, F.S., the Secretary may exercise those powers delegated to heads of state departments by Section 20.05, F.S. The Secretary has authority to adopt, by rule, all procedures followed and forms used by the Department; and except as provided in subsection (3) to exercise the Department's rulemaking powers under Chapters 373, 376, 380, and 403, F.S.

(3) The Environmental Regulation Commission was created by the Florida Environmental Reorganization Act as part of the Department. It is composed of seven citizens, appointed by the Governor and confirmed by the Senate, who represent various geographical regions and interest groups of the state. The Commission adopts standards as defined in Section 403.803(13), F.S., and made specific by Rule 17-103.015, F.A.C.; gives final state approval on applications for and disbursements of federal and state grants for wastewater treatment works; and may adopt procedural rules governing the conduct of its meetings and hearings.

Specific Authority: 120.53(1)(a), F.S.
Law Implemented: 120.53(1)(a), F.S.
History: New 2-6-78, Transferred from 17-1.01 and Amended 6-1-84, 8-31-89.

17-101.011 Environmental Regulation Commission Delegation. The Environmental Regulation Commission delegates to the Chairman the authority to enter procedural orders and to enter final orders reflecting decisions of the Commission.

Specific Authority: 120.53(1), F.S.
Law Implemented: 120.53(1), F.S.
History: New 9-18-85.

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17-101.020 Address and Office Hours; District and Branch Offices.

(1) The address of the Department is:

2600 Blair Stone Road
Twin Towers Office Building
Tallahassee, Florida 32399-2400
(904) 488-4805

(2) Office hours are 8:00 a.m. until 5:00 p.m. each weekday except holidays.

(3) The Department has district and branch offices throughout the state. The following map gives the address and telephone number of the Department's headquarters and district and branch offices. (Figure 1)

Specific Authority: 120.53(1)(a), F.S.
Law Implemented: 120.53(1)(a), F.S.
History: New 2-6-78, Amended 4-28-81, Transferred from 17-1.02 and Amended 6-1-84, Amended 9-21-88, 8-31-89.

17-101.025 Public Information; Inspection and Copying of Records.

(1) Copies of rules, orders, publications or forms issued by the Department may be obtained upon personal or written request to the Information Center at the Department's address set forth in Rule 17-101.020(1). The Department also has district and branch offices throughout the state, which are identified in Rule 17-101.020(3), Figure 1, from which rules, forms, and copies of some publications and orders may be obtained. Other documents, including files relating to Department permitting and enforcement activities, are available for inspection at the Department office responsible for undertaking the activity for which information is sought.

(2) Official Department records may not be removed from Department offices by the public. However, all public records as defined in Chapter 119, Florida Statutes, may be inspected or copied in accordance with Section 119.07, Florida Statutes, upon request identifying the documents or categories of documents to be examined or copied. Department records which are confidential pursuant to Sections 119.07(3) or 403.111, Florida Statutes, or Rule 17-30.310, Florida Administrative Code, are not available for public inspection or copying.

(3) Payment for copies of public records must be made in advance by cash, check, or money order payable to the Department of Environmental Regulation. Charges for copies of Department records are made in accordance with Section 119.07, Florida Statutes.

Specific Authority: 120.53(1)(a), F.S.
Law Implemented: 120.53(1), F.S.
History: New 9-21-88.

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17-101.030 Statutes Affecting Agency Operations. The Department of Environmental Regulation has responsibility for regulating certain activities or carrying out statutory duties which affect the quality of Florida's environment, including: dredging and filling in navigable waters under Chapter 253, Florida Statutes, administration of the Water Resources Act of 1972, Chapter 373, Florida Statutes, which includes general supervision of the water management districts; review and approval of formation of water control districts under Chapter 298, Florida Statutes; administration of Chapter 403, Florida Statutes, which includes regulation of air, water, and noise pollution, solid and hazardous waste management, power plant siting, public drinking water supplies, licensing of water and sewage treatment plant operators, and state pollution control bonds; the prevention or cleanup of pollutant spills or discharges in or on inland waters or lands of the state, pursuant to Chapter 376, Florida Statutes; Coastal Zone Management, pursuant to Chapter 380, Part II, Florida Statutes; and Industrial Siting, pursuant to Sections 288.501 - 288.518, Florida Statutes.

Pursuant to Section 380.19 and Section [1]23.0114(4), Florida Statutes, the Department is also responsible for the development of and submittal to the Legislature of a coastal zone management program which complies with the requirements of the federal Coastal Zone Management Act of 1972. In addition, the Department is responsible for performing the State's obligations under several federal statutes, including the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500), the Clean Air Act (Public Law 91-604, Public Law 92-157, Public Law 93-15, Public Law 93-319, Public Law 95-95), the Safe Drinking Water Act (Public Law 93-523), the Noise Control Act of 1972 (Public Law 92-574), the Water Resources Planning Act (Public Law 89-80, Public Law 91-512), and the Coastal Zone Management Act of 1972 (Public Law 92-583), The Resource Conservation and Recovery Act of 1976 (Public Law 94-580), as they are amended from time to time.

Specific Authority: 120.53(1)(a), F.S.
Law Implemented: 120.53(1)(a), F.S.
History: New 2-6-78, Transferred from 17-1.03 and Amended 6-1-84.

[1]REGfile·system Editor's Note: Section 23.0114, F.S., was renumbered as 186.007, F.S., effective July 1, 1984, by s. 5, Chapter 84-257, Laws of Florida.

17-101.040 Delegation of Authority by Secretary. The Secretary, as head of the Department, has delegated authority as follows:

(1) To the Assistant Secretary of the Department to act on behalf of the Secretary in all matters during the absence of the Secretary, including the signing of contracts, and in the absence of both the Secretary and Assistant Secretary to a designated Division Director to act in the Secretary's behalf on all matters.

(2) To the Director, Division of Administrative and Technical Services, to act on behalf of the Secretary on all purchasing, office space leasing, personnel and budget matters.

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(3) To the General Counsel, to accept service of process in lawsuits filed against that agency; and to make the determination within ten days of receipt of a petition for an administrative determination of whether or not to refer the petition to DOAH for the assignment of the proceeding to a Hearing Officer, or whether or not to commence informal proceedings pursuant to Section 120.57(2), F.S.

(4) To the Deputy Assistant Secretaries and in the absence of the Deputy Assistant Secretaries, to the person designated by the Deputy Assistant Secretary in writing to act in behalf of the Deputy Assistant Secretary, authority to take the following agency actions.

(a) To complete, sign and submit to the appropriate authority applications and all other necessary documents relating to the laboratory use of alcohol by the District Offices pursuant to Section 6 of Chapter 75-22, Laws of Florida, and Section 20.05, Florida Statutes. This authority is also delegated to the Chief of the biological section, relating to the use of alcohol by the biological laboratory.

(b) To approve or deny engineering plans and related documents covering proposed public water supply improvement projects, e.g., new water treatment plants or modifications, distribution system extensions, and water well installations. Sections 403.850 through 403.864, Florida Statutes.

(c) To approve or deny permits, including execution of notices of intent to approve or deny such permits, to construct public water supply wells. Sections 403.850 through 403.864, Florida Statutes.

(d) To approve or deny short form permits for those types of projects in Section 403.813(1), Florida Statutes, and Rules 17-4.280 and 17-4.290, F.A.C., including execution of notices of intent to issue or deny such permits.

(e) With regard to domestic wastewater treatment and industrial wastewater treatment facilities, air pollution sources, sanitary landfills, hazardous waste facilities, sources of groundwater contamination, and underground injection control, the following authority is delegated:

1. To approve and deny construction, operation and temporary operation permits under Chapter 403, Florida Statutes, including execution of notices of intent to approve or deny such permits;

2. To approve and deny requests for extensions of expiration dates of construction permits, including execution of notices of intent to take such action;

3. To approve and deny requests for the issuance or renewal of operation permits where the subject facility or operation is meeting Department standards and requirements, including execution of notices of intent to take such action;

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4. To approve, deny and order modifications of operation permits, including execution of notices of intent to take such actions;

5. To approve and deny requests for the extension or revision of compliance dates and conditions in temporary operation permits after public notice, where a good faith effort has been made by the applicant to meet the deadlines and requirements in the temporary operation permit, including execution of notices of intent to take such action; and

6. To issue the appropriate public notice for all of the types of permits delegated to the districts.

(f) To issue notices of intent to deny, or approve and to issue final orders of denial when no administrative hearing has been requested for short form dredge and fill applications, and other applications described in Rule 101.040(4), F.A.C.

(g) Upon approval by the Office of General Counsel, to execute consent orders, notices of violation, orders for corrective action, and final orders on matters for which no request for hearing has been timely filed.

(h) To act on authorizations for restoration pursuant to DER Form 17-1.203(3).

(i) To approve or deny permits for the Management and Storage of Surface Waters under Chapter 373, Part IV, Florida Statutes, for the construction, alteration, operation, maintenance, abandonment, or removal of surface water management systems which are to serve or which already serve hazardous, solid, industrial, or domestic waste facilities within the boundaries of the St. Johns River Water Management District.

(5) To the Director, Division of Air Resources Management or, at the Director's discretion, to the Chief of the Bureau of Air Regulation, authority to issue notices of agency action on construction permit applications for major air facilities pursuant to Chapter 403, F.S., and Chapter 17-2, F.A.C.

(6) To the Director, Division of Water Management, or, at the Director's discretion, to the Deputy Director or the Chief of the Bureau of Wetland Resource Management, the following authority:

(a) to issue notices of agency action on standard applications for wetland resource management projects pursuant to Chapter 403, F.S., and Rules [2]17-12.150 and [2]17-12.160, F.A.C.

(b) to approve or deny requests for alternate procedures and requirements for sanitary landfills pursuant to Rule [3]17-7.078, FAC;

(c) to approve or deny requests for alternate procedures and requirements for stationary tank facilities pursuant to Rule 17-61.080, FAC.

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(7) To the Director, Division of Water Facilities or, at his/her discretion, the Deputy Director, certification of NPDES permits pursuant to Public Law 92-500, Section 401.

(8) To the Chief, Bureau of Local Government Wastewater Financial Assistance, the following authority:

(a) To take all actions to administer the federal wastewater treatment grants program which are designated as the responsibility of the Secretary of the Department in paragraph [4]17-50.002(2)(c), FAC, with the exception of the following sections of Title 40 of the Code of Federal Regulations (40 CFR) which have been adopted by reference in Section 17-50.015:

1. Application for federal grants pursuant to 40 CFR 35 [5]Subpart P, 35.2023 and 35.2040(d);

2. Authorization for advance allowance payments pursuant to 40 CFR 35.2025(b).

(b) To take all actions to administer the state wastewater treatment grants program which are designated as the responsibility of the Secretary in paragraph [4]17-50.002(3)(b) with the exception of grant offers, amendments involving changes in the grant amount, revocation, termination, or annulment pursuant to 40 CFR 30.305, 30.700(c), 30.900, 30.903, 30.904, and 35.2042 (b)(2)(i), which have been adopted by reference in Section [4]17-50.015.

(9) To the following for their respective organizational unit, the authority to take final agency action, pursuant to Chapters 17-130 and 22A-10, F.A.C., for disciplinary actions and for personnel actions against employees in their unit whose performance is less than satisfactory, including actions to reduce the employee's pay, suspension, demotion, transfer, and dismissal, or who have violated the Department's Personnel Rules, Chapter 17-130, F.A.C.:

(a) the Director of the Division of Administrative and Technical Services or, at his/her discretion, the appropriate Deputy Director within the Division;

(b) the Director of the Division of Water Management or, at his/her discretion, the Deputy Director;

(c) the Director of the Division of Water Facilities or, at his/her discretion, the Deputy Director;

(d) the Director of the Division of Air Resources Management or, at his/her discretion, the Deputy Director;

(e) the Director of the Division of Waste Management or, at his/her discretion, the Deputy Director;

(f) the Assistant Secretary of the Department for the Office of the Secretary;

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(g) the General Counsel for the Office of General Counsel; and

(h) the Deputy Assistant Secretaries for the district offices.

(10) To the Bureau Chiefs or their organizational equivalent, the authority to dismiss, suspend, demote, transfer, or reassign any employee who does not have permanent status in the career service in their respective organizational unit.

(11) To the approved local programs, the Water Management Districts, and other state agencies according to specific agreements, to function as agents for the Department in those activities designated by the Department which, in the judgment of the Department, may be performed individually by each program, district or agency at a level required by applicable statutes or rules relating to these activities. These specific operating agreements are on file with the Department and available for public inspection.

(12)(a) To the South Florida Water Management District, the Southwest Florida Water Management District, the St. Johns River Water Management District, the Suwannee River Water Management District, and the Northwest Florida Water Management District the authority to administer and enforce those provisions of Chapter 373, Florida Statutes, water quality and other functions of the Department, and the rules of the Department as have been delegated from time to time to the Districts by order of the Secretary, after fourteen (14) days notice to the Governing Board and publication in the Florida Administrative Weekly. Authority delegated shall be listed in this rule subsequent to delegation. The following Districts are authorized to administer and enforce the following laws and rules, including Section 373.103(1), Florida Statutes, to the extent necessary to fully implement authority specifically delegated.

1. South Florida Water Management District: 373.026(1) through (5), and 373.026(6) to the extent necessary to conduct or participate in laboratory research; 373.033; 373.042; 373.046; 373.103(2) through (7); 373.191; Part II, Chapter 373; 373.309; 373.313; 373.316; 373.319; 373.323, except that license examinations shall be prepared through a combined effort with the other Water Management Districts in consultation with the Department; 373.326; 373.329; 373.333; Chapter 403, to the extent necessary to adopt, implement, and enforce Rule 16K-4.035, FAC; Part IV, Chapter 373; Chapter [6]17-21, FAC; Chapter 17-25 in accordance with Rule 17-25.090(1), FAC; Chapter 403 to the extent necessary to implement water quality certifications as required of the state in Section 401 of the Federal Clean Water Act for those agricultural activity permits issued by the U.S. Army Corps of Engineers pursuant to Section 404 of the Federal Clean Water Act; and Chapter [7]17-20, F.A.C.

2. Southwest Florida Water Management District: 373.026(1) through (5), and 373.026(6) to the extent necessary to conduct or participate in laboratory research; 373.033; 373.042; 373.046; 373.103(2) through (7); 373.191; Part II, Chapter 373; 373.309; 373.313; 373.316; 373.319; 373.323(6), except that license examinations shall be prepared through a combined effort with the other Water Management Districts in consultation

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with the Department; 373.326; 373.329; 373.333; Part IV, Chapter 373; Chapter [6]17-21, F.A.C.; Chapter 17-25 in accordance with Rule 17-25.090(2), FAC; Chapter 403 to the extent necessary to implement water quality certifications as required of the state in Section 401 of the Federal Clean Water Act for those agricultural activity permits issued by the U.S. Army Corps of Engineers pursuant to Section 404 of the Federal Clean Water Act; and Chapter [7]17-20, F.A.C.

3. St. Johns River Water Management District: 373.026(1) through (5), and 373.026(6) to the extent necessary to conduct or participate in laboratory research; 373.033; 373.042; 373.046; 373.103(2) through (7); 373.191; Part II, Chapter 373; 373.309; 373.313; 373.316; 373.319; 373.323, except that license examinations shall be prepared through a combined effort with the other Water Management Districts in consultation with the Department; 373.326; 373.329; 373.333; Part IV, Chapter 373; Chapter [6]17-21, F.A.C.; Chapter 403 to the extent necessary to implement water quality certifications as required of the state in Section 401 of the Federal Clean Water Act for those agricultural activity permits issued by the U.S. Army Corps of Engineers pursuant to Section 404 of the Federal Clean Water Act; Chapter [7]17-20, F.A.C.; and Chapter 403 and Chapters 17-4, [5]17-6, [2]17-12, and 17-25, F.A.C. to the extent necessary to conduct dredge and fill permitting and enforcement, industrial discharge permitting and enforcement for agricultural discharges, and stormwater permitting and enforcement, as specified by the Operating Agreement Concerning Stormwater Discharge Regulation and Dredge and Fill Regulation between the St. Johns River Water Management District and Department of Environmental Regulation dated January 4, 1988, such delegations to become effective in accordance with the following schedule: the delegation of dredge and fill permitting and enforcement pursuant to Chapter [2]17-12, F.A.C., shall be effective on October 1, 1988; the other specified delegations shall be effective on June 1, 1988.

4. Suwannee River Water Management District: 373.026(1) through (5), and 373.026(6) to the extent necessary to conduct or participate in laboratory research; 373.033; 373.042; 373.046; 373.103(2) through (7); 373.191; Part II, Chapter 373; 373.309; 373.313; 373.316; 373.319; 373.323, except that license examinations shall be prepared through a combined effort with the other Water Management Districts in consultation with the Department; 373.326; 373.329; 373.333; Part IV, Chapter 373; Chapter [6]17-21, F.A.C.; Chapter 403 to the extent necessary to implement water quality certifications as required of the state in Section 401 of the Federal Clean Water Act for those agricultural activity permits issued by the U.S. Army Corps of Engineers pursuant to Section 404 of the Federal Clean Water Act; and Chapter [7]17-20, F.A.C.

5. Northwest Florida Water Management District: 373.026(1) through (5), and 373.026(6) to the extent necessary to conduct or participate in laboratory research; 373.033; 373.042; 373.046; 373.103(2) through (7); 373.191; Part II, Chapter 373; 373.309; 373.313; 373.316; 373.319; 373.323, except that license examinations shall be prepared through a combined effort with the other Water Management Districts in consultation

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with the Department; 373.326; 373.329; 373.333; Part IV, Chapter 373; Chapter [6]17-21, FAC; Chapter 403 to the extent necessary to implement water quality certifications as required of the state in Section 401 of the Federal Clean Water Act for those agricultural activity permits issued by the U.S. Army Corps of Engineers pursuant to Section 404 of the Federal Clean Water Act; and Chapter [7]17-20, FAC.

(b) In making the foregoing delegations of authority, the Department continues to retain and exercise general supervisory authority over the water management districts, and no delegation is intended to divest the Department or the Districts of the authority to take action pursuant to those provisions of Chapter 373, Florida Statutes, which provide independent authority to the Districts or the Department. Applications for permits to construct and operate injection wells involve provisions of Chapter 373, Florida Statutes, administered by the various water management districts, and Chapter 403, Florida Statutes, administered by the Department. Efforts have been made by the Department and Districts to coordinate this permit review process, and applicants should contact the District and Department offices for specific information on the permit coordination procedures.

(13) To those counties or municipalities, pursuant to Section 403.1815, Florida Statutes, the authority to regulate the construction of water distribution mains and sewage collection laterals of ten inches (10") or less which may be connected to any water system or sewerage system owned by the county or municipality, as has been delegated from time to time by order of the Secretary, after fourteen (14) days public notice in the Florida Administrative Weekly and in a newspaper of general circulation in the county or municipality to whom delegation is proposed. Any authority delegated shall be listed in this rule subsequent to delegation.

(14) To the Department of Natural Resources:

(a) Aquatic Weed Control Discharge Permitting. Pursuant to 403.061(27), Florida Statutes, the Department of Environmental Regulation delegates to the Department of Natural Resources (DNR) the authority to issue, deny, modify, revoke, and suspend permits authorizing persons to discharge into waters, in accordance with Section 403.088(1), Florida Statutes, chemicals, biological agents and other substances for the purpose of the control of aquatic weeds or algae, provided:

1. the discharge is in accordance with a program approved by DNR pursuant to Chapter 16C-20, F.A.C.; and

2. DNR conforms to the requirements of Chapter 120, Florida Statutes and Chapters 17-103 and 28-5, F.A.C., the processing of all permit applications; and

3. the Department is allowed to intervene as of right in any DNR licensing proceeding involving this delegation.

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(b) To authorize the application of chemicals to marine waters of the state for the purpose of capturing live marine species.

(15) To the Department of Health and Rehabilitative Services:

(a) The authority to issue permits for individual domestic wastewater disposal facilities listed in Rule [8]17-6.020(1), (2) and (3), F.A.C.;

(b) The authority to grant written authorizations for the application of pesticides to waters of the state for the purpose of insect control in accordance with section 403.088(1), F.S., and Rule 10D-54.046, F.A.C.

(16) To the Department of Agriculture and Consumer Services:

(a) Regulation of certain open burning activities in accordance with Rule [9]17-5.090, F.A.C.;

(b) Testing and certifying gasoline tank trucks in accordance with Rule 17-2.700(6)(c)2.d., F.A.C., and gasoline storage tanks in accordance with Rule 17-2.650(1)(f)11., F.A.C.

Specific Authority: 120.53(1)(a), 373.103, 373.308, 376.303, 403.061, 403.1815, 403.1823, 403.1832, 403.1838, 403.704, 403.812, 110.201, F.S.
Law Implemented: 120.53(1)(a), 403.088, 403.1823 through 403.1838, 110.227, F.S.
History: New 2-6-78, Amended 4-28-81, 6-30-81, 6-3-82, Transferred from 17-1.04 and Amended 6-1-84, Amended 10-9-84, 7-22-85, 11-26-86, 3-3-87, 5-25-88, 8-31-89.

[1]REGfile·system Editor's Note: Rules 17-4.280 and 17-4.290, F.A.C., were transferred to 17-12.150 and 17-12.160, respectively, effective 8-31-88.

[2]REGfile·system Editor's Note: Chapter 17-12, F.A.C. was transferred to Chapter 17-312, F.A.C., effective 6-7-89.

[3]REGfile·system Editor's Note: Part I of Chapter 17-7, F.A.C., was transferred to Chapter 17-701, F.A.C., effective 9-16-88.

[4]REGfile·system Editor's Note: Chapter 17-50, F.A.C., was transferred to Chapter 17-501, F.A.C., effective 2-9-88.

[5]REGfile·system Editor's Note: 40 CFR 35 Subpart P does not exist. The reference is probably to 40 CFR 35 Subpart I.

[6]REGfile·system Editor's Note: Chapter 17-21, F.A.C., was transferred to Chapter 17-532, F.A.C., effective 1-18-89.

[7]REGfile·system Editor's Note: Chapter 17-20, F.A.C., Governing Water Well Contractors in Florida, was transferred to Chapter 17-531, F.A.C., effective 8-31-88.

[8]REGfile·system Editor's Note: Most sections of Chapter 17-6, F.A.C. were repealed effective November 28, 1989. Their contents were reorganized into Chapters 17-600, 17-604, 17-611, 17-650, 17-660, 17-670 and 17-671, F.A.C. effective November 27, 1989.

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[9]REGfile-system Editor's Note: Chapter 17-5, F.A.C. was transferred to Chapter 17-256, F.A.C.

17-101.050 General Description of Agency Organization and Operations. The agency is composed of five operating divisions, supporting staff offices, and district and branch offices located around the state to make agency services accessible to the citizens of Florida. The internal structure of the Department of Environmental Regulation is reflected graphically on the organization chart (Figure 2).

(1) Office of the Secretary. This office includes the Secretary, who exercises those powers and duties delegated to the head of the Department by Florida law, and the Assistant Secretary, who acts as agency head in the Secretary's absence and carries out such other duties as assigned by the Secretary. Additional functions carried out by personnel located in this office include coordination of the Department's water management, legislative, public information, and planning programs.

(2) (a) Office of the General Counsel. The Office of General Counsel is headed by the General Counsel, who is appointed by and serves at the pleasure of the Secretary. All Department attorneys are located in this office and are directly supervised by three deputy general counsels. This office provides all of the legal support to the Department of Environmental Regulation and provides legal advice to the Governor and Cabinet and Environmental Regulation Commission on Department legal matters.

(b) Also in the Office of General Counsel is the Office of Economic Analysis, which is responsible for all economic impact statements required by Chapter 120, F.S., and which provides assistance to all Department programs on matters of economic analyses.

(c) The Office of General Counsel has a facsimile machine for transmitting and receiving documents. The telephone number is (904)488-2439.

(3) The Department's Tallahassee headquarters office is organized into five divisions:

(a) The Division of Administrative and Technical Services. A more detailed description is contained in Chapter 17-100, F.A.C.

(b) The Division of Air Resources Management. A more detailed description is contained in Chapter 17-200, F.A.C.

(c) The Division of Water Management. A more detailed description is contained in Chapter 17-300, F.A.C.

(d) The Division of Water Facilities. A more detailed description is contained in Chapter 17-500, F.A.C.

(e) The Division of Waste Management. A more detailed description is contained in Chapter 17-700, F.A.C.

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(4) District Offices. Each district office is headed by a Deputy Assistant Secretary, who reports directly to the Secretary.

(a) The district offices are generally organized to coincide with the division and program alignment of the Tallahassee headquarters office. Each district is comprised of the following program sections:

Waste Management
Water (Water Management and Water Facilities)
Air Resource Management
Administrative and Technical Service.

(b) The district offices are responsible for permitting, compliance monitoring, enforcement activities, and other field services including:

1. Permitting - the evaluation of applications and issuance or denial of permits for the construction, modification or temporary operation of wastewater treatment facilities, other water pollution sources, public drinking water systems, shortform (as set forth in Rules[1]17-12.150 and [1]17-12.160, F.A.C.) wetland resource management projects, air pollution sources, except for those issued or denied by the Division of Air Resources Management, and solid waste management facilities, except those issued by the Division of Waste Management. Staff is available to advise the public on permit requirements, criteria, and the jurisdiction of the Department;

2. Technical Assistance - the systematic ambient and pollution source sampling of air and water throughout the state, evaluation and analysis of data in support of Department activities; and

3. Enforcement - inspection of facilities to determine compliance with conditions of permits, investigation of complaints pertaining to possible pollution sources, location and identification of pollution sources which may be in violation of Department rules, issuance of warning letters and participation in the processing of administrative or judicial remedies. Information is provided to the public as necessary concerning the Department standards and requirements.

Specific Authority: 120.53(1)(a), F.S.
Law Implemented: 120.53(1)(a), F.S.
History: New 2-6-78, Amended 4-28-81, Transferred from 17-1.05 and Amended 6-1-84, 8-31-89.

[1]REGfile system Editor's Note: Chapter 17-12, F.A.C., was transferred to Chapter 17-312, F.A.C., effective 6-7-89.

17-101.060 Designation of Agency Clerk; Duties.

(1) The Department designates as Agency Clerk the position of Executive Secretary to the General Counsel in the Office of General Counsel, at the address described in Rule 17-101.020(1), F.A.C., telephone number (904) 488-9730. The Agency Clerk shall be responsible for filing and recording the date of filing

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of orders pursuant to Section 120.52(11), F.S., entered by the agency head, and orders entered pursuant to administrative appeal. The Agency Clerk shall be responsible for the receipt and certification of all notices of appeal pursuant to the Florida Rules of Appellate Procedure. In the absence of the Agency Clerk, the General Counsel, a Deputy General Counsel, or a secretary to a Deputy General Counsel shall act as Agency Clerk.

(2) The Department designates as Deputy Agency Clerks each Deputy Assistant Secretary; the secretary and administrative assistant to each Deputy Assistant Secretary; and to each section administrator and his/her secretary in each district office at the address and telephone numbers described in Rule 17-101.020(3), F.A.C. The responsibility of these Deputy Agency Clerks is limited to the filing and recording the date of filing of letters of intent, permits, and final orders entered by the District.

(3) The Department designates additional deputy agency clerks in the Bureau of Wetland Resource Management, telephone number (904) 488-0130; Bureau of Air Quality Management, telephone number (904) 488-1344; Bureau of Water Facilities Planning and Regulation, telephone number (904) 487-1855; and the Bureau of Waste Planning and Regulation, telephone number (904) 488-0300, to be responsible for filing and recording the date of filing of agency decisions on permit applications processed by each bureau as required by Subsection 120.52(11), Florida Statutes. The positions of secretary to a Bureau Chief, secretary to an Environmental Administrator, and secretary to a Professional Engineer Administrator, are so designated. The address for each bureau is set forth in Rule 17-101.020, F.A.C.

(4) The Department designates as a deputy agency clerk the position of secretary in the Industrial Waste and Operator Certification Section in the Division of Water Facilities. The address is the same as listed in Rule 17-101.020(1), F.A.C., and the phone number is (904) 488-0130. The responsibility of this clerk is limited to the filing and recording the date of filing of final orders and letters of intent regarding the issuance or denial of a certification for an operator of water purification plants and wastewater treatment plants in accordance with Section 403.101, F.S.

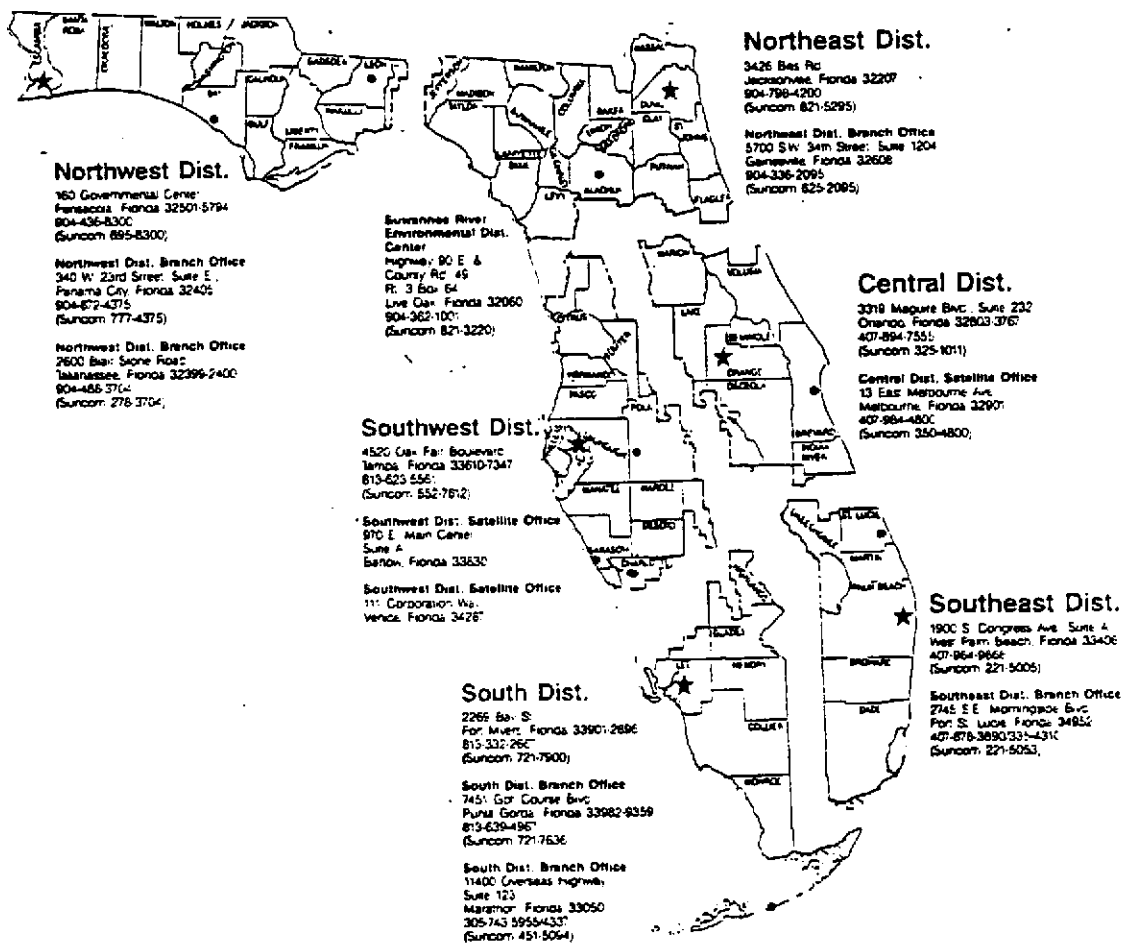
Specific Authority: 120.53(1), F.S.
Law Implemented: 120.52(11), 120.53(1), F.S.
History: New 4-28-81, Amended 12-19-82, Transferred from 17-1.682, Amended 6-1-84, 3-12-86, 8-4-87, 8-31-89.

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Figure 1
[Reference: 17-101.020(3)]

Offices of the Florida Department of Environmental Regulation

Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32399-2400
(904) 488-4805



The Department maintains facsimile machines at the following locations:

Tallahassee Headquarters	
Office of the Secretary	904-487-4938
Office of the General Counsel	904-488-2439
Division of Water Management	904-488-6579
Bureau of Local Government Wastewater Financial Assistance	904-487-3618

District and Branch Offices:	
Pensacola	904-436-8300
Jacksonville	904-396-6196
Orlando	407-897-6913
Tampa	813-552-7612
Fort Myers	813-332-6973
West Palm Beach	407-964-1275
Port St. Lucie	407-335-0473

Fig. 1

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Figure 2
[Reference: 17-101.050]

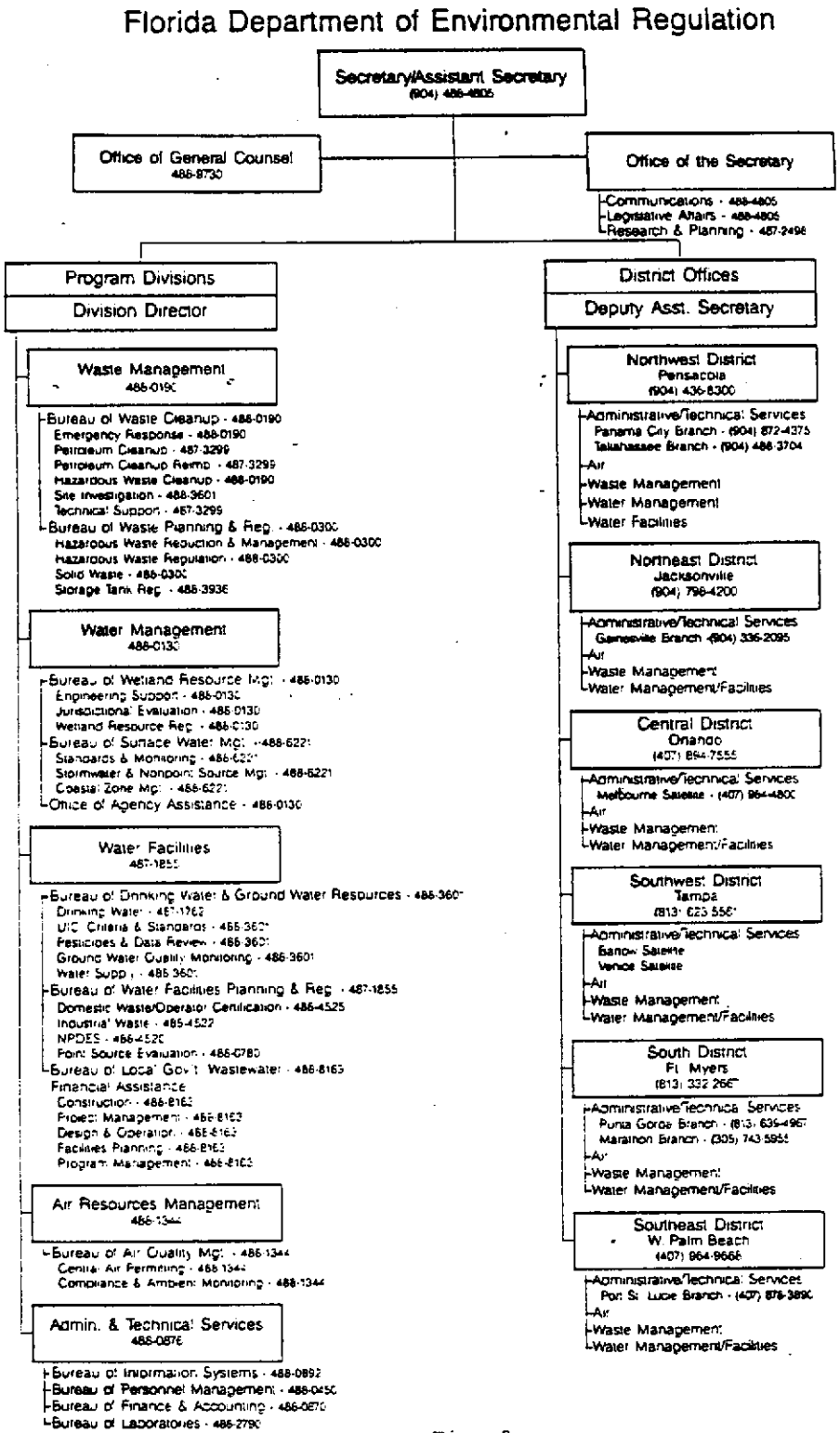


Fig. 2

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SECTION	CHANGE	EFFECTIVE DATE DESCRIPTION OF CHANGE
UPDATE: 8/89		
17-101.010	Amendment	August 31, 1989 Amending descriptions of the Secretary's authority and the functions of the Enviornmental Regulation Commission.
17-101.020(3)	Amendment	August 31, 1989 Adding deputy assistant secretaries' names and DER facsimile telephone numbers to map of district and branch offices.
17-101.040	Amendment	August 31, 1989 Amending provisions for delegation of authority by the Secretary.
17-101.05091)-(4)	Amendment	August 31, 1989 Amending description of agency organization and operations, removing division descriptions which are now provided in Chapters 17-100, 17-200, 17-300, 17-500 and 17-700; providing facsimile telephone number.
17-101.060	Amendment	August 31, 1989 Amending the provisions for designation of agency clerk and deputy agency clerk.

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17-4.510 Scope of Part III. This Part defines general permits and establishes the procedures for persons who may wish to use a general permit.

Specific Authority: 403.814(1), F.S.
Law Implemented: [1]253.123, [1]253.124, 403.061, 403.087, 403.088, 403.814, 403.702-403.73, 403.851-403.864, F.S.
History: New 7-8-82, Formerly 17-4.51, Amended 8-31-88.

[1]REGfile system Editor's Note: 253.123 and 253.124, F.S., were repealed effective October 1, 1984, by s. 15, Chapter 84-79, Laws of Florida.

17-4.520 Definition. A general permit is a permit issued by rule of the Department pursuant to Section 403.814, Florida Statutes, which authorizes persons to undertake certain activities which cause minimal adverse environmental impact when performed in accordance with specific requirements and practices set forth in the general permit. A general permit also constitutes water quality certification pursuant to Section 401, Public Law 92-500, 33 USC Section 1341, for the activity described in the general permit when the activity is performed in accordance with all applicable rules of the Department.

Specific Authority: 403.814, F.S.
Law Implemented: 403.061, 403.087, 403.088, 403.814, 404.702-403.73, 403.851-403.864, 403.91-403.938, F.S.
History: New 7-8-82, Formerly 17-4.52, Amended 8-31-88, 7-11-90.

[1]REGfile system Editor's Note: 253.123 and 253.124, F.S., were repealed effective October 1, 1984, by s. 15, Chapter 84-79, Laws of Florida.

17-4.530 Procedures.

(1) Persons wishing to use one or more of the general permits set forth in the Department's rules shall, at least 30 days before beginning any work, notify the Department in writing or on forms adopted by the department. They shall describe the proposed project, and include supporting documents depicting the proposed project, its location, and other pertinent information as required by rule to demonstrate that they qualify for the requested general permit. Persons wishing to use a general permit shall notify the appropriate office of the Department in writing. Persons wishing to use a general permit are hereby placed on notice that projects undertaken without proof of notice to the Department shall be considered as being undertaken without a permit and shall be subject to enforcement pursuant to Section 403.161, F.S.

(2) A proposed project which may be reasonably expected to violate air quality standards, water quality standards, or drinking water standards or which will

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not meet the public interest requirements set forth in Chapter 403, F.S., shall not be entitled to use of a general permit.

(3) Pursuant to s. 258.397, F.S., no project which is located in the Biscayne Bay Aquatic Preserve is eligible for a general permit.

(4) Suspension or revocation of the use of a general permit shall be in accordance with Chapter 120, F.S. Good cause for the suspension or revocation shall include:

(a) Submission of false or inaccurate information in the notification for use of a general permit or in the required reports;

(b) Violation of law, Department orders, rules or permit conditions;

(c) Refusal of lawful inspection under Section 403.091, F.S.; or

(d) Any other act on the part of the permittee in the use of the general permit which results or may result in harm or injury to human health or welfare, or which causes harm or injury to animal, plant or aquatic life, or to property.

(5) Unless otherwise required as part of a specific category of general permit, persons qualifying for the use of a general permit are not required to, but may, publish in a newspaper of general circulation in the area affected by the proposed project a notice of intent to use a general permit. The notice, if published, shall follow substantially the format in Rule 17-103.150 F.A.C. and shall be published within 14 days of the date when the department receives notification pursuant to Rule 17-4.530(1), F.A.C. No person who has published notice shall begin work until after the 21 days for requesting a hearing has passed or a hearing is held and a decision is rendered.

(6) Any person complying with the requirements of a general permit may use the permit 30 days after giving notice to the Department without any agency action. When no agency action is taken, unless the Department or the applicant publishes notice of the application, the provisions of Chapter 120, Florida Statutes, granting to affected parties the right to an administrative hearing do not apply.

Specific Authority: 403.814(1), F.S.
Law Implemented: 258.397, 403.061, 403.087, 403.088, 403.702-403.73, 403.814, 403.851-403.864, F.S.
History: New 7-8-82, Amended 6-16-84, Formerly 17-4.53, Amended 8-31-88, 3-19-90.

17-4.540 General Conditions for All General Permits.

(1) The terms, conditions, requirements, limitations, and restrictions set forth in this Part are "general permit conditions" and are binding upon the permittee. The conditions are enforceable under Chapter 403, F.S.

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PART III: PROCEDURES FOR GENERAL PERMITS

(2) The general permit is valid only for the specific activity indicated. Any deviation from the specified activity and the conditions for undertaking that activity shall constitute a violation of the permit. The permittee is placed on notice that violation of the permit may result in suspension or revocation of the permittee's use of the general permit and may cause the Department to begin legal proceedings.

(3) The general permit does not convey any vested rights or any exclusive privileges. It does not authorize any injury to public or private property nor any invasion of personal rights. It does not authorize any infringement of federal, state or local laws or regulations. It does not eliminate the necessity for obtaining any other federal, state or local permits that may be required, or allow the permittee to violate any more stringent standards established by federal or local law.

(4) The general permit does not relieve the permittee from liability and penalties when the construction or operation of the permitted activity causes harm or injury to human health or welfare; causes harm or injury to animal, plant or aquatic life; or causes harm or injury to property. It does not allow the permittee to cause pollution in contravention of Florida Statutes and Department rules.

(5) The general permit conveys no title to land or water, nor does it constitute State recognition or acknowledgement of title. It does not constitute authority for reclamation of submerged lands. Only the Board of Trustees of the Internal Improvement Trust Fund may express State opinion as to title.

(6) No general permit shall authorize the use of state owned land without the prior consent of the Board of Trustees of the Internal Improvement Trust Fund pursuant to Section 253.77, F.S.

(7) The general permit may be modified, suspended or revoked in accordance with Chapter 120, Florida Statutes, if the Secretary determines that there has been a violation of any of the terms or conditions of the permit, there has been a violation of state water quality standards or state air quality standards, or the permittee has submitted false, incomplete or inaccurate data or information.

(8) The general permit shall not be transferred to a third party except pursuant to Fla. Admin. Code Rule 17-4.120, F.A.C.

(9) The general permit authorizes construction and where applicable operation of the permitted facility.

(10) The permittee agrees in using the general permit to make every reasonable effort to conduct the specific activity or construction authorized by the general permit in a manner that will minimize any adverse effects on the adjacent property or on public use of the adjacent property, where applicable, and on the environment, including fish, wildlife, natural resources of the area, water quality or air quality.

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PART III: PROCEDURES FOR GENERAL PERMITS
LISTING OF AMENDMENTS

SECTION	CHANGE	EFFECTIVE DATE DESCRIPTION OF CHANGE
UPDATE: 3/90		
17-4.530(3)-(7)	Amendment	March 19, 1990 Deleting the statement that there is no fee required for notices requesting the use of a general permit; renumbering remaining subsections.
UPDATE: 7/90		
17-4.520	Amendment	July 11, 1990 Clarifying that a general permit constitutes water quality certification.

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PART III: PROCEDURES FOR GENERAL PERMITS

(11) The permittee agrees in using the general permit to allow a duly authorized representative of the Department access to the permitted facility or activity at reasonable times to inspect and test upon presentation of credentials or other documents as may be required by law to determine compliance with the permit and the department rules.

(12) The permittee agrees to maintain any permitted facility, or activity in good condition and in accordance with the plans submitted to the department under Rule 17-4.530(1), F.A.C.

(13) A permittee's use of a general permit is limited to five years. However, the permittee may request continued use of the general permit by notifying the department pursuant to Rule 17-4.530(1), F.A.C. However, the permittee shall give notice of continued use of a general permit thirty days before it expires.

Specific Authority: 403.814(1), F.S.
Law Implemented: [1]253.123, [1]253.124, 403.061, 403.087, 403.088, 403.702-403.73, 403.814, 403.851-403.864, F.S.
History: New 7-8-82, Formerly 17-4.54, Amended 8-31-88.

[1]REGfile system Editor's Note: 253.123 and 253.124, F.S., were repealed effective October 1, 1984, by s. 15, Chapter 84-79, Laws of Florida.

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CHAPTER 17-775
SOIL THERMAL TREATMENT FACILITIES

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PART I
INTENT, DEFINITIONS AND GENERAL PROVISIONS

17-775.100 Intent

(1) Rule 17-770, F.A.C., establishes petroleum or petroleum product contamination cleanup criteria and a cleanup process which must be undertaken at all petroleum contamination sites. As a result of this cleanup effort, contaminated soils may be removed for thermal treatment.

(2) The State of Florida Department of Environmental Regulation promulgates this rule in order to provide assurances that contaminated soils as defined in Rule 17-770.200, F.A.C., which are removed for thermal treatment, are properly handled and treated to levels that will prevent future contamination of other soils, ground water, and surface water.

(3) The Department recognizes that thermal treatment of contaminated soils in asphalt plants, cement kilns, rotary kilns, or their equivalents, is a viable method of remediating soils.

(4) The Department intends for this rule to apply only to thermal treatment facilities and the contaminated soils which will be treated therein.

Specific Authority: 376.303, 376.3071, 403.061, F.S.
Law Implemented: 376.3071, F.S.
History: New 12-10-90.

17-775.200 Definitions

All words and phrases defined in Section 376.301, F.S., shall have the same meaning when used in this Chapter unless the context clearly indicates otherwise. The following words and phrases when used in this Chapter shall, unless the context clearly indicates otherwise, have the following meanings:

(1) "Contamination" or "contaminated" means a discharge of petroleum or petroleum products into the surface waters, ground waters or upon the land, in quantities which may result in a violation of water quality standards set forth in Chapters 17-3 and 17-302, F.A.C.

(2) "Department" means the State of Florida Department of Environmental Regulation.

(3) "Environmental Protection Agency" or "EPA" means The United States Environmental Protection Agency.

(4) "Existing facility" shall mean a soil thermal treatment facility which is in operation prior to the effective date of this Chapter.

(5) "Hazardous waste" means a solid waste identified as a hazardous waste in 40 CFR 261.3.

(6) "Leachate" means liquid which percolates through or emerges from stockpiled soil and contains soluble, suspended or miscible materials.

(7) "Mobile facility" means a thermal treatment system which is transported to a soil contamination site and only treats soil from that specific site.

(8) "Stationary facility" means a thermal treatment system which thermally treats contaminated soil transported to the facility.

(9) "Thermal treatment" means to apply heat to increase soil temperatures sufficiently to volatilize or burn contaminants within the soil.

(10) "Thermal treatment facility" means either a stationary or mobile system designed, constructed, and permitted by the Department to handle, store, and thermally treat contaminated soils. "Thermal treatment facility" does not include electrical power plants in which thermal treatment of contaminated soils from their own property results in ash which is disposed of in accordance with Chapters 17-701 or 17-702, F.A.C.

(11) "Total Volatile Organic Aromatics" or "total VOA" means the sum of concentrations of benzene, toluene, total xylenes, and ethylbenzene as determined by EPA Method 602, 5030/8020, or 5030/8021.

(12) "Used oil" means any lubricant which has been refined from crude oil and, as a result of use, storage or handling, has become unsuitable for its original purpose due to the presence of impurities or loss of properties, but which may be suitable for further use as a fuel or may be economically recycled for use as a fuel. "Used oil" shall not include any oil which has been mixed with any material which is a hazardous waste, unless the material is a hazardous waste solely due to the characteristic of ignitability as defined in 40 CFR Section 261, Subpart C. Oil containing more than 1000 parts per million of total halogens is presumed to be mixed with a hazardous waste as defined in 40 CFR Section 261, Subpart D, unless a demonstration is made that the used oil does not contain a hazardous waste.

Specific Authority: 376.303, 376.3071, 403.061, F.S.
Law Implemented: 376.3071, 403.031, 403.061, 403.062, F.S.
History: New 12-10-90.

17-775.210 Reference Standards

(1) Reference standards are available for inspection at the Department's district and central offices.

(2) Specific references to documents or parts thereof are adopted and incorporated as standards only to the extent that the documents are specifically referenced in this Chapter.

(a) DER Guidelines for Preparing Quality Assurance Plans (DER-QA-001/90), Florida Department of Environmental Regulation, Quality Assurance Section.

(b) Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, EPA SW 846, Third Edition, Document No. 955-001-00000-1, as amended by update Package I (December, 1987).

17-775.200(7) - 17-775.210(2)(b)

(c) EPA Draft Method 9073 for Total Recoverable Petroleum Hydrocarbons.

(d) Federal Register; Volume 55, No. 61, pages 11798 to 11877; dated Thursday, March 29, 1990; on Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Toxicity Characteristics Revisions; Final Rule.

Specific Authority: 376.303, 376.3071, 403.061, F.S.
Law Implemented: 376.3071, 403.061, 403.062, F.S.
History: New 12-10-90.

17-775.300 General Permits

(1) Soil thermal treatment facilities shall operate pursuant to a general permit, and shall meet the applicable general permit requirements in Rules 17-4.510 through 17-4.540, F.A.C., and the requirements of this Rule.

(2) Prior to operating under a general permit, the owners of a soil thermal treatment facility shall notify the Department on Form 17-775.900(1). For an existing soil thermal treatment facility, the notification must be submitted within 90 days after the effective date of this Rule. For a new soil thermal treatment facility or for renewal of a general permit, the notification must be submitted 30 days before the operation begins or the existing permit expires.

(3) The notice of intent to use the general permit to treat contaminated soils at a thermal treatment facility shall bear the signature, date and seal of a professional engineer licensed in the State of Florida.

(4) Soil thermal treatment facilities also must be permitted under Rule 17-2, F.A.C., prior to thermally treating contaminated soil.

(5) Soil thermal treatment facilities shall treat soils to the extent necessary to meet the criteria for clean soil in accordance with Rule 17-775.400, F.A.C. Soil sampling and analysis shall be in accordance with Rule 17-775.410, F.A.C.

(6) For stationary soil thermal treatment facilities, the specific conditions in Rules 17-775.600 through 17-775.620, F.A.C., shall apply. For mobile soil thermal treatment facilities, the specific conditions in Rule 17-775.700 and 17-775.710, F.A.C., shall apply.

(7) All soil thermal treatment facilities operating under a general permit shall maintain accurate records of operations. Operating report logs shall be maintained on a normal work day basis on Forms 17-775.900(2) and (3), F.A.C., and shall be maintained for a period of three years at the facility for a stationary facility, or, at an approved location for mobile facility. The Department shall have complete access to all records, field and laboratory chain-of-custody records, quality control records, raw data records, calibration records, and laboratory analyses.

17-775.210(2)(c) - 17-775.300(7)

(8) When treating contaminated soil, soil thermal treatment facilities shall have a minimum operating temperature and a maximum soil charging rate which provides treatment to meet the criteria in Rule 17-775.400, F.A.C.

(9) Soil must be screened, or otherwise processed in order to prevent soil particles greater than two inch mesh (diameter) from entering the thermal treatment unit. Soil thermal treatment facilities are allowed to treat debris, other than soil, such as concrete, rocks, and wood.

(10) Prior to conducting any sampling or analysis, a Comprehensive Quality Assurance Project Plan (formerly called a Generic Quality Assurance Plan) must be approved by the Department. For those persons who have an approved Comprehensive Quality Assurance Project Plan, a Short Form (site specific) Quality Assurance Project Plan or other appropriate quality assurance document approved by the Department will satisfy this requirement. The Short Form Quality Assurance Project Plan shall be prepared in accordance with the requirements of the Department's Guidelines for Preparing Quality Assurance Plans. If there is reasonable doubt as to the quality of data or methods used, the Department reserves the right to reject any or all data submitted prior to approval of the Short Form Quality Assurance Project Plan.

Specific Authority: 376.303, 376.3071, 403.0877, F.S.
Law Implemented: 376.3071, F.S.
History: New 12-10-90.

17-775.400 Criteria for Clean Soil

Soil which has been treated by a soil thermal treatment facility must meet the following cleanup levels to be classified as clean soil. Mixing of treated soils to achieve these standards is prohibited; however, if metal levels are exceeded without exceeding Toxicity Characteristic Leachate Procedure (TCLP) metals standards, blending of soil is allowed.

(1) Total Volatile Organic Aromatics shall not exceed 100 ug/kg (100 ppb) using the analysis identified in Rule 17-775.410(1)(a), F.A.C., and

(2) Total Recoverable Petroleum Hydrocarbons (TRPH) shall not exceed 10 mg/kg (10 ppm) using the analysis identified in Rule 17-775.410(1)(b), F.A.C., or

(3) Total Recoverable Petroleum Hydrocarbons (TRPH) shall not exceed 50 mg/kg (50 ppm) using the analysis identified in Rule 17-775.410(1)(b), F.A.C., provided the total of the Polynuclear Aromatic Hydrocarbons (PAH) does not exceed 6 mg/kg (6 ppm) using the analysis identified in Rule 17-775.410(1)(c), F.A.C., and the total of the Volatile Organic Halocarbons (VOH) does not exceed 50 ug/kg (50 ppb) using the analysis identified in Rule 17-775.410(1)(d), F.A.C., and

(4) Metals shall not exceed the following concentrations in Table I using the analyses identified in Rule 17-775.410(1)(e), F.A.C. Both preparation methods identified in Rule 17-775.410(2), F.A.C., shall be used prior to metal analysis.

TABLE I

Metals	Maximum Concentration TCLP (mg/l)	Total (mg/kg)
Arsenic	5.0	55
Barium	100.0	2750
Cadmium	1.0	55
Chromium	5.0	275
Lead	5.0	77
Mercury	0.2	17
Selenium	1.0	165
Silver	5.0	165

Specific Authority: 376.303, 376.3071, 403.087, F.S.
Law Implemented: 376.3071, 403.087, F.S.
History: New 12-10-90.

17-775.410 Soil Sampling and Analysis

(1) Soil samples shall be analyzed for the following parameters using the test methods indicated:

(a)	Total Volatile Organic Aromatics (VOA)	EPA Method 5030/8020
(b)	Total Recoverable Petroleum Hydrocarbons	EPA Draft Method 9073
(c)	Polynuclear Aromatic Hydrocarbons (PAH)	EPA Method 3540/8100, 3550/8100, 3540/8250, 3540/8270, 3550/8250, 3550/8270, 3540/8310 or 3550/8310
(d)	Volatile Organic Halocarbons (VOH)	EPA Method 5030/8010
(e)	Metals	
	Arsenic	EPA Method 7060, 7061 or 6010
	Barium	EPA Method 7080 or 6010
	Cadmium	EPA Method 7130,7131 or 6010
	Chromium	EPA Method 7190, 7191 or 6010
	Lead	EPA Method 7420, 7421 or 6010
	Mercury	EPA Method 7471
	Selenium	EPA Method 7040, 7041 or 6010
	Silver	EPA Method 7760 or 6010

(2) The acid digestion procedure by EPA Method 3050 shall be used to prepare soil samples for total metal analyses, and the extraction procedure by EPA Method 1311 Toxicity Characteristic Leaching Procedure (TCLP) shall be used to determine leachability characteristic of metals.

(3) Pretreatment soil shall be analyzed for Volatile Organic Aromatics, Total Recoverable Petroleum Hydrocarbons, and total metals. From each contamination site, composite soil sampling frequency shall be in accordance with Table II. Each composite soil sample shall consist of soil samples taken from at least four locations. Each sample shall be collected from locations equally distributed throughout the soil surface area and from a depth of at least six inches below the surface.

TABLE II

Amount of Soil		Quantity of
by Volume (cubic yards)	by Weight (tons)	Composite Samples
Less than 100	Less than 140	1
100 to 500	140 to 700	3
500 to 1000	700 to 1400	5
For each additional 500	For each additional 700	1

(4) The soil must not be thermally treated pursuant to this Chapter if classified as a hazardous waste. If any soil is suspected of containing a hazardous waste, then screening analyses for other contaminants may include, but are not limited to the following: volatile organic halogens; corrosivity; reactivity; toxicity characteristic constituents by the Toxicity Characteristic Leachate Procedure (TCLP), which includes metals, pesticides and additional organics; and polychlorinated biphenyls (PCB).

(5) Following thermal treatment, a soil sample shall be collected at a sampling port at least hourly and composited over an eight hour maximum time interval or at least once every 400 tons, whichever is less. Each composite sample shall be analyzed for the parameters identified in Rule 17-775.400(1),(2), and (4), F.A.C. If the soil criterion in Rule 17-775.400(2), F.A.C., is exceeded, the soil may be analyzed for PAH and VOH parameters identified in Rule 17-775.400(3), F.A.C.

Specific Authority: 376.303, 376.3071, 403.061, F.S.
Law Implemented: 376.3071, 403.061, 403.062, F.S.
History: New 12-10-90.

17-775.500 Approval of Alternate Procedures

(1) The owner or operator of a facility subject to the provisions of this Chapter may request in writing a determination from the Department that any requirement of this Chapter should not apply to such facility, and shall request approval of alternate procedures.

(2) The request shall set forth at a minimum the following information:

(a) The facility for which an exception is sought;

(b) The specific provision of Rule 17-775, F.A.C., from which an exception is sought;

(c) The basis for the exception;

(d) The alternate procedure or requirement for which approval is sought and a demonstration that the alternate procedure or requirement provides a substantially equivalent degree of protection for the lands, surface waters, or ground waters of the state as the established requirement; and

(e) A demonstration that the alternate procedure or requirement is at least as effective as the established procedure or requirement.

(3) The Secretary or his designee shall approve or deny each alternate procedure using the criteria in subsection (2) and shall provide written notice of such action.

Specific Authority: 376.303, 376.3071, F.S.
Law Implemented: 376.303, 376.3071, F.S.
History: 12-10-90.

PART II
SPECIFIC CONDITIONS FOR STATIONARY FACILITIES

17-775.600 Security

(1) All stationary thermal treatment facilities shall take appropriate measures to assure protection of the general public.

Specific Authority: 376.303, 376.3071, 403.061, F.S.
Law Implemented: 376.303, 376.3071, F.S.
History: 12-10-90.

17-775.610 Ground Water Monitoring

(1) A ground water monitoring program shall be developed for each facility which shall provide assurances tht ground water quality is maintained.

(2) A ground water monitoring plan shall be provided to the Department as an attachment to the general permit application. The ground water monitoring plan shall be signed, sealed, and dated by a professional geologist. The monitoring plan shall contain the follwing information:

(a) Location(s) of the proposed unaffected natural background and downgradient monitoring well(s) and construction details of the monitoring well(s).

(b) Hydrogeological, physical, and chemical data for the site, including:

1. Direction and rate of ground water flow;
2. Background ground water quality;
3. Porosity, horizontal and vertical permeability for the aquifer(s), and the depth to, and lithology of the first confining bed(s);
4. Vertical permeability, thickness, and extent of any confining beds;
5. Topography, soil information, and surface water drainage systems surrounding the site; and
6. Inventory depth, construction details (well drilling logs), and cones of depression of water supply wells located within a one mile radius of the site.

(3) Monitoring wells shall be constructed in accordance with the provisions of Rule 17-532 except as follows:

(a) The minimum inside diameter shall be two inches.

(b) Flush threaded couplings shall be used to join polyvinyl chloride (PVC) pipe.

(4) The ground water monitoring wells shall be sampled and analyzed on a quarterly basis for the following parameters using the designated test methods:

(a)	Volatile Organic Aromatics	
1.	Benzene	EPA Method 602
2.	Toluene	EPA Method 602
3.	Ethylbenzene	EPA Method 602
4.	Total Xylenes	EPA Method 602
(b)	Methyl Tert-Butyl Ether (MTBE)	EPA Method 602
(c)	Polynuclear Aromatic Hydrocarbons	EPA Method 610 or 625
(d)	Metals	
1.	Arsenic	EPA Method 206.2, 206.3, 3010/7060 or 3020/7061
2.	Barium	EPA Method 208.1, 208.2, 3010/7080 or 3020/7081
3.	Cadmium	EPA Method 213.1, 213.2, 3010/7130 or 3020/7131
4.	Chromium	EPA Method 200.7, 218.2 or 3020/7191
5.	Lead	EPA Method 239.2 or 3020/7421
6.	Mercury	EPA Method 245.1 or 3010/7470 or 3020/7471
7.	Selenium	EPA Method 270.2, 270.3, 3010/7740 or 3020/7741
8.	Silver	EPA Method 271.1, 271.2, 3010/7760 or 3020/7761

17-775.610(2)(b) - 17-775.610(4)(d)8.

(5) If sampling analyses indicate any levels of the above parameters exceeding the unaffected natural background levels, the permittee shall notify the Department in writing within seven days of receiving analytical results.

Specific Authority: 376.303, 376.3071, 403.061, 403.0877, F.S.
Law Implemented: 376.303, 376.3071, F.S.
History: New 12-10-90.

17-775.620 Receiving, Handling, and Stockpiling

(1) Each batch of contaminated soil shall be clearly identified by source and stockpiled separately until all sampling and analyses in accordance with Rule 17-775.410, F.A.C, are complete. Once the contaminated soil is determined to be acceptable for treatment, soil batches may be mixed with other soil batches found acceptable for thermal treatment. All contaminated soils shall be stored separately and apart from all treated soils.

(2) Contaminated soil shall be stored pursuant to this Chapter in such a manner to prevent contact with rainfall or release of leachate to ground water or surface water. The following pre-treatment storage measures shall be provided at each facility:

(a) All soil shall be stored under a permanent cover structure designed and constructed to prevent rainfall to either directly or indirectly come into contact with the stockpiled soil.

(b) The soil shall be stored on a permanent floor designed and constructed to prevent seepage, which will maintain a maximum hydraulic conductivity of no more than 10^{-7}cm/sec through a minimum of four inches.

1. Plastic or synthetic liners as flooring shall not be considered as suitable alternates.
2. The floor structure shall be designed and constructed for leachate collection and control.

(3) No leachate shall be discharged to soils, ground water, or surface water prior to treatment. Prior to discharge, treated leachate shall meet the standards established in Rule 17-3, F.A.C. Applicable permits for discharges to either surface water or ground water must be obtained prior to any discharge.

(4) Leachate may be treated in the thermal treatment facility.

(5) Until soil analyses have verified that the soil meets the clean soil criteria identified in Rule 17-775.400, F.A.C., treated soil shall be stockpiled on a permanent floor structure, which meets the criteria in Rule 17-775.620(2)(b).

Specific Authority: 376.303, 376.3071, 403.061, F.S.
Law Implemented: 376.303, 376.3071, F.S.
History: New 12-10-90.

17-775.610(5) - 17-775.620(History)

PART III
SPECIFIC CONDITIONS FOR MOBILE FACILITIES

17-775.700 Notices and Security

(1) Any mobile thermal treatment facility which intends to treat contaminated soil, shall notify the following entities by registered mail at least three days prior to initiating operation at a contaminant site:

(a) The local City and County governments and local environmental agency, and

(b) The appropriate District Office of the Department.

(2) Any permitted mobile thermal treatment facility shall take appropriate measures to assure protection of the general public including the following:

(a) A security fence shall surround all areas where contaminated soil is being processed, including stockpiling, handling and burning areas. The fence shall extend at least six feet above ground surface. In lieu of a security fence, surveillance personnel on site at all times is an acceptable alternative.

(b) Gate accesses shall be locked when no attendant is present.

(c) Appropriate warning notices shall be clearly posted.

Specific Authority: 376.303, 376.3071, 403.061, F.S.
Law Implemented: 376.303, 376.3071, F.S.
History: New 12-10-90.

17-775.710 Excavating, Handling, and Stockpiling

(1) Mobile facilities shall operate only at sites with confirmed contaminated soils and may treat only soil native to the site.

(2) Soil which is excavated shall remain on-site and within the area of suspected ground water contamination until soil has been treated, and cleanup levels identified in Rule 17-775.400, F.A.C., have been confirmed.

(3) Excavated soil shall be stockpiled on an impermeable surface or liner. The stockpile shall be covered by a secured plastic cover until treatment in the thermal treatment unit commences.

(4) To the greatest extent possible, soil treated by mobile facilities shall be returned to the original excavation pit.

(5) The stockpile area for untreated soil shall be graded to direct leachate flow to return to the original excavation pit.

Specific Authority: 376.303, 376.3071, 403.061, 403.0877, F.S.
Law Implemented: 376.303, 376.3071, F.S.
History: New 12-10-90.

17-775.700(1) - 17-775.710(History)

PART IV
SOIL THERMAL TREATMENT FACILITY FORMS

17-775.900 Forms

The forms and instructions used by the Department in the general permitting of soil thermal treatment facilities are adopted and incorporated by reference in this section. The forms are 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 Director, Division of Waste Management, Department of Environmental Regulation, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

(1) Notice of Intent to Use the General Permit to Construct/Operate a Soil Thermal Treatment Facility, 1990.

(2) Untreated Soil Reporting Form, 1990.

(3) Treated Soil Reporting Form, 1990.

Specific Authority: 376.303, 376.3071, 403.061, 403.087, F.S.
Law Implemented: 376.303, 376.3071, F.S.
History: New 12-10-90.

17-775.900 - 17-775.900(History)

CHAPTER 17-775
SOIL THERMAL TREATMENT FACILITIES

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PART I
INTENT, DEFINITIONS AND GENERAL PROVISIONS

17-775.100 Intent

(1) Rule 17-770, F.A.C., establishes petroleum or petroleum product contamination cleanup criteria and a cleanup process which must be undertaken at all petroleum contamination sites. As a result of this cleanup effort, contaminated soils may be removed for thermal treatment.

(2) The State of Florida Department of Environmental Regulation promulgates this rule in order to provide assurances that contaminated soils as defined in Rule 17-770.200, F.A.C., which are removed for thermal treatment, are properly handled and treated to levels that will prevent future contamination of other soils, ground water, and surface water.

(3) The Department recognizes that thermal treatment of contaminated soils in asphalt plants, cement kilns, rotary kilns, or their equivalents, is a viable method of remediating soils.

(4) The Department intends for this rule to apply only to thermal treatment facilities and the contaminated soils which will be treated therein.

Specific Authority: 376.303, 376.3071, 403.061, F.S.
Law Implemented: 376.3071, F.S.
History: New 12-10-90.

17-775.200 Definitions

All words and phrases defined in Section 376.301, F.S., shall have the same meaning when used in this Chapter unless the context clearly indicates otherwise. The following words and phrases when used in this Chapter shall, unless the context clearly indicates otherwise, have the following meanings:

(1) "Contamination" or "contaminated" means a discharge of petroleum or petroleum products into the surface waters, ground waters or upon the land, in quantities which may result in a violation of water quality standards set forth in Chapters 17-3 and 17-302, F.A.C.

(2) "Department" means the State of Florida Department of Environmental Regulation.

(3) "Environmental Protection Agency" or "EPA" means The United States Environmental Protection Agency.

(4) "Existing facility" shall mean a soil thermal treatment facility which is in operation prior to the effective date of this Chapter.

(5) "Hazardous waste" means a solid waste identified as a hazardous waste in 40 CFR 261.3.

(6) "Leachate" means liquid which percolates through or emerges from stockpiled soil and contains soluble, suspended or miscible materials.

17-775.100(1) -17-775.200(6)

(7) "Mobile facility" means a thermal treatment system which is transported to a soil contamination site and only treats soil from that specific site.

(8) "Stationary facility" means a thermal treatment system which thermally treats contaminated soil transported to the facility.

(9) "Thermal treatment" means to apply heat to increase soil temperatures sufficiently to volatilize or burn contaminants within the soil.

(10) "Thermal treatment facility" means either a stationary or mobile system designed, constructed, and permitted by the Department to handle, store, and thermally treat contaminated soil. "Thermal treatment facility" does not include electrical power plants in which thermal treatment of contaminated soils from their own property results in ash which is disposed of in accordance with Chapters 17-701 or 17-702, F.A.C.

(11) "Total Volatile Organic Aromatics" or "total VOA" means the sum of concentrations of benzene, toluene, total xylenes, and ethylbenzene as determined by EPA Method 602, 5030/8020, or 5030/8021.

(12) "Used oil" means any lubricant which has been refined from crude oil and, as a result of use, storage or handling, has become unsuitable for its original purpose due to the presence of impurities or loss of properties, but which may be suitable for further use as a fuel or may be economically recycled for use as a fuel. "Used oil" shall not include any oil which has been mixed with any material which is a hazardous waste, unless the material is a hazardous waste solely due to the characteristic of ignitability as defined in 40 CFR Section 261, Subpart C. Oil containing more than 1000 parts per million of total halogens is presumed to be mixed with a hazardous waste as defined in 40 CFR Section 261, Subpart D, unless a demonstration is made that the used oil does not contain a hazardous waste.

Specific Authority: 376.303, 376.3071, 403.061, F.S.
Law Implemented: 376.3071, 403.031, 403.061, 403.062, F.S.
History: New 12-10-90.

17-775.210 Reference Standards

(1) Reference standards are available for inspection at the Department's district and central offices.

(2) Specific references to documents or parts thereof are adopted and incorporated as standards only to the extent that the documents are specifically referenced in this Chapter.

(a) DER Guidelines for Preparing Quality Assurance Plans (DER-QA-001/90), Florida Department of Environmental Regulation, Quality Assurance Section.

(b) Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, EPA SW 846, Third Edition, Document No. 955-001-00000-1, as amended by update Package I (December, 1987).

17-775.200(7) - 17-775.210(2)(b)

(c) EPA Draft Method 9073 for Total Recoverable Petroleum Hydrocarbons.

(d) Federal Register; Volume 55, No. 61, pages 11798 to 11877; dated Thursday, March 29, 1990; on Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Toxicity Characteristics Revisions; Final Rule.

Specific Authority: 376.303, 376.3071, 403.061, F.S.
Law Implemented: 376.3071, 403.061, 403.062, F.S.
History: New 12-10-90.

17-775.300 General Permits

(1) Soil thermal treatment facilities shall operate pursuant to a general permit, and shall meet the applicable general permit requirements in Rules 17-4.510 through 17-4.540, F.A.C., and the requirements of this Rule.

(2) Prior to operating under a general permit, the owners of a soil thermal treatment facility shall notify the Department on Form 17-775.900(1). For an existing soil thermal treatment facility, the notification must be submitted within 90 days after the effective date of this Rule. For a new soil thermal treatment facility or for renewal of a general permit, the notification must be submitted 30 days before the operation begins or the existing permit expires.

(3) The notice of intent to use the general permit to treat contaminated soils at a thermal treatment facility shall bear the signature, date and seal of a professional engineer licensed in the State of Florida.

(4) Soil thermal treatment facilities also must be permitted under Rule 17-2, F.A.C., prior to thermally treating contaminated soil.

(5) Soil thermal treatment facilities shall treat soils to the extent necessary to meet the criteria for clean soil in accordance with Rule 17-775.400, F.A.C. Soil sampling and analysis shall be in accordance with Rule 17-775.410, F.A.C.

(6) For stationary soil thermal treatment facilities, the specific conditions in Rules 17-775.600 through 17-775.620, F.A.C., shall apply. For mobile soil thermal treatment facilities, the specific conditions in Rule 17-775.700 and 17-775.710, F.A.C., shall apply.

(7) All soil thermal treatment facilities operating under a general permit shall maintain accurate records of operations. Operating report logs shall be maintained on a normal work day basis on Forms 17-775.900(2) and (3), F.A.C., and shall be maintained for a period of three years at the facility for a stationary facility, or, at an approved location for mobile facility. The Department shall have complete access to all records, field and laboratory chain-of-custody records, quality control records, raw data records, calibration records, and laboratory analyses.

17-775.210(2)(c) - 17-775.300(7)

(8) When treating contaminated soil, soil thermal treatment facilities shall have a minimum operating temperature and a maximum soil charging rate which provides treatment to meet the criteria in Rule 17-775.400, F.A.C.

(9) Soil must be screened, or otherwise processed in order to prevent soil particles greater than two inch mesh (diameter) from entering the thermal treatment unit. Soil thermal treatment facilities are allowed to treat debris, other than soil, such as concrete, rocks, and wood.

(10) Prior to conducting any sampling or analysis, a Comprehensive Quality Assurance Project Plan (formerly called a Generic Quality Assurance Plan) must be approved by the Department. For those persons who have an approved Comprehensive Quality Assurance Project Plan, a Short Form (site specific) Quality Assurance Project Plan or other appropriate quality assurance document approved by the Department will satisfy this requirement. The Short Form Quality Assurance Project Plan shall be prepared in accordance with the requirements of the Department's Guidelines for Preparing Quality Assurance Plans. If there is reasonable doubt as to the quality of data or methods used, the Department reserves the right to reject any or all data submitted prior to approval of the Short Form Quality Assurance Project Plan.

Specific Authority: 376.303, 376.3071, 403.0877, F.S.
Law Implemented: 376.3071, F.S.
History: New 12-10-90.

17-775.400 Criteria for Clean Soil

Soil which has been treated by a soil thermal treatment facility must meet the following cleanup levels to be classified as clean soil. Mixing of treated soils to achieve these standards is prohibited; however, if metal levels are exceeded without exceeding Toxicity Characteristic Leachate Procedure (TCLP) metals standards, blending of soil is allowed.

(1) Total Volatile Organic Aromatics shall not exceed 100 ug/kg (100 ppb) using the analysis identified in Rule 17-775.410(1)(a), F.A.C., and

(2) Total Recoverable Petroleum Hydrocarbons (TRPH) shall not exceed 10 mg/kg (10 ppm) using the analysis identified in Rule 17-775.410(1)(b), F.A.C., or

(3) Total Recoverable Petroleum Hydrocarbons (TRPH) shall not exceed 50 mg/kg (50 ppm) using the analysis identified in Rule 17-775.410(1)(b), F.A.C., provided the total of the Polynuclear Aromatic Hydrocarbons (PAH) does not exceed 6 mg/kg (6 ppm) using the analysis identified in Rule 17-775.410(1)(c), F.A.C., and the total of the Volatile Organic Halocarbons (VOH) does not exceed 50 ug/kg (50 ppb) using the analysis identified in Rule 17-775.410(1)(d), F.A.C., and

(4) Metals shall not exceed the following concentrations in Table I using the analyses identified in Rule 17-775.410(1)(e), F.A.C. Both preparation methods identified in Rule 17-775.410(2), F.A.C., shall be used prior to metal analysis.

TABLE I

Metals	Maximum Concentration TCLP (mg/l)	Total (mg/kg)
Arsenic	5.0	55
Barium	100.0	2750
Cadmium	1.0	55
Chromium	5.0	275
Lead	5.0	77
Mercury	0.2	17
Selenium	1.0	165
Silver	5.0	165

Specific Authority: 376.303, 376.3071, 403.087, F.S.
Law Implemented: 376.3071, 403.087, F.S.
History: New 12-10-90.

17-775.410 Soil Sampling and Analysis

(1) Soil samples shall be analyzed for the following parameters using the test methods indicated:

(a)	Total Volatile Organic Aromatics (VOA)	EPA Method 5030/8020
(b)	Total Recoverable Petroleum Hydrocarbons	EPA Draft Method 9073
(c)	Polynuclear Aromatic Hydrocarbons (PAH)	EPA Method 3540/8100, 3550/8100, 3540/8250, 3540/8270, 3550/8250, 3550/8270, 3540/8310 or 3550/8310
(d)	Volatile Organic Halocarbons (VOH)	EPA Method 5030/8010
(e)	Metals	
	Arsenic	EPA Method 7060, 7061 or 6010
	Barium	EPA Method 7080 or 6010
	Cadmium	EPA Method 7130,7131 or 6010
	Chromium	EPA Method 7190, 7191 or 6010
	Lead	EPA Method 7420, 7421 or 6010
	Mercury	EPA Method 7471
	Selenium	EPA Method 7040, 7041 or 6010
	Silver	EPA Method 7760 or 6010

(2) The acid digestion procedure by EPA Method 3050 shall be used to prepare soil samples for total metal analyses, and the extraction procedure by EPA Method 1311 Toxicity Characteristic Leaching Procedure (TCLP) shall be used to determine leachability characteristic of metals.

(3) Pretreatment soil shall be analyzed for Volatile Organic Aromatics, Total Recoverable Petroleum Hydrocarbons, and total metals. From each contamination site, composite soil sampling frequency shall be in accordance with Table II. Each composite soil sample shall consist of soil samples taken from at least four locations. Each sample shall be collected from locations equally distributed throughout the soil surface area and from a depth of at l[redacted] six inches below the surface.

TABLE II

Amount of Soil		Quantity of
by Volume (cubic yards)	by Weight (tons)	Composite Samples
Less than 100	Less than 140	1
100 to 500	140 to 700	3
500 to 1000	700 to 1400	5
For each additional 500	For each additional 700	1

(4) The soil must not be thermally treated pursuant to this Chapter if classified as a hazardous waste. If any soil is suspected of containing a hazardous waste, then screening analyses for other contaminants may include, but are not limited to the following: volatile organic halogens; corrosivity; reactivity; toxicity characteristic constituents by the Toxicity Characteristic Leachate Procedure (TCLP), which includes metals, pesticides and additional organics; and polychlorinated biphenyls (PCB).

(5) Following thermal treatment, a soil sample shall be collected at a sampling port at least hourly and composited over an eigh[redacted]our maximum time interval or at least once every 400 tons, whi[redacted]er is less. Each composite sample shall be analyzed for the parameters identified in Rule 17-775.400(1),(2), and (4), F.A.C. If the clean soil criterion in Rule 17-775.400(2), F.A.C., is exceeded, the soil may be analyzed for PAH and VOH parameters identified in Rule 17-775.400(3), F.A.C.

Specific Authority: 376.303, 376.3071, 403.061, F.S.
Law Implemented: 376.3071, 403.061, 403.062, F.S.
History: New 12-10-90.

17-775.500 Approval of Alternate Procedures

(1) The owner or operator of a facility subject to the provisions of this Chapter may request in writing a determination from the Department that any requirement of this Chapter should not apply to such facility, and shall request approval of alternate procedures.

(2) The request shall set forth at a minimum the following information:

(a) The facility for which an exception is sought;

(b) The specific provision of Rule 17-775, F.A.C., from which an exception is sought;

(c) The basis for the exception;

(d) The alternate procedure or requirement for which approval is sought and a demonstration that the alternate procedure or requirement provides a substantially equivalent degree of protection for the lands, surface waters, or ground waters of the state as the established requirement; and

(e) A demonstration that the alternate procedure or requirement is at least as effective as the established procedure or requirement.

(3) The Secretary or his designee shall approve or deny each alternate procedure using the criteria in subsection (2) and shall provide written notice of such action.

Specific Authority: 376.303, 376.3071, F.S.
Law Implemented: 376.303, 376.3071, F.S.
History: 12-10-90.

PART II
SPECIFIC CONDITIONS FOR STATIONARY FACILITIES

17-775.600 Security

(1) All stationary thermal treatment facilities shall take appropriate measures to assure protection of the general public.

Specific Authority: 376.303, 376.3071, 403.061, F.S.
Law Implemented: 376.303, 376.3071, F.S.
History: 12-10-90.

17-775.610 Ground Water Monitoring

(1) A ground water monitoring program shall be developed for each facility which shall provide assurances tht ground water quality is maintained.

(2) A ground water monitoring plan shall be provided to the Department as an attachment to the general permit application. The ground water monitoring plan shall be signed, sealed, and dated by a professional geologist. The monitoring plan shall contain the follwing information:

(a) Location(s) of the proposed unaffected natural background and downgradient monitoring well(s) and construction details of the monitoring well(s).

(b) Hydrogeological, physical, and chemical data for the site, including:

1. Direction and rate of ground water flow;
2. Background ground water quality;
3. Porosity, horizontal and vertical permeability for the aquifer(s), and the depth to, and lithology of the first confining bed(s);
4. Vertical permeability, thickness, and extent of any confining beds;
5. Topography, soil information, and surface water drainage systems surrounding the site; and
6. Inventory depth, construction details (well drilling logs), and cones of depression of water supply wells located within a one mile radius of the site.

(3) Monitoring wells shall be constructed in accordance with the provisions of Rule 17-532 except as follows:

(a) The minimum inside diameter shall be two inches.

(b) Flush threaded couplings shall be used to join polyvinyl chloride (PVC) pipe.

(4) The ground water monitoring wells shall be sampled and analyzed on a quarterly basis for the following parameters using the designated test methods:

(a)	Volatile Organic Aromatics	
1.	Benzene	EPA Method 602
2.	Toluene	EPA Method 602
3.	Ethylbenzene	EPA Method 602
4.	Total Xylenes	EPA Method 602
(b)	Methyl Tert-Butyl Ether (MTBE)	EPA Method 602
(c)	Polynuclear Aromatic Hydrocarbons	EPA Method 610 or 625
(d)	Metals	
1.	Arsenic	EPA Method 206.2, 206.3, 3010/7060 or 3020/7061
2.	Barium	EPA Method 208.1, 208.2, 3010/7080 or 3020/7081
3.	Cadmium	EPA Method 213.1, 213.2, 3010/7130 or 3020/7131
4.	Chromium	EPA Method 200.7, 218.2 or 3020/7191
5.	Lead	EPA Method 239.2 or 3020/7421
6.	Mercury	EPA Method 245.1 or 3010/7470 or 3020/7471
7.	Selenium	EPA Method 270.2, 270.3, 3010/7740 or 3020/7741
8.	Silver	EPA Method 271.1, 271.2, 3010/7760 or 3020/7761

(5) If sampling analyses indicate any levels of the above parameters exceeding the unaffected natural background levels, the permittee shall notify the Department in writing within seven days of receiving analytical results.

Specific Authority: 376.303, 376.3071, 403.061, 403.0877, F.S.
Law Implemented: 376.303, 376.3071, F.S.
History: New 12-10-90.

17-775.620 Receiving, Handling, and Stockpiling

(1) Each batch of contaminated soil shall be clearly identified by source and stockpiled separately until all sampling and analyses in accordance with Rule 17-775.410, F.A.C, are complete. Once the contaminated soil is determined to be acceptable for treatment, soil batches may be mixed with other soil batches found acceptable for thermal treatment. All contaminated soils shall be stored separately and apart from all treated soils.

(2) Contaminated soil shall be stored pursuant to this Chapter in such a manner to prevent contact with rainfall or release of leachate to ground water or surface water. The following pre-treatment storage measures shall be provided at each facility:

(a) All soil shall be stored under a permanent cover structure designed and constructed to prevent rainfall to either directly or indirectly come into contact with the stockpiled soil.

(b) The soil shall be stored on a permanent floor designed and constructed to prevent seepage, which will maintain a maximum hydraulic conductivity of no more than 10^{-7}cm/sec through a minimum of four inches.

1. Plastic or synthetic liners as flooring shall not be considered as suitable alternates.
2. The floor structure shall be designed and constructed for leachate collection and control.

(3) No leachate shall be discharged to soils, ground water, or surface water prior to treatment. Prior to discharge, treated leachate shall meet the standards established in Rule 17-3, F.A.C. Applicable permits for discharges to either surface water or ground water must be obtained prior to any discharge.

(4) Leachate may be treated in the thermal treatment facility.

(5) Until soil analyses have verified that the soil meets the clean soil criteria identified in Rule 17-775.400, F.A.C., treated soil shall be stockpiled on a permanent floor structure, which meets the criteria in Rule 17-775.620(2)(b).

Specific Authority: 376.303, 376.3071, 403.061, F.S.
Law Implemented: 376.303, 376.3071, F.S.
History: New 12-10-90.

PART III
SPECIFIC CONDITIONS FOR MOBILE FACILITIES

17-775.700 Notices and Security

(1) Any mobile thermal treatment facility which intends to treat contaminated soil, shall notify the following entities by registered mail at least three days prior to initiating operation at a contaminant site:

(a) The local City and County governments and local environmental agency, and

(b) The appropriate District Office of the Department.

(2) Any permitted mobile thermal treatment facility shall take appropriate measures to assure protection of the general public including the following:

(a) A security fence shall surround all areas where contaminated soil is being processed, including stockpiling, handling and burning areas. The fence shall extend at least six feet above ground surface. In lieu of a security fence, surveillance personnel on site at all times is an acceptable alternative.

(b) Gate accesses shall be locked when no attendant is present.

(c) Appropriate warning notices shall be clearly posted.

Specific Authority: 376.303, 376.3071, 403.061, F.S.
Law Implemented: 376.303, 376.3071, F.S.
History: New 12-10-90.

17-775.710 Excavating, Handling, and Stockpiling

(1) Mobile facilities shall operate only at sites with confirmed contaminated soils and may treat only soil native to the site.

(2) Soil which is excavated shall remain on-site and within the area of suspected ground water contamination until soil has been treated, and cleanup levels identified in Rule 17-775.400, F.A.C., have been confirmed.

(3) Excavated soil shall be stockpiled on an impermeable surface or liner. The stockpile shall be covered by a secured plastic cover until treatment in the thermal treatment unit commences.

(4) To the greatest extent possible, soil treated by mobile facilities shall be returned to the original excavation pit.

(5) The stockpile area for untreated soil shall be graded to direct leachate flow to return to the original excavation pit.

Specific Authority: 376.303, 376.3071, 403.061, 403.0877, F.S.
Law Implemented: 376.303, 376.3071, F.S.
History: New 12-10-90.

PART IV
SOIL THERMAL TREATMENT FACILITY FORMS

17-775.900 Forms

The forms and instructions used by the Department in the general permitting of soil thermal treatment facilities are adopted and incorporated by reference in this section. The forms are 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 Director, Division of Waste Management, Department of Environmental Regulation, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

(1) Notice of Intent to Use the General Permit to Construct/Operate a Soil Thermal Treatment Facility, 1990.

(2) Untreated Soil Reporting Form, 1990.

(3) Treated Soil Reporting Form, 1990.

Specific Authority: 376.303, 376.3071, 403.061, 403.087, F.S.
Law Implemented: 376.303, 376.3071, F.S.
History: New 12-10-90.

CHAPTER 120

ADMINISTRATIVE PROCEDURE ACT

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120.73 Circuit court proceedings; declaratory judgments.

120.50 Exception to application of chapter.—This chapter shall not apply to:

(1) The Legislature.

(2) The courts.

History.—s. 1, ch. 74-310; s. 3, ch. 77-468; s. 1, ch. 78-162.

120.51 Short title.—This chapter may be known and cited as the "Administrative Procedure Act."

History.—s. 1, ch. 74-310.

120.52 Definitions.—As used in this act:

(1) "Agency" means:

(a) The Governor in the exercise of all executive powers other than those derived from the constitution.

(b) Each other state officer and each state department, departmental unit described in s. 20.04, commission, regional planning agency, board, district, and authority, including, but not limited to, those described in chapters 163, 298, 373, 380, and 582 and s. 186.504, except any legal entity or agency created in whole or in part pursuant to chapter 361, part II.

(c) Each other unit of government in the state, including counties and municipalities, to the extent they are expressly made subject to this act by general or special law or existing judicial decisions.

A judge of compensation claims shall not, in the adjudication of workers' compensation claims, be considered an agency or part of an agency for the purposes of this act.

(2) "Agency action" means the whole or part of a rule or order, or the equivalent, or the denial of a petition to adopt a rule or issue an order. The term also includes any denial of a request made under s. 120.54(5).

(3) "Agency head" means the person or collegial body in a department or other governmental unit statutorily responsible for final agency action.

(4) "Committee" means the Administrative Procedures Committee.

(5) "Communications media technology" means the electronic transmission of printed matter, audio, full-motion video, freeze-frame video, compressed video, and digital video by any method available.

(6) "Division" means the Division of Administrative Hearings of the Department of Administration.

(7) "Educational unit" means a local school district, a community college district, the Florida School for the Deaf and the Blind, or a unit of the State University System other than the Board of Regents.

(8) "Invalid exercise of delegated legislative authority" means action which goes beyond the powers, functions, and duties delegated by the Legislature. A proposed or existing rule is an invalid exercise of delegated legislative authority if any one or more of the following apply:

(a) The agency has materially failed to follow the applicable rulemaking procedures set forth in s. 120.54;

(b) The agency has exceeded its grant of rulemaking authority, citation to which is required by s. 120.54(7);

(c) The rule enlarges, modifies, or contravenes the specific provisions of law implemented, citation to which is required by s. 120.54(7);

(d) The rule is vague, fails to establish adequate standards for agency decisions, or vests unbridled discretion in the agency; or

(e) The rule is arbitrary or capricious.

(9) "License" means a franchise, permit, certification, registration, charter, or similar form of authorization required by law, but it does not include a license required primarily for revenue purposes when issuance of the license is merely a ministerial act.

(10) "Licensing" means the agency process respecting the issuance, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license or imposition of terms for the exercise of a license.

(11) "Order" means a final agency decision which does not have the effect of a rule and which is not excepted from the definition of a rule, whether affirmative, negative, injunctive, or declaratory in form. An agency

decision shall be final when reduced to writing and filed with the person designated by the agency as clerk. The clerk shall indicate the date of filing on the order. This subsection is not applicable to an assessment of tax, penalty, or interest by the Department of Revenue. Assessments by the Department of Revenue shall be deemed final as provided in the statutes and rules governing the assessment and collection of taxes.

(12) "Party" means:

(a) Specifically named persons whose substantial interests are being determined in the proceeding.

(b) Any other person who, as a matter of constitutional right, provision of statute, or provision of agency regulation, is entitled to participate in whole or in part in the proceeding, or whose substantial interests will be affected by proposed agency action, and who makes an appearance as a party.

(c) Any other person, including an agency staff member, allowed by the agency to intervene or participate in the proceeding as a party. An agency may by rule authorize limited forms of participation in agency proceedings for persons who are not eligible to become parties.

(d) Any county representative, agency, department, or unit funded and authorized by state statute or county ordinance to represent the interests of the consumers of a county, when the proceeding involves the substantial interests of a significant number of residents of the county and the board of county commissioners has, by resolution, authorized the representative, agency, department, or unit to represent the class of interested persons. The authorizing resolution shall apply to a specific proceeding and to appeals and ancillary proceedings thereto, and it shall not be required to state the names of the persons whose interests are to be represented.

Prisoners as defined in s. 944.02(5) may obtain or participate in proceedings under s. 120.54(3), (4), (5), or (9) or s. 120.56 and may be parties under s. 120.68 to seek judicial review of those proceedings. Prisoners shall not be considered parties in any other proceedings and may not seek judicial review under s. 120.68 of any other agency action. Parolees shall not be considered parties for purposes of agency action or judicial review when the proceedings relate to the rescission or revocation of parole.

(13) "Person" means any person described in s. 1.01, any unit of government in or outside the state, and any agency described in subsection (1).

(14) "Proposed order" means the advance text, under s. 120.58(1)(e), of the order which a collegial agency head plans to enter as its final order. When a hearing officer assigned by the division conducts a hearing, the recommended order is the proposed order.

(15) "Recommended order" means the official recommendation of a hearing officer assigned by the division to an agency or of any other duly authorized presiding officer, other than an agency head or member thereof, for the final disposition of a proceeding under s. 120.57.

(16) "Rule" means each agency statement of general applicability that implements, interprets, or prescribes law or policy or describes the organization, procedure, or practice requirements of an agency and includes any form which imposes any requirement or solicits any information not specifically required by statute or by an existing rule. The term also includes the amendment or repeal of a rule. The term does not include:

(a) Internal management memoranda which do not affect either the private interests of any person or any plan or procedure important to the public and which have no application outside the agency issuing the memorandum.

(b) Legal memoranda or opinions issued to an agency by the Attorney General or agency legal opinions prior to their use in connection with an agency action.

(c) The preparation or modification of:

1. Agency budgets.

2. Statements, memoranda, or instructions to state agencies issued by the Comptroller as chief fiscal officer of the state and relating or pertaining to claims for payment submitted by state agencies to the Comptroller.

3. Contractual provisions reached as a result of collective bargaining.

4. Agricultural marketing orders under chapter 573 or chapter 601.

5. Curricula by an educational unit.

(d) Agency action which has the effect of altering established hunting or fishing seasons, or altering established annual harvest limits for saltwater fishing if the procedure for altering such harvest limits is set out by rule of the Marine Fisheries Commission, provided such action is adequately noticed in the area affected through publishing in a newspaper of general circulation or through notice by broadcasting in an electronic media.

(e) Any tests, test scoring criteria, or testing procedures relating to student assessment which are developed or administered by the Department of Education pursuant to s. 229.57, s. 232.245, s. 232.246, or s. 232.247 or any other statewide educational test required by law.

(f) Law enforcement policies and procedures of the Department of Law Enforcement which relate to:

1. The collection, management, and dissemination of active criminal intelligence information and active criminal investigative information; management of criminal investigations; and management of undercover investigations and the selection, assignment, and fictitious identity of undercover personnel.

2. The recruitment, management, identity, and remuneration of confidential informants or sources.

3. Surveillance techniques, the selection of surveillance personnel, and electronic surveillance including court-ordered and consensual interceptions of communication conducted pursuant to chapter 934.

4. The safety and release of hostages.

5. The provision of security and protection to public figures.

6. The protection of witnesses.

(g) The enlistment, organization, administration, equipment, maintenance, training, and discipline of the militia, National Guard, Organized Militia, and unorganized militia, as provided in s. 2, Art. X of the State Constitution.

History.—s. 1, ch. 74-310; s. 1, ch. 75-191; s. 1, ch. 76-131; s. 1, ch. 77-174; s. 12, ch. 77-290; s. 2, ch. 77-453; s. 1, ch. 78-28; s. 1, ch. 78-425; s. 1, ch. 79-20; s. 55, ch. 79-40; s. 1, ch. 79-299; s. 2, ch. 81-119; s. 1, ch. 81-180; s. 7, ch. 82-180; s. 1, ch. 83-78; s. 2, ch. 83-273; s. 10, ch. 84-170; s. 15, ch. 85-80; s. 1, ch. 85-168; s. 2, ch. 87-385; s. 1, ch. 88-367; s. 1, ch. 89-147.

120.53 Adoption of rules of procedure and public inspection.—

(1) In addition to other requirements imposed by law, each agency shall:

(a) Adopt as a rule a description of its organization stating the general course and method of its operations and the methods whereby the public may obtain information or make submissions or requests.

(b) Adopt rules of practice setting forth the nature and requirements of all formal and informal procedures.

(c) Adopt rules of procedure appropriate for the presentation of arguments concerning issues of law or policy, and for the presentation of evidence on any pertinent fact that may be in dispute.

(d) Adopt rules for the scheduling of meetings, hearings, and workshops, one of which shall be that an agenda shall be prepared by the agency in time to ensure that a copy of the agenda may be received at least 7 days before the event by any person in the state who requests a copy and who pays the reasonable cost of the copy. The agenda shall contain the items to be considered in the order of presentation. After the agenda has been made available change shall be only for good cause, as determined by the person designated to preside, and stated in the record. Notification of such change shall be at the earliest practicable time. The agenda for a special meeting of a district school board under authority of s. 230.16 shall be prepared upon the calling of the meeting, but not less than 48 hours prior to such meeting. In addition, each agency shall give notice of meetings, hearings, and workshops in the same manner as that prescribed for rulemaking in s. 120.54(1), except that the notice requirement does not apply to emergency meetings. The notice shall include a statement of the general subject matter to be considered and shall be given not less than 7 days before the event.

(2) Each agency shall make available for public inspection and copying, at no more than cost:

(a) All rules formulated, adopted, or used by the agency in the discharge of its functions.

(b) All agency orders.

(c) A current subject-matter index, identifying for the public any rule or order issued or adopted after January 1, 1975.

All rules adopted pursuant to this act shall be indexed within 90 days. The Department of State shall by rule establish uniform indexing procedures.

(3) No agency rule or order is valid for any purpose until it has been made available for public inspection as herein required unless the person or party against whom enforcement is sought has actual knowledge of it.

(4) An agency may comply with paragraphs (2)(b) and (c) by designating by rule an official reporter which publishes and indexes by subject matter each agency order rendered after a proceeding which affects substantial interests has been held.

(5) An agency which enters into a contract pursuant to the provisions of [1]ss. 282.301-282.313, chapter 255, chapter 287, or [2]chapters 334-349 shall adopt rules specifying procedures for the resolution of protests arising from the contract bidding process. Such rules shall at least provide that:

(a) The agency shall provide notice of its decision or intended decision concerning a bid solicitation or a contract award as follows:

1. For a bid solicitation, notice of a decision or intended decision shall be given by United States mail or by hand delivery.

2. For any decision of the Division of Purchasing of the Department of General Services concerning a request by an agency for approval of an exceptional purchase under part I of chapter 287 and the rules of the Division of Purchasing, notice of a decision or intended decision shall be given by posting such notice in the office of the Division of Purchasing.

3. For any other agency decision, notice of a decision or intended decision shall be given either by posting the bid tabulation at the location where the bids were opened or by certified United States mail, return receipt requested.

The notice required by this paragraph shall contain the following statement: "Failure to file a protest within the time prescribed in s. 120.53(5), Florida Statutes, shall constitute a waiver of proceedings under chapter 120, Florida Statutes."

(b) Any person who is affected adversely by the agency decision or intended decision shall file with the agency a notice of protest in writing within 72 hours after the posting of the bid tabulation or after receipt of the notice of the agency decision or intended decision and shall file a formal written protest within 10 days after the date he filed the notice of protest. Failure to file a notice of protest or failure to file a formal written protest shall constitute a waiver of proceedings under this chapter. The formal written protest shall state with particularity the facts and law upon which the protest is based.

(c) Upon receipt of the formal written protest which has been timely filed, the agency shall stop the bid solicitation process or the contract award process until the subject of the protest is resolved by final agency action, unless the agency head sets forth in writing particular facts and circumstances which require the continuance of the bid solicitation process or the contract award process without delay in order to avoid an immediate and serious danger to the public health, safety, or welfare.

(d) The agency, on its own initiative or upon the request of a protestor, shall provide an opportunity to resolve the protest by mutual agreement between the parties within 7 days, excluding Saturdays, Sundays, and legal holidays, of receipt of a formal written protest.

1. If the subject of a protest is not resolved by mutual agreement within 7 days, excluding Saturdays, Sundays, and legal holidays, of receipt of the formal written protest, and if there is no disputed issue of material fact, an informal proceeding shall be conducted pursuant to s. 120.57(2) and applicable agency rules before a person whose qualifications have been prescribed by rules of the agency.

2. If the subject of a protest is not resolved by mutual agreement within 7 days, excluding Saturdays, Sundays, and legal holidays, of receipt of the formal written protest, and if there is a disputed issue of material fact, the agency shall refer the protest to the division for proceedings under s. 120.57(1).

(e) Upon receipt of a formal written protest referred pursuant to this subsection, the division director shall expedite the hearing and assign a hearing officer who shall conduct a hearing within 15 days of the receipt of the formal written protest by the division and render a recommended order within 30 days after the hearing or within 30 days after receipt of the hearing transcript by the hearing officer, whichever is later. The provisions of this paragraph may be waived upon stipulation by all parties.

(f) The Administration Commission shall promulgate model rules of procedure pursuant to the provisions of s. 120.54(10) for the filing of notice of protests and formal written protests.

(6) Each state agency, as defined in s. 216.011, shall adopt rules providing a procedure for conducting meetings, hearings, and workshops, and for taking evidence, testimony, and argument at such meetings, hearings, and workshops, by means of communications media technology. The rules shall provide that all evidence, testimony, and argument presented shall be afforded equal consideration, regardless of the method of communication. If a meeting, hearing, or workshop is to be conducted by means of communications media technology, or if attendance may be provided by such means, the notice shall so state. The notice for meetings, hearings, and workshops utilizing communications media technology shall state how persons interested in attending may do so and shall name locations, if any, where communications media technology facilities will be available. Nothing in this subsection shall be construed to diminish the right to inspect public records under chapter 119. Limiting points of access to meetings, hearings, and workshops subject to the provisions of s. 286.011 to places not normally open to the public shall be presumed to violate the right of access of the public; and any official action taken under such circumstances is void and of no effect. Other laws relating to public meetings, hearings, and workshops, including penal and remedial provisions, shall apply to meetings, hearings, and workshops conducted by means of communications media technology and shall be liberally construed in their application to such meetings, hearings, and workshops.

History.—s. 1, ch. 74-310; s. 2, ch. 75-191; s. 2, ch. 76-131; s. 2, ch. 79-299; s. 1, ch. 81-296; s. 2, ch. 81-309; s. 8, ch. 83-92; s. 34, ch. 83-217; s. 3, ch. 83-273; s. 1, ch. 84-203; s. 77, ch. 85-180; s. 2, ch. 87-100; s. 2, ch. 88-384.

[1]**Note.**—Sections 282.301 and 282.302 were repealed by s. 31, ch. 87-137. Note, however, that generally a specific cross-reference is unaffected by subsequent amendments to or repeal of the statute. See Preface, supra p. viii.

[2]**Note.**—Chapter 343, relating to public transit, was created by ch. 89-351 and falls within the range of chapters referenced.

120.54 Rulemaking; adoption procedures.—

(1) Prior to the adoption, amendment, or repeal of any rule not described in subsection (9), an agency shall give notice of its intended action, setting forth a short and plain explanation of the purpose and effect of the proposed rule, the specific legal authority under which its adoption is authorized, and a summary of the estimate of the economic impact of the proposed rule on all persons affected by it.

(a) Except as otherwise provided in this paragraph, the notice shall be mailed to the committee, to all persons named in the proposed rule, and to all persons who have made requests of the agency for advance notice of its proceedings at least 14 days prior to such mailing. The agency shall also give such notice as is prescribed by rule to those particular classes of persons to whom the intended action is directed. Notice of intent by an educational unit to adopt, amend, or repeal any rule not described in subsection (9) shall be made:

1. By publication in a newspaper of general circulation in the affected area;

2. By mail to all persons who have made requests of the educational unit for advance notice of its proceedings and to organizations representing persons affected by the proposed rule; and

3. By posting in appropriate places so that those particular classes of persons to whom the intended action is directed may be duly notified.

Such publication, mailing, and posting of notice shall occur at least 21 days prior to the intended action.

(b) The notice shall be published in the Florida Administrative Weekly not less than 28 days prior to the intended action, except that notice of actions proposed by educational units or units of government with jurisdiction in only one county or a part thereof need not be published in the Florida Administrative Weekly or transmitted to the committee. The proposed rule shall be available for inspection and copying by the public at the time of the publication of notice.

(2)(a) Each agency, prior to the adoption, amendment, or repeal of any rule, shall consider the impact of such proposed action on small business as defined in the Florida Small and Minority Business Assistance Act of 1985 and, whenever possible, shall tier such rule to reduce disproportionate impacts on small business and to avoid regulating businesses which do not contribute significantly to the problem the rule is designed to regulate. An agency may define "small business" to include more than 25 persons if it finds that such a definition is necessary to adapt any rule to the needs and problems of small business. The agency shall consider each of the following methods for reducing the impact of the proposed rule on small business:

1. Establishing less stringent compliance or reporting requirements in the rule for small business.

2. Establishing less stringent schedules or deadlines in the rule for compliance or reporting requirements for small business.

3. Consolidating or simplifying the rule's compliance or reporting requirements for small business.

4. Establishing performance standards to replace design or operational standards in the rule for small business.

5. Exempting small business from any or all requirements of the rule.

(b) Each agency shall provide information on its proposed action by preparing a detailed economic impact statement. The economic impact statement shall include:

1. An estimate of the cost to the agency of the implementation of the proposed action, including the estimated amount of paperwork;

2. An estimate of the cost or the economic benefit to all persons directly affected by the proposed action;

3. An estimate of the impact of the proposed action on competition and the open market for employment, if applicable;

4. A detailed statement of the data and method used in making each of the above estimates; and

5. An analysis of the impact on small business as defined in the Florida Small and Minority Business Assistance Act of 1985.

(c) If an economic impact statement is required before an agency takes action on an application or petition by any person, the statement shall be prepared within a reasonable time after the application is made or the petition is filed.

(d) The failure to provide an adequate statement of economic impact is a ground for holding the rule invalid; however, beginning October 1, 1978, no rule shall be declared invalid for want of an adequate statement of economic impact unless the issue is raised in an administrative or judicial proceeding within 1 year of the effective date of the rule to which the statement applies.

(3)(a) If the intended action concerns any rule other than one relating exclusively to organization, procedure, or practice, the agency shall, on the request of any affected person received within 21 days after the date of publication of the notice, give affected persons an opportunity to present evidence and argument on all issues under consideration appropriate to inform it of their contentions. Prisoners, as defined in s. 944.02(5), may be limited by the Department of Corrections to an opportunity to submit written statements concerning intended action on any department rule. The agency may schedule a public hearing on the rule and, if requested by any affected person, shall schedule a public hearing on the rule. Any material pertinent to the issues under consideration submitted to the agency within 21 days after the date of publication of the notice or submitted at a public hearing shall be considered by the agency and made a part of the record of the rulemaking proceeding.

(b) If the agency determines that the proposed action will affect small business as defined by the agency as provided in paragraph (2)(a), the agency shall send written notice of such rule to the Small and Minority Business Advocate, the Minority Business Enterprise Assistance Office, and the Division of Economic Development of the Department of Commerce not less than 21 days prior to the intended action.

1. Within the 21-day period after written notice has been sent and the day on which the intended action is to take place, the agency shall give the Small and Minority Business Advocate, the Minority Business Enterprise Assistance Office, and the Division of Economic Development of the Department of Commerce an opportunity to present evidence and argument and to offer alternatives regarding the impact of the rule on small business.

2. Each agency shall adopt those alternatives offered pursuant to this subsection which it finds are feasible and consistent with the stated objectives of the proposed rule and which would reduce the impact on small business.

3. If an agency does not adopt all alternatives offered pursuant to this subsection, it shall, prior to rule adoption or amendment and pursuant to subsection (11), file a detailed written statement with the committee explaining the reasons for failure to adopt such alternatives. Within 3 working days of the filing of such notice, the agency shall send a copy of such notice to the Small and Minority Business Advocate, the Minority Business Enterprise Assistance Office, and the Division of Economic Development of the Department of Commerce.

(4)(a) Any substantially affected person may seek an administrative determination of the invalidity of any proposed rule on the ground that the proposed rule is an invalid exercise of delegated legislative authority.

(b) The request seeking a determination under this subsection shall be in writing and must be filed with the division within 21 days after the date of publication of the notice. It must state with particularity the provisions of the rule or economic impact statement alleged to be invalid with sufficient explanation of the facts or grounds for the alleged invalidity and facts sufficient to show that the person challenging the proposed rule would be substantially affected by it.

(c) Immediately upon receipt of the petition, the division shall forward copies of the petition to the agency whose rule is challenged, the Department of State, and the committee. Within 10 days after receiving the petition, the division director, if he determines that the petition complies with the above requirements, shall assign a hearing officer who shall conduct a hearing within 30 days thereafter, unless the petition is withdrawn. Within 30 days after conclusion of the hearing, the hearing officer shall render his decision and state the reasons therefor in writing. The division shall forthwith transmit copies of the hearing officer's decision to the Department of State and to the committee. The hearing officer may declare the proposed rule wholly or partly invalid. The proposed rule or provision of a proposed rule declared invalid shall be withdrawn from the committee by the adopting agency and shall not be adopted. No rule shall be filed for adoption until 28 days after the notice required by subsection (1) or until the hearing officer has rendered his decision, as the case may be. However, the agency may proceed with all other steps in the rulemaking process, including the holding of a factfinding hearing pursuant to subsection (3). In the event part of a proposed rule is declared invalid, the adopting agency may, in its sole discretion, withdraw the proposed rule in its entirety. The agency whose proposed rule has been declared invalid in whole or part shall give notice of the decision in the first available issue of the Florida Administrative Weekly.

(d) Hearings held under this provision shall be conducted in the same manner as provided in s. 120.57 except that the hearing officer's order shall be final agency action. The agency proposing the rule and the person requesting the hearing shall be adversary parties. Other substantially affected persons may join the proceeding as parties or intervenors on appropriate terms which will not substantially delay the proceedings. Failure to proceed under this subsection shall not constitute failure to exhaust administrative remedies.

(5) Any person regulated by an agency or having a substantial interest in an agency rule may petition an agency to adopt, amend, or repeal a rule or to provide the minimum public information required by s. 120.53. The petition shall specify the proposed rule and action

requested. Not later than 30 calendar days after the date of filing a petition, the agency shall initiate rulemaking proceedings under this act, otherwise comply with the requested action, or deny the petition with a written statement of its reasons for the denial.

(6) In rulemaking proceedings, the agency may recognize any material which may be judicially noticed, and it may provide that materials so recognized be incorporated into the record of the proceeding. Before the record of any proceeding is completed, all parties shall be provided a list of such materials and given a reasonable opportunity to examine them and offer written comments thereon or written rebuttal thereto.

(7) Each rule adopted shall be accompanied by a reference to the specific rulemaking authority pursuant to which the rule was adopted and a reference to the section or subsection of the Florida Statutes or the Laws of Florida being implemented, interpreted, or made specific.

(8) Each rule adopted shall contain only one subject and shall be preceded by a concise statement of the purpose of the rule and reference to the rules repealed or amended, which statement need not be printed in the Florida Administrative Code. Pursuant to rule of the Department of State, a rule may incorporate material by reference but only as such material exists on the date the rule is adopted. For purposes of such rule, changes in such material shall have no effect with respect to the rule unless the rule is amended to incorporate such material as changed. No rule shall be amended by reference only. Amendments shall set out the amended rule in full in the same manner as required by the constitution for laws.

(9)(a) If an agency finds that an immediate danger to the public health, safety, or welfare requires emergency action, the agency may adopt any rule necessitated by the immediate danger by any procedure which is fair under the circumstances and necessary to protect the public interest, provided that:

1. The procedure provides at least the procedural protection given by other statutes, the Florida Constitution, or the United States Constitution.

2. The agency takes only that action necessary to protect the public interest under the emergency procedure.

3. The agency publishes in writing at the time of, or prior to, its action the specific facts and reasons for finding an immediate danger to the public health, safety, or welfare and its reasons for concluding that the procedure used is fair under the circumstances. In any event, notice of emergency rules, other than those of educational units or units of government with jurisdiction in only one county or a part thereof, including the full text of the rules, shall be published in the first available issue of the Florida Administrative Weekly. The agency's findings of immediate danger, necessity, and procedural fairness shall be judicially reviewable.

(b) Rules pertaining to the public health, safety, or welfare shall include, but not be limited to, those rules pertaining to perishable agricultural commodities.

(c) An emergency rule adopted under this subsection may not be effective for a period longer than 90 days and shall not be renewable, except during the pendency of a challenge to proposed rules addressing the subject of the emergency rule. However, the agency may take identical action by normal rulemaking procedures.

(d) Subject to applicable constitutional and statutory provisions, an emergency rule becomes effective immediately on filing, or at a date less than 20 days thereafter if specified in the rule, if the adopting agency finds that such effective date is necessary because of an immediate danger to the public health, safety, or welfare.

(10) The Administration Commission shall promulgate one or more sets of model rules of procedure which shall be reviewed by the committee and filed with the Department of State. On filing with the department, the appropriate model rules shall be the rules of procedure for each agency subject to this act to the extent that each agency does not adopt a specific rule of procedure covering the subject matter contained in the model rules applicable to that agency. An agency may seek modification of the model rules of procedure to the extent necessary to conform to any requirement imposed as a condition precedent to receipt of federal funds or permit persons in this state to receive tax benefits under federal law or as required for the most efficient operation of the agency as determined by the Administration Commission. The reasons for the modification shall be published in the Florida Administrative Weekly. Agency rules adopted to comply with ss. 120.53 and 120.565 must be in substantial compliance with the model rules.

(11)(a) The adopting agency shall file with the committee, at least 21 days prior to the proposed adoption date, a copy of each rule it proposes to adopt; a detailed written statement of the facts and circumstances justifying the proposed rule; a copy of the estimate of economic impact required by subsection (2); a statement of the extent to which the proposed rule establishes standards more restrictive than federal standards or a statement that the proposed rule is no more restrictive than federal standards or that a federal rule on the same subject does not exist; and the notice required by subsection (1). After the final public hearing on the proposed rule, or after the time for requesting a hearing has expired, the adopting agency shall file any changes in the proposed rule and the reasons therefor with the committee or advise the committee that there are no changes. In addition, when any change is made in a proposed rule, other than a technical change, the adopting agency shall provide a detailed statement of such change by certified mail or actual delivery to any person who requests it in writing at the public hearing. The agency shall file the change with the committee, and provide the statement of change to persons requesting it, at least 7 days prior to filing the rule for adoption. Educational units, other than units of the State University System and the Florida School for the Deaf and the Blind, and local units of government with jurisdiction in only one county or part thereof shall not be required to make filings with the committee. This paragraph does not apply to emergency rules adopted pursuant to subsection (9). However, agencies, other than those listed herein, adopting emergency rules shall file a copy of each emergency rule with the committee.

(b) If the adopting agency is required to publish its rules in the Florida Administrative Code, it shall file with

the Department of State three certified copies of the rule it proposes to adopt, a summary of the rule, a summary of any hearings held on the rule, and a detailed written statement of the facts and circumstances justifying the rule. Agencies not required to publish their rules in the Florida Administrative Code shall file one certified copy of the proposed rule, and the other material required above, in the office of the agency head; and such rules shall be open to the public pursuant to s. 120.53(2). Filings shall be made no less than 28 days or more than 90 days after the notice required by subsection (1). If a public hearing is held, the 90-day limit is extended to 21 days after adjournment of the final hearing on the rule, 21 days after receipt of all material authorized to be submitted at the hearing, or 21 days after receipt of the transcript, if one is made, whichever is latest. For purposes of this paragraph, the term "public hearing" includes any public meeting held by any agency at which the rule is considered. The filing of a petition for an administrative determination under the provisions of subsection (4) will toll the 90-day period during which a rule must be filed for adoption until the hearing officer has filed his order with the clerk. At the time a rule is filed, the agency shall certify that the time limitations prescribed by this subsection have been complied with and that there is no administrative determination pending on the rule. The department shall reject any rule not filed within the prescribed time limits or upon which an administrative determination is pending. If a rule has not been adopted within the time limits imposed by this section, the agency proposing the rule shall withdraw the rule and give notice of its action in the same manner as is prescribed in paragraphs (1)(a) and (b).

(12) Whenever an act of the Legislature is enacted which requires implementation of the act by rules of an agency within the executive branch of state government, such rules shall be drafted and formally proposed as provided herein within 180 days of the effective date of the act unless the provisions of the act provide otherwise.

(13)(a) The proposed rule shall be adopted on being filed with the Department of State and become effective 20 days after being filed, on a later date specified in the rule, or on a date required by statute. Rules not required to be filed with the Department of State shall become effective when adopted by the agency head or on a later date specified by rule or statute.

(b) After the notice required in subsection (1) and prior to adoption, the agency may withdraw the rule in whole or in part or may make such changes in the rule as are supported by the record of public hearings held on the rule, technical changes which do not affect the substance of the rule, changes in response to written material relating to the rule received by the agency within 21 days after the notice and made a part of the record of the proceeding, or changes in response to a proposed objection by the committee. After adoption and before the effective date, a rule may be modified or withdrawn only in response to an objection by the committee or may be modified to extend the effective date by not more than 60 days when the committee has notified the agency that an objection to the rule is being considered. The agency shall give notice of its decision to withdraw or modify a rule in the first available issue of the publication in which the original notice of rulemaking was published and shall notify the Department of State if the rule is required to be filed with the Department of State. After a rule has become effective, it may be repealed or amended only through regular rulemaking procedures.

(14) If the committee disapproves a proposed rule and the agency does not modify the rule, the committee shall file with the Department of State a notice of the disapproval detailing with particularity its objection to the rule. The Department of State shall publish this notice in the Florida Administrative Weekly and shall publish, as a history note to the rule when it is published in the Florida Administrative Code, a reference to the committee's disapproval and to the issue of the weekly in which the full text thereof appears.

(15) No agency has inherent rulemaking authority; nor has any agency authority to establish penalties for violation of a rule unless the Legislature, when establishing a penalty, specifically provides that the penalty applies to rules. However, an agency may adopt rules necessary to the proper implementation of a statute prior to the effective date of the statute, but the rules may not be enforced until the statute upon which they are based is effective.

(16) The rulemaking provisions of this chapter do not apply to compensation appeals referees.

(17) Rulemaking proceedings shall be governed solely by the provisions of this section unless a person timely asserts that his substantial interests will be affected in the proceeding and affirmatively demonstrates to the agency that the proceeding does not provide adequate opportunity to protect those interests. If the agency determines that the rulemaking proceeding is not adequate to protect his interests, it shall suspend the rulemaking proceeding and convene a separate proceeding under the provisions of s. 120.57. Similarly situated persons may be requested to join and participate in the separate proceeding. Upon conclusion of the separate proceeding, the rulemaking proceeding shall be resumed.

History.—s. 1, ch. 74-310; s. 3, ch. 75-191; s. 3, ch. 76-131; ss. 1, 2, ch. 76-276; s. 1, ch. 77-174; s. 13, ch. 77-290; s. 3, ch. 77-453; s. 2, ch. 78-28; s. 2, ch. 78-425; s. 7, ch. 79-3; s. 3, ch. 79-299; s. 69, ch. 79-400; s. 5, ch. 80-391; s. 1, ch. 81-309; s. 2, ch. 83-351; s. 1, ch. 84-173; s. 2, ch. 84-203; s. 7, ch. 85-104; s. 1, ch. 86-30; s. 3, ch. 87-385.

120.545 Committee review of agency rules.—

(1) As a legislative check on legislatively created authority, the committee shall examine each proposed rule, except for those proposed rules exempted by s. 120.54(11)(a), and its accompanying material, and may examine any existing rule, for the purpose of determining whether:

(a) The rule is an invalid exercise of delegated legislative authority;

(b) The statutory authority for the rule has been repealed;

(c) The rule reiterates or paraphrases statutory material;

(d) The rule is in proper form;

(e) The notice given prior to its adoption was sufficient to give adequate notice of the purpose and effect of the rule; and

(f) The economic impact statement accompanying the rule is adequate to accurately inform the public of the economic effect of the rule.

If the committee objects to a proposed or existing rule, it shall, within 5 days of the objection, certify that fact to the agency whose rule has been examined and include with the certification a statement detailing its objections with particularity.

(2) Within 30 days of receipt of the objection, if the agency is headed by an individual, or within 45 days of receipt of the objection, if the agency is headed by a collegial body, the agency shall:

(a) If the rule is a proposed rule:

1. Modify the rule to meet the committee's objection;

2. Withdraw the rule in its entirety; or

3. Refuse to modify or withdraw the rule.

(b) If the rule is an existing rule:

1. Notify the committee that it has elected to amend the rule to meet the committee's objection and initiate the amendment procedure;

2. Notify the committee that it has elected to repeal the rule and initiate the repeal procedure; or

3. Notify the committee that it refuses to amend or repeal the rule.

(c) If the rule is either an existing or a proposed rule and the objection is to the economic impact statement:

1. Prepare a corrected economic impact statement, give notice of the availability of the corrected economic impact statement in the first available issue of the Florida Administrative Weekly, and file copies of the corrected statement with the committee and the Department of State; or

2. Notify the committee that it refuses to prepare a corrected economic impact statement.

(3) If the agency elects to modify a proposed rule to meet the committee's objection, it shall make only such modifications as are necessary to meet the objection and shall resubmit the rule to the committee. The agency shall give notice of its election to modify a proposed rule to meet the committee's objection in the first available issue of the Florida Administrative Weekly, but shall not be required to conduct a public hearing. If the agency elects to amend an existing rule to meet the committee's objection, it shall notify the committee in writing and shall initiate the amendment procedure by giving notice in the next available issue of the Florida Administrative Weekly. The committee shall give priority to rules so modified or amended when setting its agenda.

(4) If the agency elects to withdraw a proposed rule as a result of a committee objection, it shall notify the committee, in writing, of its election and shall give notice of the withdrawal in the next available issue of the Florida Administrative Weekly. The rule shall be withdrawn without a public hearing, effective upon publication of the notice in the Florida Administrative Weekly. If the agency elects to repeal an existing rule as a result of a committee objection, it shall notify the committee, in writing, of its election and shall initiate rulemaking procedures for that purpose by giving notice in the next available issue of the Florida Administrative Weekly.

(5) If an agency elects to amend or repeal an existing rule as a result of a committee objection, it shall complete the process within 90 days after giving notice in the Florida Administrative Weekly.

(6) Failure of the agency to respond to a committee objection to a proposed rule within the time prescribed in subsection (2) shall constitute withdrawal of the rule in its entirety. In this event, the committee shall notify the Department of State that the agency, by its failure to respond to a committee objection, has elected to withdraw the proposed rule. Upon receipt of the committee's notice, the Department of State shall publish a notice to that effect in the next available issue of the Florida Administrative Weekly. Upon publication of the notice, the proposed rule shall be stricken from the files of the Department of State and the files of the agency.

(7) Failure of the agency to respond to a committee objection to an existing rule within the time prescribed in subsection (2) shall constitute a refusal to repeal the rule.

(8) If the committee objects to a proposed or existing rule and the agency refuses to modify, amend, withdraw, or repeal the rule, the committee shall file with the Department of State a notice of the objection, detailing with particularity its objection to the rule. The Department of State shall publish this notice in the Florida Administrative Weekly and shall publish, as a history note to the rule in the Florida Administrative Code, a reference to the committee's objection and to the issue of the Weekly in which the full text thereof appears.

History.—s. 4, ch. 76-131; s. 1, ch. 77-174; s. 6, ch. 80-391; s. 3, ch. 81-309; s. 4, ch. 87-385.

120.55 Publication.—

(1) The Department of State shall:

(a)1. Publish in a permanent compilation entitled "Florida Administrative Code" all rules adopted by each agency, citing the specific rulemaking authority pursuant to which each rule was adopted, all history notes as authorized in s. 120.545(8), and complete indexes to all rules contained in the code. Supplementation shall be made as often as practicable, but at least monthly. The department shall contract with a publishing firm for the publication, in a timely and useful form, of the Florida Administrative Code; however, the department shall retain responsibility for the code as provided in this section. This publication shall be the official compilation of the administrative rules of this state.

2. Rules general in form but applicable to only one school district, community college district, or county, or a part thereof, or university rules relating to internal personnel or business and finance shall not be published in the Florida Administrative Code. Exclusion from publication in the Florida Administrative Code shall not affect the validity or effectiveness of such rules.

3. At the beginning of the section of the code dealing with an agency that files copies of its rules with the department, the department shall publish a summary or listing of all rules of that agency excluded from publication in the code and a statement as to where those rules may be inspected or examined and shall also publish any exemptions granted that agency pursuant to s. 120.63, including the termination date of the exemption

and a statement whether the exemption can be renewed pursuant to s. 120.63(2)(b).

4. Forms shall not be published in the Florida Administrative Code; but any form which an agency uses in its dealings with the public, along with any accompanying instructions, shall be filed with the committee before it is used. Any form or instruction which meets the definition of "rule" provided in [1]s. 120.52(15) shall be incorporated by reference into the appropriate rule. The reference shall specifically state that the form is being incorporated by reference and shall include the number, title, and effective date of the form and an explanation of how the form may be obtained.

(b) Publish a weekly publication entitled the "Florida Administrative Weekly," which shall contain:

1. Notice of adoption of, and an index to, all rules filed during the preceding week.

2. All hearing notices required by s. 120.54(1), showing the time, place, and date of the hearings and the text of all rules proposed for consideration or a reference to the location in the Florida Administrative Weekly where the text of the proposed rules is published.

3. All notices of meetings, hearings, and workshops conducted in accordance with the provisions of s. 120.53(1)(d), including a statement of the manner in which a copy of the agenda may be obtained.

4. A notice of each request for authorization to amend or repeal an existing model rule or for the adoption of new model rules.

5. A notice of each request for exemption from any provision of this chapter.

6. Notice of petitions for declaratory statements or administrative determinations.

7. A summary of each objection to any rule filed by the Administrative Procedures Committee during the preceding week.

8. Any other material required or authorized by law or deemed useful by the department.

The department may contract with a publishing firm for publication of the Florida Administrative Weekly.

(c) Prescribe by rule the style and form required for rules submitted for filing and establish the form for their certification.

(d) Correct grammatical, typographical, and like errors not affecting the construction or meaning of the rules, after having obtained the advice and consent of the appropriate agency, and insert history notes.

(e) Make copies of the Florida Administrative Weekly available on an annual subscription basis computed to cover a pro rata share of 50 percent of the costs related to the publication of the Florida Administrative Weekly.

(f) Charge each agency using the Florida Administrative Weekly a space rate computed to cover a pro rata share of 50 percent of the costs related to the Florida Administrative Weekly.

(2) Each agency shall print or distribute copies of its rules, citing the specific rulemaking authority pursuant to which each rule was adopted.

(3) Any publication of a proposed rule promulgated by an agency, whether published in the Florida Administrative Code or elsewhere, shall include, along with the rule, the name of the person or persons originating such rule, the name of the supervisor or person who approved the rule, and the date upon which the rule was approved.

(4)(a) Each year the Department of State shall furnish the Florida Administrative Weekly, without charge and upon request, as follows:

1. One subscription to each federal and state court having jurisdiction over the residents of the state; the Legislative Library; each state university library; the State Library; each depository library designated pursuant to s. 257.05; and each standing committee of the Senate and House of Representatives and each state legislator upon request of the Senate President's or House Speaker's Office.

2. Two subscriptions to each state department.

3. Three subscriptions to the library of the Supreme Court of Florida, the library of each state district court of appeal, the division, the library of the Attorney General, each law school library in Florida, the Secretary of the Senate, and the Clerk of the House.

4. Ten subscriptions to the committee.

(b) The Department of State shall furnish one copy of the Florida Administrative Weekly, at no cost, to each clerk of the circuit court and each state department, for posting for public inspection.

(5)(a) There is hereby created in the State Treasury a revolving fund to be known as the "Publication Revolving Trust Fund" of the Department of State.

(b) All fees and moneys collected by the Department of State under this chapter shall be deposited in the revolving trust fund for the purpose of paying for the publication and distribution of the Florida Administrative Code and the Florida Administrative Weekly and for associated costs incurred by the department in carrying out this chapter.

(c) The unencumbered balance in the revolving trust fund at the beginning of each fiscal year shall not exceed $100,000, and any excess shall be transferred to the General Revenue Fund.

(d) It is the intent of the Legislature that the Florida Administrative Weekly be supported entirely from funds collected for subscriptions to and advertisements in the Florida Administrative Weekly. To that end, the Department of State is authorized to add a surcharge of 10 percent to any charge relating to the Florida Administrative Weekly until such time as the Publication Revolving Trust Fund has transferred to the General Revenue Fund an amount equal to all funds appropriated to the trust fund.

History.—s. 1, ch. 74-310; s. 1, ch. 75-107; s. 4, ch. 75-191; s. 5, ch. 76-131; s. 1, ch. 77-174; s. 4, ch. 77-453; s. 3, ch. 78-425; s. 4, ch. 79-299; s. 7, ch. 80-391; s. 4, ch. 81-309; s. 1, ch. 82-19; s. 1, ch. 82-47; s. 3, ch. 83-351; s. 3, ch. 84-203; s. 17, ch. 87-224; s. 1, ch. 87-322.

[1]**Note.**—Section 2, ch. 87-385, added a new subsection (8) resulting in the renumbering of subsection (15) as subsection (16).

120.56 Administrative determination of rule by hearing officer.—

(1) Any person substantially affected by a rule may seek an administrative determination of the invalidity of the rule on the ground that the rule is an invalid exercise of delegated legislative authority.

(2) The petition seeking an administrative determination under this section shall be in writing and shall

state with particularity facts sufficient to show the person seeking relief is substantially affected by the rule and facts sufficient to show the invalidity of the rule. The petition shall be filed with the division which shall, immediately upon filing, forward copies of the petition to the agency whose rule is challenged, the Department of State, and the committee. Within 10 days after receiving the petition, the division director shall, if he determines that the petition complies with the above requirements, assign a hearing officer who shall conduct a hearing within 30 days thereafter, unless the petition is withdrawn.

(3) Within 30 days after the hearing, the hearing officer shall render his decision and state the reasons therefor in writing. The division shall forthwith transmit copies of the hearing officer's decision to the Department of State and to the committee. The hearing officer may declare all or part of a rule invalid. The rule or part thereof declared invalid shall become void when the time for filing an appeal expires or at a later date specified in the decision. The agency whose rule has been declared invalid in whole or part shall give notice of the decision in the Florida Administrative Weekly in the first available issue after the rule has become void.

(4) Challenges to the validity of an emergency rule shall be subject to the following time schedules. Within 7 days after receiving the petition, the division director shall, if he determines that the petition complies with subsection (2), assign a hearing officer who shall conduct a hearing within 14 days thereafter, unless the petition is withdrawn. Within 14 days after the hearing, the hearing officer shall render his decision and otherwise comply with the provisions of subsection (3) not inconsistent herewith.

(5) Hearings held under this provision shall be conducted in the same manner as provided in s. 120.57 except that the hearing officer's order shall be final agency action. The petitioner and the agency whose rule is attacked shall be adversary parties. Other substantially affected persons may join the proceedings as parties or intervenors on appropriate terms which shall not unduly delay the proceedings. Failure to proceed under this section shall not constitute failure to exhaust administrative remedies.

History.—s. 1, ch. 74-310; s. 5, ch. 75-191; s. 6, ch. 76-131; s. 1, ch. 77-174; s. 4, ch. 78-425.

120.565 Declaratory statement by agencies.—Each agency shall provide by rule the procedure for the filing and prompt disposition of petitions for declaratory statements. A declaratory statement shall set out the agency's opinion as to the applicability of a specified statutory provision or of any rule or order of the agency as it applies to the petitioner in his particular set of circumstances only. The agency shall give notice of each petition and its disposition in the Florida Administrative Weekly, except that educational units shall give notice in the same manner as provided for rules in s. 120.54(1)(a), and transmit copies of each petition and its disposition to the committee. Agency disposition of petitions shall be final agency action.

History.—s. 6, ch. 75-191; s. 7, ch. 76-131; s. 5, ch. 78-425; s. 5, ch. 79-299.

120.57 Decisions which affect substantial interests.—The provisions of this section apply in all proceedings in which the substantial interests of a party are determined by an agency, unless such proceedings are exempt pursuant to subsection (5). Unless waived by all parties, subsection (1) applies whenever the proceeding involves a disputed issue of material fact. Unless otherwise agreed, subsection (2) applies in all other cases.

(1) FORMAL PROCEEDINGS.—

(a) A hearing officer assigned by the division shall conduct all hearings under this subsection, except for:

1. Hearings before agency heads or a member thereof other than an agency head or a member of an agency head within the Department of Professional Regulation;

2. Hearings before the Unemployment Appeals Commission in unemployment compensation appeals, unemployment compensation appeals referees, and special deputies pursuant to s. 443.141;

3. Hearings regarding drivers' licensing pursuant to chapter 322;

4. Hearings conducted within the Department of Health and Rehabilitative Services in the execution of those social and economic programs administered by the former Division of Family Services of said department prior to the reorganization effected by chapter 75-48, Laws of Florida;

5. Hearings in which the division is a party, in which case an attorney assigned by the Administration Commission shall be the hearing officer;

6. Hearings which involve student disciplinary suspensions or expulsions and which are conducted by educational units;

7. Hearings of the Public Employees Relations Commission in which a determination is made of the appropriateness of the bargaining unit, as provided in s. 447.307; and

8. Hearings held by the Department of Agriculture and Consumer Services pursuant to chapter 601.

(b) In any case to which this subsection is applicable, the following procedures apply:

1. A request for a hearing shall be granted or denied within 15 days of receipt.

2. All parties shall be afforded an opportunity for a hearing after reasonable notice of not less than 14 days; however, the 14-day notice requirement may be waived with the consent of all parties. In a preliminary hearing for the revocation of parole, no less than 7 days' notice shall be given. In a hearing involving a student disciplinary suspension or expulsion conducted by an educational unit, the 14-day notice requirement may be waived by the agency head or the hearing officer without the consent of the parties. The notice shall include:

a. A statement of the time, place, and nature of the hearing.

b. A statement of the legal authority and jurisdiction under which the hearing is to be held.

c. A reference to the particular sections of the statutes and rules involved.

d. Except for any hearing before an unemployment compensation appeals referee, a short and plain statement of the matters asserted by the agency and by all parties of record at the time notice is given. If the agency

or any party is unable to state the matters in sufficient detail at the time initial notice is given, the notice may be limited to a statement of the issues involved, and thereafter, upon timely written application, a more definite and detailed statement shall be furnished not less than 3 days prior to the date set for the hearing.

3. Except for any proceeding conducted as prescribed in s. 120.54(4), s. 120.56, or s. 120.575(1)(b), a petition or request for a hearing under this section shall be filed with the agency. If the agency elects to request a hearing officer from the division, it shall so notify the division within 15 days of receipt of the petition or request. When the Florida Land and Water Adjudicatory Commission receives a notice of appeal pursuant to s. 380.07, the commission shall notify the division within 60 days of receipt of the notice of appeal if the commission elects to request the assignment of a hearing officer. On the request of any agency, the division shall assign a hearing officer with due regard to the expertise required for the particular matter. The referring agency shall take no further action with respect to the formal proceeding, except as a party litigant, as long as the division has jurisdiction over the formal proceeding. Any party may request the disqualification of the hearing officer by filing an affidavit with the division prior to the taking of evidence at a hearing, stating the grounds with particularity.

4. All parties shall have an opportunity to respond, to present evidence and argument on all issues involved, to conduct cross-examination and submit rebuttal evidence, to submit proposed findings of facts and orders, to file exceptions to any order or hearing officer's recommended order, and to be represented by counsel. When appropriate, the general public may be given an opportunity to present oral or written communications. If the agency proposes to consider such material, then all parties shall be given an opportunity to cross-examine or challenge or rebut it.

5. All pleadings, motions, or other papers filed in the proceeding must be signed by a party, the party's attorney, or the party's qualified representative. The signature of a party, a party's attorney, or a party's qualified representative constitutes a certificate that he has read the pleading, motion, or other paper and that, to the best of his knowledge, information, and belief formed after reasonable inquiry, it is not interposed for any improper purposes, such as to harass or to cause unnecessary delay or for frivolous purpose or needless increase in the cost of litigation. If a pleading, motion, or other paper is signed in violation of these requirements, the hearing officer, upon motion or his own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay the other party or parties the amount of reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee.

6. The record in a case governed by this subsection shall consist only of:

a. All notices, pleadings, motions, and intermediate rulings;

b. Evidence received or considered;

c. A statement of matters officially recognized;

d. Questions and proffers of proof and objections and rulings thereon;

e. Proposed findings and exceptions;

f. Any decision, opinion, proposed or recommended order, or report by the officer presiding at the hearing;

g. All staff memoranda or data submitted to the hearing officer during the hearing or prior to its disposition, after notice of the submission to all parties, except communications by advisory staff as permitted under s. 120.66(1), if such communications are public records;

h. All matters placed on the record after an ex parte communication pursuant to s. 120.66(2); and

i. The official transcript.

7. The agency shall accurately and completely preserve all testimony in the proceeding, and, on the request of any party, it shall make a full or partial transcript available at no more than actual cost. In any proceeding before a hearing officer initiated by a consumptive use permit applicant pursuant to subparagraph 14., the applicant shall bear the cost of accurately and completely preserving all testimony and providing full or partial transcripts to the water management district. At the request of any other party, full or partial transcripts shall be provided at no more than cost.

8. Findings of fact shall be based exclusively on the evidence of record and on matters officially recognized.

9. Except as provided in subparagraph 13., the hearing officer shall complete and submit to the agency and all parties a recommended order consisting of his findings of fact, conclusions of law, interpretation of administrative rules, and recommended penalty, if applicable, and any other information required by law or agency rule to be contained in the final order. The agency shall allow each party at least 10 days in which to submit written exceptions to the recommended order.

10. The agency may adopt the recommended order as the final order of the agency. The agency in its final order may reject or modify the conclusions of law and interpretation of administrative rules in the recommended order, but may not reject or modify the findings of fact unless the agency first determines from a review of the complete record, and states with particularity in the order, that the findings of fact were not based upon competent substantial evidence or that the proceedings on which the findings were based did not comply with essential requirements of law. The agency may accept the recommended penalty in a recommended order, but may not reduce or increase it without a review of the complete record and without stating with particularity its reasons therefor in the order, by citing to the record in justifying the action. When there is an appeal, the court in its discretion may award reasonable attorney's fees and costs to the prevailing party if the court finds that the appeal was frivolous, meritless, or an abuse of the appellate process or that the agency action which precipitated the appeal was a gross abuse of the agency's discretion.

11. If the hearing officer assigned to a hearing becomes unavailable, the division shall assign another hearing officer who shall use any existing record and receive any additional evidence or argument, if any, which the new hearing officer finds necessary.

12. A hearing officer who is a member of an agency head may participate in the formulation of the final order of the agency, provided he has completed all his duties as hearing officer.

13. In any application for a license or merger pursuant to title XXXVIII which is referred by the agency to the division for hearing pursuant to this section, the hearing officer shall complete and submit to the agency and to all parties a written report consisting of findings of fact and rulings on evidentiary matters. The agency shall allow each party at least 10 days in which to submit written exceptions to the report.

14. In any application for a consumptive use permit pursuant to part II of chapter 373, the water management district on its own motion may, or, at the request of the applicant for the permit, shall, refer the matter to the division for the appointment of a hearing officer to conduct a hearing under this section.

(2) INFORMAL PROCEEDINGS.—In any case to which subsection (1) does not apply:

(a) The agency shall, in accordance with its rules of procedure:

1. Give reasonable notice to affected persons or parties of the action of the agency, whether proposed or already taken, or of its decision to refuse action, together with a summary of the factual, legal, and policy grounds therefor.

2. Give affected persons or parties or their counsel an opportunity, at a convenient time and place, to present to the agency or hearing officer written or oral evidence in opposition to the action of the agency or of its refusal to act, or a written statement challenging the grounds upon which the agency has chosen to justify its action or inaction.

3. If the objections of the persons or parties are overruled, provide a written explanation within 7 days.

(b) The record shall only consist of:

1. The notice and summary of grounds;

2. Evidence received or considered;

3. All written statements submitted by persons and parties;

4. Any decision overruling objections;

5. All matters placed on the record after an ex parte communication pursuant to s. 120.66(2); and

6. The official transcript.

(3) Unless precluded by law, informal disposition may be made of any proceeding by stipulation, agreed settlement, or consent order.

(4) This section does not apply to agency investigations preliminary to agency action.

(5) This section does not apply to any proceeding in which the substantial interests of a student are determined by the State University System. The Board of Regents shall establish a committee, at least half of whom shall be appointed by the Council of Student Body Presidents, which shall establish by January 1, 1985, rules and guidelines ensuring fairness and due process in judicial proceedings involving students in the State University System. This section shall not become effective until January 1, 1985.

(6) In cases where a conceptual review permit has been issued by a water management district, petitions challenging the issuance of a construction or operating permit implementing the conceptual review permit, upon a motion of a party, shall be subject to expedited review. Within 15 days of filing a motion for expedited review by the district or the applicant, the hearing officer shall, by order, establish a schedule for the proceedings, including discovery, which provides for a final hearing within 60 days of the issuance of the order. Proposed recommended orders must be submitted to the hearing officer, if at all, within 10 days of the filing of the hearing transcript. Recommended orders shall be submitted to the district within 30 days of the last day for the filing of the proposed recommended order. The district shall issue its final order within 45 days of the receipt of the recommended order. If the district grants the construction or operating permit, the permittee may proceed unless judicial review of final agency action is sought pursuant to s. 120.68 and a stay is applied for and issued.

History.—s. 1, ch. 74-310; s. 7, ch. 75-191; s. 8, ch. 76-131; s. 1, ch. 77-174; s. 5, ch. 77-453; ss. 6, 11, ch. 78-95; s. 6, ch. 78-425; s. 8, ch. 79-7; s. 7, ch. 80-95; s. 4, ch. 80-289; s. 57, ch. 81-259; s. 2, ch. 83-78; s. 9, ch. 83-216; s. 2, ch. 84-173; s. 4, ch. 84-203; ss. 1, 2, ch. 86-108; s. 44, ch. 87-6; ss. 1, 2, ch. 87-54; s. 5, ch. 87-385.

120.575 Taxpayer contest proceedings.—

(1)(a) In any administrative proceeding brought pursuant to chapter 120 as authorized in s. 72.011(1), the taxpayer or other substantially affected party shall be designated the "petitioner" and the Department of Revenue shall be designated the "respondent," except that for actions contesting an assessment under chapter 207 the Department of Highway Safety and Motor Vehicles shall be designated the "respondent."

(b) In any such administrative proceeding brought pursuant to s. 120.57(1) as authorized in s. 72.011(1) to contest the legality of any assessment of tax imposed for the sale or use of services as provided in chapter 212, or interest thereon or penalty therefor, the following procedures shall apply, any provisions of this chapter to the contrary notwithstanding:

1. The petition shall be filed with the division, which shall forward a copy to the department immediately upon receipt of the petition.

2. The hearing officer or panel provided in s. 120.65(5) shall conduct all proceedings under this paragraph.

3. Within 10 days after receiving the petition, the hearing officer or panel shall accept or deny the petition.

4. Within 30 days after the hearing or receipt of the hearing transcript, whichever is later, the hearing officer or panel shall issue an order, which shall consist of findings of fact, conclusions of law, interpretation of administrative rules, and any other information required by law or rule to be contained in the final order. Such order shall affirm or deny the assessment, interest, or penalty and shall determine the amount of any assessment, interest, or penalty.

5. The order of the hearing officer or panel shall be final agency action.

(2) In any administrative proceeding brought pursuant to s. 120.57, the applicable department's burden of proof, except as otherwise specifically provided by general law, shall be limited to a showing that an assessment has been made against the taxpayer and the factual and legal grounds upon which the applicable department made the assessment.

(3)(a) Before a taxpayer may file a petition under this chapter, he shall pay to the applicable department the amount of taxes, penalties, and accrued interest assessed by that department which are not being contested by the taxpayer. Failure to pay the uncontested amount shall result in the dismissal of the action and imposition of an additional penalty of 25 percent of the amount taxed.

(b) The requirements of s. 72.011(2) and (3)(a) are jurisdictional for any action under this chapter to contest an assessment by the Department of Revenue or by the Department of Highway Safety and Motor Vehicles.

History.—s. 12, ch. 81-178; s. 35, ch. 85-342; s. 45, ch. 87-6; s. 24, ch. 87-101; s. 4, ch. 87-198.

120.58 Agency action; evidence, record and subpoenas.—

(1) In agency proceedings for a rule or order:

(a) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded, but all other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence would be admissible in a trial in the courts of Florida. Any part of the evidence may be received in written form, and all testimony of parties and witnesses shall be made under oath. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. This paragraph applies only to proceedings under s. 120.57.

(b) An agency or its duly empowered presiding officer or a hearing officer has the power to swear witnesses and take their testimony under oath, to issue subpoenas upon the written request of any party or upon its own motion, and to effect discovery on the written request of any party by any means available to the courts and in the manner provided in the Florida Rules of Civil Procedure, including the imposition of sanctions, except contempt. However, no agency or its duly empowered presiding officer or any hearing officer has the authority to issue any subpoena or order directing discovery to any member or employee of the Legislature when the subpoena or order commands the production of documents or materials or compels testimony relating to the legislative duties of the member or employee. Any subpoena or order directing discovery directed to a member or an employee of the Legislature shall show on its face that the testimony sought does not relate to legislative duties.

(c) Any public employee subpoenaed to appear at an agency proceeding is entitled to per diem and travel expenses at the same rate as that provided for state employees under s. 112.061 if travel away from such public employee's headquarters is required. All other witnesses appearing pursuant to a subpoena shall be paid such fees and mileage for their attendance as is provided in civil actions in circuit courts of this state. In the case of a public employee, such expenses shall be processed and paid in the manner provided for agency employee travel expense reimbursement; and, in the case of a witness who is not a public employee, payment of such fees and expenses shall accompany the subpoena.

(d) Documentary evidence may be received in the form of a copy or excerpt if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original.

(e) If a majority of those who are to render the final order have not heard the case or read the record, a decision adverse to a party other than the agency itself shall not be made until a proposed order is served upon the parties and they are given an opportunity to file exceptions and present briefs and oral arguments to those who are to render the decision. The proposed order shall contain necessary findings of fact and conclusions of law and a reference to the source of each. The proposed order shall be prepared by the individual who conducted the hearing, if available, or by one who has read the record. The parties by written stipulation may waive compliance with this paragraph. The provisions of this paragraph do not apply in the granting of parole or preliminary hearings for the revocation of parole.

(f) A party shall be permitted to conduct cross-examination when testimony is taken or documents are made a part of the record.

(2) Any person subject to a subpoena may, before compliance and on timely petition, request the agency or hearing officer having jurisdiction of the dispute to invalidate the subpoena on the ground that it was not lawfully issued, is unreasonably broad in scope, or requires the production of irrelevant material, but the decision of the agency or hearing officer on any such request will not be proposed agency action governed by s. 120.57.

(3) A party may seek enforcement of a subpoena, order directing discovery, or order imposing sanctions issued under the authority of this act by filing a petition for enforcement in the circuit court of the judicial circuit in which the person failing to comply with the subpoena or order resides. A failure to comply with an order of the court shall result in a finding of contempt of court. However, no person shall be in contempt while a subpoena is being challenged under subsection (2). The court may award to the prevailing party all or part of the costs and attorney's fees incurred in obtaining the court order whenever the court determines that such an award should be granted under the Florida Rules of Civil Procedure.

History.—s. 1, ch. 74-310; s. 8, ch. 75-191; s. 9, ch. 76-131; s. 7, ch. 78-425; s. 3, ch. 84-173.

120.59 Orders.—

(1) The final order in a proceeding which affects substantial interests shall be in writing or stated in the record and include findings of fact and conclusions of law separately stated, and it shall be rendered within 90 days:

(a) After the hearing is concluded, if conducted by the agency,

(b) After a recommended order is submitted to the agency and mailed to all parties, if the hearing is conducted by a hearing officer, or

(c) After the agency has received the written and oral material it has authorized to be submitted, if there has been no hearing.

The 90-day period may be waived or extended with the consent of all parties.

(2) Findings of fact, if set forth in a manner which is no more than mere tracking of the statutory language, shall be accompanied by a concise and explicit statement of the underlying facts of record which support the findings. If, in accordance with agency rules, a party submitted proposed findings of fact or filed any written application or other request in connection with the proceeding, the order shall include a ruling upon each proposed finding and a brief statement of the grounds for denying the application or request.

(3) If an agency head finds that an immediate danger to the public health, safety, or welfare requires an immediate final order, it shall recite with particularity the facts underlying such finding in the final order, which shall be appealable or enjoinable from the date rendered.

(4) Parties shall be notified either personally or by mail of any order; and, unless waived, a copy of the final order shall be delivered or mailed to each party or to his attorney of record. Each notice shall inform the recipient of any administrative hearing or judicial review that is available under s. 120.57 or s. 120.68, shall indicate the procedure which must be followed to obtain the hearing or judicial review, and shall state the time limits which apply.

(5) If a recommended order is submitted to an agency, the agency shall return a copy of its final order to the division within 15 days after the order is filed with the agency clerk.

(6)(a) In any proceeding pursuant to s. 120.57(1), a prevailing party shall be entitled to recover costs from the nonprevailing adverse party, and shall also be entitled to recover a reasonable attorney fee, as provided herein. The provisions of this subsection shall not apply to a prevailing or nonprevailing party that is an agency.

(b) The final order in a proceeding pursuant to s. 120.57(1) shall award costs and a reasonable attorney fee to the prevailing party only where the nonprevailing adverse party has been determined by the hearing officer to have participated in the proceeding for an improper purpose.

(c) In all proceedings pursuant to s. 120.57(1), the hearing officer shall determine whether any party, other than a party that is an agency, participated in the proceeding for an improper purpose as defined in this subsection. In making such determination, the hearing officer shall consider whether the nonprevailing adverse party has participated in two or more other such proceedings involving the same nonagency prevailing party and the same project as an adverse party and in which such two or more proceedings the nonprevailing adverse party did not establish either the factual or legal merits of its position and shall consider whether the factual or legal position asserted in the instant proceeding would have been cognizable in the previous proceedings. In such event, it shall be rebuttably presumed that the nonprevailing adverse party participated in the pending proceeding for an improper purpose.

(d) In any proceeding in which the hearing officer determines that a party participated in the proceeding for an improper purpose, the recommended order shall so designate and shall recommend the award of costs and attorney fees.

(e) For the purpose of this subsection:

1. "Improper purpose" means participation in a proceeding pursuant to s. 120.57(1) primarily to harass or to cause unnecessary delay or for frivolous purpose or to needlessly increase the cost of licensing or securing the approval of an activity.

2. "Costs" shall have the same meaning as the costs allowed in civil actions in this state as provided in chapter 57.

3. "Nonprevailing adverse party" shall mean a party that has failed to have substantially changed the outcome of the proposed or final agency action which is the subject of a proceeding. In the event that a proceeding results in any substantial modification or condition intended to resolve the matters raised in a party's petition, it shall be determined that the party having raised the issue addressed is not a "nonprevailing adverse party." The recommended order shall state whether the change is substantial for purposes of this subsection. In no event shall the term "nonprevailing party" or "prevailing party" be deemed to include any party that has intervened in a previously existing proceeding to support the position of an agency.

History.—s. 1, ch. 74-310; s. 1, ch. 77-174; s. 5, ch. 84-203; ss. 1, 6, ch. 87-385.

120.60 Licensing.—

(1) Unless otherwise provided by statute enacted subsequent to the effective date of this act, licensing is subject to the provisions of s. 120.57.

(2) When an application for a license is made as required by law, the agency shall conduct the proceedings required with reasonable dispatch and with due regard to the rights and privileges of all affected parties or aggrieved persons. Within 30 days after receipt of an application for a license, the agency shall examine the application, notify the applicant of any apparent errors or omissions, and request any additional information the agency is permitted by law to require. Failure to correct an error or omission or to supply additional information shall not be grounds for denial of the license unless the agency timely notified the applicant within this 30-day period. The agency shall notify the applicant if the activity for which he seeks a license is exempt from the licensing requirement and return any tendered application fee within 30 days after receipt of the original application or within 10 days after receipt of the timely requested additional information or correction of errors or omissions. Every application for license shall be approved or denied within 90 days after receipt of the original application or receipt of the timely requested additional information or correction of errors or omissions unless a shorter period of time for agency action is provided by law. The 90-day or shorter time period will be tolled by the initiation of a proceeding under s. 120.57 and will resume 10 days after the recommended order is submitted to the agency and the parties. Any application for a license which is not approved or denied within the 90-day or shorter time period, within 15 days after conclusion of a public hearing held on the application, or within 45 days after the recommended order is submitted to the agency and the parties, whichever is latest, shall be deemed approved; and, subject to the satisfactory completion of an examination, if required as a prerequisite to licensure, the li-

cense shall be issued. The Public Service Commission, when issuing a license, and any other agency, if specifically exempted by law, shall be exempt from the time limitations within this subsection. Each agency, upon issuing or denying a license, shall state with particularity the grounds or basis for the issuance or denial of the license, except when issuance is a ministerial act. On denial of a license application on which there has been no hearing, the denying agency shall inform the applicant of any right to a hearing pursuant to s. 120.57.

(3) Each applicant shall be given written notice either personally or by mail that the agency intends to grant or deny, or has granted or denied, the application for license. Unless waived, a copy of the notice shall be delivered or mailed to each party's attorney of record and to each person who has requested notice of agency action. Each notice shall inform the recipient of any administrative hearing or judicial review which may be available to him, shall indicate the procedure which must be followed, and shall state the applicable time limits. The issuing agency shall certify that the notice was given. The certification shall show the time and date the notice was mailed or delivered and shall be filed with the agency clerk.

(4) The provisions of subsection (2) notwithstanding, every application for a certificate of authority as required by s. 624.401 shall be approved or denied within 180 days after receipt of the original application. Any application for such a certificate of authority which is not approved or denied within the 180-day period, or within 30 days after conclusion of a public hearing held on the application, shall be deemed approved, subject to the satisfactory completion of conditions required by statute as a prerequisite to license.

(5) In proceedings for the issuance, denial, renewal, or amendment of a license or approval of a merger pursuant to title XXXVIII:

(a)1. The Department of Banking and Finance shall have published in the Florida Administrative Weekly notice of the application within 21 days of receipt.

2. Within 21 days of publication of notice, any person may request a hearing, which upon request shall be conducted pursuant to s. 120.57 except that the Department of Banking and Finance shall by rule provide for participation by the general public; however, the failure to request a hearing within 21 days of publication of notice shall constitute waiver of any right to a hearing.

(b) Should a hearing be requested pursuant to subparagraph 2. of paragraph (a), the applicant or licensee shall publish at his own cost a notice of the hearing in a newspaper of general circulation in the area affected by the application. The Department of Banking and Finance may by rule specify the format and size of such notice.

(c) Notwithstanding subsection (2), and except as provided in paragraph (d), every application for license for a new bank, new trust company, new credit union, or new savings and loan association shall be approved or denied within 180 days after receipt of the original application or receipt of the timely requested additional information or correction of errors or omissions. Any application for such a license or for acquisition of such control which is not approved or denied within the 180-day period or within 30 days after conclusion of a public hearing on the application, whichever is the latest, shall be deemed approved subject to the satisfactory completion of conditions required by statute as a prerequisite to license and approval of insurance of accounts for a new bank, a new savings and loan association, or a new credit union by the appropriate insurer.

(d) In the case of every application for license to establish a new bank, trust company, or capital stock savings association in which a foreign national proposes to own or control 10 percent or more of any class of voting securities, and in the case of every application by a foreign national for approval to acquire control of a bank, trust company, or capital stock savings association, the Department of Banking and Finance shall request that a public hearing be conducted pursuant to s. 120.57. Notice of such hearing shall be published by the applicant as provided in paragraph (b). The failure of any such foreign national to appear personally at the hearing shall be grounds for denial of the application. Notwithstanding the provisions of subsection (2) and paragraph (c), every application involving a foreign national shall be approved or denied within 1 year after receipt of the original application or any timely requested additional information or the correction of any errors or omissions, or within 30 days after the conclusion of the public hearing on the application, whichever is later.

(6) When a licensee has made timely and sufficient application for the renewal of a license which does not automatically expire by statute, the existing license shall not expire until the application has been finally acted upon by the agency or, in case the application is denied or the terms of the license are limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

(7) No revocation, suspension, annulment, or withdrawal of any license is lawful unless, prior to the entry of a final order, the agency has served, by personal service or certified mail, an administrative complaint which affords reasonable notice to the licensee of facts or conduct which warrant the intended action and unless the licensee has been given an adequate opportunity to request a proceeding pursuant to s. 120.57. When personal service cannot be made and the certified mail notice is returned undelivered, the agency shall cause a short, simple notice to the licensee to be published once each week for 4 consecutive weeks in a newspaper published in the county of the licensee's last known address as it appears on the records of the board. If no newspaper is published in that county, the notice may be published in a newspaper of general circulation in that county. If the address is in some state other than this state or in a foreign territory or country, the notice may be published in Leon County. Notwithstanding the provisions of this section, cancellation, suspension, or revocation of a driver's license shall be by personal delivery to the licensee or by first-class mail as provided in s. 322.251.

(8) If the agency finds that immediate serious danger to the public health, safety, or welfare requires emergency suspension, restriction, or limitation of a license, it shall show compliance in its order with the requirements imposed by s. 120.54(9) on agencies making emergency rules. Summary suspension, restriction, or

limitation may be ordered, but a formal suspension or revocation proceeding under this section shall also be promptly instituted and acted upon.

(9) If the Administration Commission grants an exemption from any provision of this section as provided in s. 120.63, the exemption shall be for a single application only and shall not be renewable.

(10) This section does not apply to certification of employee organizations pursuant to s. 447.307.

History.—s. 1, ch. 74-310; s. 10, ch. 76-131; s. 1, ch. 77-174; ss. 6, 9, ch. 77-453; s. 57, ch. 78-95; s. 8, ch. 78-425; s. 1, ch. 79-142; s. 6, ch. 79-299; s. 2, ch. 81-180; s. 6, ch. 84-203; s. 2, ch. 84-265; s. 1, ch. 85-82.

120.61 Official recognition.—When official recognition is requested, the parties shall be notified and given an opportunity to examine and contest the material.

History.—s. 1, ch. 74-310.

120.62 Agency investigations.—

(1) No process, requirement of a report, inspection, or other investigative act or demand shall be issued, made, or enforced in any manner or for any purpose except as authorized by law. Every person who responds to a request or demand by any agency or representative thereof for written data or an oral statement shall be entitled to a transcript of his oral statement at no more than cost.

(2) Any person compelled to appear, or who appears voluntarily, before any hearing officer or agency in an investigation or in any agency proceeding has the right, at his own expense, to be accompanied, represented, and advised by counsel or by other qualified representatives.

History.—s. 1, ch. 74-310.

120.63 Exemption from act.—

(1) Upon application of any agency, the Administration Commission may exempt any process or proceeding governed by this act from one or more requirements of this act:

(a) When the agency head has certified that the requirement would conflict with any provision of federal law or rules with which the agency must comply;

(b) In order to permit persons in the state to receive tax benefits or federal funds under any federal law; or

(c) When the commission has found that conformity with the requirements of the part or parts of this act for which exemption is sought would be so inconvenient or impractical as to defeat the purpose of the agency proceeding involved or the purpose of this act and would not be in the public interest in light of the nature of the intended action and the enabling act or other laws affecting the agency.

(2) The commission may not exempt an agency from any requirement of this act pursuant to this section until it establishes alternative procedures to achieve the agency's purpose which shall be consistent, insofar as possible, with the intent and purpose of the act.

(a) Prior to the granting of any exemption authorized by this section, the commission shall hold a public hearing after notice given as provided in s. 120.54(1). Upon the conclusion of the hearing, the commission, through the Executive Office of the Governor, shall issue an order specifically granting or denying the exemption and specifying any processes or proceedings exempted and the extent of the exemption; transmit to the committee and to the Department of State a copy of the petition, a certified copy of the order granting or denying the petition, and a copy of any alternative procedures prescribed; and give notice of the petition and the commission's response in the Florida Administrative Weekly.

(b) An exemption and any alternative procedure prescribed shall terminate 90 days following adjournment sine die of the then-current or next regular legislative session after issuance of the exemption order, or upon the effective date of any subsequent legislation incorporating the exemption or any partial exemption related thereto, whichever is earlier. The exemption granted by the commission shall be renewable upon the same or similar facts not more than once. Such renewal shall terminate as would an original exemption.

History.—s. 1, ch. 74-310; s. 11, ch. 76-131; s. 1, ch. 77-53; s. 8, ch. 77-453; s. 87, ch. 79-190; s. 7, ch. 79-299; s. 70, ch. 79-400; s. 58, ch. 81-259.

120.633 Division of Pari-mutuel Wagering; partial exemption from hearing and notice requirements.— The Division of Pari-mutuel Wagering is exempted from the hearing and notice requirements of s. 120.57(1)(a) and (b), but only for stewards, judges, and boards of judges when the hearing is to be held for the purpose of the imposition of fines or suspensions as provided by rules of the Division of Pari-mutuel Wagering, but not for revocations, and only upon violations (1) through (6) below. The Division of Pari-mutuel Wagering shall adopt rules establishing alternative procedures, including a hearing upon reasonable notice, for the following violations:

(1) Horse riding, harness riding, greyhound interference, and jai alai game actions in violation of chapters 550 and 551.

(2) Application and usage of drugs and medication to horses, greyhounds, and jai alai players in violation of chapters 550 and 551.

(3) Maintaining or possessing any device which could be used for the injection or other infusion of a prohibited drug to horses, greyhounds, and jai alai players in violation of chapters 550 and 551.

(4) Suspensions under reciprocity agreements between the Division of Pari-mutuel Wagering and regulatory agencies of other states.

(5) Assault or other crimes of violence on premises licensed for pari-mutuel wagering.

(6) Prearranging the outcome of any race or game.

History.—s. 1, ch. 77-53; s. 7, ch. 79-299.
Note.—Former s. 120.63(3).

120.65 Hearing officers.—

(1) There is hereby created the Division of Administrative Hearings within the Department of Administration to be headed by a director who shall be appointed by the Administration Commission and confirmed by the Senate. The division shall be a separate budget entity, and the director shall be its agency head for all purposes. The Department of Administration shall provide administrative support and service to the division to the extent requested by the director. The division shall not be subject to control, supervision, or direction by the Department of Administration in any manner, including, but not limited to, personnel, purchasing, transactions in-

volving real or personal property, and budgetary matters.

(2) The director has the right to appeal actions by the Executive Office of the Governor that affect amendments to the division's approved operating budget or any personnel actions pursuant to chapter 216 to the Administration Commission, which shall decide such issue by majority vote. The appropriations committees may advise the Administration Commission on the issue. If the President of the Senate and the Speaker of the House of Representatives object in writing to the effects of the appeal, the appeal may be affirmed by the affirmative vote of two-thirds of the commission members present.

(3) Each state agency as defined in chapter 216 and each political subdivision shall make its facilities available, at a time convenient to the provider, for use by the division in conducting proceedings pursuant to this chapter.

(4) The division shall employ full-time hearing officers to conduct hearings required by this chapter or other law. No person may be employed by the division as a full-time hearing officer unless he has been a member of The Florida Bar in good standing for the preceding 5 years.

(5) The director shall appoint, from among the full-time hearing officers of the division, a panel consisting of one to three members to be the hearing officer in all proceedings brought as provided in s. 120.575(1)(b). The director shall have the discretion to determine the size of the panel based upon the complexity and precedential importance of the issues involved, and the amount of potential revenues in dispute. Such appointments shall be made with due regard to the expertise required for determination of such proceedings. Service as a member of such panel shall be at the pleasure of the director, and such service may be in addition to other duties of employment by the division.

(6) If the division cannot furnish a division hearing officer promptly in response to an agency request, the director shall designate in writing a qualified full-time employee of an agency other than the requesting agency to conduct the hearing. The director shall have the discretion to designate a hearing officer who is a qualified full-time employee of an agency other than the requesting agency which is located in that part of the state where the parties and witnesses reside.

(7) The director shall have the discretion to designate qualified laypersons to conduct hearings. If a layperson is so designated, the director shall assign a hearing officer to assist in the conduct of the hearing and to rule upon proffers of proof, questions of evidence, disposition of procedural requests, and similar matters.

(8) By rule, the division may establish:

(a) Further qualifications for hearing officers and shall establish procedures by which candidates will be considered for employment or contract.

(b) The manner in which public notice will be given of vacancies in the staff of hearing officers.

(c) Procedures for the assignment of hearing officers.

(9) The division is authorized to provide hearing officers on a contract basis to any governmental entity to conduct any hearing not covered by this section.

(10) The division shall have the authority to adopt reasonable rules to carry out the provisions of this act.

[1](11) Rules promulgated by the Division of Administrative Hearings pursuant to this section, s. 120.53, or s. 766.207 may authorize any reasonable sanctions except contempt for violation of the rules of the division or failure to comply with a reasonable order issued by a hearing officer, which is not under judicial review.

History.—s. 1, ch. 74-310; s. 9, ch. 75-191; s. 14, ch. 76-131; s. 9, ch. 78-425; s. 46, ch. 79-190; s. 1, ch. 86-297; s. 46, ch. 87-6; s. 25, ch. 87-101; s. 54, ch. 88-1; s. 30, ch. 88-277.

[1]**Note.**—As enacted by s. 54, ch. 88-1, and s. 30, ch. 88-277, this subsection has also been compiled and published at s. 766.207(10).

120.66 Ex parte communications.—

(1) In any proceeding under s. 120.57, no ex parte communication relative to the merits, threat, or offer of reward shall be made to the agency head, after the agency head has received a recommended order, or to the hearing officer by:

(a) An agency head or member of the agency or any other public employee or official engaged in prosecution or advocacy in connection with the matter under consideration or a factually related matter.

(b) A party to the proceeding or any person who, directly or indirectly, would have a substantial interest in the proposed agency action, or his authorized representative or counsel.

Nothing in this subsection shall apply to advisory staff members who do not testify on behalf of the agency in the proceeding or to any rulemaking proceedings under s. 120.54.

(2) A hearing officer who is involved in the decisional process and who receives an ex parte communication in violation of subsection (1) shall place on the record of the pending matter all written communications received, all written responses to such communications, and a memorandum stating the substance of all oral communications received and all oral responses made, and shall also advise all parties that such matters have been placed on the record. Any party desiring to rebut the ex parte communication shall be allowed to do so, if such party requests the opportunity for rebuttal within 10 days after notice of such communication. The hearing officer may, if he deems it necessary to eliminate the effect of an ex parte communication received by him, withdraw from the proceeding, in which case the division shall assign a successor.

(3) Any person who makes an ex parte communication prohibited by subsection (1), and any hearing officer who fails to place in the record any such communication, is in violation of this act and may be assessed a civil penalty not to exceed $500 or be subjected to such other disciplinary action as his superiors may determine.

History.—s. 1, ch. 74-310; s. 10, ch. 75-191; s. 12, ch. 76-131; s. 1, ch. 77-174; s. 10, ch. 78-425.

120.68 Judicial review.—

(1) A party who is adversely affected by final agency action is entitled to judicial review. For purposes of this section, a district school board whose decision is reviewed under the provisions of s. 231.36 and whose final

action is modified by a superior administrative decision shall be a party entitled to judicial review of the final action. A preliminary, procedural, or intermediate agency action or ruling, including any order of a hearing officer, is immediately reviewable if review of the final agency decision would not provide an adequate remedy.

(2) Except in matters for which judicial review by the Supreme Court is provided by law, all proceedings for review shall be instituted by filing a petition in the district court of appeal in the appellate district where the agency maintains its headquarters or where a party resides. If the appeal is of an order rendered in a proceeding initiated under s. 120.54(4) or under s. 120.56, the agency whose rule is being challenged shall transmit a copy of the notice of appeal to the committee. Review proceedings shall be conducted in accordance with the Florida Rules of Appellate Procedure.

(3) The filing of the petition does not itself stay enforcement of the agency decision, but if the agency decision has the effect of suspending or revoking a license, supersedeas shall be granted as a matter of right upon such conditions as are reasonable, unless the court, upon petition of the agency, determines that a supersedeas would constitute a probable danger to the health, safety, or welfare of the state. The agency may also grant a stay upon appropriate terms, but, whether or not the action has the effect of suspending or revoking a license, a petition to the agency for a stay is not a prerequisite to a petition to the court for supersedeas. In any event, the order shall specify the conditions, if any, upon which the stay or supersedeas is granted.

(4) Judicial review of any agency action shall be confined to the record transmitted and any additions made thereto in accordance with subsection (6).

(5) The record for judicial review shall consist of the following:

(a) The agency's written document expressing the order, the statement of reasons therefor, if issued, and the record under s. 120.57, if review of proceedings under that section is sought.

(b) The agency's written document expressing the action, the statement of reasons therefor, if issued, and the materials considered by the agency under s. 120.54, if review is sought of proceedings under that section.

(c) The agency's written document expressing the action, and other written documents identified by the agency as having been considered by it before its action and used as a basis for its action, if review is sought of proceedings under s. 120.56 or s. 120.565 or if there has been no proceeding under s. 120.54 or s. 120.57.

(6) When there has been no hearing prior to agency action and the reviewing court finds that the validity of the action depends upon disputed facts, the court shall order the agency to conduct a prompt, factfinding proceeding under this act after having a reasonable opportunity to reconsider its determination on the record of the proceedings.

(7) The reviewing court shall deal separately with disputed issues of agency procedure, interpretations of law, determinations of fact, or policy within the agency's exercise of delegated discretion.

(8) The court shall remand the case for further agency action if it finds that either the fairness of the proceedings or the correctness of the action may have been impaired by a material error in procedure or a failure to follow prescribed procedure. Failure of any agency to comply with s. 120.53 shall be presumed to be a material error in procedure.

(9) If the court finds that the agency has erroneously interpreted a provision of law and that a correct interpretation compels a particular action, it shall:

(a) Set aside or modify the agency action, or

(b) Remand the case to the agency for further action under a correct interpretation of the provision of law.

(10) If the agency's action depends on any fact found by the agency in a proceeding meeting the requirements of s. 120.57, the court shall not substitute its judgment for that of the agency as to the weight of the evidence on any disputed finding of fact. The court shall, however, set aside agency action or remand the case to the agency if it finds that the agency's action depends on any finding of fact that is not supported by competent substantial evidence in the record.

(11) If the agency's action depends on facts determined pursuant to subsection (6), the court shall set aside, modify, or order agency action if the facts compel a particular action as a matter of law, or it may remand the case to the agency for further examination and action within the agency's responsibility.

(12) The court shall remand the case to the agency if it finds the agency's exercise of discretion to be:

(a) Outside the range of discretion delegated to the agency by law;

(b) Inconsistent with an agency rule;

(c) Inconsistent with an officially stated agency policy or a prior agency practice, if deviation therefrom is not explained by the agency; or

(d) Otherwise in violation of a constitutional or statutory provision;

but the court shall not substitute its judgment for that of the agency on an issue of discretion.

(13)(a) The decision of the reviewing court may be mandatory, prohibitory, or declaratory in form; and it shall provide whatever relief is appropriate irrespective of the original form of the petition. The court may:

1. Order agency action required by law, order agency exercise of discretion when required by law, set aside agency action, remand the case for further agency proceedings, or decide the rights, privileges, obligations, requirements, or procedures at issue between the parties; and

2. Order such ancillary relief as the court finds necessary to redress the effects of official action wrongfully taken or withheld.

(b) If the court sets aside agency action or remands the case to the agency for further proceedings, it may make such interlocutory order as the court finds necessary to preserve the interests of any party and the public pending further proceedings or agency action.

(14) Unless the court finds a ground for setting aside, modifying, remanding, or ordering agency action or ancillary relief under a specified provision of this section, it shall affirm the agency's action.

History.—s. 1, ch. 74-310; s. 13, ch. 76-131; s. 38, ch. 77-104; s. 1, ch. 77-174; s. 11, ch. 78-425; s. 4, ch. 84-173; s. 7, ch. 87-385.

120.69 Enforcement of agency action.—

(1) Except as otherwise provided by statute:

(a) Any agency may seek enforcement of an action by filing a petition for enforcement, as provided in this section, in the circuit court where the subject matter of the enforcement is located.

(b) . A petition for enforcement of any agency action may be filed by any substantially interested person who is a resident of the state. However, no such action may be commenced:

1. Prior to 60 days after the petitioner has given notice of the violation of the agency action to the head of the agency concerned, the Attorney General, and any alleged violator of the agency action.

2. If an agency has filed, and is diligently prosecuting, a petition for enforcement.

(c) A petition for enforcement filed by a nongovernmental person shall be in the name of the State of Florida on the relation of the petitioner, and the doctrines of res judicata and collateral estoppel shall apply.

(d) In an action brought under paragraph (b), the agency whose action is sought to be enforced, if not a party, may intervene as a matter of right.

(2) A petition for enforcement may request declaratory relief; temporary or permanent equitable relief; any fine, forfeiture, penalty, or other remedy provided by statute; any combination of the foregoing; or, in the absence of any other specific statutory authority, a fine not to exceed $1,000.

(3) After the court has rendered judgment on a petition for enforcement, no other petition shall be filed or adjudicated against the same agency action, on the basis of the same transaction or occurrence, unless expressly authorized on remand. The doctrines of res judicata and collateral estoppel shall apply, and the court shall make such orders as are necessary to avoid multiplicity of actions.

(4) In all enforcement proceedings:

(a) If enforcement depends on any facts other than those appearing in the record, the court may ascertain such facts under procedures set forth in s. 120.68(6).

(b) If one or more petitions for enforcement and a petition for review involving the same agency action are pending at the same time, the court considering the review petition may order all such actions transferred to and consolidated in one court. Each party shall be under an affirmative duty to notify the court when it becomes aware of multiple proceedings.

(c) Should any party willfully fail to comply with an order of the court, the court shall punish him in accordance with the law applicable to contempt committed by a person in the trial of any other action.

(5) In any enforcement proceeding the respondent may assert as a defense the invalidity of any relevant statute, the inapplicability of the administrative determination to respondent, compliance by the respondent, the inappropriateness of the remedy sought by the agency, or any combination of the foregoing. In addition, if the petition for enforcement is filed during the time within which the respondent could petition for judicial review of the agency action, the respondent may assert the invalidity of the agency action.

(6) Notwithstanding any other provision of this section, upon receipt of evidence that an alleged violation of an agency's action presents an imminent and substantial threat to the public health, safety, or welfare, the agency may bring suit for immediate temporary relief in an appropriate circuit court, and the granting of such temporary relief shall not have res judicata or collateral estoppel effect as to further relief sought under a petition for enforcement relating to the same violation.

(7) In any final order on a petition for enforcement the court may award to the prevailing party all or part of the costs of litigation and reasonable attorney's fees and expert witness fees, whenever the court determines that such an award is appropriate.

History.—s. 1, ch. 74-310.

120.70 Annual report.—Not later than February 1 of each year, the division shall issue a written report to the Administrative Procedures Committee and the Administration Commission, including at least the following information:

(1) A summary of the extent and effect of agencies' utilization of hearing officers, court reporters, and other personnel in proceedings under this act.

(2) Recommendations for change or improvement in the Administrative Procedure Act or any agency's practice or policy with respect thereto.

History.—s. 1, ch. 74-310.

120.71 Disqualification of agency personnel.—

(1) Notwithstanding the provisions of s. 112.3143, any individual serving alone or with others as an agency head may be disqualified from serving in an agency proceeding for bias, prejudice, or interest when any party to the agency proceeding shows just cause by a suggestion filed within a reasonable period of time prior to the agency proceeding. If the disqualified individual holds his position by appointment, the appointing power may appoint a substitute to serve in the matter from which the individual is disqualified. If the individual is an elected official, the Governor may appoint a substitute to serve in the matter from which the individual is disqualified. However, if a quorum remains after the individual is disqualified, it shall not be necessary to appoint a substitute to serve in the matter from which the individual is disqualified.

(2) Any agency action taken by a duly appointed substitute for a disqualified individual shall be as conclusive and effective as if agency action had been taken by the agency as it was constituted prior to any substitution.

(3) The Administration Commission shall adopt rules of procedure to implement this section.

History.—s. 1, ch. 74-310; s. 12, ch. 78-425; s. 2, ch. 83-329.

120.72 Legislative intent; prior proceedings and rules; exception.—

(1)(a) The intent of the Legislature in enacting this complete revision of chapter 120 is to make uniform the rulemaking and adjudicative procedures used by the administrative agencies of this state. To that end, it is the express intent of the Legislature that chapter 120 shall supersede all other provisions in the Florida Statutes, 1977, relating to rulemaking, agency orders, administra-

tive adjudication, licensing procedure, or judicial review or enforcement of administrative action for agencies as defined herein to the extent such provisions conflict with chapter 120, unless expressly provided otherwise by law subsequent to January 1, 1975, except for marketing orders adopted pursuant to chapters 573 and 601.

(b) Unless expressly provided otherwise, a reference in any section of the Florida Statutes to chapter 120 or to any section or sections or portion of a section of chapter 120 shall hereby include, and shall be understood as including, all subsequent amendments to chapter 120 or to the referenced section or sections or portions of a section.

(2) All administrative adjudicative proceedings conducted pursuant to any provision of the Florida Statutes which were begun prior to January 1, 1975, shall be continued to a conclusion, including judicial review, under the provisions of the Florida Statutes, 1973, except that administrative adjudicatory proceedings which have not progressed to the stage of a hearing may, with the consent of all parties and the agency conducting the proceeding, be conducted in accordance with the provisions of this act as nearly as is feasible.

(3) Notwithstanding any provision of this chapter, all public utilities and companies regulated by the Public Service Commission shall be entitled to proceed under the interim rate provisions of chapter 364 or the procedures for interim rates contained in chapter 74-195, Laws of Florida, or as otherwise provided by law.

(4)(a) All prior rules not adopted following a public hearing as provided by statute shall be void and unenforceable after October 1, 1975, and shall be stricken from the files of the Department of State and from the files of the adopting agency.

(b) Any rule in effect on, or filed with the Department of State prior to, January 1, 1975, except one adopted following a public hearing as provided by statute, shall be forthwith reviewed by the agency concerned on the written request of a person substantially affected by the rule involved and this provision. The agency concerned shall initiate the rulemaking procedures provided by this act within 90 days after receiving such written request. If the agency concerned fails to initiate the rulemaking procedures within 90 days, the operation of the rule shall be suspended. This provision shall control s. 120.54(5).

(c) All existing rules shall be indexed by January 1, 1975.

History.—s. 3, ch. 74-310; s. 1, ch. 76-207; s. 1, ch. 77-174; s. 57, ch. 78-95; s. 13, ch. 78-425.

120.721 Effect of chapter 75-22, Laws of Florida, on rules.—Any rule or regulation of a public agency involved in or affected by the reorganization of the executive agencies as set forth in chapter 75-22, Laws of Florida, which was valid when adopted under the authority granted by the Legislature to adopt such rule, to the extent it is not inconsistent with chapter 75-22, Laws of Florida, shall remain in effect until it expires by its terms or is specifically repealed or revised as provided by law.

History.—s. 23, ch. 75-22.

120.722 Legislative intent of chapter 78-95, Laws of Florida.—

(1) The primary purpose of chapter 78-95, Laws of Florida, is to repeal or amend various provisions of the Florida Statutes containing procedural language superseded or made redundant by chapter 120 (the Administrative Procedure Act). Chapter 78-95 is designed to place the provisions affected into conformity with chapter 120, except where expressly noted to the contrary.

(2) Any section or subunit of a section repealed by an act of any session shall remain repealed despite any amendment in chapter 78-95. Any act of the 1978 legislative session, other than one resulting from a reviser's bill, that amends any provision affected by chapter 78-95 shall supersede chapter 78-95 to the extent that such amendment conflicts with chapter 78-95.

(3) Deletions of references to chapter 120 in chapter 78-95 do not imply that chapter 120 is not applicable; except where expressly noted otherwise, references to chapter 120 are deleted as unnecessary and repetitious.

(4) Failure of chapter 78-95 to amend or repeal any provision in the Florida Statutes does not imply that that provision is not in conflict with, superseded by, or unnecessary in light of chapter 120.

History.—s. 1, ch. 78-95.

120.73 Circuit court proceedings; declaratory judgments.—Nothing in this chapter shall be construed to repeal any provision of the Florida Statutes which grants the right to a proceeding in the circuit court in lieu of an administrative hearing or to divest the circuit courts of jurisdiction to render declaratory judgments under the provisions of chapter 86.

History.—s. 11, ch. 75-191; s. 14, ch. 78-425.

QUALITY ASSURANCE STANDARD OPERATING PROCEDURES MANUAL

for

SOIL THERMAL TREATMENT FACILITIES

CHAPTER 17-775, FLORIDA ADMINISTRATIVE CODE

Florida Department of Environmental Regulation
Division of Waste Management
Bureau of Waste Cleanup
Engineering Support Section

November 1991

QUALITY ASSURANCE
STANDARD OPERATING PROCEDURES MANUAL
SOIL SAMPLING
FOR
SOIL THERMAL TREATMENT FACILITIES
CHAPTER 17-775, FLORIDA ADMINISTRATIVE CODE

1.0 General

Chapter 17-775.300(10), Florida Administrative Code (F.A.C.), requires that soil sampling and analysis be conducted in accordance with an approved Comprehensive Quality Assurance Plan (CompQAP). The Department has decided that all sampling and analyses conducted to support Chapter 17-775, F.A.C., work will be performed under category 2C QA oversight. All parties conducting soil sampling will follow this Department-written SOP for all aspects of pretreatment and post treatment as defined in Chapter 17-775.410, F.A.C. Subsequent analysis of collected samples will be performed by a laboratory which has an approved Comprehensive QA Plan or "technically equivalent" Generic QA plan. This SOP applies to both pretreatment and post treatment soil sampling; however, the SOP does not include procedures for soil analysis which must be conducted by a laboratory facility which has an approved CompQAP.

> Soils to be thermally treated should first be identified as "excessively contaminated" by using an organic vapor analyzer and following the procedures described in Rule 17-770.200, F.A.C. and the Florida DER Guidelines for Assessment and Remediation of Petroleum Contaminated Soils. Only soil which meets the definition for "excessively contaminated" soil should normally be excavated and, therefore, should be sampled for laboratory analysis under the procedures identified in this SOP manual.

2.0 Sampling Procedures

2.1 Pre-Treatment Soil Sampling

Chapter 17-775.410(3), F.A.C., requires minimum sampling for Volatile Organic Aromatics, Total Recoverable Petroleum Hydrocarbons, and total metals.

2.1.1 Sampling Location

Pre-treatment soil sampling may be conducted either in-situ before the excessively contaminated soil is excavated, or on soils which have already been excavated and stockpiled. Each composite sample of pretreatment soil required will be comprised of 12 subsamples. The 12 subsamples which form one composite

sample will be obtained from three depths at each of 4 locations. For each volume of soil requiring a composite sample as specified in Table II in Chapter 17-775, F.A.C.(Attachment A), four representative locations shall be selected for composite sampling, i.e., for less than 100 cubic yards of soil, four equally spaced locations shall be identified, for 100 to 500 cubic yards of soil, 12 equally spaced locations shall be identified, etc. Grid-based sampling should be used to the greatest extent possible to locate representative soil sample locations.

2.1.1.1 In-situ sampling

At each in-situ location selected as described above, soil subsamples shall be collected at three depths: 1.)six to 12 inches below the depth where the excessively contaminated soil begins, 2.)the mid-point between the initial depth of excessively contaminated soil and the lower extent of excessively contaminated soils (or the water table), and 3.)approximately one foot above the lower extent of excessively contaminated soils (or the water table). This procedure will result in 12 individual subsamples forming a single composite sample (three depths at four locations). An example of the frequency and location of samples in-situ is depicted in Attachment B.

2.1.1.2 Soil Sampling of Stockpiled Pretreatment Soils

To form each composite sample of stockpiled pretreatment soil, soil subsamples shall be collected at four locations and three depths at each location: 2/3, 1/3, and 1/6 the height of the stockpile at the subsample location. For example, for a subsample location on a stockpile where the soil is six feet high, samples shall be taken at depths of 2', 4' and 5' from the surface of the pile. This will result in 12 individual subsamples forming a single composite sample (three depths at four locations). An example of the frequency and location of samples for stockpiled soils is depicted in Attachment C.

2.1.2 <u>Soil Sampling Procedure (except VOA)</u>

The following soil sampling procedures shall be used for collecting samples for TRPH, metals, and any analytical procedures which may be necessary in addition to the analyses specified in Chapter 17-775 due to site specific circumstances. The following procedures apply to both in-situ and stockpiled soil unless otherwise stated.

2.1.2.1 Clear sample location of debris or vegetative cover using a clean stainless steel shovel.(necessary for in-situ only)

2.1.2.2 Expose horizon to be sampled by digging a hole or

trench with a stainless steel shovel or hand auguring down to the appropriate depth as described in section 2.1.1 above.

2.1.2.3 Using a clean stainless steel spoon or auger bucket, collect sample and transfer to a clean glass tray for mixing.

> A portion of the soil may be separated at this point and used for VOA samples, however, the soil to be used for VOA samples shall not be handled or agitated unnecessarily. The separate procedure described in section 2.1.3 below should be followed from this point for handling the soil to be used for VOA samples. Place VOA samples in appropriate containers and seal immediately. Unless processed immediately according to the procedure in section 2.1.3, VOA samples should be packed into vials with a glass rod or equivalent to eliminate headspace. (see paragraph 2.1.3 for composite samples for VOA analysis).

2.1.2.4 Each of the 12 subsamples which makes up a composite sample should be added to the tray. The subamples should be thoroughly mixed with a clean stainless steel or Teflon-coated spoon.

2.1.2.5 Separate the sample into quarters, mix each thoroughly, recombine, and mix again. Be sure to scrape corners and sides of mixing tray.

2.1.2.6 Continue quartering procedure until sample is as homogeneous as possible.

2.1.2.7 Place in large, wide-mouth, glass container.

2.1.3 VOA Sampling Procedure

The following sampling procedure should be used to collect samples for VOA analysis for either in-situ or excavated and stockpiled soils. Due to the inherent volatility of the compounds detected by this analysis it is important that the soils be handled in a manner so as to minimize volatizing of VOAs. The soil subsamples should not be mixed, handled extensively, or exposed to the open air for extended periods of time.

2.1.3.1 Soil samples should be taken with stainless steel, glass, or Teflon scoop, spoon, or equivalent.

2.1.3.2 Small subsamples of approximately equal size should not be mixed at this point, but be taken as an undisturbed sample.

2.1.3.3 These subsamples should be placed in a large, wide-mouth, glass container; covered with aluminum foil; and placed in a refrigerator or cooler and kept at 4°C.

2.1.3.4 To form each composite sample, twelve equal size subsamples (three depths at four locations) should be added to the container.

2.1.3.5 Immediately after all 12 subsamples of a single composite sample have been taken, the entire sample should be placed in a large, wide-mouth, glass container and sealed. The glass container should be at least twice the size of the soil sample. Slowly tumble the sample in the container so that complete mixing occurs.

2.1.3.6 Then place a representative sample in an appropriate container supplied by an approved laboratory facility, cooled to 4°C with wet ice, and send for analysis.

2.2 Post Treatment Sampling

Post treatment sampling generally follows the procedures outlined in Section 2.1.

2.2.1 Sampling Location

Post treatment samples collected hourly over no more than an eight hour period (or no more than a throughput of 400 tons) should be added to a container as the thermally treated soil exits the primary chamber or kiln.

2.2.2 Soil Sampling Procedure(except VOA)

The following soil sampling procedures shall be used for collecting samples for TRPH, metals, and any analytical procedures which may be necessary in addition to the analyses specified in Chapter 17-775 due to site specific circumstances.

2.2.2.1 Using a clean stainless steel spoon or auger bucket, collect sample and transfer to a clean glass tray and allow to cool to ambient temperature for mixing. VOA samples shall not be mixed. Place VOA samples in appropriate containers and seal immediately (see paragraph 2.2.3 for composite samples for VOA analysis).

2.2.2.2 Thoroughly mix sample with a clean stainless steel or Teflon-coated spoon.

2.2.2.3 Separate the sample into quarters, mix each thoroughly, recombine, and mix again. Be sure to scrape corners and sides of mixing tray.

2.2.2.4 Place in large, wide-mouth, glass container.

2.2.3 VOA Sampling Procedure

Due to the inherent volatility of the compounds detected by this analysis it is important that the soils be handled in a manner so as to minimize volatizing of VOAs. The soil subsamples should not be mixed, handled extensively, or exposed to the open air for extended periods of time.

2.2.3.1 Soil samples should be taken with stainless steel, glass, or Teflon scoop, spoon, or equivalent.

2.2.3.2 Small subsamples of approximately equal size should not be mixed at this point, but be taken as an undisturbed sample and placed on a stainless steel tray and allowed to cool to ambient temperature.

2.2.3.3 Once cooled, the composite samples should be placed in a large, wide-mouth, glass container; covered with aluminum foil; and placed in a refrigerator or cooler and kept at $4^{o}C$.

2.2.3.4 Subsamples collected hourly over no more than an eight hour period (or no more than a throughput of 400 tons) should be added to the container.

2.2.3.5 Once all subsamples have been taken, the entire sample shall be placed in a large, wide-mouth, glass container and sealed. The glass container must be at least twice the size of the soil sample. Slowly tumble the sample in the container so that complete mixing occurs.

2.2.3.6 A representative sample is then placed in an appropriate container supplied by an approved laboratory facility, cooled to $4^{o}C$ with wet ice, and sent for analysis.

2.3 Cleaning Procedures

Equipment utilized to obtain samples is decontaminated before every sampling event.

2.3.1 Wash equipment thoroughly with detergent and tap water using a brush to remove any particulate matter or surface film.

2.3.2 Rinse equipment with tap water.

2.3.3 Rinse equipment with deionized water.

2.3.4 Rinse equipment twice with isopropanol and allow to air dry.

2.3.5 Wrap equipment completely with aluminum foil to prevent contamination during transportation to or within a sampling site.

2.4 Sample Identification, Storage, and Holding Time

2.4.1 Immediately after each sample is collected, it must be sealed and a label will be affixed to the container identifying the sample by location, date and time of collection, collector's name, analysis type, and preservative. Preservative can be deleted if containers are color coded as to preservative or preservative is noted in the chain of custody, sample request, or other documentation going to the lab.

2.4.2 All samples will be stored in wet ice and access to samples will be restricted to only those persons identified in the chain of custody record.

3.0 Sample Custody

3.1 A sample control log will be maintained which will show the field ID number, the name of the sample collector, the date, shift, and location of collection. The field ID number also will be written on the sample label. A numbering system should be used for the field ID numbers which will allow accurate identification of soil piles with no ambiguity.

3.2 Chain of Custody Record

A chain of custody record will be completed for every sample collected. All parties accepting custody of the samples including the collector, coordinator, transporter and laboratory custodian, etc., will provide signatures on the chain of custody forms. In this record every sample will be identified by the following: field ID number, date, time, sampling method, sampling location, shift, container, and analytical methods. A chain of custody record will be filled out per sample collector per shift.

A binder containing copies of chain of custody records will be maintained by the party which collects the sample. Two copies of a chain of custody record form will accompany the sample to the laboratory. Once the sample transporter signs out and the laboratory receiver signs in, one copy will be retained by the laboratory and one retained by the transporter who will deliver it to the party collecting the sample.

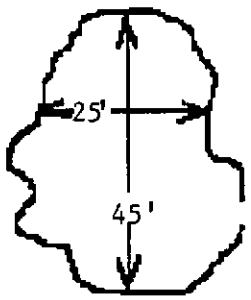
Attachment A

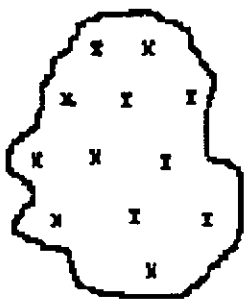
Chapter 17-775, Table II

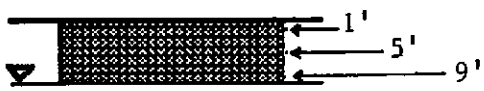
Amount of Soil		Quantity of
by Volume (cubic yards)	by weight (tons)	Composite Samples
Less than 100	Less than 140	1
100 to 500	140 to 700	3
500 to 1000	700 to 1400	5
For each additional 500	For each additional 700	1

Attachment B

The area shown has been delineated as excessively contaminated by OVA analysis. The depth to groundwater on site is ten feet. In this simplified example it is assumed that all the soil is excessively contaminated from the surface to the groundwater. This will not normally be the case. Only soil above the groundwater table should be excavated. The volume of soil to be excavated is estimated to be 450 yd^3. Therefore, in accordance with Table 2 in Chapter 17-775, 3 composite samples are required. Each composite sample is to consist of subsamples taken at three depths at each of four locations. Therefore a total of 12 surface locations must be designated and a total of 36 subsamples will be taken to make up the three composite samples. The selected locations are shown in the second figure. The depths of each subsample will be 1 foot, 5 feet, and 9 feet from the surface. The 36 subsamples are then combined into three composite samples as described in the SOP.

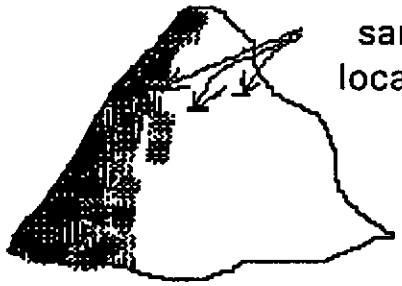






Attachment C

The excavated soil shown is in a pile 10 feet high and has a volume of 80 cubic yards. Therefore, one composite sample is required in accordance with table 2 in Chapter 17-775. A single composite sample consists of three subsamples from each of four locations on the pile. The four sample locations selected are shown in the plan view of the pile. The height of the pile at the sample locations is six feet.
Therefore, at each location three subsamples are taken at depths of 1/6, 1/3, and 2/3 the pile height, which would be 1 foot, 2 feet, and 4 feet from the bottom of the pile (or 2 feet, 4 feet, and 5 feet from the surface of the pile). All 12 of the soil subsamples are then combined as described in the SOP to form the single composite sample.





plan view of
sample locations

EXHIBIT E

Florida Department of Environmental Regulation

STATIONARY SOIL THERMAL TREATMENT FACILITY

INSPECTION REPORT

Name of Facility _____

Location _____

General Permit No. SO - _____ Date of Inspection _____

Contact Person _____

Person Completing Report _____

Instructions: Complete the appropriate spaces for each item listed below. Use comments space to provide additional information for each item. Additional paper may be used if necessary.

Yes	No	SITE SURVEY	
___	___	1.	Does information provided on general permit notice of intent form coincide with actual facility?
___	___	2.	Is soil sampling procedure correct?
___	___	3.	Are monitoring wells properly installed (proper number and location)?
___	___	4.	Are monitor wells being properly sampled and analysed for required parameters?
___	___	5.	Is untreatd soil stockpiled separately from treated soil and properly identified?
___	___	6.	Is untreated soil adequately covered by roofing?
___	___	7.	Do floors for storage appear to be properly constructed and in good condition?
___	___	8.	Are floors properly bermed to provide runoff control?
___	___	9.	Is a leachate collection system provided?

Yes	No	REPORTING FORMS	
___	___	10.	Are untreated soil reporting forms being properly completed? starting date _____ end date _____
___	___	11.	Are treated soil reporting forms being properly completed? starting date _____ end date _____

12. Indicate frequency clean soil criteria is being met?
    a. _____ % TRPH - 10 mg/kg, or
    b. _____ % TRPH - 50 mg/kg, PAH - 6 mg/kg, and VOH - 50 ug/kg

13. Indicate ranges and approximate median values of untreated soil analyses for the following parameters.
    a. TRPH _____ mg/kg to _____ mg/kg, median _____ mg/kg
    b. VOA _____ mg/kg to _____ mg/kg, median _____ mg/kg
    c. Arsenic _____ mg/kg to _____ mg/kg
    d. Barium _____ mg/kg to _____ mg/kg
    e. Cadmium _____ mg/kg to _____ mg/kg
    f. Chromium _____ mg/kg to _____ mg/kg
    g. Lead _____ mg/kg to _____ mg/kg
    h. Mercury _____ mg/kg to _____ mg/kg
    i. Selenium _____ mg/kg to _____ mg/kg
    j. Silver _____ mg/kg to _____ mg/kg

14. Indicate ranges and approximate median values of treated soil analyses for the following parameters.
    a. TRPH _____ mg/kg to _____ mg/kg, median _____ mg/kg
    b. VOA _____ mg/kg to _____ mg/kg, median _____ mg/kg
    c. Arsenic _____ mg/kg to _____ mg/kg
    d. Barium _____ mg/kg to _____ mg/kg
    e. Cadmium _____ mg/kg to _____ mg/kg
    f. Chromium _____ mg/kg to _____ mg/kg
    g. Lead _____ mg/kg to _____ mg/kg
    h. Mercury _____ mg/kg to _____ mg/kg
    i. Selenium _____ mg/kg to _____ mg/kg
    j. Silver _____ mg/kg to _____ mg/kg
    k. _____ _____ mg/kg to _____ mg/kg
    i. _____ _____ mg/kg to _____ mg/kg

Comments: _____

_____

_____

_____

_____

_____

_____ _____

Signature Date

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL REGULATION
NOTICE OF PERMIT ISSUANCE

RECEIVED
OCT 30 1995
DEPT OF ENV PROTECTION
WEST PALM BEACH

CERTIFIED MAIL

In the matter of an
Application for Permit
By:

DER File No. 217516
Okaloosa County

Department of Defense
Eglin Air Force Base
_____/

Enclosed is Permit Number SO46-217516 to operate a six acre soil treatment facility, issued pursuant to Section 403, Florida Statutes.

A person whose substantial interests are affected by this permit may petition for an administrative proceeding (hearing) in accordance with Section 120.57, Florida Statutes. The petition must contain the information set forth below and must be filed (received) in the Office of General Counsel of the Department at 2600 Blair Stone Road, Tallahassee 32399-2400, within 14 days of receipt of this Permit. Petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. Failure to file a petition within this time period shall constitute a waiver of any right such person may have to request an administrative determination (hearing) under Section 120.57, Florida Statutes.

The Petition shall contain the following information;

(a) The name, address, and telephone number of each petitioner, the applicant's name and address, the Department Permit File Number and the county in which the project is proposed;

(b) A statement of how and when each petitioner received notice of the Department's action or proposed action;

(c) A statement of how each petitioner's substantial interests are affected by the Department's action or proposed action;

(d) A statement of the material facts disputed by petitioner, if any;

(e) A statement of facts which petitioner contends warrant reversal or modification of the Department's action or proposed action;

(f) A statement of which rules or statutes petitioner contends require reversal or modification of the Department's action or proposed action; and

(g) A statement of the relief sought by petitioner, stating precisely the action petitioner wants the Department to take with respect to the Department's action or proposed action.

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this permit. Persons whose substantial interests will be affected by any decision of the Department with regard to the application have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within 14 days of receipt of this notice in the Office of General Counsel at the above address of the Department. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Section 120.57, Florida Statutes, and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed pursuant to Rule 28-5.207, F.A.C.

This permit is final and effective on the date filed with the Clerk of the Department unless a petition is filed in accordance with the above paragraphs or unless a request for extension of time in which to file a petition is filed within the time specified for filing a petition and conforms to Rule 17-103.070, F.A.C. Upon timely filing of a petition or a request for an extension of time this permit will not be effective until further Order of the Department.

When the Order (Permit) is final, any party to the Order has the right to seek judicial review of the Order pursuant to Section 120.68, Florida Statutes, by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the Clerk of the Department in the Office of General Counsel, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400; and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 days from the date the Final Order is filed with the Clerk of the Department.

Executed in Pensacola, Florida.

State of Florida Department
of Environmental Regulation

ROBERT V. KRIEGEL
District Director

160 Governmental Center
Pensacola, Florida 32501-5794
(904) 436-8300

CERTIFICATE OF SERVICE

The undersigned duly designated deputy agency clerk hereby certifies that this NOTICE OF PERMIT ISSUANCE and all copies were mailed by certified mail before the close of business on Sept. 11, 1992 to the listed persons.

FILING AND ACKNOWLEDGEMENT FILED, on this date, pursuant to §120.52(9), Florida Statutes, with the designated Department clerk, receipt of which is hereby acknowledged.

Sept. 11, 1992
date

clerk

Copies furnished to:

Office of General Counsel

Florida Department of Environmental Regulation

Northwest District • 160 Governmental Center • Pensacola, Florida 32501-5794

Lawton Chiles, Governor

Carol M. Browner, Secretary

PERMITTEE:

Department of Defense
Eglin Air Force Base

I.D. Number: 1046F07225
Permit/Certification Number: SO46-217516
Date of Issue: September 11, 1992

Expiration Date: September 1, 1997
County: Okaloosa
Latitude/Longitude: 30°25'/86°50'
Section/Township/Range: 13/1S/23W
Project: Eglin Petroleum Soil
Treatment Facility

This permit is issued under the provisions of Chapter 403, Florida Statutes, and Florida Administrative Code (F.A.C.) Rule 17-701. The above named applicant, hereinafter called Permittee, is hereby authorized to perform the work or operate the facility shown in the application and approved drawing(s), plans, and other documents attached hereto or on file with the Department and made a part hereof and specifically described as follows:

To operate a 6 acre Soil Treatment Facility located east of Perimeter Road on Eglin Air Force Base in Okaloosa County.

Operation of the treatment facility shall be in accordance with the application received August 10, 1992, additional information received August 28, 1992, except as modified by the conditions of this permit.

Recycled Paper

PERMITTEE:

Department of Defense
Eglin Air Force Base

I.D. Number: 1046F07225
Permit/Certification Number: SO46-217516
Date of Issue: September 11, 1992

Expiration Date: September 1, 1997

GENERAL CONDITIONS:

1. The terms, conditions, requirements, limitations, and restrictions set forth in this permit are "permit conditions" and are binding and enforceable pursuant to the authority of Sections 403.141, 403.727, or 403.859 through 403.861, Florida Statutes. The permittee is placed on notice that the Department will review this permit periodically and may initiate enforcement action for any violation of these conditions.

2. This permit is valid only for the specific processes and operations applied for and indicated in the approved drawings or exhibits. Any unauthorized deviation from the approved drawings, exhibits, specifications, or conditions of this permit may constitute grounds for revocation and enforcement action by the Department.

3. As provided in Subsections 403.087(6) and 403.722(5), Florida Statutes, the issuance of this permit does not convey any vested rights or any exclusive privileges. Nor does it authorize any injury to public or private property or any invasion of personal rights, nor any infringement of federal, state or local laws or regulations. This permit does not constitute a waiver of or approval of any other Department permit that may be required for other aspects of the total project which are not addressed in the permit.

4. This permit conveys no title to land or water, does not constitute state recognition or acknowledgement of title, and does not constitute authority for the use of submerged lands unless herein provided and the necessary title or leasehold interests have been obtained from the state. Only the Trustees of the Internal Improvement Trust Fund may express state opinion as to title.

5. This permit does not relieve the permittee from liability for harm or injury to human health or welfare, animal, or plant life, or property caused by the construction or operation of this permitted source, or from penalties therefore; nor does it allow the permittee to cause pollution in contravention of Florida Statutes and Department rules, unless specifically authorized by an order from the Department.

6. The permittee shall properly operate and maintain the facility and systems of treatment and control (and related appurtenances) that are installed and used by the permittee to achieve compliance with the conditions of this permit, as required by Department rules. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to achieve compliance with the conditions of the permit and when required by Department rules.

PERMITTEE:

Department of Defense
Eglin Air Force Base

I.D. Number: 1046F07225
Permit/Certification Number: SO46-217516
Date of Issue: September 11, 1992

Expiration Date: September 1, 1997

GENERAL CONDITIONS:

7. The permittee, by accepting this permit, specifically agrees to allow authorized Department personnel, upon presentation of credentials or other documents as may be required by law, access to the premises, at reasonable times, where the permitted activity is located or conducted for the purpose of:

a. Having access to and copying any records that must be kept under the conditions of this permit;

b. Inspecting the facility, equipment, practices, or operations regulated or required under this permit; and,

c. Sampling or monitoring any substances or parameters at any location reasonably necessary to assure compliance with this permit or Department rules.

Reasonable time may depend on the nature of the concern being investigated.

8. If, for any reason, the permittee does not comply with or will be unable to comply with any condition or limitation specified in this permit, the permittee shall immediately provide the Department with the following information:

a. A description of and cause of noncompliance; and

b. The period of noncompliance, including exact dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance.

The permittee shall be responsible for any and all damages which may result and may be subject to enforcement action by the Department for penalties or revocation of this permit.

9. In accepting this permit, the permittee understands and agrees that all records, notes, monitoring data and other information relating to the construction or operation of this permitted source which are submitted to the Department may be used by the Department as evidence in any enforcement case involving the permitted source arising under the Florida Statutes or Department rules, except where such use is prescribed by Sections 403.73 and 403.111, Florida Statutes. Such evidence shall only be used to the extent it is consistent with the Florida Rules of Civil Procedure and appropriate evidentiary rules.

PERMITTEE:

Department of Defense
Eglin Air Force Base

I.D. Number: 1046F07225
Permit/Certification Number: SO46-217516
Date of Issue: September 11, 1992

Expiration Date: September 1, 1997

GENERAL CONDITIONS:

10. The permittee agrees to comply with changes in Department rules and Florida Statutes after a reasonable time for compliance, provided however, the permittee does not waive any other rights granted by Florida Statutes or Department rules.

11. This permit is transferable only upon Department approval in accordance with Florida Administrative Code Rules 17-4.120 and 17-730.300, as applicable. The permittee shall be liable for any noncompliance of the permitted activity until the transfer is approved by the Department.

12. This permit is required to be kept at the work site of the permitted activity during the entire period of construction or operation.

13. The permittee shall comply with the following:

a. Upon request, the permittee shall furnish all records and plans required under Department rules. During enforcement actions, the retention period for all records will be extended automatically unless otherwise stipulated by the Department.

b. The permittee shall hold at the facility or other location designated by this permit records of all monitoring information (including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation) required by the permit, copies of all reports required by this permit, and records of all data used to complete the application for this permit. These materials shall be retained at least three years from the date of the sample, measurement, report or application unless otherwise specified by Department rule.

c. Records of monitoring information shall include:

- the date, exact place, and time of sampling or measurement;
- the person responsible for performing the sampling or measurement;
- the date(s) analyses were performed;
- the person responsible for performing the analyses;
- the analytical techniques or methods used; and
- the results of such analyses.

PERMITTEE:

Department of Defense
Eglin Air Force Base

I.D. Number: 1046F07225
Permit/Certification Number: SO46-217516
Date of Issue: September 11, 1992

Expiration Date: September 1, 1997

GENERAL CONDITIONS:

14. When requested by the Department, the permittee shall within a reasonable time furnish any information required by law which is needed to determine compliance with the permit. If the permittee becomes aware that relevant facts were not submitted or were incorrect in the permit application or in any report to the Department, such facts or information shall be corrected promptly.

SPECIFIC CONDITIONS:

1. The Department may modify these conditions or impose new conditions as it deems necessary to assure compliance with the provisions of Chapter 403, Florida Statutes, and other applicable regulations.

2. Surface water runoff shall be controlled during operation under this permit and shall comply with F.A.C. Chapter 17-302.500, 17-302.510 and 17-302.560 at the site boundary.

3. The Department shall be notified and prior approval shall be obtained of any changes or revisions proposed during operation or construction under this permit.

4. A copy of the Department approved engineering drawings, plans, reports, operational plan, and supporting information shall be kept at this facility at all times for reference and inspections.

5. In no event shall anything be treated or disposed of at this facility except for petroleum contaminated soil as defined in F.A.C. Rule 17-775.200. The facility shall insure that pre-treatment soils have been sampled and analyzed in accordance with F.A.C. Rule 17-775.410. Data received by the operator shall be recorded on the attached DER Form 17-775.900(2) and shall be maintained at the facility for Department inspection.

6. In no event shall any petroleum contaminated soils or other materials be disposed of on the site other than in areas specifically designated in the application.

7. Soils must not be treated at this facility if classified as a hazardous waste. If soil is suspected of containing a hazardous waste, then screening analysis for non-petroleum contaminants shall include, but is not limited to the following; volatile organic halogens; corrositivity; reactivity; toxicity characteristic constituents by the Toxicity Characteristic Leachate Proceedure (TCLP), which includes metals, pesticides and additional organics; and polychlorinated biphenyls (PCB).

PERMITTEE:

Department of Defense
Eglin Air Force Base

I.D. Number: 1046F07225
Permit/Certification Number: SO46-217516
Date of Issue: September 11, 1992

Expiration Date: September 1, 1997

SPECIFIC CONDITIONS:

8. Compliance with the clean soil criteria of F.A.C. Rule 17-775.400 shall be met before terminating treatment and removal. Post-treatment soils analysis shall be recorded on the attached DER Form 17-775.900(3), and shall be maintained at the facility for Department inspection.

9. Soil sampling and analysis shall comply with the quantity of samples, methods and post treatment proceedures of F.A.C. Rule 17-775.410.

10. No zone of discharge into groundwater is allowed under this permit. Compliance with water quality standards of F.A.C. Rules 17-3.402 and 17-3.404 as contained in F.A.C. Rules 17-550.310 and 17-550.320 shall be met within and beyond the boundary of the permitted facility.

11. The gas monitoring wells, GMW-1 through GMW-5, shall be sampled with an Organic Vapor Analyzer equipped with a FID. Analysis results shall show corrections for methane by use of carbon filters. Results shall be submitted once every three months and no later than the end of February, May, August and November each year. This monitoring system shall be subject to re-evaluation upon completion of the planned IRP assessment of the construction and demolition site contiguous with the treatment facility.

12. In the event that the downgradient soil gas wells indicate migration of petroleum contamination or groundwater or surface water monitoring shows a violation of the applicable water quality standards, the permittee shall arrange for a confirmation resampling within 15 days after receipt of field or laboratory results. If this resampling confirms the contamination, permittee shall arrange for a meeting with the Department within 15 days after receiving confirmation and shall be prepared to discuss at this meeting a corrective action plan as set forth in F.A.C. Rule 17-770. In the event that the permittee chooses not to conduct the confirmation sampling, the Department shall consider the initial analysis to be representative of the current quality conditions at this facility.

13. All soil gas monitoring required by this permit shall be carried out under a Department approved Comprehensive Quality Assurance Plan in accordance with F.A.C. Rule 17-160. Requirements for these plans may be obtained from the QA Section, (904) 488-2796. Permittee shall provide to the Northwest District Office, within 90 days after receipt of this permit, the name(s) and telephone number(s) of companies utilized for field and laboratory services and the date of approval of the Comprehensive Quality Assurance Plan. The Department shall receive written notification of any change in field or laboratory service suppliers. This notification shall be required prior to sample collection.

PERMITTEE:

Department of Defense
Eglin Air Force Base

I.D. Number: 1046F07225
Permit/Certification Number: SO46-217516
Date of Issue: September 11, 1992

Expiration Date: September 1, 1997

SPECIFIC CONDITIONS:

14. The permanent Department identification number (GMS No.) for this facility is 1046F07225. Please cite this number on all reports and correspondence concerning this facility.

15. The Department telephone number for reporting problems, malfunctions or exceedances under this permit is (904) 436-8300, day or night, and for emergencies involving a significant threat to human health or the environment is (904) 488-1320. For routine business, telephone (904) 436-8360 during normal working hours.

Expiration date:

September 1, 1997

Issued this 11th day of Sept, 1992.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL REGULATION

ROBERT V. KRIEGEL
District Director

Florida Department of Environmental Regulation
Soil Thermal Treatment ility
Untreated Soil Reports Form

Name of Facility: _____
Air Permit No.: _____
Soil Treatment Permit No.: _____
Stationary ____ or Mobile Facility: ____

Month: ____ Year: ____

1	2	3	4	5								6	7	8		
Day of Mo.	Soil Batch ID#	Sample Number	Amount, Volume or Weight cy/tn	Analytical Results												
				Metals								Totals		Indicate Other Analyses		
				As	Ba	Cd	Cr	Pb	Hg	Se	Ag	VOA	RPH	Attach Lab Results Only		

Florida Department of Environmental Regulation
Soil Thermal atment Facility
Treated Soi. Reporting Form

Name of Facility: _____
Air Permit No.: _____
Soil Treatment Permit No.: _____
Stationary:_____ or Mobile Facility: _____

Month: _____ Year: _____

1	2	3	4	5	6								7								8	9	10	11
Day of Mo.	Soil Batch ID#	Sample Number	Length of Run, Hours	Amount, Volume or Weight cy/tn	Analytical Results																			
					Total Metals								TCLP Metals								Totals			
					As	Ba	Cd	Cr	Pb	Hg	Se	Ag	As	Ba	Cd	Cr	Pb	Hg	Se	Ag	VOA	RPH	PAH	VOH

DER Form 17-775.900(3)

See reverse side for instructions

State of Florida
DEPARTMENT OF ENVIRONMENTAL REGULATION

For Routing To Other Than The Addressee
_____ Location: _____
To: _____ Location: _____
To: _____ Location: _____
From: _____ Date: _____

Interoffice Memorandum

TO: Thomas W. Moody, P.E.

FROM: Michael S. Kennedy, P.G.

DATE: August 31, 1992

SUBJECT: Eglin AFB Passive Soil Bio-remediation Solid Waste Permit Application SO47-217516

Eglin submitted an application for a Solid Waste Permit on August 10 to operate a passive soil bio-remediation site on Base property. They have submitted adequate information and the appropriate fee for the permit and I recommend that we issue the Permit to operate the Solid Waste facility.

While the operation is similar to land farming, it incorporates a passive method of introducing air into the pile, eliminating the need to till. The bottom liner is to be 10 mil and will be constructed so as to collect any leachate. Rainfall will also be excluded by a plastic cap. The site is secure from access and is more than 200 feet from wetlands or surface water.

The soil will be monitored periodically with an OVA/FID and then considered clean when samples meet the standards of F.A.C. Rule 17-775. Samples, analysis methods, standards and records will be in accord with this rule as well. Soil gas wells (5) will be installed downgradient to monitor the site until groundwater wells are installed during the IRP, which is ongoing.

Eglin has a number of petroleum sites on Base which have needed or will need soil remediation. This activity consolidates cleanup efforts and produces a very manageable facility. There are no rules or official guidelines, at present, which govern "land farming" or this type operation. However, the information submitted substantially complies with appropriate guidelines of F.A.C. Rule 17-770 and the soil remediation requirements of F.A.C. Rule 17-775. Based on the information submitted and the compliance, I recommend approval.

MSK:mkm

CERTIFICATION

Application No. 217516

I HEREBY CERTIFY that the engineering features described in the above referenced application (provide/~~do not provide~~) reasonable assurance of compliance with applicable provisions of Chapter 403, Florida Statutes, and Florida Administrative Code Title 17. However, I have not evaluated and I do not certify aspects of the proposal outside of my area of expertise (including but not limited to the electrical, mechanical, structural, hydrological, and geological features).

Thomas W. Moody

Thomas W. Moody, P.E.

9/4/92

Date

Florida Department of
Environmental Protection

Lawton Chiles
Governor

Northwest District
160 Governmental Center
Pensacola, Florida 32501-5794

Virginia B. Wetherell
Secretary

FILE

Ms. Judy Ramsey, Chief
Waste Management Branch
AFTDC/EMCW
501 DeLeon Street, Suite 100
Eglin Air Force Base, Florida 32542-5133

Dear Ms. Ramsey:

This is in response to Ralph Armstrong's May 20 letter requesting that investigation derived waste be allowed to be stored at the permitted land farming facility, I.D. Number 1046F07225, known as the Receiver Landfill.

The conditions in his letter under which the waste will be stored are practical and acceptable. Therefore, the request to use the facility for storage only is approved.

As a related matter, we have not received a response to our March 9 letter to Mr. Paris addressing some changes he had requested. We assume you are no longer interested in those changes (his February 25 letter).

If you have any questions, please contact Michael Kennedy, Cleanup Section Supervisor, at (904) 444-8360.

Sincerely,

Thomas W. Moody

Thomas W. Moody, P.E.
Waste Management Program
Administrator

TWM:msk
cc: Mr. Ralph Armstrong

Printed on recycled paper.

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR FORCE DEVELOPMENT TEST CENTER (AFMC)
EGLIN AIR FORCE BASE, FLORIDA

20 May 94

AFDTC/EMR
501 DeLeon St. Ste 100
Eglin AFB FL 32542-5133

RECEIVED
MAY 25 1994
Northwest Florida
DEP

HW

Mr. Tom Moody
Florida Department of Environmental Protection
160 Governmental Center
Pensacola, Florida 32501-5794

Dear Mr Moody

As per our 12 May 94 conversation with Mr. Mike Kennedy, Eglin AFB requests that Investigation Derived Waste (IDW) resulting from an upcoming RCRA Facility Investigation be temporarily stored at the DEP permitted land farming facility known as the Receiver Landfill. The storage of these wastes will be protective of human health and the environment as required by the guidance document Management of Investigation-Derived Wastes During Site Investigations, May 1990, EPA/540/G-91/009. Proposed storage conditions shall be as follows:

a. The wastes will be stored in 55 gallon Department of Transportation approved drums until analytical data is received.

b. The estimated timeframe of this storage requirement is four months from the project start date.

c. The drums will be labeled as IDW and shall be marked with both the date of generation and of sample collection.

d. Drums will be stored on an existing 50′ X 200′ concrete pad at the site, which shall be equipped with secondary containment by constructing a 6" containment wall using sandbags covered with polyethylene sheeting. Rainwater collected in the containment shall be released to the soil only after inspection of all containers to ensure no leakage has occurred.

e. The landfarming/IRP facility will remain locked at all times except when Eglin Environmental Management or Contractor personnel are present.

f. Upon receipt of analytical data, appropriate disposal will be determined and implemented.

g. No treatment of the IDW shall be performed at the facility.

2. Request your response and concurrence with the proposed storage and handling procedures as soon as possible to ensure storage availability for these wastes. The estimated start date of this project is in approximately 2 weeks.

3. Questions concerning this matter may be directed to Mr Ralph Armstrong, Project Mamager at 904-892-2878. Questions regarding any permit compliance issues may be directed to Ms Judy Ramsey, Chief, Waste Management Branch at 904-882-6282.

RALPH ARMSTRONG
Physical Scientist

cc:
Mike Kennedy, FDEP
Peter Dao, EPA
Dave Colangelo, O'Brien & Gere Eng, Inc

Department of
Environmental Protection

Lawton Chiles
Governor

Northwest District
160 Governmental Center
Pensacola, Florida 32501-5794

Virginia B. Wetherell
Secretary

February 5, 1995

Mr. Thomas M. Paris
Chief, Environmental Compliance
AFDTC/EM
501 DeLeon Street, Suite 100
Eglin Air Force Base, Florida 32542-5133

Dear Mr. Paris:

This is in response to your January 13 letter requesting approval of proposed modifications to the existing Soil Treatment Facility at Eglin AFB, Permit Number SO46-217516.

Your response adequately provides the details requested in our March 9, 1994 letter, and we have no objection to the modifications.

If you have any questions or wish to discuss the project further, please call Michael Kennedy, Cleanup Section Supervisor, at (904) 444-8360.

Sincerely,

Thomas W. Moody, P.E.
Waste Management Program
Administrator

TWM:mkl

Memorandum

Florida Department of
Environmental Protection

TO: Thomas W. Moody, P.E.

FROM: Michael S. Kennedy, P.G. MSK

DATE: February 3, 1995

SUBJECT: Eglin AFB Soil Treatment Facility SO46-217516

Eglin requested a modification to their General Permit, I.D. Number 1046F07225, which should significantly improve the operation. The original request was dated February 25, 1994 and we ask for additional information on March 9, 1994. This response and proposal sufficiently provides the requested details of our March 9 letter. I recommend approval of the request, but have reservations about approving permit issues that are not signed and sealed or prepared by proper professionals.

The letter from Mr. Thomas M. Paris relates a resent opinion of a Florida Attorney General exempting Federal Agencies from the State's permit certification requirement. This may be reasonable, since statutes do exempt federal and state employees. However, I do not believe that this exempts them from the need to have the proper professional or educational disciplined individual prepare the permit proposal. The design drawings do appear to have been sealed by a Florida engineer, even though what we have is a copy. The background of Mr. Paris, proposal preparer, is unknown.

Notwithstanding this issue, I feel that the proposal is reasonable and would improve the ongoing operation at the facility. This, in turn, sufficiently assures that the facility will not adversely impact the environment.

MSK:mkm

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR FORCE DEVELOPMENT TEST CENTER (AFMC)
EGLIN AIR FORCE BASE, FLORIDA

JAN 13 1995

AFDTC/EMC
501 DeLeon Street Suit 101
Eglin AFB FL 32542-5133

RECEIVED
JAN 18 1995
Northwest Florida
DEP

CL

Mr. Mike Kennedy
Waste Management Program
Florida Department of Environmental Protection
160 Governmental Center
Pensacola FL 32501-5794

Dear Mr. Kennedy

In response to your letter of 9 Mar 94, we are submitting a request for approval for modification of the existing Soil Treatment Facility at Eglin AFB, Permit No. 5046-217516. Modifications will include the following:

a. The construction of three 50 feet by 200 feet impervious concrete pads which will have 1 foot thick by 2 feet high walls on three of the four sides. This will eliminate the requirement to install 10 mil polyethylene under all soil piles. The concrete containment pads will be constructed 8 inches above grade to prevent the possibility of flooding into the containment pads. All concrete seams, cracks, and expansion joints will be sealed with petroleum resistant Dow Corning 888 SL or of equal silicon sealer. For further details see Attachment 1 construction drawing.

b Operational capabilities/activities, when modified, will include the ability to windrow petroleum, oil and lubricant contaminated soils. All contaminated soils will be covered with 20 mil, ultra-violet rated, and nylon reinforced polyethylene at all times. Condensation and accumulated moisture will be reduced or eliminated through proper passive air ventilation to facilitate expediency in the contaminated soil remediation process. The sloped construction of the 200 foot slabs will eliminate the flow of water in the direction of the contaminated soil,thus preventing any contaminated leachate to collect for run-off to the local ground area.

c. The construction of all three contaminated soil storage containment pads will be used in the event of an emergency POL release or other POL remediation. Contaminated soils will be moved from spill sites to the receiver landfill, and placed in controlled containment storage for passive remediation or periodic thermal treatment. All contaminated soil placed on the pads will be immediately covered with the polyethylene sheeting referenced in paragraph "b" to preclude rainfall.

d. Following the completion of the pending construction project to install two additional pads, all three pads will be equipped with two floor containment walls.

e. Recent Florida Attorney General's opinion states federal agencies are exempt from the state's requirement that certifications and permits must be signed by a Florida licensed professional engineer. It is our interpretation that this exemption applies to permits which are prepared by federal employees for federal activities.

Attachment 2, rainfall data, 1 Oct 93, is approximately 54 years of precluding rain fall data gathered for the local area and Eglin Air Force Base.

If you have any further questions or wish to discuss this project in further detail, please call Mr. Dwight Berrong or MSgt Stippich , AFDTC/EMCW, at 904-882-6282. Contract for this project is pending your approval. Your prompt reply in this matter would be greatly appreciated.

Thomas M. Paris

THOMAS M. PARIS
Chief, Environmental Compliance

Attachments:
1. Construction Drawing
2. Rainfall Data

DRAFT

February 6, 1997

Mr. Brian D. Barnard
Magnum Environmental Services, Inc.
1280 N.E. 48th Street
Pompano Beach, Florida 33064

Re: Request for Approval of Alternate Procedures
Magnum Environmental Services, Inc.
Soil Thermal Treatment Facility

Dear Mr. Barnard:

The Bureau of Waste Cleanup staff have reviewed your July 25, 1997 letter which requested an Approval of Alternate Procedures to allow the thermal treatment of a number of types of materials that are not considered to be "petroleum contaminated soil" as defined by Rule 62-775.200(9), F.A.C. We have consulted with the Hazardous Waste Regulation Section in the Bureau of Solid and Hazardous Waste and the Technical Review Section in the Bureau of Waste Cleanup in making a determination on this matter.

A primary consideration of this request was the nature of the recordkeeping requirements for treatment and disposal of petroleum contaminated soil contained in Chapter 62-775, F.A.C. The rule does not require that records be maintained of either source of contaminated soil or the location of disposal of treated soil. We assumed that this would be the case if the department allowed the treatment of the contaminated materials described in your letter.

Your letter indicated that the pre-acceptance sampling and analysis requirements of Rule 62-775.410(3) and (4), F.A.C., would be followed. Rule 62-775.410(4), F.A.C.,

states that "The soil must not be thermally treated pursuant to this Chapter if it is classified as a hazardous waste. If any soil is suspected of containing a hazardous waste, then screening analyses for other contaminants may include, but are not limited to the following: volatile organic halogens; corrosivity; reactivity; toxicity characteristic constituents by the TCLP, which includes metals, pesticides, and additional organics." This language in the rule allows discretion in determining whether additional analysis of the treated soil is necessary to determine whether it is a hazardous waste. Such discretion is appropriate for conventional petroleum contaminated soil because there is a deferment of petroleum contaminated media from the RCRA rules. This deferment is what allows the FDEP to regulate the treatment of petroleum contaminated soil without regard to Federal RCRA regulation considerations. The materials listed in your letter are not covered by the deferment.

Due to the combined considerations that the materials are not covered by the RCRA deferment provisions and that Chapter 62-775 does not require that records be maintained of the source or nature of contaminated soil, the analysis of contaminated materials by TCLP would not be discretionary and would be required in all instances if we allowed the thermal treatment of the materials described in your letter. A TCLP analysis would be required for each individual source of contaminated material. If you are agreeable to this requirement, please notify this office in writing and we will prepare an alternate procedure order to allow the thermal treatment of the materials.

If you have any questions, please call me at (850)488-3935.

Sincerely,

Thomas W. Conrardy, P.E.
PE Administrator
Bureau of Petroleum Storage Systems

TC/tc

Enclosure

cc: John Ruddell
Satish Kastury, Hazardous Waste Regulation Section
William Neimes, Bureau of Waste Cleanup
Paul Wierzbicki, FDEP Southeast District

Florida Department of
Environmental Protection

Memorandum

TO: Satish Kastury, Administrator
Hazardous Waste Regulation Section
Bureau of Solid and Hazardous Waste

FROM: Tom Conrardy, PE Administrator
Petroleum Cleanup Section 3
Bureau of Petroleum Storage Systems

RECEIVED
AUG 29 1997
DEPT. OF ENV. PROTECTION

DATE: August 26, 1997

SUBJECT: Proposed Thermal Treatment of Contaminated Soil Other Than Petroleum Contaminated Soil

---

Recently two of the ten stationary thermal treatment facilities that are permitted to treat petroleum contaminated soil under the provisions of Chapter 62-775, F.A.C. have submitted requests for our division to authorize the treatment of contaminated soil that does not meet our definition of "petroleum contaminated soil" in Chapter 62-775. Attached are two letters from Koogler and Associates, representing Rinker Materials thermal treatment facility, and Magnum Environmental Services, Inc., formerly known as TPS thermal treatment facility. These letters request an Approval of Alternate Procedures in accordance with Section 62-775.500, F.A.C. to allow the treatment of a number of different materials including:

1. tank bottom sludges from petroleum storage tanks
2. sorbent materials that have been used for the cleanup of petroleum spills
3. oil/water separator residues
4. soakage pit residues
5. car wash reclaim water tank residues
6. french drain residues

EPA's deferment of the media contaminated from leaking underground storage tanks from being subject to the RCRA rules is what allowed the state to develop state standards and permitting requirements for treating petroleum contaminated soil independently of EPA RCRA program considerations. It is not clear to our bureau staff whether these other materials that have been proposed to be treated would be subject to RCRA requirements due to either the nature of the source of the contamination or the characteristics of the contaminated media.

Items 1 through 3 above are petroleum in nature but they are materials that probably do not meet the provisions

of the deferment of media contaminated from petroleum USTs. Items 1 and 2 have potentially very high concentrations of petroleum in the material. Items 4 through 6 would be expected to have relatively low concentrations but might have chemicals of concern in the media other than petroleum due to the nature of the activity at the site.

These materials are frequently generated during spill response, site remediation, tank upgrades, and construction activities. The materials need to be treated and disposed in some safe manner. We feel that thermal treatment potentially may be an effective, safe, and relatively inexpensive means of treating this material. We have some concerns that the relatively high concentrations in some of the media may be outside of the safe operating envelope of the thermal treatment facilities but this could be overcome by requiring the material to be blended with other petroleum contaminated soil prior to thermal treatment.

Prior to giving this request further consideration we request input from your section as to the RCRA regulatory status of these materials. A few weeks ago we had a meeting with a representative of Magnum when they were giving preliminary consideration to making this request. We invited Mike Redig of your section to our meeting and he was very insightful and helpful in the general discussion of RCRA considerations when treating materials other than soil contaminated from leaking petroleum fuel tanks. We request your section's assistance with determining the RCRA implications of treating and disposing of these materials. Please let us know whether the materials would be considered to be RCRA regulated hazardous waste due to the source type, may be RCRA regulated hazardous waste depending on the nature of the source (e.g. - might depend on what type of facility was connected to a soakage pit or french drain), or would be required to undergo a TCLP analysis to determine whether the material was a RCRA regulated hazardous waste.

In addition to the pending alternate procedure requests, this issue is relevant to our ongoing activities to modify the thermal treatment facility rule. Consideration of modifying the rule to allow materials such as these to be thermally treated is a rule development issue. Considering our timeframe for rule development and internal goals of responding to alternate procedure requests in a timely fashion, your prioritization and early consideration of this request would be appreciated. Please

contact myself or Tom Douglas in the Bureau of Waste Cleanup if you have any questions.

Attachment

cc: Tom Douglas
Mike Sole
John Ruddell
Chris McGuire, Office of General Council
Paul Wierzbicki, FDEP Southeast District

TC/tc

I N T E R O F F I C E M E M O R A N D U M

Date: 12-Jan-1996 08:12am EST
From: Lee Martin WPB
MARTIN_L
Dept: Southeast District Office
Tel No: 407/433-2650, ext. 246
SUNCOM: 226-6676

TO: Paul Wierzbicki WPB (WIERZBICKI_P)

CC: Dianne Crigger WPB (CRIGGER_D)
CC: Jim Harmon WPB (HARMON_J)
CC: Joe Lurix WPB (LURIX_J)
CC: Vivek Kamath WPB (KAMATH_V)

Subject: TPS Tech permitting issue

I spoke with Tom Douglas/ESS in Tallahassee, S/C 278-3935, yesterday and got some more information for consideration in the permitting of TPS for managing coal tar contaminated soils. Apparently Tom along with Zoe Kulakowski/TRS in Tallahassee and Sandra Tippin/WCU in Tampa have worked for the last year in permitting the Kleen Soil operation in Palmetto which we have a copy of the draft permit. Tampa decided to issue a Solid Waste Other permit with the conditions provided by WCU. The conditions used were based on previous alternative procedures issued for this operation and in response to various questions asked over the year regarding the operation of the soil thermal treatment unit with respect to coal tar contaminated soils.

They chose a separate permit format rather than modifiy the general permit for several reasons:

1. The "treated soil" criteria (Tom prefers this term to clean soil) is different than the 62-775 criteria for petroleum contaminated soils in that the risk based criteria from the "Soil Cleanup Goals of Florida" are used for the coal tar contaminated soils. This allows unlimited distribution of the coal tar contaminated treated soils.
2. Because the manufactured gas process results in a concentration of metals in the coal tar and the potential presence of other compounds (i.e., cyanide and dibenzofurans) not normally found in petroleum contaminated soils, the preference was to store, treat, and manage the coal tar contaminated soils separately from the petroleum contaminated soils.
3. Rather than modifiy the air permit they chose to include provisions in the Solid Waste Other permit to address separate requirements such as minimum combustion chamber temperature and retention time (much longer retention time required than for petroleum contaminated soils) for the treatment of coal tar contaminated soils. This does not change the requirements for the air permit which in this case were based on the afterburner conditions and air emissions criteria.
4. Because 62-775 allows the mixing of soils for elevated metals concentrations and elevated metals were expected in the coal tar contaminated soils, the preference was to apply this mixing alternative to coal tar contaminated soils also. However they wanted any mixing of petroleum contaminated soils with coal tar contaminated soils to reclassify the whole mixture as coal tar contaminated soils which would then have to meet the coal tar contaminated soil treatment

criteria.
5. Because of the complexity of the issues this permitting approach allowed for exchange of information and negotiation of conditions which are not part of the simpler general permit process. Apparently Kleen Soil was not necessarily in agreement with some of the concerns/conditions but the alternative was no permit so they went along with the process.

Hope this answers some of the questions that might arise during this permitting process. Tom also indicated the 62-775 clean soil criteria will be realigned with the "Soil Cleanup Goals of Florida" as soon as they are allowed to propose changes in the rulemaking process.

I N T E R O F F I C E M E M O R A N D U M

Date: 10-Feb-1995 10:22am EST
From: Lee Martin WPB
MARTIN_L
Dept: Southeast District Office
Tel No: 407/433-2650, ext. 246
SUNCOM: 232-2650

TO: Paul Wierzbicki WPB (WIERZBICKI_P)

Subject: Miami Int'l. Airport TRPH levels in soils

Recently we have had conversations with DERM concerning TRPH levels in MIA soils and with DEP/Engr. Support/Jeff Lockwood concerning the validity of the TRPH test and its' role in the current draft 62-770 and future revisions to 62-775. Initially an alternate procedure appeared to be the solution; however, recent information indicates a confirmation of revised criteria may be sufficient to provide significant economic relief to Dade Co. while providing a sufficient level of protection to the environment.

DERM/Paul Lasa has been brought into the MIA soils issue and is concerned over the disposition of petroleum contaminated soils when TRPH levels exceed 50 ppm even though VOA's, PAH's, and VOH's are BDL. He has test data from clean soil quarry operations in unimpacted areas of Dade Co. which also exceed this criteria and feels, in the absence of petroleum related constituents, the TRPH criteria should be increased or waived entirely due to problems with the TRPH test method and potential for false positives.

During a review of the 62-770 changes, we noticed in Table IX, Soil Cleanup Goals, new criteria for individual petroleum constituents and the absence of TRPH criteria for soils. Conversation with Jeff Lockwood, regarding a recent soil conference he attended, indicated the potential for several innocuous compounds to affect the TRPH results in soils. Additionally, he indicated the regulatory community is favoring decreased reliance on TRPH results in soils as indicated by its' removal from the 62-770 criteria and potential revision to 62-775 criteria.

We still have a concern over MIA soils that may be other than petroleum contaminated but when considering only previously petroleum contaminated soils and the "background" levels in other Dade Co. soils tend to agree with DERM's position that when soils from known petroleum contaminated areas are excavated and stockpiled, such as at the 72nd Ave stockpile site, and through natural degradation meet the "clean soil" criteria, except for TRPH levels, should be allowed to be reused as backfill on the airport without additional treatment.

Recommend forwarding this proposition, upon your approval, to Engr. Support/Tom Conrardy for written confirmation, in lieu of an alternate procedures request from DCAD, if in fact the TRPH criteria will be deleted in the near future.

Department of Environmental Protection

Lawton Chiles
Governor

Southeast District
P.O. Box 15425
West Palm Beach, Florida 33416

Virginia B. Wetherell
Secretary

NOV. 20 1995

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Brian Barnard
TPS Technologies, Inc.
9401 Fairgrounds Road
West Palm Beach, Florida 33411

Dear Mr. Barnard:

Subject: Soil Thermal Treatment Facility; General Permit No. SO50-213931

This letter will serve to clarify and correct typographical errors in the Department's October 17, 1995, letter in reference to the thermal treatment of PCB contaminated soils. As per Mr. Blair Dominiak's request, the Southeast District office contacted Tallahassee, Bureau of Waste Cleanup and Quality Assurance sections for Chapter 62-775, F.A.C., rule interpretation. The Department's interpretation of the rule follows:

1. Soil PCB concentrations must be less than **10 ppm** to be thermally treated at a stationary soil thermal treatment facility; and

2. if the soil analytical results are equal to or greater than **20 ppb**, the used oil, hydraulic oil, or mineral oil must be tested to determine whether PCB concentrations are less than **50 ppm**. If they are less than **50 ppm**, then the soil may be thermally treated at a stationary thermal treatment facility.

3. Soil containing PCB's meeting the specifications above, may be treated in a soil thermal treatment facility if the air permit for the facility, issued pursuant to 62-296, F.A.C., allows the facility to treat soil containing PCB's.

4. If the facility does not have a permit to treat soil containing PCB's, then the soils would have to contain less than **20 ppb** PCB's since that is the current best detection limit.

In a letter dated April 27, 1994, TPS Technologies stated they do not intend to treat PCB contaminated soil at the facility. Additionally, the letter stated that "TPS is aware of revised standards regarding sampling and analysis protocol, definitions, and record keeping and will continue to comply with those standards." If TPS has

determined that the treatment of PCB contaminated soils will be necessary at the facility a new application for a general permit should be submitted to the Department.

Please do not hesitate to contact Ms. Dianne K. Crigger at 407/433-2650, ext. 244 should you require further clarification of this issue.

Sincerely,

for William L. Martin
Paul Alan Wierzbicki, P.G.
Waste Cleanup Supervisor

PAW/dkc

cc: Blair Dominiak, TPS
Tom Conrardy, P.E., BWC, FDEP
Tom Tittle, Air Section, FDEP
Palm Beach County Public Health Unit
West Palm Beach DEP Files

Department of Environmental Protection

DRAFT

Lawton Chiles
Governor

Southwest District
3804 Coconut Palm Drive
Tampa, Florida 33619

Virginia B. Wetherell
Secretary

PERMITTEE
KleenSoil International, Inc.
Trevor Cook, Vice President
Operations
13838 Harlee Road
Palmetto, Florida 34221

PERMIT/CERTIFICATION
GMS ID No:
Permit No: SO41-267846
Date of Issue:
Expiration Date:
County: Manatee
Lat/Long: 27°38'07"
82°32'23"
Project: Soil Thermal
Treatment Facility

This permit is issued under the provisions of Chapter 403, Florida Statutes, and Florida Administrative Code Rule(s) 62-3, 62-4, 62-25, 62-520, 62-522, 62-550, 62-701, 62-730 and 62-775. The above named permittee is hereby authorized to perform the work or operate the facility shown on the application and approved drawing(s), plans, and other documents, attached hereto or on file with the department and made a part hereof and specifically described as follows:

To operate a soil thermal treatment facility, referred to as KleenSoil International, Inc. facility, for the thermal treatment of soils which are contaminated with non-hazardous coal tar residuals from manufactured gas plant sites, subject to the specific conditions attached, located at 13838 Harlee Road in Palmetto, Manatee County, Florida. The specific conditions attached are for the operation of:

1. Soil Thermal Treatment Facility

Replaces Permit Number: N/A, new facility

"Protect, Conserve and Manage Florida's Environment and Natural Resources"

Printed on recycled paper.

GENERAL CONDITIONS:

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1. The terms, conditions, requirements, limitations, and restrictions set forth herein are "Permit Conditions" and as such are binding upon the permittee and enforceable pursuant to the authority of Sections 403.141, 403.161, 403.727, or 403.859 through 403.861, Florida Statutes. The permittee is placed on notice that the Department will review this permit periodically and may initiate enforcement action for any violation of these conditions.

2. This permit is valid only for the specific processes and operations applied for and indicated in the approved drawings or exhibits. Any unauthorized deviation from the approved drawings, exhibits, specifications, or conditions of this permit may constitute grounds for revocation and enforcement action by the Department.

3. As provided in Subsections 403.087(6) and 403.722(5), Florida Statutes, the issuance of this permit does not convey any vested rights or any exclusive privileges. Neither does it authorize any injury to public or private property or any invasion of personal rights, nor any infringement of federal, state or local laws or regulations. This permit is not a waiver of or approval of any other Department permit that may be required for other aspects of the total project which are not addressed in the permit.

4. This permit conveys no title to land or water, does not constitute state recognition or acknowledgment of title, and does not constitute authority for the use of submerged lands unless herein provided and the necessary title or leasehold interests have been obtained from the State. Only the Trustees of the Internal Improvement Trust Fund may express state opinion as to title.

5. This permit does not relieve the permittee from liability for harm or injury to human health or welfare, animal, plant or property caused by the construction or operation of this permitted source or from penalties therefore; nor does it allow the permittee to cause pollution in contravention of Florida Statutes and Department rules, unless specifically authorized by any order from the Department.

6. The permittee shall at all times properly operate and maintain the facility and systems of treatment and control (and related appurtenances) that are installed or used by the permittee to achieve compliance with the conditions of this permit, as required by Department rules. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to achieve compliance with the conditions of the permit and when required by Department rules.

7. The permittee, by accepting this permit, specifically agrees to allow authorized Department personnel, upon presentation of credentials or other documents as may be required by law, and at reasonable times access to the premises, where the permitted activity is located or conducted for the purposes of:

GENERAL CONDITIONS (con't):

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a. Having access to and copying any records that must be kept under the conditions of the permit:

b. Inspecting the facility, equipment, practices, or operations regulated or required under this permit; and

c. Sampling or monitoring any substances or parameters at any location reasonably necessary to assure compliance with this permit or Department rules.

Reasonable time may depend on the nature of the concern being investigated.

8. If, for any reason, the permittee does not comply with or will be unable to comply with any condition or limitation specified in this permit, the permittee shall immediately notify and provide the Department with the following information:

a. a description of and cause of non-compliance; and

b. the period of non-compliance, including exact dates and times; or, if not corrected, the anticipated time the non-compliance is expected to continue, and steps being taken to reduce, eliminate, and prevent recurrence of the non-compliance.

The permittee shall be responsible for any and all damages which may result and may be subject to enforcement action by the Department for penalties or revocation of this permit.

9. In accepting this permit, the permittee understands and agrees that all records, notes, monitoring data and other information relating to the construction or operation of this permitted source, which are submitted to the Department, may be used by the Department as evidence in any enforcement case involving the permitted source arising under the Florida Statutes or Department rules, except where such use is prescribed by Sections 403.73 and 403.111, Florida Statutes.

10. The permittee agrees to comply with changes in Department rules and Florida Statutes after a reasonable time for compliance; provided, however, the permittee does not waive any other rights granted by Florida Statutes or Department rules.

11. This permit is transferable only upon Department approval in accordance with Florida Administrative Code Rules 17-4.12 and 17-30.30, as applicable. The permittee shall be liable for any non-compliance of the permitted activity until the transfer is approved by the Department.

12. This permit or a copy thereof is required to be kept at the work site of the permitted activity during the entire period of construction or operation.

GENERAL CONDITIONS (con't):

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13. This permit also constitutes:

a. Determination of Best Available Control Technology (BACT)

b. Determination of Prevention of Significant Deterioration (PSD)

c. Certification of Compliance with State Water Quality Standards (Section 401. PL 92-500)

d. Compliance with New Source Performance Standards

14. The permittee shall comply with the following monitoring and record keeping requirements:

a. Upon request, the permittee shall furnish all records and plans required under Department rules. The retention period for all records will be extended automatically, unless otherwise stipulated by the Department, during the course of any unresolved enforcement action.

b. The permittee shall retain at the facility or other location designated by this permit records of all monitoring information (including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation), copies of all reports required by this permit, and records of all data used to complete the application for this permit. The time period of retention shall be at least three years from the date of the sample, measurement, report or application unless otherwise specified by Department rule.

c. Records of monitoring information shall include:

-the date, exact place, and time of sampling or measurement;
-the person responsible for performing the sampling or measurements;
-the date(s) analyses were performed;
-the person responsible for performing the analyses;
-the analytical techniques or methods used;
-the results of such analyses; and
-the method detection limit.

15. When requested by the Department, the permittee shall within a reasonable time furnish any information required by law which is needed to determine compliance with the permit. If the permittee becomes aware that relevant facts were not submitted or were incorrect in the permit application or in any report to the Department, such facts or information shall be submitted or corrected promptly.

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SPECIFIC CONDITIONS:

1. **Facility Designation.** This site shall be classified as a soil thermal treatment facility for the thermal desorption of up to 200,000 tons/year of soil contaminated with non-hazardous coal tar residue. This facility shall be operated in accordance with all applicable requirements of Chapters 62-3, 62-4, 62-25, 62-28, 62-520, 62-522, 62-550, 62-701, 62-730, 62-302 and 62-775, Florida Administrative Code (F.A.C.) and all applicable requirements of Department rules.

2. **Permit Application Documentation.** This permit is valid for operation of the soil thermal treatment facility and related facilities in accordance with the reports, plans and other information, submitted by KleenSoil International, Inc., including the application to operate a solid waste management facility dated March 23, 1995; amended May, 1995; additional information dated April 12, 1995, May 4, 1995, May 8, 1995, June 22, 1995, July 20, 1995 and August 16, 1995; facility plan, signed and sealed on May 24, 1994 by a Professional Engineer registered in the State of Florida; and in accordance with all applicable requirements of Department rules.

3. **Permit Modifications.** Any activities not approved as part of this permit shall require a separate Department permit unless the Department determines a permit modification to be more appropriate. Permits shall be modified in accordance with the requirements of Rule 62-4.080, F.A.C. A modification which is reasonably expected to lead to substantially different environmental impacts which require a detailed review by the Department is considered a substantial modification.

4. **Permit Renewal.** As required by Rule 62-4.090(1), F.A.C. no later than **sixty (60) days** before the expiration of the Department permit, the permittee shall apply for a renewal of a permit on forms and in a manner prescribed by the Department, in order to assure conformance with all applicable Department rules. Permits shall be renewed at least every five years as required by Rule 62-701.330(3), F.A.C.

5. **Prohibitions.** The prohibitions of Rule 62-701.300, F.A.C. shall not be violated.

6. **Facility Operation Requirements.**
   a. The permittee shall operate this facility in accordance with the information submitted in the Engineering Report, as revised May 1995; applicable parts of F.A.C. 62-701.700 and 62-775; and any other applicable requirements.

   b. The permittee shall require separate pre-treatment analyses for contaminated soil from each contaminated site to fully characterize the soil contamination prior to the acceptance of the shipment at the facility.

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SPECIFIC CONDITIONS (Cont'd):

c. Oversized materials that cannot be crushed to meet the requirements of F.A.C. Rule 62-775.300(9) and other debris generated by the screening operation shall be disposed of at a permitted Class I disposal facility, or other solid waste disposal facility, subject to prior Department approval.

d. Litter control shall be performed daily. Outdoor spillage of contaminated media shall be removed daily. The leachate collection sumps shall be cleaned out at least monthly.

7. **Coal Tar Contaminated Soil Analyses.**
a. Coal tar contaminated soil samples shall be analyzed for the following parameters using the test methods indicated or other methods approved by the Department:

(1)	Total Volatile Organic Aromatics (VOA)	EPA Method 5030/8021 or 5030/8020
(2)	Total Recoverable Petroleum Hydrocarbons	EPA Draft Method 3540/9073
(3)	Polynuclear Aromatic Hydrocarbons (PAH)	EPA Method 8100, 8250, or 8310
(4)	Volatile Organic Halocarbons (VOH)	EPA Method 5030/8021 or 5030/8010
(5)	Total Organic Halides	EPA Method 5050/9056, 5050/9252, 5050/9253
(6)	Metals	
	Arsenic	EPA Method 7060 or 7061
	Barium	EPA Method 7080, 7081 or 6010
	Cadmium	EPA Method 7130, 7131 or 6010
	Chromium	EPA Method 7190, 7191 or 6010
	Lead	EPA Method 7420, 7421 or 6010
	Mercury	EPA Method 7471
	Selenium	EPA Method 7740, 7741 or 6010
	Silver	EPA Method 7760, 7761 or 6010
	Beryllium	EPA Method 7090
(7)	Cyanide	EPA Method 9010
(8)	Dibenzofurans	EPA Method 8270
(9)	Phenols	EPA Method 8040 or 8270
(10)	TCLP metals	
	Arsenic, Barium	EPA Methods 1311/7060, 6010
	Cadmium, Chromium	7310, 7131; 6010, 7190 or 7191
	Lead, Mercury	6010, 7470
	Selenium, Silver	7740, 6010
	Beryllium	1311/7090
(11)	TCLP Benzene	EPA Method 1311/8020

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SPECIFIC CONDITIONS (Cont'd):

b. All analytical methods used by KleenSoil International, Inc. shall have detection levels that are less than or equal to the risk based and leachability based soil cleanup levels provided by Table II.

c. All thermally treated soil shall be analyzed for the parameters listed in Specific Condition 7.A., using the EPA Methods indicated or other methods approved in writing by the Department. Thermally treated soil is not required to be analyzed for TCLP benzene. Thermally treated soil shall be analyzed for cyanide only if cyanide is detected in the soil contaminated with coal tar residue over minimum detection limits.

d. The soil must not be thermally treated if it is classified as hazardous waste. If any soil is suspected of containing a hazardous waste, then screening analyses for other contaminants may include, but are not limited to the following: volatile organic halogens; corrosivity; reactivity; toxicity characteristic constituents by the TCLP, which includes metals, pesticides, and additional organics. Soil contaminated with used oil, hydraulic oil, or mineral oil may be a hazardous waste and should be tested using toxicity characteristic, for total organic halides. Excavated soil which is classified as a hazardous waste must be managed as a hazardous waste and treated or disposed of at an approved hazardous waste treatment/disposal facility.

e. TCLP analyses for metals are not required for pretreatment soils if the total concentration for each metal does not exceed the total metal concentration listed in Rule 62-775.400(3), F.A.C. for pretreatment soil.

8. **Soil Sampling Frequency.**
a. Pretreatment soil shall be analyzed as required by Specific Condition #7. The number of composite soil samples for each contamination site shall be in accordance with Table I. Each composite soil sample shall consist of soil samples taken from a least four locations. Each sample shall be collected from locations equally distributed throughout the soil surface area and from a depth of at least six inches below the surface. Sampling procedures are described in the Standard Operating Procedures Manual for Soil Thermal Treatment facilities pursuant to F.A.C. Rule 62-775.300(10).

TABLE I
SOIL SAMPLING FREQUENCY

Amount of Soil by Volume (cubic yards)	by Weight (tons)	Quantity of Composite Samples
Less than 100	Less than 140	1
100 to 500	140 to 700	3
500 to 1000	700 to 1400	5
For each additional 500	For each additional 700	1

SPECIFIC CONDITIONS (Cont'd):

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b. Following thermal treatment, a thermally treated soil sample shall be collected at least hourly and composited over an eight operational hour maximum time interval or at least once every 400 tons, whichever is less. Each composite shall be analyzed as required by Specific Condition #7.

9. **Thermally Treated Soil Criteria.**

a. The "thermally treated" soil criteria for soil contaminated with coal tar residuals which has been thermally treated are listed in Table II.

b. Thermally treated soil shall also comply with the criteria for clean soil required by Florida Administrative Code Rules 62-775.400(1) and (2).

SPECIFIC CONDITIONS (Cont'd):

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TABLE II

THERMALLY TREATED SOIL CRITERIA

Chemical Name	Health-based/ Residential (mg/kg)	Health-based/ Industrial (mg/kg)	Leachability-based (mg/kg)
Acenaphthene	2,000	19,000	2.0
Acenaphthylene	320	2,300	11
Anthracene	16,000	200,000	890
Benzo(a)anthracene	1.4	4.9	29
Benzo(b)Fluoranthene	1.4	4.9	71
Benzo(k)fluoranthene	14	47	44
Benzo(a)pyrene	0.14	0.5	3.7
Benzo(g,h,i,)perylene	14	50	320
Chrysene	140	490	31
Dibenzo(a,h)anthracene	0.14	0.5	270
Fluoranthene	2,800	44,000	280
Fluorene	1,900	21,000	45
Indeno(1,2,3-c,d)pyrene	1.4	5.0	650
2-Methylnaphthalene	700	5,800	NC
Naphthalene	840	6,800	0.1
Phenanthrene	1,200	11,000	2.8
Pyrene	2,200	37,000	290
Cyanide	1,600	40,000	NC
Arsenic	0.7	3.0	TCLP*
Barium	5,000	74,000	TCLP*
Cadmium	37	600	TCLP*
Chromium**	150/66,000	220/540,000	TCLP*
Lead	500	1000	TCLP*
Silver	380	8000	TCLP*
Selenium	390	9900	TCLP*
Mercury	23	480	TCLP*
Benzene	0.8	1.1	0.003
Beryllium	0.1	0.2	NC
Dibenzofuran	200	2400	TCLP extract*
Total Phenols	27,000	290,000	0.02

NC - Not Calculated

* The TCLP test method shall be used to evaluate the thermally treated soil. The analytical results will be compared to the product of 100 times the F.A.C. Chapter 62-550 Drinking Water Standard.

** All thermally treated soil chromium concentrations shall be compared to hexavalent chromium. In the event that the hexavalent chromium concentration is above the thermally treated soil criteria, then KleenSoil International, Inc. shall establish the actual percentage of each valence state in the thermally treated soil.

b. In the event that a constituent is detected in the thermally treated soil that is not included in Table II, within 7 days, KleenSoil International, Inc. shall request a permit modification for a thermally treated soil criteria from the Department.

c. The TCLP extract for the metals including arsenic, barium, beryllium, cadmium, chromium, lead, mercury, silver and selenium from a thermally treated soil sample shall not exceed a concentration greater than 100 times the Chapter 62-550, F.A.C. primary drinking water standard.

10. **Thermally Treated Soil Segregation and Disposal/Reuse.**

a. Soil contaminated with coal tar residual that has been thermally treated shall be classified as "thermally treated soil".

b. Thermally treated soil may be reused or disposed of without Department restriction if all parameters detected through the post treatment sampling are less than the lower of either the residential or leachability based number provided by Specific Condition #9, and the TCLP extract for the metals, including Beryllium, is less than 100 times the primary drinking water standard as required by Specific Condition 9.C. Such soil shall be classified as "thermally treated soil".

c. Thermally treated soil that has contaminant concentrations that exceed the Residential or Industrial Health based criteria but are less than the leachability based criteria listed in Specific Condition 9 may be disposed of at any site only if the thermally treated soil is covered with a minimum of two feet of clean soil.

d. Thermally treated soil can be disposed of within the top two feet of the land surface without cover under the following conditions if the thermally treated soil meets the leachability based criteria and the total PAHs and total metals are within the following ranges:

(1) All total metal and total PAH concentrations are less than health-based/residential guidelines. This thermally treated soil may be blended/mixed with other thermally treated coal tar contaminated soils or thermally treated petroleum contaminated soil meeting these same criteria. The disposal of soils meeting these criteria is unrestricted.

(2) Concentration of one or more total metal and/or total PAH greater than a health-based/residential criteria but less than health-based/industrial guideline. Thermally treated soil may be disposed of under a cap (road base, parking lot, commercial Building slab, etc.) but shall be disposed of above the water table.

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(3) Concentration of one or more total metal and/or total PAH in excess of a health based/industrial criteria. Thermally treated soil may be disposed of as aggregate for hot mix asphalt, in soil cement, as concrete aggregate or as a raw material for cement production. Other fixation or stabilization alternatives may be acceptable upon Department approval.

d. The thermally treated soil may returned to the site of origin and disposed in accordance with a site specific Remedial Action Plan, Contamination Assessment Plan, Interim Remedial Action Plan or other professional documents submitted to the Department which are signed and sealed by a Professional Engineer or Geologist, registered in the State of Florida. Such documentation should clearly indicate that the thermally treated coal tar contaminated soil is being returned to its site of origin, at or below surrounding background levels for all contaminants of concern (especially metals). This disposal method shall be subject to prior Department approval.

11. **Soil blending**

a. Soil blending of coal tar contaminated soil is acceptable under the following conditions:

(1) Coal tar contaminated soil and petroleum contaminated soil [as defined by F.A.C. Rule 62-775.200(9)] from various job sites may be blended prior to treatment after the soils have been analyzed in accordance with Specific Condition number 7, and approved for treatment at the KleenSoil International, Inc. facility.

(2) After post-treatment sample analyses establish which reuse or disposal criteria is required for the thermally treated soil, the thermally treated soil may be blended with other soils requiring those same criteria or thermally treated soils requiring more restrictive disposal. If thermally treated soil is blended with thermally treated soil meeting a more restrictive disposal criteria, the blended soil shall be disposed of in the more restrictive manner.

(3) Coal tar contaminated soil that has been thermally treated may be blended with unprocessed coal tar contaminated soil and retreated to reduce the concentration of one or more metals.

(4) Untreated coal tar contaminated soil shall be stored separately from untreated petroleum contaminated soil.

(5) KleenSoil International, Inc. shall maintain records of soil blending activities on-site for a period of three years. The records shall be available for inspection by FDEP.

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12. **Treatment Criteria for Coal Tar Contaminated Soil.**

a. To assure satisfactory destruction of cyanides and PAHs that may be present in coal tar contaminated soil, KleenSoil International, Inc. shall maintain the following residence time/temperature criteria for thermal desorption of coal tar contaminated soils:

Thermal treatment chamber temperature - 1000°F; and
Soil residence time in treatment chamber - 60 minutes

b. KleenSoil International, Inc. shall place two stationary temperature probes at opposite ends of the thermal treatment burner chamber and record the distance (in feet) between the probes. The temperature monitored by each temperature probe shall be recorded on each shift log. The push rate of kiln cars shall be recorded on each shift log (cars per hour) as averaged over the shift.

13. **Operation Plan and Operating Record.** A copy of the Department approved permit, operational plan, construction reports and record drawings, and supporting information shall be kept at the facility at all times for reference and inspection.

14. **Storage of Materials**

a. The maximum quantity of material which shall be processed at the facility annually is limited to 200,000 tons/yr of soil contaminated with non-hazardous coal tar residue; 250,000 tons/yr of soil with petroleum contaminants; or a combination of the two. The annual tonnages are based on 5000 hours per year operation (air permit limit) and processing rates of 40 tons per hour for non-hazardous soil contaminated with coal tar residue and 50 tons per hour for petroleum contaminated soil (air permit limits).

At no time shall the contaminated soil stored on-site exceed the quantity that can be processed during a 90 day period; taking into consideration all permit limitations. On-site storage is limited to 62,500 tons of untreated soil.

b. Oversized materials and other debris generated by the screening operation shall be stored inside of the existing contaminated soil storage building in an area dedicated to debris storage or in a roll-off container and shall be covered (tarped) at the end of each working day, and during rain events.

c. Until soil analyses have verified that the thermally treated soil meets the thermally treated soil criteria in Table 2 of Specific Condition #9, the thermally treated soil shall be stockpiled on a permanent floor structure which meets the criteria of F.A.C. Rule 62-775.620(2)(b).

15. **Recordkeeping.**

a. The owner or operator of the facility shall maintain the following waste records at the site for a period of three years:

SPECIFIC CONDITIONS (Cont'd):

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(1) The quantity of material received, stored, processed and disposed/reused.

(2) The Contaminated Soil Generator Certification for each shipment accepted at the facility.

(3) The pre- and post-treatment analyses, as required by Specific Condition #7, for each shipment of soil contaminated with coal tar residue from each separate contaminated site which is received at the facility.

(4) Documentation that all the sampling and analyses performed by the generator or the permittee is in accordance with a Department approved Quality Assurance Plan. Documentation may consist of a title page, dated and signed by the Department's Quality Assurance Section.

(5) Records of blending ratios with calculations to estimate total contaminant concentrations of blended soil or resampling and analyses of blended soil shall be maintained.

b. The following information shall be compiled monthly and submitted to the this office **quarterly, by January 31st, April 30th, July 31st and October 31st of each year:**

(1) A material balance including the volumes of materials received, stored and removed from the site for use, disposal or treatment.

(2) A description of the disposition of all thermally treated soils including:

(a) The final use, (i.e., unrestricted disposal of "Thermally Treated Soil", use as a road base above the water table, use as industrial or residential fill material, returned to origin of excavation per approved document, etc.) of the thermally treated soil;

(b) The date the thermally treated soil left the KleenSoil International, Inc. facility and a signature of the recipient noting the receipt of a disclosed volume of thermally treated soil. Recipients of "Thermally Treated Soil" shall be provided the analytical results used to determine the final disposal options, when requested; and

(c) All analytical results used to determine the appropriate disposal options. If blending is required after treatment, sufficient documentation shall be presented to document that the final treated volume of soil has been appropriately categorized.

SPECIFIC CONDITIONS (Cont'd):

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(3) The Generator's Waste Profile and Contaminated Soil Generator Certification for each shipment from each contaminated facility which is accepted at this permitted facility.

(4) The pre and post-treatment analytical results presented in tabular form.

(5) The shift logs recorded as required by Specific Condition 12.b.

16. **Monitoring of Waste.** The permittee shall not accept any hazardous waste at this site. Hazardous wastes are those defined in Chapter 62-730, F.A.C. In the event that hazardous wastes are received at the facility, the owner or operator shall notify the Department immediately **(within 24 hours)**. Every effort shall be made to determine the origin of the waste, and the waste shall be characterized and managed in accordance with applicable federal, state and local regulations.

17. **Drainage Requirements.** All areas shall be cleaned daily or more often, if needed, to prevent nuisance conditions, hazardous conditions, odor or vector problems. Floors shall be free of standing liquids. Liquids which have contacted contaminated soils or wastes **shall not** be discharged outside of the secondary containment in the building.

18. **Closure requirements.** The facility owner or operator shall notify this office of the facility's closure, no later than **180 days** prior to the date when the facility is expected to close, as required by F.A.C. Rule 62-701.700(3)(d). The facility shall be closed in accordance with F.A.C. 62-701.700(3)(d) and the Closure Plan submitted in the Engineering Report as amended May 1995.

19. **Control of Nuisance Conditions.** The owner or operator shall be responsible for the control of odors and fugitive particulates arising from this operation. Such control shall minimize the creation of nuisance conditions on adjoining property. Complaints received from the general public, and confirmed by Department personnel upon site inspection, shall constitute a nuisance condition, and the permittee must take immediate corrective action to abate the nuisance. The owner or operator shall control disease vectors so as to protect the public health and welfare.

20. **Facility Maintenance and Repair.** The site shall be properly maintained including building maintenance, maintenance of processing equipment, containment systems and stormwater systems. In the event of damage to any portion of the site facilities, failure of any portion of the associated systems, or any spill which may result in a release of contaminants to the air, water or lands of the State of Florida, the permittee shall immediately **(within 24 hours)** notify the Department of Environmental Protection explaining such occurrence and remedial measures to be taken and time needed for repairs or remediation. Written detailed notification shall be submitted to the Department **within seven (7) days** following the occurrence.

SPECIFIC CONDITIONS (Cont'd):

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21. **Fire Safety Survey.** The permittee shall submit to the Department a fire safety survey **annually** which includes a statement from the local authorities that the site meets the requirements of the local fire protection authorities. This report shall be submitted by **January 31st** of each year. **Within 30 days of completion,** the permittee shall provide documentation to the Department indicating correction of any deficiencies noted.

22. **Professional Certification.** Where required by Chapter 471 (P.E.) or Chapter 492 (P.G.), Florida Statutes, applicable portions of permit applications and supporting documents which are submitted to the Department for public record shall be signed and sealed by the professional(s) who prepared or approved them.

23. **Permit Acceptance.** By acceptance of this Permit, the Permittee certifies that he/she has read and understands the obligations imposed by the Specific and General Conditions contained herein, including date of permit expiration and renewal deadlines. It is a violation of this permit to fail to comply with all conditions and deadlines.

24. Florida Department of Environmental Protection Form 62-775.900(3) shall be used to demonstrate the volume of soil treated and the length of time the facility is operating. A log shall also be maintained to document the temperature of the kiln.

GROUNDWATER MONITORING PLAN SPECIFIC CONDITIONS

1. In accordance with Rule 62-522.600(3), F.A.C., the permittee has installed and placed into operation a Ground Water Monitoring System. The Ground Water Monitoring System is designed and constructed in accordance with the plans on file in the Southwest District office in the May 1995 Amended Permit Application.

2. The ground water monitor well system consists of 6 surficial aquifer monitor wells, 5 piezometers and 4 staff gauges. All wells are to be clearly labeled and easily visible at all times.

3. If any monitoring well becomes damaged or inoperable, the permittee shall notify the Department immediately and a detailed written report shall follow within 7 days. The written report shall detail what problem has occurred and remedial measures that have been taken to prevent the recurrence. All monitoring well design and replacement shall be approved by the Department prior to installation of the replacement well. Inoperable monitor wells shall be plugged and abandoned in accordance with the rules of the Water Management District.

SPECIFIC CONDITIONS (Cont'd):

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4. All ground water monitor wells shall be sampled and analyzed QUARTERLY for the parameters listed in Specific Condition 7.A.(1) to (9), and those listed below. There shall be a minimum 45 days between any 2 consecutive quarterly sampling events. Additional sample(s), well(s), and parameter(s) may be required based upon subsequent analyses.

Field Parameters
Static Water level
before purging
Specific Conductivity
pH
Turbidity
Temperature
Colors and sheens (by observation)

5. The ground water monitor wells shall be sampled, analyzed and results reported to this office in accordance with the following schedule:

Sample Period	Report Due Date
1st Quarter (January-March)	April 30
2nd Quarter (April-June)	July 31
3rd Quarter (July-September)	October 31
4th Quarter (October-December)	January 31

The permittee shall submit to the Department the results of the water quality analyses no later than the last day of the month immediately following the end of the sampling period. Two copies of the results shall be sent to the Department of Environmental Protection, Southwest District Office, 3804 Coconut Palm Drive, Tampa, Florida 33619-8318.

Water level measurements should be provided in tabular form (including top of casing elevations, depth to water, screened interval length, and corresponding water level elevations) and in graphic form showing the interpretation of the groundwater flow direction.

6. If, at any time, water quality standards are exceeded, the permittee has 15 days from receipt of the laboratory analyses in which to resample the monitor well(s) to verify the original analysis. The monitoring test results must be submitted to the Department within 15 days of receipt of the reanalyses from the laboratory. Should the permittee choose not to resample, the Department will consider the water quality analysis as representative of current ground water conditions at the facility.

SPECIFIC CONDITIONS (Cont'd):

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7. All field testing, sample collection, preservation and laboratory testing, including quality control procedures, shall be in accordance with a current Department Approved Comprehensive Quality Assurance Plan in accordance with Rule 62-160.300 and 62-520.300, F.A.C. and the Quality Assurance Standard Operating Procedures Manual for soil thermal treatment facilities as of November, 1991. Approved methods for chemical analyses are summarized in the Federal Register, December 1, 1976 (41FR52780) except that turbidity shall be measured by the Nephelometric Method.

8. The permittee shall ensure that the water quality standards for Class G-II ground waters will not be exceeded according to Rule 62-520.400 and 62-520.420, F.A.C.

9. The permittee shall ensure that the minimum criteria for ground water specified in Rule 62-520.420, F.A.C. shall not be violated.

Executed in Tampa, Florida

STATE OF FLORIDA Department
OF ENVIRONMENTAL PROTECTION

DRAFT

Richard D. Garrity, Ph.D.
Director of District Management
Southwest District

cc: Paul
Joe

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

AUG 2 5 1995

In the Matter of an
Application for Permit by

DER File No. SO41-267846

KleenSoil International, Inc.
Trevor Cook, Vice President
Operations
13838 Harlee Road
Palmetto, Florida 34221

_____/

Circulate:
Pgm + return
8/29/95 ✓ DC
JT ✓ ✓ SB
JH — ✓ Lee
Granum

INTENT TO ISSUE

The Department of Environmental Protection hereby gives notice of its Intent to Issue an operating permit (copy attached) for the proposed project as detailed in the application specified above. The Division is issuing this Intent of Issue for the reasons stated below.

The applicant, KleenSoil International, Inc., applied on March 23, 1995, to the Department of Environmental Protection for a permit to thermally treat soils contaminated with non-hazardous coal tar residue from municipal gas plants, subject to the specific conditions attached, Manatee County, Florida.

The Department has permitting jurisdiction under 403.707 and 403.861, Florida Statutes, and Rules 62-4 and 62-701, Florida Administrative Code (F.A.C.). The project is not exempt from permitting procedures. The Department has determined that an operating permit is required for the proposed work.

The Department intends to issue this permit based on its belief that reasonable assurances have been provided to indicate that the proposed project will not adversely impact water quality and the proposed project will comply with the appropriate provisions of Chapters 62-3, 62-520, 62-522, 62-550, and 62-701 and 62-775, Florida Administrative Code, subject to the specific conditions attached in the permit.

Pursuant to Section 403.815, F.S. and DEP Rule 62-103.150, F.A.C., you (the applicant) are required to publish at your own expense the enclosed Notice of Proposed Agency Action on permit application. The notice must be published one time only in a section of a major local newspaper of daily circulation in the county in which the project is located and within thirty (30) days from receipt of this intent. Proof of publication must be provided to the Department within seven days of publication of the notice. Failure to publish the notice and provide proof of publication within the allotted time may result in the denial of the permit.

The Department will issue the permit with the attached conditions unless petition for an administrative proceeding (hearing) is filed pursuant to the provisions of Section 120.57, F.S. A person whose substantial interests are affected by the Department's proposed permitting decision may petition for an administrative proceeding (hearing) in accordance with Section 120.57, Florida Statutes. Petitions must comply with the requirements of Florida Administrative Code Rule 62-103 and 60Q-2 (copies enclosed) and be filed with (received by)

the Office of General Counsel of the Department at 2600 Blair Stone Road, Tallahassee, Florida 32399-2400. Petitions filed by the permit applicant must be filed within fourteen (14) days of receipt of this intent. Petitions filed by other persons must be filed within fourteen (14) days of publication of the public notice or within fourteen (14) days of receipt of this intent, whichever first occurs. Failure to file a petition within this time period shall constitute a waiver of any right such person may have to request an administrative determination (hearing) under Section 120.57, Florida Statutes, concerning the subject permit application. Petitions which are not filed in accordance with the above provisions will be dismissed.

Executed in Tampa, Florida.

Issued this 25th day of Aug, 1995

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Richard D. Garrity, Ph.D.
Director of District Management
3804 Coconut Palm Drive
Tampa, Florida 33619-8318

Attachment

cc: John Koogler, P.E.

CERTIFICATE OF SERVICE

The undersigned duly designated deputy Clerk hereby certifies that this NOTICE OF INTENT TO ISSUE and all copies were mailed before the close of business on AUG 25 1995 to the listed persons.

FILING AND ACKNOWLEDGEMENT
FILED, on this date, pursuant to §120.52(10), Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

Erna Black
Clerk

AUG 25 1995
Date

State of Florida
Department of Environmental Protection
Notice of Proposed Agency Action on Permit Application

The Department gives notice of its intent to issue a permit to KleenSoil International, Inc. to thermally treat soils contaminated with non-hazardous coal tar from municipal gas plants, subject to the specific conditions attached, for Manatee County, Florida.

Persons whose substantial interests are affected by the Department's proposed permitting decision may petition for an administrative proceeding (hearing) in accordance with Section 120.57, Florida Statutes. The petition must conform to the requirements of Chapters 62-103 and 60Q-2, Florida Administrative Code, and must be filed (received) in the Office of General Counsel of the Department at 2600 Blair Stone Road, Twin Towers Office Building, Tallahassee, Florida 32399-2400, within fourteen (14) days of publication of this notice. Failure to file a request for hearing within this time period shall constitute a waiver any right such person may have to request an administrative determination (hearing) under Section 120.57, Florida Statutes.

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this preliminary statement. Therefore, persons who may not object to the proposed agency action may wish to intervene in the proceeding. A petition for intervention must be filed pursuant to Model Rule 60Q-2.004 at least five (5) days before the final hearing and be filed with the hearing officer if one has been assigned at the Division of Administrative Hearings, Department of Administration, 2009 Apalachee Parkway, Tallahassee, Florida 32301. If no hearing officer has been assigned, the petition is to be filed with the Department's Office of General Counsel, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400. Failure to petition to intervene within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Section 120.57, Florida Statutes.

The application is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at 3804 Coconut Palm Drive, Tampa, Florida 33619-8318.

RULES OF THE ADMINISTRATION COMMISSION, MODEL RULES OF PROCEDURE
CHAPTER 28-5, DECISIONS DETERMINING SUBSTANTIAL INTERESTS
PART II, FORMAL HEARINGS
A) PREHEARING PROCEDURES

28-5.201 Initiation of Formal Proceedings.

(1) Initiation of formal proceedings shall be made by petition to the Agency responsible for rendering final Agency action. The term petition as used herein includes any application or other document which expresses a request for formal proceedings. Each petition should be printed, typewritten or otherwise duplicated in legible form on white paper of standard legal size. Unless printed, the impression shall be on one side of the paper only and lines shall be double-spaced and indented.

(2) - All petitions filed under these rules should contain:

(a) The name and address of each Agency affected and each Agency's file or identification number, if known;

(b) The name and address of the petitioner or petitioners, and an explanation of how his/her substantial interests will be affected by the Agency determination;

(c) A statement of when and how petitioner received notice of the Agency decision of intent to render a decision;

(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

(e) A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief;

(f) A demand for relief to which the petitioner deems himself entitled; and

(g) Other information which the petitioner contends is material.

(3) Upon receipt of a petition for formal proceedings, the Agency shall either accept or deny the petition, and if accepted shall elect either to conduct the hearing itself through the Agency head, or member thereof, assign a person authorized by Subsection 120.57(1)(a) or other authority, or request that a Hearing Officer from the Division of Administrative Hearings be assigned to conduct the hearing.

(a) A petition may be denied if the petitioner does not state adequately a material factual allegation, such as a substantial interest in the Agency determination, or if the petition is untimely.

(b) The Agency shall promptly give written notice to all parties of the action taken on the petition, and shall state with particularity its reasons therefor.

(4) If the Agency elects to request that a Hearing Officer of the Division of Administrative Hearings be assigned to conduct the hearing, the Agency shall forward the petition, and all materials filed with the Agency, to the Division of Administrative hearings, and shall notify all parties of its action.

Specific Authority: 120.53(1), 120.54(10), F.S.
Law Implemented: 120.57, F.S.
History: New 3-23-80

SECTION 62-103.155, FLORIDA ADMINISTRATIVE CODE
RULES OF ADMINISTRATIVE PROCEDURE
FINAL AGENCY ACTION (NON-RULEMAKING) AND APPEAL

62-103.155 Petition for Administrative Hearing; Waiver of Right to Administrative Proceeding.

(1)(a) Any person whose substantial interests may be affected by proposed or final agency action by the Department may file a petition for formal administrative hearing in accordance with this rule if the person disputes the material facts upon which the Department's action is based.

(b) Any person whose substantial interests may be affected by proposed or final action by the Department may file a petition for informal administrative hearing in accordance with this rule if the person objects to the Department's action but does not dispute the material facts upon which the Department's action is based.

(2) A petition for formal or informal administrative hearing pursuant to section 120.57, F.S., shall contain the following information:

(a) The name, address, and telephone number of each petitioner. If the petitioner challenges a Department action or proposed action on a permit application, the applicant's name and address, the Department permit file number and the county in which the project is proposed shall also be included;

(b) A statement of how and when each petitioner received notices of the Department action or proposed action;

(c) A statement of how each petitioner's substantial interests are affected by the Department's action or proposed action;

(d) A statement of those material facts (i.e., those facts upon which the Department's action or proposal is based) is disputed by petitioner. If no facts are disputed, petitioner shall so state;

(e) A statement of facts which petitioner contends warrant reversal or modification of the Department's action or proposed action;

(f) A statement of which rules or statutes petitioner contends require reversal or modification of the Department's action or proposed action;

(g) A statement of relief sought by petitioner, stating precisely the action petitioner wants the Department to take with respect to the Department's action or proposed action.

(3)(a) A petition shall be in the form required by this rule and must be filed (received) in the Office of General Counsel of the Department within the following number of days after receipt or publication (whichever occurs first) of notice of proposed agency action or of notice of agency action:

1. Petitions concerning Department action or proposed action on applications for permits (except permits for hazardous waste facilities): 14 days;

2. Petitions concerning Department action or proposed action on applications for hazardous waste facility permits: 45 days;

3. Petitions concerning notices of violation when no informal conference is held: 20 days after receipt of the notice of violation;

4. Petitions concerning notices of violation when an informal conference is held: 10 days after receipt of notice of completion of the informal conference;

5. Petitions concerning other Department actions or proposed actions: 21 days.

The petitioner shall also serve a copy of the petition on all other parties to the proceeding, as identified in the published notice, at the time of filing.

(b) Failure to timely file a petition within the applicable time period after receipt of notice of agency action or receipt of notice of proposed agency action, whichever notice first occurs, shall constitute a waiver of any right to request an administrative proceeding under Chapter 120, F.S.

(4) If a petition is filed that does not substantially comply with the requirements of subsection (2) of this rule, the Department shall issue an order dismissing the petition with leave to file an amended petition complying with the requirements of this rule within 15 days of service of the order. If an amended petition complying with this rule is not filed (received) within 15 days of service of the order, the petitioner's right to a proceeding under Section 120.57, F.S., is waived.

(5) When there has been no publication of notice of agency action or notice of proposed agency action as prescribed in Rule 62-103.150, F.A.C., a person who has actual knowledge of the agency action or has knowledge which would lead a reasonable person to conclude that the Department has taken final agency action, has a duty to make further inquiry within 14 days of obtaining such knowledge by contacting the Department to ascertain whether action has occurred. The Department shall upon receipt of such an inquiry, if agency action has occurred, promptly provide the person with notice as prescribed by Rule 62-103.150, F.A.C. Failure of the person to make inquiry with the Department within 14 days after obtaining such knowledge may stop the person from obtaining administrative proceeding on the agency action.

(6)(a) "Receipt of notice of agency action" means receipt of written notice of final agency action, as prescribed by Department rule, or the publication, pursuant to Department rule, of notice of final agency action, whichever first occurs.

(b) "Receipt of notice of proposed agency action" means receipt of written notice (such as a letter of intent) that the Department proposes to take certain action, or the publication pursuant to Department rule of notice of proposed agency action, whichever first occurs.

(7) Notwithstanding any other provision in this Chapter, should a substantially affected person who fails to timely request a hearing under Section 120.57, F.S., administratively appeal the final Department action or order, the record on appeal shall be limited to:

(a) the application and accompanying documentation submitted by the applicant prior to the issuance of the agency's intent to issue or deny the requested permit.

(b) the materials and information relied upon by the agency in determining the final agency action or order;

(c) any notices issued or published; and

(d) the final agency action or order entered concerning the permit application.

(8) In such cases where persons do not timely exercise their rights accorded by Section 120.57(1), Florida Statutes, the allegations of fact contained in or incorporated by the final agency action shall be deemed uncontested and true, and appellants may not dispute the truth of such allegations upon subsequent appeal.

(9) Any applicant may challenge the Department's request for additional information by filing with the Office of General Counsel an appropriate petition for administrative proceeding pursuant to Section 120.60, F.S., following receipt by the applicant of the Department's notification pursuant to Section 403.0876, F.S., that additional information is required.

Specific Authority: 120.53, 403.0876, 403.815, F.S.

Law Implemented: 120.53, F.S.

History: New 9-20-79; Amended 4-28-81; Transferred from 17-1.62 and Amended 6-1-84; Amended 10-19-88, Formerly 17-103.155.

Department of Environmental Protection

DRAFT

Lawton Chiles
Governor

Southwest District
3804 Coconut Palm Drive
Tampa, Florida 33619

Virginia B. Wetherell
Secretary

PERMITTEE
KleenSoil International, Inc.
Trevor Cook, Vice President
Operations
13838 Harlee Road
Palmetto, Florida 34221

PERMIT/CERTIFICATION
GMS ID No:
Permit No: SO41-267846
Date of Issue:
Expiration Date:
County: Manatee
Lat/Long: 27°38'07"
82°32'23"
Project: Soil Thermal
Treatment Facility

This permit is issued under the provisions of Chapter 403, Florida Statutes, and Florida Administrative Code Rule(s) 62-3, 62-4, 62-25, 62-520, 62-522, 62-550, 62-701, 62-730 and 62-775. The above named permittee is hereby authorized to perform the work or operate the facility shown on the application and approved drawing(s), plans, and other documents, attached hereto or on file with the department and made a part hereof and specifically described as follows:

To operate a soil thermal treatment facility, referred to as KleenSoil International, Inc. facility, for the thermal treatment of soils which are contaminated with non-hazardous coal tar residuals from manufactured gas plant sites, subject to the specific conditions attached, located at 13838 Harlee Road in Palmetto, Manatee County, Florida. The specific conditions attached are for the operation of:

1. Soil Thermal Treatment Facility

Replaces Permit Number: N/A, new facility

"Protect, Conserve and Manage Florida's Environment and Natural Resources"

Printed on recycled paper.

GENERAL CONDITIONS:

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1. The terms, conditions, requirements, limitations, and restrictions set forth herein are "Permit Conditions" and as such are binding upon the permittee and enforceable pursuant to the authority of Sections 403.141, 403.161, 403.727, or 403.859 through 403.861, Florida Statutes. The permittee is placed on notice that the Department will review this permit periodically and may initiate enforcement action for any violation of these conditions.

2. This permit is valid only for the specific processes and operations applied for and indicated in the approved drawings or exhibits. Any unauthorized deviation from the approved drawings, exhibits, specifications, or conditions of this permit may constitute grounds for revocation and enforcement action by the Department.

3. As provided in Subsections 403.087(6) and 403.722(5), Florida Statutes, the issuance of this permit does not convey any vested rights or any exclusive privileges. Neither does it authorize any injury to public or private property or any invasion of personal rights, nor any infringement of federal, state or local laws or regulations. This permit is not a waiver of or approval of any other Department permit that may be required for other aspects of the total project which are not addressed in the permit.

4. This permit conveys no title to land or water, does not constitute state recognition or acknowledgment of title, and does not constitute authority for the use of submerged lands unless herein provided and the necessary title or leasehold interests have been obtained from the State. Only the Trustees of the Internal Improvement Trust Fund may express state opinion as to title.

5. This permit does not relieve the permittee from liability for harm or injury to human health or welfare, animal, plant or property caused by the construction or operation of this permitted source or from penalties therefore; nor does it allow the permittee to cause pollution in contravention of Florida Statutes and Department rules, unless specifically authorized by any order from the Department.

6. The permittee shall at all times properly operate and maintain the facility and systems of treatment and control (and related appurtenances) that are installed or used by the permittee to achieve compliance with the conditions of this permit, as required by Department rules. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to achieve compliance with the conditions of the permit and when required by Department rules.

7. The permittee, by accepting this permit, specifically agrees to allow authorized Department personnel, upon presentation of credentials or other documents as may be required by law, and at reasonable times access to the premises, where the permitted activity is located or conducted for the purposes of:

GENERAL CONDITIONS (con't): DRAFT

a. Having access to and copying any records that must be kept under the conditions of the permit:

b. Inspecting the facility, equipment, practices, or operations regulated or required under this permit; and

c. Sampling or monitoring any substances or parameters at any location reasonably necessary to assure compliance with this permit or Department rules.

Reasonable time may depend on the nature of the concern being investigated.

8. If, for any reason, the permittee does not comply with or will be unable to comply with any condition or limitation specified in this permit, the permittee shall immediately notify and provide the Department with the following information:

a. a description of and cause of non-compliance; and

b. the period of non-compliance, including exact dates and times; or, if not corrected, the anticipated time the non-compliance is expected to continue, and steps being taken to reduce, eliminate, and prevent recurrence of the non-compliance.

The permittee shall be responsible for any and all damages which may result and may be subject to enforcement action by the Department for penalties or revocation of this permit.

9. In accepting this permit, the permittee understands and agrees that all records, notes, monitoring data and other information relating to the construction or operation of this permitted source, which are submitted to the Department, may be used by the Department as evidence in any enforcement case involving the permitted source arising under the Florida Statutes or Department rules, except where such use is prescribed by Sections 403.73 and 403.111, Florida Statutes.

10. The permittee agrees to comply with changes in Department rules and Florida Statutes after a reasonable time for compliance; provided, however, the permittee does not waive any other rights granted by Florida Statutes or Department rules.

11. This permit is transferable only upon Department approval in accordance with Florida Administrative Code Rules 17-4.12 and 17-30.30, as applicable. The permittee shall be liable for any non-compliance of the permitted activity until the transfer is approved by the Department.

12. This permit or a copy thereof is required to be kept at the work site of the permitted activity during the entire period of construction or operation.

GENERAL CONDITIONS (con't):

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13. This permit also constitutes:

a. Determination of Best Available Control Technology (BACT)

b. Determination of Prevention of Significant Deterioration (PSD)

c. Certification of Compliance with State Water Quality Standards (Section 401. PL 92-500)

d. Compliance with New Source Performance Standards

14. The permittee shall comply with the following monitoring and record keeping requirements:

a. Upon request, the permittee shall furnish all records and plans required under Department rules. The retention period for all records will be extended automatically, unless otherwise stipulated by the Department, during the course of any unresolved enforcement action.

b. The permittee shall retain at the facility or other location designated by this permit records of all monitoring information (including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation), copies of all reports required by this permit, and records of all data used to complete the application for this permit. The time period of retention shall be at least three years from the date of the sample, measurement, report or application unless otherwise specified by Department rule.

c. Records of monitoring information shall include:

-the date, exact place, and time of sampling or measurement;
-the person responsible for performing the sampling or measurements;
-the date(s) analyses were performed;
-the person responsible for performing the analyses;
-the analytical techniques or methods used;
-the results of such analyses; and
-the method detection limit.

15. When requested by the Department, the permittee shall within a reasonable time furnish any information required by law which is needed to determine compliance with the permit. If the permittee becomes aware that relevant facts were not submitted or were incorrect in the permit application or in any report to the Department, such facts or information shall be submitted or corrected promptly.

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SPECIFIC CONDITIONS:

1. **Facility Designation.** This site shall be classified as a soil thermal treatment facility for the thermal desorption of up to 200,000 tons/year of soil contaminated with non-hazardous coal tar residue. This facility shall be operated in accordance with all applicable requirements of Chapters 62-3, 62-4, 62-25, 62-28, 62-520, 62-522, 62-550, 62-701, 62-730, 62-302 and 62-775, Florida Administrative Code (F.A.C.) and all applicable requirements of Department rules.

2. **Permit Application Documentation.** This permit is valid for operation of the soil thermal treatment facility and related facilities in accordance with the reports, plans and other information, submitted by KleenSoil International, Inc., including the application to operate a solid waste management facility dated March 23, 1995; amended May, 1995; additional information dated April 12, 1995, May 4, 1995, May 8, 1995, June 22, 1995, July 20, 1995 and August 16, 1995; facility plan, signed and sealed on May 24, 1994 by a Professional Engineer registered in the State of Florida; and in accordance with all applicable requirements of Department rules.

3. **Permit Modifications.** Any activities not approved as part of this permit shall require a separate Department permit unless the Department determines a permit modification to be more appropriate. Permits shall be modified in accordance with the requirements of Rule 62-4.080, F.A.C. A modification which is reasonably expected to lead to substantially different environmental impacts which require a detailed review by the Department is considered a substantial modification.

4. **Permit Renewal.** As required by Rule 62-4.090(1), F.A.C. no later than **sixty (60) days** before the expiration of the Department permit, the permittee shall apply for a renewal of a permit on forms and in a manner prescribed by the Department, in order to assure conformance with all applicable Department rules. Permits shall be renewed at least every five years as required by Rule 62-701.330(3), F.A.C.

5. **Prohibitions.** The prohibitions of Rule 62-701.300, F.A.C. shall not be violated.

6. **Facility Operation Requirements.**
   a. The permittee shall operate this facility in accordance with the information submitted in the Engineering Report, as revised May 1995; applicable parts of F.A.C. 62-701.700 and 62-775; and any other applicable requirements.

   b. The permittee shall require separate pre-treatment analyses for contaminated soil from each contaminated site to fully characterize the soil contamination prior to the acceptance of the shipment at the facility.

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SPECIFIC CONDITIONS (Cont'd):

c. Oversized materials that cannot be crushed to meet the requirements of F.A.C. Rule 62-775.300(9) and other debris generated by the screening operation shall be disposed of at a permitted Class I disposal facility, or other solid waste disposal facility, subject to prior Department approval.

d. Litter control shall be performed daily. Outdoor spillage of contaminated media shall be removed daily. The leachate collection sumps shall be cleaned out at least monthly.

7. **Coal Tar Contaminated Soil Analyses.**
a. Coal tar contaminated soil samples shall be analyzed for the following parameters using the test methods indicated or other methods approved by the Department:

(1)	Total Volatile Organic Aromatics (VOA)	EPA Method 5030/8021 or 5030/8020
(2)	Total Recoverable Petroleum Hydrocarbons	EPA Draft Method 3540/9073
(3)	Polynuclear Aromatic Hydrocarbons (PAH)	EPA Method 8100, 8250, or 8310
(4)	Volatile Organic Halocarbons (VOH)	EPA Method 5030/8021 or 5030/8010
(5)	Total Organic Halides	EPA Method 5050/9056, 5050/9252, 5050/9253
(6)	Metals	
	Arsenic	EPA Method 7060 or 7061
	Barium	EPA Method 7080, 7081 or 6010
	Cadmium	EPA Method 7130, 7131 or 6010
	Chromium	EPA Method 7190, 7191 or 6010
	Lead	EPA Method 7420, 7421 or 6010
	Mercury	EPA Method 7471
	Selenium	EPA Method 7740, 7741 or 6010
	Silver	EPA Method 7760, 7761 or 6010
	Beryllium	EPA Method 7090
(7)	Cyanide	EPA Method 9010
(8)	Dibenzofurans	EPA Method 8270
(9)	Phenols	EPA Method 8040 or 8270
(10)	TCLP metals	
	Arsenic, Barium	EPA Methods 1311/7060, 6010
	Cadmium, Chromium	7310, 7131; 6010, 7190 or 7191
	Lead, Mercury	6010, 7470
	Selenium, Silver	7740, 6010
	Beryllium	1311/7090
(11)	TCLP Benzene	EPA Method 1311/8020

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SPECIFIC CONDITIONS (Cont'd):

b. All analytical methods used by KleenSoil International, Inc. shall have detection levels that are less than or equal to the risk based and leachability based soil cleanup levels provided by Table II.

c. All thermally treated soil shall be analyzed for the parameters listed in Specific Condition 7.A., using the EPA Methods indicated or other methods approved in writing by the Department. Thermally treated soil is not required to be analyzed for TCLP benzene. Thermally treated soil shall be analyzed for cyanide only if cyanide is detected in the soil contaminated with coal tar residue over minimum detection limits.

d. The soil must not be thermally treated if it is classified as hazardous waste. If any soil is suspected of containing a hazardous waste, then screening analyses for other contaminants may include, but are not limited to the following: volatile organic halogens; corrosivity; reactivity; toxicity characteristic constituents by the TCLP, which includes metals, pesticides, and additional organics. Soil contaminated with used oil, hydraulic oil, or mineral oil may be a hazardous waste and should be tested using toxicity characteristic, for total organic halides. Excavated soil which is classified as a hazardous waste must be managed as a hazardous waste and treated or disposed of at an approved hazardous waste treatment/disposal facility.

e. TCLP analyses for metals are not required for pretreatment soils if the total concentration for each metal does not exceed the total metal concentration listed in Rule 62-775.400(3), F.A.C. for pretreatment soil.

8. **Soil Sampling Frequency.**
a. Pretreatment soil shall be analyzed as required by Specific Condition #7. The number of composite soil samples for each contamination site shall be in accordance with Table I. Each composite soil sample shall consist of soil samples taken from a least four locations. Each sample shall be collected from locations equally distributed throughout the soil surface area and from a depth of at least six inches below the surface. Sampling procedures are described in the Standard Operating Procedures Manual for Soil Thermal Treatment facilities pursuant to F.A.C. Rule 62-775.300(10).

TABLE I
SOIL SAMPLING FREQUENCY

Amount of Soil by Volume (cubic yards)	by Weight (tons)	Quantity of Composite Samples
Less than 100	Less than 140	1
100 to 500	140 to 700	3
500 to 1000	700 to 1400	5
For each additional 500	For each additional 700	1

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b. Following thermal treatment, a thermally treated soil sample shall be collected at least hourly and composited over an eight operational hour maximum time interval or at least once every 400 tons, whichever is less. Each composite shall be analyzed as required by Specific Condition #7.

9. **Thermally Treated Soil Criteria.**

a. The "thermally treated" soil criteria for soil contaminated with coal tar residuals which has been thermally treated are listed in Table II.

b. Thermally treated soil shall also comply with the criteria for clean soil required by Florida Administrative Code Rules 62-775.400(1) and (2).

SPECIFIC CONDITIONS (Cont'd):

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TABLE II

THERMALLY TREATED SOIL CRITERIA

Chemical Name	Health-based/ Residential (mg/kg)	Health-based/ Industrial (mg/kg)	Leachability-based (mg/kg)
Acenaphthene	2,000	19,000	2.0
Acenaphthylene	320	2,300	11
Anthracene	16,000	200,000	890
Benzo(a)anthracene	1.4	4.9	29
Benzo(b)Fluoranthene	1.4	4.9	71
Benzo(k)fluoranthene	14	47	44
Benzo(a)pyrene	0.14	0.5	3.7
Benzo(g,h,i,)perylene	14	50	320
Chrysene	140	490	31
Dibenzo(a,h)anthracene	0.14	0.5	270
Fluoranthene	2,800	44,000	280
Fluorene	1,900	21,000	45
Indeno(1,2,3-c,d)pyrene	1.4	5.0	650
2-Methylnaphthalene	700	5,800	NC
Naphthalene	840	6,800	0.1
Phenanthrene	1,200	11,000	2.8
Pyrene	2,200	37,000	290
Cyanide	1,600	40,000	NC
Arsenic	0.7	3.0	TCLP*
Barium	5,000	74,000	TCLP*
Cadmium	37	600	TCLP*
Chromium**	150/66,000	220/540,000	TCLP*
Lead	500	1000	TCLP*
Silver	380	8000	TCLP*
Selenium	390	9900	TCLP*
Mercury	23	480	TCLP*
Benzene	0.8	1.1	0.003
Beryllium	0.1	0.2	NC
Dibenzofuran	200	2400	TCLP extract*
Total Phenols	27,000	290,000	0.02

NC - Not Calculated

* The TCLP test method shall be used to evaluate the thermally treated soil. The analytical results will be compared to the product of 100 times the F.A.C. Chapter 62-550 Drinking Water Standard.

** All thermally treated soil chromium concentrations shall be compared to hexavalent chromium. In the event that the hexavalent chromium concentration is above the thermally treated soil criteria, then KleenSoil International, Inc. shall establish the actual percentage of each valence state in the thermally treated soil.

b. In the event that a constituent is detected in the thermally treated soil that is not included in Table II, within 7 days, KleenSoil International, Inc. shall request a permit modification for a thermally treated soil criteria from the Department.

c. The TCLP extract for the metals including arsenic, barium, beryllium, cadmium, chromium, lead, mercury, silver and selenium from a thermally treated soil sample shall not exceed a concentration greater than 100 times the Chapter 62-550, F.A.C. primary drinking water standard.

10. **Thermally Treated Soil Segregation and Disposal/Reuse.**

a. Soil contaminated with coal tar residual that has been thermally treated shall be classified as "thermally treated soil".

b. Thermally treated soil may be reused or disposed of without Department restriction if all parameters detected through the post treatment sampling are less than the lower of either the residential or leachability based number provided by Specific Condition #9, and the TCLP extract for the metals, including Beryllium, is less than 100 times the primary drinking water standard as required by Specific Condition 9.C. Such soil shall be classified as "thermally treated soil".

c. Thermally treated soil that has contaminant concentrations that exceed the Residential or Industrial Health based criteria but are less than the leachability based criteria listed in Specific Condition 9 may be disposed of at any site only if the thermally treated soil is covered with a minimum of two feet of clean soil.

d. Thermally treated soil can be disposed of within the top two feet of the land surface without cover under the following conditions if the thermally treated soil meets the leachability based criteria and the total PAHs and total metals are within the following ranges:

(1) All total metal and total PAH concentrations are less than health-based/residential guidelines. This thermally treated soil may be blended/mixed with other thermally treated coal tar contaminated soils or thermally treated petroleum contaminated soil meeting these same criteria. The disposal of soils meeting these criteria is unrestricted.

(2) Concentration of one or more total metal and/or total PAH greater than a health-based/residential criteria but less than health-based/industrial guideline. Thermally treated soil may be disposed of under a cap (road base, parking lot, commercial Building slab, etc.) but shall be disposed of above the water table.

DRAFT

(3) Concentration of one or more total metal and/or total PAH in excess of a health based/industrial criteria. Thermally treated soil may be disposed of as aggregate for hot mix asphalt, in soil cement, as concrete aggregate or as a raw material for cement production. Other fixation or stabilization alternatives may be acceptable upon Department approval.

d. The thermally treated soil may returned to the site of origin and disposed in accordance with a site specific Remedial Action Plan, Contamination Assessment Plan, Interim Remedial Action Plan or other professional documents submitted to the Department which are signed and sealed by a Professional Engineer or Geologist, registered in the State of Florida. Such documentation should clearly indicate that the thermally treated coal tar contaminated soil is being returned to its site of origin, at or below surrounding background levels for all contaminants of concern (especially metals). This disposal method shall be subject to prior Department approval.

11. **Soil blending**

a. Soil blending of coal tar contaminated soil is acceptable under the following conditions:

(1) Coal tar contaminated soil and petroleum contaminated soil [as defined by F.A.C. Rule 62-775.200(9)] from various job sites may be blended prior to treatment after the soils have been analyzed in accordance with Specific Condition number 7, and approved for treatment at the KleenSoil International, Inc. facility.

(2) After post-treatment sample analyses establish which reuse or disposal criteria is required for the thermally treated soil, the thermally treated soil may be blended with other soils requiring those same criteria or thermally treated soils requiring more restrictive disposal. If thermally treated soil is blended with thermally treated soil meeting a more restrictive disposal criteria, the blended soil shall be disposed of in the more restrictive manner.

(3) Coal tar contaminated soil that has been thermally treated may be blended with unprocessed coal tar contaminated soil and retreated to reduce the concentration of one or more metals.

(4) Untreated coal tar contaminated soil shall be stored separately from untreated petroleum contaminated soil.

(5) KleenSoil International, Inc. shall maintain records of soil blending activities on-site for a period of three years. The records shall be available for inspection by FDEP.

SPECIFIC CONDITIONS (Cont'd):

DRAFT

12. **Treatment Criteria for Coal Tar Contaminated Soil.**

a. To assure satisfactory destruction of cyanides and PAHs that may be present in coal tar contaminated soil, KleenSoil International, Inc. shall maintain the following residence time/temperature criteria for thermal desorption of coal tar contaminated soils:

Thermal treatment chamber temperature - 1000°F; and
Soil residence time in treatment chamber - 60 minutes

b. KleenSoil International, Inc. shall place two stationary temperature probes at opposite ends of the thermal treatment burner chamber and record the distance (in feet) between the probes. The temperature monitored by each temperature probe shall be recorded on each shift log. The push rate of kiln cars shall be recorded on each shift log (cars per hour) as averaged over the shift.

13. **Operation Plan and Operating Record.** A copy of the Department approved permit, operational plan, construction reports and record drawings, and supporting information shall be kept at the facility at all times for reference and inspection.

14. **Storage of Materials**

a. The maximum quantity of material which shall be processed at the facility annually is limited to 200,000 tons/yr of soil contaminated with non-hazardous coal tar residue; 250,000 tons/yr of soil with petroleum contaminants; or a combination of the two. The annual tonnages are based on 5000 hours per year operation (air permit limit) and processing rates of 40 tons per hour for non-hazardous soil contaminated with coal tar residue and 50 tons per hour for petroleum contaminated soil (air permit limits).

At no time shall the contaminated soil stored on-site exceed the quantity that can be processed during a 90 day period; taking into consideration all permit limitations. On-site storage is limited to 62,500 tons of untreated soil.

b. Oversized materials and other debris generated by the screening operation shall be stored inside of the existing contaminated soil storage building in an area dedicated to debris storage or in a roll-off container and shall be covered (tarped) at the end of each working day, and during rain events.

c. Until soil analyses have verified that the thermally treated soil meets the thermally treated soil criteria in Table 2 of Specific Condition #9, the thermally treated soil shall be stockpiled on a permanent floor structure which meets the criteria of F.A.C. Rule 62-775.620(2)(b).

15. **Recordkeeping.**

a. The owner or operator of the facility shall maintain the following waste records at the site for a period of three years:

SPECIFIC CONDITIONS (Cont'd):

DRAFT

(1) The quantity of material received, stored, processed and disposed/reused.

(2) The Contaminated Soil Generator Certification for each shipment accepted at the facility.

(3) The pre- and post-treatment analyses, as required by Specific Condition #7, for each shipment of soil contaminated with coal tar residue from each separate contaminated site which is received at the facility.

(4) Documentation that all the sampling and analyses performed by the generator or the permittee is in accordance with a Department approved Quality Assurance Plan. Documentation may consist of a title page, dated and signed by the Department's Quality Assurance Section.

(5) Records of blending ratios with calculations to estimate total contaminant concentrations of blended soil or resampling and analyses of blended soil shall be maintained.

b. The following information shall be compiled monthly and submitted to the this office **quarterly, by January 31st, April 30th, July 31st and October 31st of each year:**

(1) A material balance including the volumes of materials received, stored and removed from the site for use, disposal or treatment.

(2) A description of the disposition of all thermally treated soils including:

(a) The final use, (i.e., unrestricted disposal of "Thermally Treated Soil", use as a road base above the water table, use as industrial or residential fill material, returned to origin of excavation per approved document, etc.) of the thermally treated soil;

(b) The date the thermally treated soil left the KleenSoil International, Inc. facility and a signature of the recipient noting the receipt of a disclosed volume of thermally treated soil. Recipients of "Thermally Treated Soil" shall be provided the analytical results used to determine the final disposal options, when requested; and

(c) All analytical results used to determine the appropriate disposal options. If blending is required after treatment, sufficient documentation shall be presented to document that the final treated volume of soil has been appropriately categorized.

SPECIFIC CONDITIONS (Cont'd):

DRAFT

(3) The Generator's Waste Profile and Contaminated Soil Generator Certification for each shipment from each contaminated facility which is accepted at this permitted facility.

(4) The pre and post-treatment analytical results presented in tabular form.

(5) The shift logs recorded as required by Specific Condition 12.b.

16. **Monitoring of Waste.** The permittee shall not accept any hazardous waste at this site. Hazardous wastes are those defined in Chapter 62-730, F.A.C. In the event that hazardous wastes are received at the facility, the owner or operator shall notify the Department immediately **(within 24 hours)**. Every effort shall be made to determine the origin of the waste, and the waste shall be characterized and managed in accordance with applicable federal, state and local regulations.

17. **Drainage Requirements.** All areas shall be cleaned daily or more often, if needed, to prevent nuisance conditions, hazardous conditions, odor or vector problems. Floors shall be free of standing liquids. Liquids which have contacted contaminated soils or wastes **shall not** be discharged outside of the secondary containment in the building.

18. **Closure requirements.** The facility owner or operator shall notify this office of the facility's closure, no later than **180 days** prior to the date when the facility is expected to close, as required by F.A.C. Rule 62-701.700(3)(d). The facility shall be closed in accordance with F.A.C. 62-701.700(3)(d) and the Closure Plan submitted in the Engineering Report as amended May 1995.

19. **Control of Nuisance Conditions.** The owner or operator shall be responsible for the control of odors and fugitive particulates arising from this operation. Such control shall minimize the creation of nuisance conditions on adjoining property. Complaints received from the general public, and confirmed by Department personnel upon site inspection, shall constitute a nuisance condition, and the permittee must take immediate corrective action to abate the nuisance. The owner or operator shall control disease vectors so as to protect the public health and welfare.

20. **Facility Maintenance and Repair.** The site shall be properly maintained including building maintenance, maintenance of processing equipment, containment systems and stormwater systems. In the event of damage to any portion of the site facilities, failure of any portion of the associated systems, or any spill which may result in a release of contaminants to the air, water or lands of the State of Florida, the permittee shall immediately **(within 24 hours)** notify the Department of Environmental Protection explaining such occurrence and remedial measures to be taken and time needed for repairs or remediation. Written detailed notification shall be submitted to the Department **within seven (7) days** following the occurrence.

SPECIFIC CONDITIONS (Cont'd):

DRAFT

21. **Fire Safety Survey.** The permittee shall submit to the Department a fire safety survey **annually** which includes a statement from the local authorities that the site meets the requirements of the local fire protection authorities. This report shall be submitted by **January 31st** of each year. **Within 30 days of completion**, the permittee shall provide documentation to the Department indicating correction of any deficiencies noted.

22. **Professional Certification.** Where required by Chapter 471 (P.E.) or Chapter 492 (P.G.), Florida Statutes, applicable portions of permit applications and supporting documents which are submitted to the Department for public record shall be signed and sealed by the professional(s) who prepared or approved them.

23. **Permit Acceptance.** By acceptance of this Permit, the Permittee certifies that he/she has read and understands the obligations imposed by the Specific and General Conditions contained herein, including date of permit expiration and renewal deadlines. It is a violation of this permit to fail to comply with all conditions and deadlines.

24. Florida Department of Environmental Protection Form 62-775.900(3) shall be used to demonstrate the volume of soil treated and the length of time the facility is operating. A log shall also be maintained to document the temperature of the kiln.

GROUNDWATER MONITORING PLAN SPECIFIC CONDITIONS

1. In accordance with Rule 62-522.600(3), F.A.C., the permittee has installed and placed into operation a Ground Water Monitoring System. The Ground Water Monitoring System is designed and constructed in accordance with the plans on file in the Southwest District office in the May 1995 Amended Permit Application.

2. The ground water monitor well system consists of 6 surficial aquifer monitor wells, 5 piezometers and 4 staff gauges. All wells are to be clearly labeled and easily visible at all times.

3. If any monitoring well becomes damaged or inoperable, the permittee shall notify the Department immediately and a detailed written report shall follow within 7 days. The written report shall detail what problem has occurred and remedial measures that have been taken to prevent the recurrence. All monitoring well design and replacement shall be approved by the Department prior to installation of the replacement well. Inoperable monitor wells shall be plugged and abandoned in accordance with the rules of the Water Management District.

SPECIFIC CONDITIONS (Cont'd):

DRAFT

4. All ground water monitor wells shall be sampled and analyzed QUARTERLY for the parameters listed in Specific Condition 7.A.(1) to (9), and those listed below. There shall be a minimum 45 days between any 2 consecutive quarterly sampling events. Additional sample(s), well(s), and parameter(s) may be required based upon subsequent analyses.

Field Parameters
Static Water level
before purging
Specific Conductivity
pH
Turbidity
Temperature
Colors and sheens (by observation)

5. The ground water monitor wells shall be sampled, analyzed and results reported to this office in accordance with the following schedule:

Sample Period	Report Due Date
1st Quarter (January-March)	April 30
2nd Quarter (April-June)	July 31
3rd Quarter (July-September)	October 31
4th Quarter (October-December)	January 31

The permittee shall submit to the Department the results of the water quality analyses no later than the last day of the month immediately following the end of the sampling period. Two copies of the results shall be sent to the Department of Environmental Protection, Southwest District Office, 3804 Coconut Palm Drive, Tampa, Florida 33619-8318.

Water level measurements should be provided in tabular form (including top of casing elevations, depth to water, screened interval length, and corresponding water level elevations) and in graphic form showing the interpretation of the groundwater flow direction.

6. If, at any time, water quality standards are exceeded, the permittee has 15 days from receipt of the laboratory analyses in which to resample the monitor well(s) to verify the original analysis. The monitoring test results must be submitted to the Department within 15 days of receipt of the reanalyses from the laboratory. Should the permittee choose not to resample, the Department will consider the water quality analysis as representative of current ground water conditions at the facility.

SPECIFIC CONDITIONS (Cont'd):

DRAFT

7. All field testing, sample collection, preservation and laboratory testing, including quality control procedures, shall be in accordance with a current Department Approved Comprehensive Quality Assurance Plan in accordance with Rule 62-160.300 and 62-520.300, F.A.C. and the Quality Assurance Standard Operating Procedures Manual for soil thermal treatment facilities as of November, 1991. Approved methods for chemical analyses are summarized in the Federal Register, December 1, 1976 (41FR52780) except that turbidity shall be measured by the Nephelometric Method.

8. The permittee shall ensure that the water quality standards for Class G-II ground waters will not be exceeded according to Rule 62-520.400 and 62-520.420, F.A.C.

9. The permittee shall ensure that the minimum criteria for ground water specified in Rule 62-520.420, F.A.C. shall not be violated.

Executed in Tampa, Florida

STATE OF FLORIDA Department
OF ENVIRONMENTAL PROTECTION

DRAFT

Richard D. Garrity, Ph.D.
Director of District Management
Southwest District

I N T E R O F F I C E M E M O R A N D U M

Date: 28-Sep-1994 11:09am EST
From: William Kutash TPA
KUTASH_W@A1@TPA1
Dept: Southwest District Office
Tel No: 813/620-6100
SUNCOM:

TO: See Below

Subject: KLEEN SOIL ALTERNATE PROCEDURE REQUEST

We have been approached by one of our 62-775 Dirt Burners, with a proposal to add Coal Tar contaminated soils(non-RCRA levels) to the list of approved petroleum contaminated media which they can routinely burn at this GP Permitted site.. They have made the same request of the Air Permitting section and been issued a permit mod to undertake a 1000 ton "trial Burn" to test the machinery and pre-post soil testing methods.

They have submitted a detailed plan to both us and Tom Conrardy's group and have a testing and monitoring protocol with which we all are happy. They have now officially asked for our "approval of the Trial Burn". The results of the test will be used to formally request an alternate Procedure Approval from the Dept. to permanently authorize them to burn Coal Tar contaminated soils. They have also indicated that they will be approaching the Dept. with a series of similar request to burn mineral spirit and other solvent contaminated media in the future.

Since this is a first for us (but will likely be repeated at every dirt burner in the state), I'd like to generate some discussion and hopefully reach a consensus on how the Dept should administratively process this type of request. In addition, what are the long term implications of allowing dirt burners to expand their burnable list of pollutants to include other sub-RCRA levels of hazardous substances at their GP sites?

We are proposing to authorize the test burn of 1000 tons via a letter signed by the DDM. Should we be using a more formal Alternate Procedure process (technical review by Tall Tech sections and Sec. Approval--- What about fee's?) or are we going to review/approve these on a site by site , pollutant by pollutant and district by district basis? While 62-775's Alternate Procedure process is without fee or format, is that the appropriate administrative process for this request? Should we be using the relief processes outlined in 62-4 or 62-701, etc.?

Since their currently operating under only a GP and it can't be conditioned or modified- How do we authorize the future burning, handling, and reporting that will be needed for the incineration of these new waste streams? Since they also have Air permits, should we be using the permit modification process to coalesce the two divisions review and conditions into a single permit?

I could go on but I won't. I have the approval letter on my desk to be sent up stairs for signature (where under no time clock but the facility has a large client/source and their in a hurry) so I would appreciate some quick feed back on this issue.

THANKS

Distribution:

TO:	Thomas W. Moody PEN	(MOODY_T @ A1 @ PNS1)
TO:	Michael Fitzsimmons JAX	(FITZSIMMON_M @ A1 @ JAX1)
TO:	Phil Barbaccia FTM	(BARBACCIA_P @ A1 @ FTM1)
TO:	Vivek Kamath WPB	(KAMATH_V @ A1 @ WPB1)
TO:	William Bostwick ORL	(BOSTWICK_W @ A1 @ ORL1)
TO:	Linda Frohock TAL	(FROHOCK_L @ A1 @ DER)
CC:	Bill Hinkley TAL	(HINKLEY_B @ A1 @ DER)
CC:	Mary Jean Yon TAL	(YON_MJ @ A1 @ DER)
CC:	Satish Kastury TAL	(KASTURY_S @ A1 @ DER)
CC:	Doug Jones TAL	(JONES_D @ A1 @ DER)
CC:	Tom Conrardy TAL	(CONRARDY_T @ A1 @ DER)
CC:	Richard Garrity TPA	(GARRITY_R@A1@TPA1)

Florida Department of
Environmental Protection

Southeast District
P.O. Box 15425
West Palm Beach, Florida 33416

Lawton Chiles
Governor

Virginia B. Wetherell
Secretary

MAR. 17 1994

Mr. Enrique Saez
104 Crandon Blvd., Suite 311A
Key Biscayne, FL 33149

RE: Permitting Soil Thermal Treatment Facilities

Dear Mr. Saez,

As requested, the attached information provides guidance for permitting soil thermal treatment facilities (STTF). In general, a permit to construct/operate an air pollution source, DER Form 17-1.202(1), and a notice of intent to use the general permit to construct/operate a soil thermal treatment facility, DER Form 17-775.900(1) are required. Other permits for discharges to surface water and/or ground water or for storm water or NPDES discharges depend on specific site conditions.

The appropriate forms and applicable chapters (i.e., 17-775 and 17-2 for general permits and 17-296 and 17-2 for air permits) of the Florida Administrative Code (FAC) are attached. As discussed, it is beneficial to conduct a pre-application meeting after you have reviewed the attached guidance to discuss site specifics and review the draft permit applications.

If you have any questions please contact Stephanie Brooks for air issues or Lee Martin for STTF issues at 407-433-2650.

Sincerely,

Paul A. Wierzbicki, P.G.
Waste Cleanup Supervisor

Printed on recycled paper.

VIC

Florida Department of
Environmental Protection

Memorandum

CC: Paul
Teresa

TO: District Directors
District Waste Program Administrators
District Air Program Administrators
County Air Program Administrators

FROM: John M. Ruddell, Director
Division of Waste Management

Howard L. Rhodes, Director
Division of Air Resources Management

RECEIVED
JAN 27 1994
DEPT OF ENV PROTECTION
WEST PALM BEACH

DATE: January 12, 1994

SUBJECT: Rule 17-775, F.A.C., Soil Thermal Treatment Facilities Volatile Organic Halocarbons in Petroleum Contaminated Soil

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On November 30, 1992 amendments to Chapter 17-775, F.A.C., became effective. One of the changes to the rule was the addition of Volatile Organic Halocarbons (VOH) to the pretreatment soil analysis requirements of Rule 17-775.410(3), F.A.C. No standard for maximum allowable concentration in pretreatment soil was included in the rule at that time. The Department assumed that VOH should not be detected in soils from petroleum contaminated sites. Based on this assumption, the Department's position was that soil with VOH above the detection limit of 1 ppb would not be considered to meet the definition of "petroleum contaminated soil" and should not be thermally treated at a facility permitted under Chapter 17-775, F.A.C. This was stated in the Department's rule implementation memorandum dated November 18, 1992.

In the time since the effective date of this requirement, it has come to our attention that the presence of VOH compounds in soil at petroleum contaminated sites in relatively low concentrations is not as uncommon as previously suspected. Also, the Department has initiated an investigation into the environmental and health considerations for VOH in soil and has determined that the 1 ppb standard is more conservative than necessary to protect the environment and public health. The Department intends to initiate rule development activities to correct this issue by adding appropriate standards in the rule for maximum allowable concentrations in both pretreatment and post treatment soil.

In the interim, a new maximum allowable concentration in pretreatment soil will be established to replace the concentration of 1 ppb specified in the Department's rule implementation memorandum. The maximum allowable concentration of VOH in pretreatment soil for the soil to still be considered petroleum contaminated soil is 1 mg/kg (ppm). Additionally, since Chapter 17-775 is intended to apply to the treatment of "petroleum contaminated" soil, this interim policy is only intended to apply to the thermal treatment of soil which is predominantly petroleum contaminated. To ensure this is the case, the concentration of total VOH in any composite sample from the soil intended for thermal treatment may not exceed 1% of the concentration of Total Recoverable Petroleum Hydrocarbons. It is anticipated that a different level may be established in the rule development process when public health and environmental risk analysis related to soil and air emissions concentrations is reexamined. If you have any questions, please call Thomas Conrardy of the Bureau of Waste Cleanup at (904)488-0190.

JMR/tc

Florida Department of
Environmental Protection

Lawton Chiles
Governor

Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Virginia B. Wetherell
Secretary

November 30, 1993

Mr. Scott W. McCallister
Environmental Engineering Manager
Waste Management, Inc. - South
500 Cypress Creek Road, West
Suite 300
Fort Lauderdale, Florida 33309

RECEIVED
'93 DEC 8 PM 54
FLA. DEPARTMENT OF
ENVIRONMENTAL REG.
WEST PALM BEACH

Re: Request for Approval of Alternate Procedures
Stage 3, Ash Monofill
Central Sanitary Landfill
3000 Northwest 48th Street
Pompano Beach, Florida
Alternate Procedure File No. AP-PC0052

Dear Mr. McCallister:

The Engineering Support Section has reviewed your November 3, 1993 letter which requested an Approval of Alternate Procedures for the referenced site. Enclosed is an executed copy of the Approval of Alternate Procedures.

If you have any questions regarding this approval, please call me at (904) 488-0190.

Sincerely,

Thomas W. Conrardy

Thomas W. Conrardy, P.E.
Bureau of Waste Cleanup

TC/tc

Enclosure

cc: Broward County Office of Natural Resource Protection
FDEP Southeast District office

Printed on recycled paper.

STATE OF FLORIDA

DEPARTMENT OF ENVIRONMENTAL REGULATION

IN RE: File No. AP-PC0052

Pompano Beach Central Sanitary Landfill
Stage 3 Ash Monofill
Request Pursuant to Florida
Administrative Code Rule 17-770.890

APPROVAL OF ALTERNATE PROCEDURES

This cause comes before me upon receipt of a request by Waste Management Incorporated - South for approval of alternate procedures and requirements for the Pompano Beach Central Sanitary Landfill located at 3000 Northwest 48th Street in Pompano Beach, Florida pursuant to Florida Administrative Code (F.A.C.) Rule 17-770.890. A copy of the request is attached as Exhibit A.

FINDINGS OF FACT

1. The applicant requests that exceptions be granted for compliance with F.A.C. Rule 17-770.300(7), which limits the soil which may be excavated in an Initial Remedial Action to "excessively contaminated" soil only and also limits the quantity of excessively contaminated soils which may be excavated in an Initial Remedial Action (IRA) to 1,500 cubic yards unless prior Department approval is granted.

2. Petroleum contamination was discovered at the site in question during grubbing operations associated with ash monofill expansion. It is suspected that the contamination encountered was caused by vehicle maintenance and diesel fueling activities that took place during the operation of a

maintenance facility that was dismantled in March, 1993. Excessively contaminated soils, as defined in Chapter 17-770, F.A.C., were discovered during the grubbing operation along with contaminated soil.

3. The Florida Department of Environmental Protection as well as the Broward County Department of Natural Resources Protection (DNRP) were notified after the discovery in March 1993. On April 1, 1993, prior to initiation of IRA activities, representatives of the Central Sanitary Landfill met with the DNRP to discuss the approach to be taken to address the petroleum contamination that had been discovered. DNRP representatives agreed on how IRA activities were to be completed, including soil excavation, and also well installation and soil and groundwater sampling to assess the extent of contamination.

4. During implementation of the IRA, approximately 18,000 cubic yards of excessively contaminated soils were identified, removed, and stockpiled on visqueen and covered with visqueen. This was an appropriate and effective method of removing the source of contamination and preventing the leaching of petroleum products into the groundwater. The Central Sanitary Landfill authorities contend that the excavation of contaminated soils in excess of 1,500 cubic yards was effective in protecting the lands and groundwater by removing a possible source of further contamination, as well as allowing for a prompt and effective way of resolving the contamination issue at the site.

5. The Central Sanitary Landfill intends to properly dispose of the excavated soil at the Medley Landfill which is a Class I, lined landfill. The Central Sanitary Landfill requested and received approval from the Metro-Dade Department of Environmental Resource Management and from the Dade County Solid Waste Authority.

6. The Central Sanitary Landfill does not intend to apply for reimbursement from FDEP for any expenses associated with any phase of the project. Remediation of the soils will be funded solely by the Central Sanitary Landfill and no reimbursement claim under either the Early Detection Incentive Program, the Abandoned Tank Restoration Program, or against any other fund of Florida public monies for cleanup cost reimbursement will be made.

Based on the information provided by the applicant, the Department finds that the applicant's request is reasonable and will provide environmental protection substantially equivalent to that provided by compliance with the requirements established in Florida Administrative Code Rule 17-770.300.

CONCLUSIONS OF LAW

Florida Administrative Code Rule 17-770.890 authorizes the approval by the Secretary or her designee of alternate procedures and requirements concerning the regulation of petroleum contamination site cleanup criteria.

The Department concludes that the applicant has

adequately demonstrated that the proposed alternate procedure provides a substantially equivalent degree of protection for the lands, surface waters, and groundwaters of the State as the established requirements and that the alternate procedure is at least as effective as the established requirements.

Upon consideration of the foregoing it is therefore ORDERED that Waste Management, Inc.'s request for an alternate procedure and requirement is GRANTED.

Persons whose substantial interests are affected by the above proposed action have a right, pursuant to Section 120.57, F.S., to petition for an administrative determination (hearing) on the proposed action. The petition must contain the information set forth below and must be filed (received) in the Department's Office of General Counsel, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, within 21 days of publication of this notice. A copy of the Petition must also be mailed at the time of filing to Waste Management, Inc. - South. Failure to file a petition within the 21 days constitutes a waiver of any right such person has to an administrative determination (hearing) pursuant to Section 120.57, F.S.

The petition shall contain the following information:

The petition shall contain the following information:

(a) The name, address, and telephone number of each petitioner; the Department's identification number and the county in which the subject matter or activity is located;

(b) A statement of how and when each petitioner received

notice of the Department's action or proposed action;

(c) A statement of how each petitioner's substantial interests are affected by the Department's action or proposed action;

(d) A statement of the material facts disputed by the petitioner, if any;

(e) A statement of facts which the petitioner contends warrant reversal or modification of the Department's action or proposed action;

(f) A statement of which rules or statutes the petitioner contends require reversal or modification of the Department's action or proposed action;

(g) A statement of the relief sought by the petitioner, stating precisely the action the petitioner wants the Department to take with respect to the Department's action or proposed action.

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this Order. Persons whose substantial interests will be affected by any decision of the Department with regard to the subject agency proposed action have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within 21 days of publication of this notice in the Office of General Counsel at the above address of the Department. Failure to petition

within the allowed frame constitutes a waiver of any right such person has to request a hearing under Section 120.57, F.S., and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed pursuant to Rule. 28-5.207, F.A.C.

When the Order is final, any party to the Order has the right to seek judicial review of the Order pursuant to Section 120.68, Florida Statutes by filing a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the Clerk of the Department in the Office of General Counsel, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400; and by filing a copy of the Notice of Appeal, accompanied by the applicable filing fees, with the appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 days from the date the Final Order is filed with the Clerk of the Department.

DONE AND ORDERED this 30th day of November, 1993 in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL REGULATION

John M. Ruddell

John M. Ruddell, Director
Division of Waste Management
Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

State of Florida
DEPARTMENT OF ENVIRONMENTAL REGULATION

For Routing To Other Than The Addressee
To: Location:
To: Location:
To: Location:
From: Date:

RECEIVED
AUG 2 5 1992
DEPT. OF ENVIRONMENTAL REG.
WEST PALM BEACH

Interoffice Memorandum

TO: Storage Tank Compliance Program Manual

THROUGH: Doug Jones, Chief, Bureau of Waste Cleanup

THROUGH: Marshall Mott-Smith, Environmental Administrator
Storage Tank Regulation Section

FROM: Storage Tank Program S.O.P. Committee

DATE: May 27, 1992

SUBJECT: Applicability of Toxicity Characteristic Leaching Procedure (TCLP or TC) Rule to Petroleum Storage Tanks.

This memo summarizes those aspects of the TC rule that apply to petroleum storage tanks. The information presented is based on the current interpretation of the rule by EPA Region IV Division of Waste Management, and is subject to change. Any questions about the rule's impact on the tanks program should be directed to the Storage Tank Regulation Section in Tallahassee (904-488-3935) or to John Isbell of EPA Region IV OUST (404-347-3866).

I. Contaminated Media and Debris

A. Underground Storage Tank Systems

The EPA has: "decided to defer a final decision on the application of the TC to media and debris contaminated with petroleum from USTs subject to Part 280 requirements" (Federal Register/Vol. 53, No. 61, 3/29/90). The following issues should be noted here:

1) Contaminated media and debris includes: soil, rock, vegetation, groundwater and other "media and debris" outside of the UST.

2) The deferral applies to EPA waste codes D018 - D043, but it does not apply to USTs containing other characteristic waste codes (e.g. D008 - leaded gas).

3) The deferral does not apply to discharges from USTs that are not regulated under 40 CFR Part 280. (e.g. agricultural tanks under 1100 gallons, heating oil tanks, etc.)

4) The deferral applies to discharges from underground piping (since that is part of the UST definition). However, it is unclear if the deferral applies to discharges from aboveground piping. This aspect requires further clarification from EPA.

5) The deferral will remain in effect until EPA has obtained enough data to make a final determination.

B. Aboveground Storage Tank Systems

Contaminated media and debris from petroleum ASTs are subject to the TC rule. However, several states petitioned EPA to exempt such contaminated media and debris in the same manner as the UST exemption. EPA has recently agreed to change its rules and will propose revisions in June, 1992. It is likely that the proposed rules will be subject to legal challenges from environmental and hazardous waste treatment/disposal interests.

II. Wastewater

A. Stormwater which accumulates in a secondary containment system for an aboveground storage tank is considered a solid waste, and is subject to the TC rule, unless the stormwater can be managed as a "point source discharge" in accordance with the Clean Water Act(40 CFR 261.4). If the stormwater is analyzed and found to pass for the appropriate TC parameters, then it can be managed in the future based on this knowledge, without further analysis.

B. If a wastewater consists of multiple phases, all phases of the wastewater should be analyzed. For example, if a wastewater contains a solid phase then both the solids and the aqueous phase must be analyzed for TC parameters. The Toxicity Characteristic Leaching Procedure (TCLP) would be applied to the solid phase prior to analysis, but not to the aqueous phase which can be analyzed for TC parameters without performing the leaching procedure.

C. Condensate that accumulates in USTs/ASTs is considered a solid waste and is subject to the TC rule, unless it can be discharged in accordance with the CWA or managed in accordance with RCRA Subtitle C (e.g. transported to a POTW).

D. Rinse water used to clean USTs/ASTs is also considered a solid waste and must be analyzed and managed accordingly.

III Sludge/Tank Bottoms

A. Tank bottoms and/or sludge that remain in a tank are classified as solid waste, are subject to the TC rule, and must be analyzed and disposed of accordingly. The only exception would be if the bottoms are to be recovered or recycled.

B. A UST (the tank itself) is non-regulated if it meets the definition of a "RCRA empty container" (40 CFR 261.7) and "scrap metal" (CFR 40 261.6). However, if sludge or residual material that is hazardous remains in the tank, then the tank must be transported and disposed by a company that has a valid EPA identification number.

IV General Issues

A. The TC rule does not change the regulatory status of used oil. Used oil that is burned for energy recovery is regulated under 40 CFR Part 266. Recovery or recycling of used oil by any other method is currently not regulated by RCRA.

B. Facilities that generate TC wastes (including small quantity generators) must conform to applicable requirements in 40 CFR Part 261, such as: proper characterization storage, transportation, and disposal of the wastes. Conditionally exempt small quantity generators (100 KG/month) are not fully regulated by the TC rule, provided that the requirements of 261.5 are met).

Your copy. VK

State of Florida
DEPARTMENT OF ENVIRONMENTAL REGULATION

For Routing To Other Than The Addressee
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JAN 15 1991
Dept. of Environmental Reg.
West Palm Beach

Interoffice Memorandum

TO: Deputy Assistant Secretaries
Waste Program Administrators

FROM: Mary Jean Yon MJY
Division of Waste Management

DATE: January 10, 1991

SUBJECT: Soil Thermal Treatment General Permits - PATS

for drill -
Please make copies
for Barbara Jon
Joe Lurix
V. Kamath
Return org. & Tevis
thanks V

The following accounts have been set up in PATS for soil thermal treatment general permits:

TYPE	SUBTYPE	DESCRIPTION	FEE	REVENUE CODE
SO	16	Mobil - Soil Thermal Treatment - GP	25	001025
SO	17	Stationary - Soil Thermal Treatment - GP	25	001025

General permits for mobile soil thermal treatment facilities will be processed in Tallahassee by the Engineering Support Section of the Bureau of Waste Cleanup. The Districts will process the general permits for the stationary soil thermal treatment facilities.

If you have any questions concerning these permits, please call Don Ehlenbeck at Suncom: 278-0190. Questions concerning PATS should be directed to Ken Snyder at Suncom: 278-0892.

Please share this information with your waste cleanup staff and data entry people.

MJY/dc

cc: Don Ehlenbeck
Ken Snyder
Larry Wright
Lee Olson

State of Florida
DEPARTMENT OF ENVIRONMENTAL REGULATION

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To: _____ Location: _____
To: _____ Location: _____
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From: _____ Date: _____

Interoffice Memorandum

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DEC 28 1990
Dept. of Environmental Reg.
West Palm Beach

CENTRAL DISTRICT

OCD-SW-90-0385

TO: Don Ehlenbeck, P.E.
P. E. III
Division of Waste Management

Bureau of Waste Cleanup

THROUGH: John Ruddell
Bureau Chief
Division of Waste Management

FROM: Bill Bostwick, Jr., P.E.
Program Administrator
Waste Management

Bureau Chief's Initials

DATE: December 10, 1990

SUBJECT: November 20, 1990 Memorandum on Guidelines for Implementation of Chapter 17-775, Soil Thermal Treatment Facilities

We appreciate the subject memorandum; it's one of the few times anyone has drafted a strategy for implementation of a new rule. We wish everyone would to this. However, on page 3, number 9, this written notification is contrary to the Secretary's memorandum dated October 31 which excludes activities subject to general permits and exemptions.

Attached is a copy of my November 6 memorandum to Rick Wilkins. The verbal response to my memo is that notice for the permits mentioned would not be necessary.

WMB/ew

Attachment

cc: Waste Cleanup

Florida Department of Environmental Regulation
Twin Towers Office Bldg. • 2600 Blair Stone Road • Tallahassee, Florida 32399-2400
Bob Martinez, Governor Dale Twachtmann, Secretary John Shearer, Assistant Secretary

RECEIVED
NOV 27 1990
Dept. of Environmental Reg.
West Palm Beach

MEMORANDUM

TO: Interested Parties
District Waste Cleanup Supervisors
District Waste Program Administrators
District Air Program Administrators

THROUGH: John M. Ruddell, Bureau Chief
Bureau of Waste Cleanup

FROM: Donald R. Ehlenbeck, P.E.
Administrator, Engineering Support Section

DATE: November 20, 1990

SUBJECT: Guidelines for Implementation of Chapter 17-775, F.A.C., Soil Thermal Treatment Facilities

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In anticipation of Chapter 17-775, F.A.C, going into effect on December 10, 1990, we are issuing these guidelines to assist the affected parties, DER personnel, and other interested individuals in the implementation of this new rule. Our intent is to minimize any misunderstandings generally associated with implementing a new program requirement. The effective date of this rule is based on the date (November 20, 1990) the Rule Certification Package was submitted to the Secretary of State. General Permit notices for stationary facilities will be reviewed by the respective District Office, and General Permit notices for mobile facilities and the Ground Water Monitoring Plans for stationary facilities will be reviewed by the Bureau of Waste Cleanup. To expedite compliance with this rule, the following procedures must be followed.

1. For stationary facilities, submit the Notice and four copies with attachments to the appropriate district Waste Cleanup Supervisor, and one copy of the Ground Water Monitoring Plan to the Environmental Administrator, Technical Review Section, at the following address. For mobile facilities, submit the Notice and four copies with attachments to the Administrator, Engineering Support Section:

   Florida Department of Environmental Regulation
   Bureau of Waste Cleanup
   2600 Blair Stone Road
   Tallahassee, FL 32399-2400

2. Existing stationary facilities are encouraged to submit a draft copy of the ground water monitoring plan for review to the Department of Environmental Regulation, Bureau of Waste Cleanup, 2600 Blair Stone Road, Tallahassee, FL 32999-2400. The draft ground water monitoring plans may be submitted at any time.

3. The Ground Water Monitoring Plan must contain the information required by Section 17-775.600, F.A.C., including:

   a. A ground water monitoring program acknowledging quarterly submittal of ground water monitoring data to the Bureau of Waste Cleanup at the preceding address.

   b. The quarterly data submittals must include ground water level information.

   c. Since no "zone of discharge" is allowed, the plan must identify monitoring wells locations which would prevent a zone of discharge.

4. Soil Thermal Treatment Facilities are classified as Category 3 and will require approved Comprehensive Quality Assurance Plans (CompQAP) for field and laboratory activities. Each facility is encouraged to submit the CompQAP at the earliest possible date to the Florida Department of Environmental Regulation, Quality Assurance Section, 2600 Blair Stone Road, Tallahassee, FL 32399-2400. A Short Form (site specific) Quality Assurance Project Plan (QAPP) is not required for Soil Thermal Treatment Facilities.

5. For facilities which are currently thermally treating petroleum-contaminated soil under a valid permit issued by the Department Air Program, by February 8, 1991 (at least 30 days prior to March 10, 1991), a NOTICE OF INTENT TO USE THE GENERAL PERMIT TO CONSTRUCT/OPERATE A SOIL THERMAL TREATMENT FACILITY, Form 17-775.900(1), must be submitted to the appropriate office. For new facilities the Notice must be submitted at least 30 days prior to initiating operation.

6. Each Notice submittal must be accompanied by a check to the Florida Department of Environmental Regulation for $ 25.00. The $ 25.00 fee is assessed each time a notice is filed; therefore, each time the Department issues a denial, an additional permit fee is assessed.

7. For stationary facilities the following information must be submitted with the notice:

   a. Site location map (USGS quad).

   b. Ground Water Monitoring Plan.

   c. Process Flow Diagram.

   d. Copies of the Comprehensive Quality Assurance Project Plan (ComQAPP) approvals for both the field and laboratory activities.

   e. Design details of the pretreatment and post-treatment soil storage areas. The drawings must delineate leachate controls.

   f. Method used to reduce soil particles to less than two inch mesh (diameter).

8. For mobile facilities the following information must be submitted with the notice:

   a. Process Flow Diagram.

   b. Sample copy of the proposed notice of operation.

   c. Method used to reduce soil particles to less than two inch mesh (diameter).

   d. Permanent address where operating records, i.e., Forms 17-775.900(2) and (3), will be kept.

9. The Department will notify in writing within seven days of receipt of Notice to: the Chair of the Board of County Commissioners, the highest ranking elected official of the municipality (if applicable), and each State Senator and Representative serving the jurisdiction in which the project is located or will be operated.

10. Some of the requirements of Chapter 17-775 may be inconsistent with existing air permits. As long as the inconsistences do not conflict with air regulations, each district Air Program and the Bureau of Air Regulation are requested to modify existing air permits to be consistent with the requirements of Chapter 17-775. These inconsistences may include:

a. At stationary facilities, Section 17-775.620(5) requires treated soil to be stored on a permanent floor structure; however, no cover structure is required for treated soil.

b. Section 17-775.410(3) requires pretreatment soil to be to be analyzed for total volatile organic aromatics (VOA), total recoverable petroleum hydrocarbon (TRPH), and total metals.

c. Section 17-775.410(1) and (2) identifies the analyses for treated soil. The required analyses includes total VOA, TRPH, and both total and TCLP levels for eight different metals. TCLP Polynuclear Aromatic Hydrocarbons (PAH) and Volatile Organic Halocarbons (VOH) constituents must also be identified if the TRPH levels exceed 10 mg/kg. Paragraph 1.2 of Method 1311 (TCLP) allows the TCLP not to be run if the total analysis of the individual contaminants are not present or the concentrations are so low that the regulatory thresholds could not possible be exceeded.

d. Section 17-775.410(3), Table II, establishes sampling frequencies for untreated soil, and Section 17-775.410(5) establishes sampling frequencies for treated soil.

e. Provided TCLP metal levels are not exceeded, Section 17-775.400 allows blending of soil to meet total metal levels. Blending of soil to meet clean soil criteria is prohibited.

11. The District Waste Cleanup Supervisors will conduct initial inspection of each facility within his/her district. Subsequent compliance inspections should be coordinated with the Air Program inspectors. Inspection procedures will be issued by the Engineering Support Section by February 1991.

cc: Rick Wilkins - DER/Tallahassee
John Gentry - DER/Tallahassee

attachment (Chapter 17-775)

Note the fee schedule for the waste Program

cc: Knox
Joe
Paul

VA

New type and sub-type codes have been developed to track Variances and Other Relief Mechanisms in the Permit Application Tracking System (PATS). These variances and other relief mechanisms will be required to be entered into PATS effective July 11, 1993, in accordance with the code structure in Appendix C - Application Type and Sub-Type Codes of the PATS Manual which becomes effective that date. When an application is received, a separate PATS record and number will be created in PATS to track its processing and receipt of money.

To identify variances and other relief mechanism on the Morning Report, 'VAR' may be entered into the first three positions of the Processor Name field on screen PATS02, which may then be followed by a dash and the processor's name, initials, etc. Processors may use normal PATS clock processing guidelines to facilitate processing. If processors do not want to track variances using the PATS time clock, the PATS Manual Tracking option may be used by entering a 'Y' in the Manual Tracking flag on the PATS02 Screen. In either case the record will appear on the Morning Report until final agency action is taken; i.e. ISSUED, DENIED, WITHDRAWN or EXEMPT status is given. The Comments Screen, PATS06, should be updated to reflect the permit application associated with the variance. These procedures will provide a convenient and consistent method to handle variances and other relief mechanisms.

General questions regarding the above may be directed to Ken Snyder in BIS at Suncom 291-9753. Specific questions may be directed to appropriate Division Permitting Representatives;

Patty Adams, Div. of Air Resources Management S/C 278-1344
Geof Mansfield, Div. of Water Facilities S/C 277-1855
Doug Fry, Div. of Water Management S/C 278-0130
Linda Frohock, Div. of Waste Management S/C 277-3299

TYPE DESCRIPTION	SUB-TYPE	DESCRIPTION	AMOUNT
WC (Continued)	16	Category V 5 MGD & above	5000
	17	Category V 1 up to 5 MGD	3000
	18	Category V .25 up to 1 MGD	1000
	19	Category V 0.1 up to .25 MGD	500
	3F	Category V up to 0.1 MGD	300
	20	Construction Water Supply Well-Other	250
	21	Construction Water Supply Well-Delineated Area	500
	MA	Major Modification 1 MGD & above	2000
	MB	Major Modification 0.1 up to 1 MGD	1000
	MC	Major Modification .01 up to 0.1 MGD	500
	MD	Major Modification up to .01 MGD	100
	M1	Minor Modification 0.1 MGD & above	300
	M2	Minor Modification up to 0.1 MGD	100
	OT	Other	100
	V1	Variance/Exemption from MCL or Treatment Techniques	1000
	V2	Variance from Permitting Standards or Conditions	2000
	WA	Waivers	0
	TO	Transfer of Ownership/Permit	50
	TX	Time Extension on Permit	50
HE Hazardous Waste Emergency	01	All	0
HC Hazardous Waste Construct	01	Container and/or Tank Storage	15000
	02	Container and/or Tank Storage and Treatment	20000
	03	Landfill, Surface Impoundment, Waste Pile, Land Treatment & Misc Unit	25000
	04	Storage, Treatment and/or Disposal with Incinerator, Boiler or Industrial Furnace for On Site Wastes	25000
	05	Commercial Treatment, Storage and/or Disposal with Incinerator, Boiler or Industrial Furnace for Off Site Wastes	32500
	DV	Department Variance from Federal Requirements	32500
	MM	Minor Modification	250
	MO	Moderate Modifications Requiring Moderate Technical Evaluation	5000
	MS	Minor Modifications involving Substantive Changes	1000
	OT	All Other HW Facility Permits or Authorizations with No Specific Fee	32500
	SE	Substantial Modifications with Significant Permit Changes Requiring Extensive Evaluation	Same as new appl

TYPE DESCRIPTION	SUB-TYPE	DESCRIPTION	AMOUNT
HC (Continued)	SM	Substantial Modifications Requiring Moderate Technical Evaluation	10000
	V1	Variance from Permitting Standards or Conditions	2000
	TO	Transfer of Ownership/Permit	50
HF Hazardous Waste Closure	01	Container and/or Tank Storage	10000
	02	Container and/or Tank Storage and Treatment	10000
	03	Landfill, Surface Impoundment, Waste Pile, Land Treatment, Previously Closed Units & Misc Unit	20000
	04	Storage, Treatment and/or Disposal with Incinerator, Boiler or Industrial Furnace for On Site Wastes	15000
	05	Commercial Treatment, Storage and/or Disposal with Incinerator, Boiler or Industrial Furnace for Off Site Wastes	32500
	DV	Department Variance from Federal Regulations	32500
	MM	Minor Modification	250
	MO	Moderate Modifications Requiring Moderate Technical Evaluation	5000
	MS	Minor Modifications involving Substantive Changes	1000
	OT	All Other HW Facility Permit or Authorizations with No Specific Fee	32500
	SE	Substantial Modifications with Significant Permit Changes Requiring Extensive Evaluation	Same as new appl
	SM	Substantial Modifications Requiring Moderate Technical Evaluation	10000
	V1	Variance from Permitting Standards or Conditions	2000
	TO	Transfer of Ownership/Permit	50
HO Hazardous Waste Operation	01	Container and/or Tank Storage	10000
	02	Container and/or Tank Storage and Treatment	10000
	03	Landfill, Surface Impoundment, Waste Pile, Land Treatment and Misc Unit	15000
	04	Storage, Treatment and/or Disposal with Incinerator, Boiler or Industrial Furnace for On Site Wastes	15000
	05	Commercial Treatment, Storage and/or Disposal with Incinerator, Boiler or Industrial Furnace for Off Site Wastes	32500
	CA	Corrective Action at each SWMU	5000
	CF	Corrective Action Plan-Facility Assessment	10000

TYPE DESCRIPTION	SUB-TYPE	DESCRIPTION	AMOUNT
HO (Continued)	CI	Corrective Action Plan-Facility Investigation of each SWMU	5000
	DV	Department Variance from Federal Regulations	32500
	MM	Minor Modification	250
	MO	Moderate Modifications Requiring Moderate Technical Evaluation	5000
	MS	Minor Modifications Involving Substantive Changes	1000
	OT	All Other HW Facility Permits or Authorizations with No Specific Fee	32500
	SE	Substantial Modifications with Significant Permit Changes Requiring Extensive Evaluation	Same as new appl
	SM	Substantial Modifications Requiring Moderate Technical Evaluation	10000
	V1	Variance from Permitting Standards or Conditions	2000
	TO	Transfer of Ownership/Permit	50
HR Research & Development	01	HW - Hazardous Waste - All Research & Development	4000
	DV	HW - Department Variance from Federal Regulation	32500
	MM	HW - Minor Modification	250
	MS	HW - Minor Modifications Involving Substantive Changes	1000
	OT	HW - All Other HW Facility Permits or Authorizations with No Specific Fee	32500
	SE	HW - Substantial Modifications with Significant Permit Changes Requiring Extensive Evaluation	Same as new appl
	V1	HW - Variance from Permitting Standards or Conditions	2000
	TO	HW - Transfer of Ownership/Permit	50
HT Hazardous Waste Temporary	01	All	Operation Fee plus 20%
	DV	Department Variance from Federal Regulations	32500
	MM	Minor Modifications	250
	MO	Moderate Modifications Requiring Moderate Technical Evaluation	5000
	OT	All Other HW Facility Permits or Authorizations with No Specific Fee	32500
	SE	Substantial Modifications with Significant Permit Changes Requiring Extensive Evaluation	Same as new appl
	SM	Substantial Modifications Requiring Moderate Technical Evaluation	10000

APPENDIX C - APPLICATION TYPE AND SUBTYPE CODES

TYPE DESCRIPTION	SUB-TYPE	DESCRIPTION	AMOUNT
HT (Continued)	V1	Variance from Permitting Standards or Conditions	2000
	TO	Transfer of Ownership/Permit	50
IC Industrial Waste Construct	1A	Group 1, Surface	7500
	1B	Group 1, Non-Surface	6000
	2A	Group 2, Surface	5000
	2B	Group 2, Non-Surface	4000
	3A	Group 3, Surface	2500
	3B	Group 3, Non-Surface	2000
	4A	Group 4, Large Feedlots	2500
	4B	Group 4, Other Feedlots	1500
	4C	Group 4, Major Egg Production	2500
	4D	Group 4, Other Egg Production	1500
	5A	Group 5, > 500,000 GPD	6000
	5B	Group 5, > 100,000 - 500,000 GPD	4000
	5C	Group 5, ≤ 100,000 GPD	2000
	6A	Group 6, ≤ 1M BTU/hr	500
	6B	Group 6, > 1M - 20M BTU/hr	1500
	6C	Group 6, > 20M - 100M BTU/hr	3000
	6D	Group 6, > 100M BTU/hr	6000
	7A	Other Surface > 500,000 GPD	5000
	7B	Other Surface > 100,000-500,000 GPD	3000
	7C	Other Surface > 50,000-100,000 GPD	2000
	7D	Other Surface ≤ 50,000 GPD	1000
	8A	Other Non-Surface > 500,000 GPD	4000
	8B	Other Non-Surface > 100,000-500,000 GPD	2500
	8C	Other Non-Surface > 50,000-100,000 GPD	1500
	8D	Other Non-Surface ≤ 50,000 GPD	750
	9A	100% Recycling Facilities > 10,000 GPD	500
	9B	100% Recycling Facilities ≤ 10,000 GPD	100
	M1	Modification, not effect Quan, Qual or Location of Discharge	20% of Permit Fee
	M2	Modification, effects Quan, Qual or Location of Discharge, no Anti-Deg Determination	50% of Permit Fee
	TA	General Permit with PE or PG Certification	500
	TB	General Permit without PE or PG Certification	100
	V1	Variance/Exemption for Water Quality Criteria	6000 (per criteria)
	V2	Variance from Permitting Standards or Conditions	2000
	TO	Transfer of Ownership/Permit	50
	TX	Time Extension on Permit	50

APPENDIX C - APPLICATION TYPE AND SUB-TYPE CODES

TYPE DESCRIPTION	SUB-TYPE	DESCRIPTION	AMOUNT
MS (Continued)	R1	PF SR Individual & Conceptual Approval Permits > 0.5 Acre Wetland Impact	5600
	S1	PF SR Modification to Project Type R1	3000
	T1	PF SR Transfer of Ownership of Project Type R1	150
	U1	SR Minor Modification	0
	V1	SR Time Extension	0
Limited General Permit:		Less than 5,000 sq. feet or less than 10 Acres	
MP Monitoring Plans	A	Organic Waste	0
	B	Inorganic Waste	0
	C	Landfills (Domestic/Indus.)	0
	D	Industrial Septic Tanks	0
	E	Pulp and Paper	0
	F	Phosphogypsum (Stacks/Ponds)	0
	G	Laundries	0
	H	Oil and Gas Producers	0
	I	Citrus	0
	J	Food and Beverages	0
	K	Domestic Waste	0
	L	Power Plants	0
	M	Others	0
	N	Mining and Minerals	0
RC Stormwater (Surface Water Runoff Construct Facility)	01	Stormwater Construct Facility	1000
	02	Wetlands Stormwater Discharge Facilities Construct	1000
	03	Regional Stormwater Discharge Facilities Construct	1000
	04	1 acre or less - SJRWMD only	100
	05	More than 1 acre - SJRWMD only	250
	MM	Minor Modification	50
	TO	Transfer of Ownership	50
	TX	Time Extension	50
RT Stormwater (Surface Water Runoff Construct Facility) Temporary	01	All	100
	TO	Transfer of Ownership	50
	TX	Time Extension	50
SB Biohazardous Waste	01	BHW Storage - GP Notification	100
	02	BHW Transporter Registration	25
	03	Construction - Off site BHW Treatment Facility Other than Incineration	2000
	04	Operation - Off Site BHW Treatment Facility Other Than Incineration	1000
	05	Alternate Procedure - Biohaz Treatment	500
	TO	Transfer of Ownership	50

APPENDIX C - APPLICATION TYPE AND SUB-TYPE CODES

TYPE DESCRIPTION	SUB-TYPE	DESCRIPTION	AMOUNT
SC Solid Waste Construct	00	Facility With Multiple SWM Components Normally Requiring Individual SW Permits	up to 25000
	01	Sanitary Landfill Class I	10000
	02	Sanitary Landfill Class II	10000
	T3	Sanitary Landfill Class III	6000
	14	Materials Recovery Facilities	2000
	04	Other Resource Recovery Facilities	2000
	05	Incinerator	3000
	08	Other	1000
	09	Waste-To-Energy Facility not covered by Electric Power Plant Siting Act	10000
	11	Compost - Yard Trash	2000
	12	Compost - Manure	2000
	13	Compost - Other Solid Waste	5000
	MM	Minor Modification	250
	V1	Variance from Solid Waste Requirements	2000
	TO	Transfer of Ownership/Permit	50
	TX	Time Extension on Permit	50
SO Solid Waste Operation	00	Facility With Multiple SWM Components Normally Requiring Individual SW Permits	up to 25000
	01	Sanitary Landfill Class I	10000
	02	Sanitary Landfill Class II	10000
	T3	Sanitary Landfill Class III	4000
	04	Other Resource Recovery Facilities	1000
	20	Materials Recovery Facilities	2000
	05	Incinerator	1000
	07	Transfer Station - GP	250
	08	Other	500
	09	Waste-To-Energy Facility Not Covered by Electric Power Plant Siting Act	10000
	10	Construction and Demolition Debris Disposal Facility - GP	250
	11	Compost - Yard Trash	1000
	12	Compost - Manure	1000
	13	Compost - Other Solid Waste	3000
	14	Compost - GP $\leq$3000 yd^3/yr Yard Trash and/or Manure Processed	250
	15	Used Oil Recycling Facility - GP	100
	16	Mobile Soil Thermal Treatment - GP	500
	17	Stationary Soil Thermal Treatment - GP	500
	18	Alternate Procedure - Landfill	2000
	19	Alternate Procedure - Other	500
	21	Solid Waste Research & Development	1000
	GW	Ground Water Monitoring Plan Approvals for SW Landfills w/No Other DER Permit	500
	MM	Minor Modification	250
	V1	Variance from Solid Waste Requirements	2000

APPENDIX C - APPLICATION TYPE AND SUB-TYPE CODES

TYPE DESCRIPTION	SUB-TYPE	DESCRIPTION	AMOUNT
SO (Continued)	TO	Transfer of Ownership/Permit	50
	TX	Time Extension on Permit	50
SF Solid Waste Closure	01	Sanitary Landfill Class I	7500
	02	Sanitary Landfill Class II	7500
	T3	Sanitary Landfill Class III	4000
	08	Other	1000
	09	Closure Renewal - Class I	1000
	10	Closure Renewal - Class II	1000
	11	Closure Renewal - Class III	1000
	MM	Minor Modification	250
	V1	Variance from Solid Waste Requirements	2000
	TO	Transfer of Ownership/Permit	50
	TX	Time Extension on Permit	50
UC Injection Well Construct	1H	Haz. Waste Test/Injection Well	12500
	1I	Indus. Waste Test/Injection Well	12500
	1M	Municipal Waste Test/Injection Well	12500
	1X	Other Class I Test/Injection Wells	12500
	2D	Oil & Gas Plant Disposal Well	12500
	EX	Class I Exploratory Well	5000
	EM	Monitoring Well for Class I Well	1000 Per up to 10,000
	EC	Class I to Class V Conversion	10000
	EZ	Class I to Monitoring Well Conversion	500
	3X	Class III, Process Mining	1000
	5A	Air Cond. Return Flow Well-Closed Loop/No Additive (GP Only)	25
	5E	Air Cond. Return Flow Well, Other	750
	5N	Cooling Water-No Additive	750
	5C	Cooling Water w\Additives	750
	5T	Thermal Energy Exc. Well	750
	5R	Recharge Well	750
	5B	Saltwater Barrier Well	750
	5I	Connector Well	750
	5S	Subsidence Control Well	750
	5W	Domestic Waste Disposal Well	750
	5P	Swimming Pool Drainage Well (GP Only)	25
	5Q	Aquifer Remediation and Experimental Technologies	750
	5Y	Dry Well, Sand Backfill Well, Nuclear Disposal Well	750
	5K	Laundry Waste Well	750
	5M	Slurry Mining Well	750
	5O	RO Wastewater Well	750
	5L	Lake level Drainage Well	750
	5D	Stormwater Drainage Well	750
	5X	Other wells incl, Geothermal	750
	5U	Use and type not verified	0
	5Z	Existence not verified	0

APPENDIX C - APPLICATION TYPE AND SUB-TYPE CODES

TYPE DESCRIPTION	SUB-TYPE	DESCRIPTION	AMOUNT
UC (Continued)	6D	Multiple Wells for 5D	Per Well
	6K	Multiple Wells for 5K	Per Well
	MM	Minor Modification	250
	V1	Exemption for Water Quality Criteria	6000 (per criteria)
	V2	Variance from Permitting Standards or Conditions	2000
	TO	Transfer of Ownership/Permit	50
	TX	Time Extension on Permit	50
UA Injection Well Abandonment	1H	Haz. Waste Disposal Well	100
	1I	Indus. Waste Disposal Well	100
	1M	Municipal Waste Disposal Well	100
	1X	Other Class I Wells	100
	2D	Oil & Gas Plant Disposal Well	100
	3X	Class III, Process Mining	100
	5Q	Aquifer Remediation and Experimental Technologies	25
	5A	Air Cond, Return Flow Well	25
	5N	Cooling Water-No Additive	25
	5C	Cooling Water w/Additives	25
	5T	Thermal Energy Exc, Well	25
	5R	Recharge Well	25
	5B	Saltwater Barrier Well	25
	5I	Connector Well	25
	5S	Subsidence Control Well	25
	5W	Domestic Waste Disposal Well	25
	5P	Swimming Pool Drainage Well	25
	5Y	Dry Well, Sand Backfill Well, Nuclear Disposal Well	25
	5K	Laundry Waste Well	25
	5M	Slurry Mining Well	25
	5O	RO Wastewater Well	25
	5L	Lake level Drainage Well	25
	5D	Stormwater Drainage Well	25
	5X	Other wells incl, Geothermal	25
	5U	Use and type not verified	0
	5Z	Existence not verified	0
WT Waste Tire	01	Collector Registration Fee	25
	02	Processing Facility Construct/Operate	1250
	04	General Permit for Mobile Processing Equipment	100
	05	General Permit for Collection Center	100
	06	General Permit for Small Processing Facility	100
	MM	Minor Modification	250
	TO	Transfer of Ownership	50
	TX	Time Extension	50

APPENDIX C - APPLICATION TYPE AND SUB-TYPE CODES

TYPE DESCRIPTION	SUB-TYPE	DESCRIPTION	AMOUNT
		General Permit - Requiring Professional Engineer or Professional Geologist Certification	250
		General Permit - Not Requiring PE or PG Certification	100

DRAFT Nov 1992

17-775.100 Intent.

(1) Chapter ~~Rule~~ 17-770, F.A.C., establishes petroleum or petroleum product contamination cleanup criteria and a cleanup process which must be undertaken at all petroleum contamination sites. As a result of this cleanup effort, petroleum contaminated soils may be removed for thermal treatment.

(2) The State of Florida Department of Environmental Regulation promulgates this chapter ~~rule~~ in order to provide assurances that petroleum contaminated soils as defined in Rule 17-77~~5~~0.200, F.A.C., which are removed for thermal treatment, are properly handled and are treated to levels that will not endanger public health or cause ~~prevent~~ future contamination of other soils, ground water, and surface water.

(3) The Department recognizes that thermal treatment of petroleum contaminated soils in asphalt plants, cement kilns, rotary kilns, or their equivalents, is a viable method of remediating petroleum contaminated soils.

(4) The Department intends for this rule to apply only to thermal treatment facilities and the petroleum contaminated soils which will be treated therein.

Specific Authority: 376.303, 376.3071, 403.061, F.S.

Law Implemented: 376.3071, F.S.

History: New 12-10-90, Amended _____.

17-775.200 Definitions.

(1) through (4) No change.

(5) "Hazardous substance" means any substance which is defined as a hazardous substance in the United States Comprehensive Environmental Response, Compensation and Liability Act of 1980, 94 Stat. 2767, as cited in Rule 17-150.200(2), F.A.C.

(5) through (7) renumbered as (6) through (8).

(9)~~(8)~~ "Petroleum contaminated soil" means soil which has become contaminated with one or more of the following liquid products made from petroleum. All forms of fuel known as gasoline, diesel fuel, jet fuel, kerosene, grades 2 through 6 fuel oils, crude oil, bunker C oil, residual oils; and non-hazardous petroleum based lubricating, hydraulic, and mineral oils. This definition applies only to the regulation of soil thermal treatment facilities.

(8) and (9) renumbered as (10) and (11).

(12)~~(10)~~"Soil ~~T~~thermal treatment facility" means either a stationary or mobile facility ~~system~~ designed and, constructed or utilized, and permitted by the Department to handle, store, and thermally treat or process petroleum contaminated soils. "Soil ~~T~~thermal ~~treatment~~ facility" does not include electrical power plants in which thermal treatment of contaminated soils from their own property results in ash which is disposed of in accordance with Chapters 17-701 or 17-702, F.A.C., or facilities that treat hazardous waste or hazardous substances.

(11) renumbered as (13).

(14)~~(12)~~ "Used oil" means any lubricant which has been refined from crude oil and, as a result of use, storage or handling, has become unsuitable for its original purpose due to the presence of impurities or loss of properties, but which may be suitable for further use as a fuel or may be economically recycled for use as a fuel. "Used oil" shall not include any oil which has been mixed with any material which is a hazardous waste, unless the material is a hazardous waste solely due to the characteristic of ignitability as defined in 40 CFR Part ~~Section~~ 261, Subpart C as of July 1, 1991. Used ~~o~~oil containing more than 1000 parts per million of total organic halides ~~halogens~~ is presumed to be mixed with a halogenated hazardous waste listed ~~as-defined~~ in 40 CFR Part ~~Section~~ 261, Subpart D, unless a demonstration is made that the used oil does not contain a hazardous waste.

Specific Authority: 376.303, 376.3071, 403.061, F.S.

Law Implemented: 376.3071, 403.031, 403.061, 403.062, F.S.

History: New 12-10-90, Amended _____.

17-775.210 Reference Standards.

(1) through (2) No change.

(a) DER Manual ~~Guidelines~~ for Preparing Quality Assurance Plans (DER-QA-001/90), Florida Department of Environmental Regulation, Quality Assurance Section.

(b) Test Methods for Evaluating Solid Waste,

Physical/Chemical Methods, EPA SW 846, Third Edition, Document No. 955-001-00000-1, as amended by Final Uupdate Package I (November, 1990 ~~December, 1987~~).

(c) and (d) No change.

(e) Quality Assurance Standard Operating Procedures Manual for Soil Thermal Treatment Facilities as of November, 1991.

(f) EPA Method 3665 for sulfuric acid/permanganate cleanup as written in Proposed Update II (November 1990) of (b) above.

Specific Authority: 376.303, 376.3071, 403.061, F.S.

Law Implemented: 376.3071, 403.061, 403.062, F.S.

History: New 12-10-90, Amended _____.

17-775.300 General Permits.

(1) Soil thermal treatment facilities shall operate pursuant to a general permit, and shall meet the applicable general permit requirements in Rules 17-4.510 through 17-4.540, F.A.C., and the requirements of this Chapter ~~Rule~~.

(2) Prior to operating under a general permit, the owners of a soil thermal treatment facility shall notify the Department on Form 17-775.900(1). ~~For an existing soil thermal treatment facility, the notification must be submitted within 90 days after the effective date of this Rule.~~ For a new soil thermal treatment facility, ~~or for~~ renewal of a general permit, or modification of a general permit, the notification must be submitted 30 days before the

operation begins or the existing permit expires. Any existing facility not in compliance with the requirements of this amended rule shall, by December 1, 1992, submit a new Notice of Intent, which demonstrates how the facility will comply.

(3) The notice of intent to use the general permit to treat petroleum contaminated soils at a soil thermal treatment facility shall bear the signature, date and seal of a professional engineer licensed in the State of Florida and the signature of the facility owner or operator.

(4) No change.

(5) Soil thermal treatment facilities shall treat soils to the extent necessary to meet comply with the criteria for clean soil in accordance with Rule 17-775.400, F.A.C. Soil sampling and analysis shall be in accordance with Rule 17-775.410, F.A.C.

(6) through (7) No change.

(8) When treating petroleum contaminated soil, soil thermal treatment facilities shall have a minimum soil retention time and a minimum operating soil temperature and ~~a maximum soil charging rate~~ which provides treatment to meet comply with the criteria in Rule 17-775.400, F.A.C.

(9) Soil must be screened, or otherwise processed in order to prevent ~~soil~~ particles greater than two inch mesh (diameter) from entering the thermal treatment unit. Soil thermal treatment facilities are allowed to treat debris,

other than soil, such as concrete, rocks, and wood.

(10) All sampling and analysis shall be conducted pursuant to Rule 17-160.300(7), F.A.C. Soil sampling procedures shall be in accordance with the Quality Assurance Standard Operating Procedures Manual for Soil Thermal Treatment Facilities. Analysis of soil samples shall be conducted by a laboratory with an approved Quality Assurance plan under Chapter 17-160, F.A.C. ~~Prior to conducting any sampling or analysis, a Comprehensive Quality Assurance Project Plan (formerly called a Generic Quality Assurance Plan) must be approved by the Department. For those persons who have an approved Comprehensive Quality Assurance Project Plan, a Short Form (site specific) Quality Assurance Project Plan or other appropriate quality assurance document approved by the Department will satisfy this requirement. The Short Form Quality Assurance Project Plan shall be prepared in accordance with the requirements of the Department's Guidelines for Preparing Quality Assurance Plans. If there is reasonable doubt as to the quality of data or methods used, the Department reserves the right to reject any or all data submitted prior to approval of the Short Form Quality Assurance Project Plan.~~

Specific Authority: 376.303, 376.3071, 403.0877, F.S.

Law Implemented: 376.3071, F.S.

History: New 12-10-90, Amended _____.

17-775.400 Criteria for Clean Soil. Treated ~~s~~Soil ~~which has been treated by a soil thermal treatment facility~~ must meet comply with the following cleanup levels to be classified as clean soil. Mixing of treated soils to achieve these standards is prohibited~~, however, if metal levels are exceeded without exceeding Toxicity Characteristic Leachate Procedure (TCLP) metals standards, blending of soil is allowed~~.

(1) Total Volatile Organic Aromatics shall not exceed 100 ug/kg (100 ppb) using the analysis identified in Rule 17-775.410(1)(a), F.A.C., and

(2) Total Recoverable Petroleum Hydrocarbons (TRPH) shall:

(a) not exceed 10 mg/kg (10 ppm) using the analysis identified in Rule 17-775.410(1)(b), F.A.C., or

(b) ~~(3) Total Recoverable Petroleum Hydrocarbons (TRPH)~~ shall not exceed 50 mg/kg (50 ppm) using the analysis identified in Rule 17-775.410(1)(b), F.A.C., provided the total of the Polynuclear Aromatic Hydrocarbons (PAH) does not exceed 1 6 mg/kg (1 6 ppm) using the analysis identified in Rule 17-775.410(1)(c), F.A.C., and the total of the Volatile Organic Halocarbons (VOH) does not exceed 50 ug/kg (50 ppb) using the analysis identified in Rule 17-775.410(1)(d), F.A.C., and

(3) ~~(4)~~ Metals shall not exceed the following concentrations in Table I using the analyses identified in

Rule 17-775.410(1)(e), F.A.C. The appropriate Both preparation methods identified in Rule 17-775.410(2), F.A.C., shall be used prior to metal analysis.

TABLE I

	Maximum Concentration	
	TCLP*	Total
Metals	(mg/l)	(mg/kg)
Arsenic	5.0	10 ~~55~~
Barium	100.0	4940 ~~2750~~
Cadmium	1.0	37 ~~55~~
Chromium	5.0	50 ~~275~~
Lead	5.0	108 ~~77~~
Mercury	0.2	23 ~~17~~
Selenium	1.0	389 ~~165~~
Silver	5.0	353 ~~165~~

*TCLP = Toxicity Characteristic Leaching Procedure

(4) Under no circumstances may soils which exhibit the characteristic of toxicity for metals (EPA HW No. D004-D011) as established in 40 CFR 261.24 be blended. However, blending of soils prior to treatment to achieve the total metals criteria in Rule 17-775.400(3), F.A.C., is allowed if the pre-blended soil does not exhibit the characteristic of toxicity for those metals. Records shall be maintained of blending procedures used to comply with the total metals standards. Either records of blending ratios with calculations to estimate total metals concentrations of

blended soil or resampling and analysis of blended pretreatment soil are acceptable. Uncontaminated soil shall not be used for blending.

(5) Soil which exhibits the hazardous characteristic of toxicity must be treated or disposed of at an approved hazardous waste treatment/disposal facility.

Specific Authority: 376.303, 376.3071, 403.087, F.S.

Law Implemented: 376.3071, 403.087, F.S.

History: New 12-10-90, Amended _____.

17-775.410 Soil Sampling and Analysis.

(1) No change.

(a) Total Volatile Organic Aromatics (VOA)	EPA Method 5030/8021 ~~8020~~ or 5030/8020
(b) Total Recoverable Petroleum Hydrocarbons	EPA Draft Method 3540/9073
(c) Polynuclear Aromatic Hydrocarbons (PAH)	EPA Method ~~3540/8100,~~ ~~3550/8100,~~ ~~3540/8250,~~ ~~3540/8270,~~ or ~~3550/8250,~~ ~~3550/8270,~~ ~~3540/8310~~ or ~~3550/8310~~
(d) Volatile Organic Halocarbons (VOH)	EPA Method 5030/8021 ~~8010~~ or 5030/8010
(e) Total Organic Halides	EPA Method 5050/9056, 5050/9252, 5050/9253
(f) ~~(e)~~ Metals	
Arsenic	EPA Method 7060, 7061 or 6010

Barium	EPA Method 7080, 7081 or 6010
Cadmium	EPA Method 7130, 7131 or 6010
Chromium	Method 7190, 7191 or 6010
Lead	Method 7420, 7421 or 6010
Mercury	EPA Method 7471
Selenium	EPA Method 7740, ~~7040,~~ 7741, ~~7041~~ or 6010
Silver	EPA Method 7760, 7761, or 6010

(2) The acid digestion procedure by EPA Method 3050 shall be used to prepare soil samples for total metal analyses except mercury, and the extraction procedure by EPA Method 1311 ~~Toxicity Characteristic Leaching Procedure (~~TCLP~~)~~ shall be used to determine leachability characteristic of metals.

(3) Pretreatment soil shall be analyzed for Volatile Organic Aromatics, Total Recoverable Petroleum Hydrocarbons, Volatile Organic Halocarbons and total metals. The number of composite soil samples for ~~From~~ each contamination site~~,~~ ~~composite soil sampling frequency~~ shall be in accordance with Table II. Each composite soil sample shall consist of soil samples taken from at least four locations. Each sample shall be collected from locations equally distributed throughout the soil surface area and from a depth of at least six inches below the surface. Sampling procedures are described in the Standard Operating Procedures Manual for Soil Thermal Treatment Facilities.

TABLE II

Amount of Soil		Quantity of
by Volume (cubic yards)	by Weight (tons)	Composite Samples
Less than 100	Less than 140	1
100 to 500	140 to 700	3
500 to 1000	700 to 1400	5
For each additional 500	For each additional 700	1

(4) The soil must not be thermally treated pursuant to this chapter if it is classified as a hazardous waste. If any soil is suspected of containing a hazardous waste, then screening analyses for other contaminants may include, but are not limited to the following: volatile organic halogens; corrosivity; reactivity; toxicity characteristic constituents by the ~~Toxicity Characteristic Leachate Procedure (TCLP)~~, which includes metals, pesticides and additional organics.~~,~~ and TCLP analysis for metals shall not be required if total metals analysis do not indicate the potential for toxic leachate concentrations. Soil contaminated with used oil, hydraulic oil, or mineral oil may be a hazardous waste and should be tested using toxicity characteristic, for total organic halides. Excavated soil which is classified as a hazardous waste must be managed as a hazardous waste and

treated or disposed of at an approved hazardous waste treatment/disposal facility.

(5) Following thermal treatment, a soil sample shall be collected ~~at a sampling port~~ at least hourly and composited over an eight operational hour maximum time interval or at least once every 400 tons, whichever is less. Each composite sample shall be analyzed for the parameters identified in Rule 17-775.400(1),(2)(a), and (3)~~(4)~~, F.A.C. If the clean soil criterion in Rule 17-775.400(2)(a), F.A.C., is exceeded, the soil may be analyzed for PAH and VOH parameters identified in Rule 17-775.400(2)(b)~~(3)~~, F.A.C.

(6) Soil contaminated with used oil, hydraulic oil, or mineral oil may contain polychlorinated biphenyls (PCB). Such soil containing PCBs shall not be thermally treated at a mobile soil thermal treatment facility. Further, such soil containing PCBs shall not be thermally treated pursuant to this chapter at a stationary soil thermal treatment facility unless each of the following conditions are met:

(a) Soil contaminated with used oil, hydraulic oil, or mineral oil shall be analyzed by EPA Method 3550/3665/8080 for PCB concentrations. Soil PCB concentrations must be equal to or less than 10 ppm in accordance with cleanup requirements described in 40 CFR, Part 761, Subpart G (Spills Cleanup Policy). Such soil shall not be blended, mixed or diluted to meet this specification.

(b) If the analytical results obtained pursuant to paragraph (a) above are equal to or greater than 20 ppb, a sample of the used oil, hydraulic oil, or mineral oil must be obtained by the generator of such material and analyzed using the same EPA methodology referenced above. The used oil, hydraulic oil, or mineral oil must be shown to have a PCB concentration of less than 50 ppm in accordance with the criteria for non-PCB oil and excluded products defined in 40 CFR, Section 761.3. If a sample of the used oil, hydraulic oil, or mineral oil is not available, a previous record of laboratory data and analytical results may be utilized to show the PCB concentration in the used oil, hydraulic oil, or mineral oil.

(c) The generator of soil contaminated with used oil, hydraulic oil, or mineral oil containing PCBs shall maintain a copy of laboratory data and analytical results obtained pursuant to paragraph (a) and (b) above confirming that the concentrations specified in such paragraphs are met. The generator shall maintain such records for a period of three years which shall be available for inspection upon request of the Department.

(d) The owner or operator of the soil thermal treatment facility shall ensure that any contaminated soil containing PCBs no greater than the concentrations specified in paragraph (a) above, is recycled or reused after treatment.

into a finished product line, or disposed of at a permitted, lined landfill. Finished product lines which shall meet this requirement are cement, concrete, and asphalt cement.

(e) The owner or operator of the soil thermal treatment facility shall maintain records demonstrating that any contaminated soil containing PCBs which has been treated by such facility has been recycled or reused after treatment into a finished product line or disposed of at a permitted, lined landfill as specified in paragraph (d) above. Such records should be prepared at the time such treated soil is recycled or reused or disposed of in an approved landfill after treatment. The owner or operator shall maintain such records for a period of three years which shall be available for inspection upon request of the Department.

(f) Soils containing PCBs meeting the specifications of Rule 17-775, F.A.C., may be treated in a soil thermal treatment facility if the air permit for the facility, issued pursuant to Rule 17-296, F.A.C., allows the facility to treat soil containing PCBs

Specific Authority: 376.303, 376.3071, 403.061, F.S.

Law Implemented: 376.3071, 403.061, 403.062, F.S.

History: New 12-10-90, Amended _____.

17-775.500 Approval of Alternate Procedures.

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

(b) The specific provision of Chapter ~~Rule~~ 17-775, F.A.C., from which an exception is sought;

(2)(c)through (e) No change.

(3) The Secretary or the Secretary's ~~his~~ designee shall approve or deny each alternate procedure using the criteria in subsection (2) and shall provide written notice of such action.

Specific Authority: 376.303, 376.3071, F.S.

Law Implemented: 376.303, 376.3071, F.S.

History: New 12-10-90, Amended _____.

17-775.600 Security (No change).

17-775.610 Ground Water Monitoring.

(1) A ground water monitoring program, to provide assurances that ground water quality is maintained, shall be developed for each stationary facility ~~which shall provide assurances that ground water quality is maintained.~~

(2) No change.

(3) Monitoring wells shall be constructed in accordance with the provisions of Chapter ~~Rule~~ 17-532, F.A.C., except as follows:

(3)(a) through (4) No change.

(a) Volatile Organic Aromatics

1.	Benzene	EPA Method 602, 5030/8020, 5030/8021
2.	Toluene	EPA Method 602, 5030/8020, or 5030/8021

3.	Ethylbenzene	EPA Method 602, 5030/8020, or 5030/8021
4.	Total Xylenes	EPA Method 602, 5030/8020, or 5030/8021
(b)	Methyl Tert-Butyl Ether (MTBE)	EPA Method 602, 5030/8020, or 5030/8021
(c)	Polynuclear Aromatic Hydrocarbons	EPA Method 610, or 625,8100, 8310, 8250 or 8270
(d)	Metals*	
1.	Arsenic	EPA Method 206.2, 206.3, ~~3010/~~7060 or ~~3020/~~7061
2.	Barium	EPA Method 200.7, 208.1, 208.2, 3010/6010, 3010/7080 or 3020/7081
3.	Cadmium	EPA Method 200.7, 213.1, 213.2, 3010,/6010, 3010/7130 or 3020/7131
4.	Chromium	EPA Method 200.7, 218.2, 3010/6010, or 3020/7191
5.	Lead	EPA Method 239.2 or 3020/7421
6.	Mercury	EPA Method 245.1, or ~~3010/~~7470 or ~~3020/7471~~
7.	Selenium	EPA Method 270.2, 270.3, ~~3010/~~7740 or ~~3020/~~7741
8.	Silver	EPA Method 200.7, 271.1, 271.2, 6010, ~~3010/~~7760 or ~~3020/~~7761

*The most sensitive analytical method of those methods listed above shall be used if the metal(s) of interest is not detected in natural background levels. An annual summary of ground water monitoring data shall be submitted to the Department's district office on the date the general permit notice of intent was submitted to the Department.

(5) If sampling analyses indicate any ~~levels~~ of the above parameters exceeding the unaffected natural background levels, the permittee shall notify the Department in writing within seven days of receiving analytical results.

Specific Authority: 376.303, 376.3071, 403.061, 403.0877, F.S.

Law Implemented: 376.303, 376.3071, F.S.

History: New 12-10-90, Amended _____.

17-775.620 Receiving, Handling, and Stockpiling.

(1) Each batch of contaminated soil shall be clearly identified by source and stockpiled separately until all sampling and analyses in accordance with Rule 17-775.410, F.A.C, are complete. Unless pretreatment soil samples are taken at the contamination site, a stockpile identification system shall be used which is consistent with the sample numbering system described in the Quality Assurance Standard Operating Procedures Manual for Soil Thermal Treatment Facilities. Once the contaminated soil is determined to be acceptable for treatment, soil batches may be mixed with

other soil batches found acceptable for thermal treatment. All contaminated soils shall be stored separately and apart from all treated soils.

(2) through (2)(b)1. - No change.

2. The floor structure shall be designed and constructed for leachate collection and control. A record keeping system shall be provided to record quantity of leachate collected and means of treatment or disposal.

(3) A covered structure and surface seal shall be provided as described in Rule 17-775.620(2)(b), F.A.C., to prevent soil or ground water contamination during crushing, screening off loading, or other handling. If these areas are cleared of contaminated soil daily, surface sealing as described in Rule 17-775.620(2)(b), F.A.C., shall be provided.

(3) through (5) renumbered as (4) through (6).

(7) The maximum quantity of untreated soil stored at a thermal treatment facility shall be limited to 90 days treatment capacity based on the facility rated capacity stated in the Notice of Intent, Form 17-775.900(1).

Specific Authority: 376.303, 376.3071, 403.061, F.S.

Law Implemented: 376.303, 376.3071, F.S.

History: New 12-10-90, Amended _____.

17-775.710 Excavating, Handling, and Stockpiling.

(1) through (2) No change.

(3) Excavated soil shall be stockpiled on an impermeable surface or a liner with a minimum thickness of 5 mils. The stockpile shall be covered by a secured plastic cover with a minimum thickness of 5 mils until treatment in the thermal treatment unit commences.

(4) through (5) No change.

Specific Authority: 376.303, 376.3071, 403.061, 403.0877, F.S.

Law Implemented: 376.303, 376.3071, F.S.

History: New 12-10-90, Amended _____.

17-775.900 Forms.

No change through (1).

(2) Untreated Soil Réporting Form, 1992 ~~1990~~.

(3) No change.

Specific Authority: 376.303, 376.3071, 403.061, 403.087, F.S.

Law Implemented: 376.303, 376.3071, F.S.

History: New 12-10-90, Amended _____.

Department of Environmental Regulation

Routing and Transmittal Slip

To: (Name, Office, Location)

1. TOM CONRARDY, ENGINEERING
2. SUPPORT
3.
4.

Remarks:

SOIC THERMAL TREATMENT
FACILITIES SURVEY

From: CHER PETRO

Date: 11/06/92

Phone: SC232-2650

For Routing To Other Than The Addressee

To: _____ Location: _____

To: _____ Location: _____

To: _____ Location: _____

From: _____ Date: _____

State of Florida
DEPARTMENT OF ENVIRONMENTAL REGULATION

Interoffice Memorandum

RECEIVED
AUG 14 1992
DEPT. OF ENVIRONMENTAL REG.
WEST PALM BEACH

Paul: Please respond + make me copy of your response ← CC: Paul V
Teresa

TO: Directors of District Management
Waste Program Administrators

THROUGH: John M. Ruddell, Director
Division of Waste Management

FROM: Douglas A. Jones, Chief
Bureau of Waste Cleanup

DATE: August 5, 1992

SUBJECT: Soil Thermal Treatment Facilities

Attached is a list of the soil thermal treatment facilities currently qualified to operate under a general permit of which the Bureau of Waste Cleanup has knowledge. Facilities are added to this list after having obtained a Chapter 17-2, F.A.C., permit and submitting a notice of intent with proper supporting documentation to use the Chapter 17-775 General Permit.

Attached is a questionnaire to be completed by someone on your staff. We would like to obtain information on the status of facilities in your district, whether there are any additional facility permits pending, and whether there are any facilities permitted to operate under both rules of which we have not been notified.

Your assistance in providing the requested information is appreciated. Please return the completed survey questionnaire to Tom Conrardy in the Engineering Support Section. If you have any questions, please call the Engineering Support Section at (904) 488-0190, SC 278-0190.

DJ/tc

Attachment

SOIL THERMAL TREATMENT FACILITIES
QUALIFIED TO OPERATE UNDER A GENERAL PERMIT
CHAPTER 17-775, F.A.C.

July 21, 1992

Stationary Facilities:

Central District:

Southern Soil Services, Inc.
3505 Pug Mill Road
Kissimmee, FL 32741
(407)933-8414

C.A. Myer Paving & Construction
Post Office Box 555727
Orlando, FL 32855-5727
(407)849-0770

Northwest District:

Capital Asphalt, Inc.
(Sonas Corporation)
600 Blountstown Highway
Tallahassee, FL 32314
(904)575-8102

Industrial Waste, Inc.
Ellyson Industrial Park
Post Office Box 34
Pensacola, FL 32514
(904)479-1788

Southeast District:

Rinker Materials Corporation
1200 Northwest 137th Avenue
Post Office Box 650679
Miami, FL 33265-0679
(305)221-7645

TPS Technologies, Inc.
9401 Fairgrounds Road
West Palm Beach, FL 33411
(313)591-1000

Northeast District:

Anderson Columbia Company
Post Office Box 1386
Lake City, FL 32056
(904)752-7585

Southwest District:

Resource Recovery of America, Inc.
2300 Highway 60 West
Mulberry, FL 33860
(813)425-0184

South District:

South Florida Thermal Services
1 Foxmoor Lane
Post Office Box 309
Moore Haven, FL 33471
(813)946-3300

Mobile Facilities:

D.R.E. Environmental, Inc.
Model No. 528
Post Office Box 1386
2 Guerdon Road
Lake City, FL 32056
(904)755-1196

Mobile Reclaim, Inc.
Serial No. SR-202
3615 Northwest 13th Street
Gainesville, FL 32609
(904)373-4614

TPS Technologies, Inc.
Serial No. SRU-200P-103 thru
SRU-200P-110
2070 South Orange Blossom Trail
Apopka, FL 32703
(407)886-2000

Thermotech Systems Corporation
Model No. 625
5201 North Orange Blossom Trail
Orlando, FL 32810
(407)290-6000

Soil Thermal Treatment Facilities Questionnaire

1. Are there any facilities in your district not listed on the attached sheet but which have been permitted to treat petroleum contaminated soil under Chapter 17-2 and have submitted an adequate notice of intent to use the Soil Thermal Treatment Facility General Permit? ___
   NO

   Please provide the name(s) of any additional facility not listed and attach a copy of Chapter 17-2 permit and Chapter 17-775 Notice of Intent. NONE

2. Are there any additional facility permits pending in your district? NO

   Please provide the name and location of the facility which has a pending permit application _____

   Status of 17-2 and 17-775 permit applications _____

3. Have the permitted facilities in your district been inspected? RINKER-YES
   TPS-NO

   Please attach copy of inspection reports and related correspondence.

4. What is your anticipated inspection frequency? _____
   QUARTERLY

5. Were soil samples taken at the time of the inspection?
NO

6. Has any enforcement action been initiated concerning a facility in your district? ~~PLEASE SEE ATTACHED~~

Please describe the nature of the violations or attach a copy of enforcement correspondence.
PLEASE SEE ATTACHED

7. What complaints have been received regarding the operation of facilities in your district?
PLEASE SEE ATTACHED

8. Is there any additional program or policy guidance needed to ensure consistent implementation of Chapter 17-775 requirements throughout the state?

Suggestions -

9. Name of person completing questionnaire who may be contacted for more information - MS. CHER PETRO
OR MR. PAUL WIERZBICKI

State of Florida
DEPARTMENT OF ENVIRONMENTAL REGULATION

For Routing To Other Than The Addressee
To: _____ Location: _____
To: _____ Location: _____
To: _____ Location: _____
From: _____ Date: _____

Interoffice Memorandum

TO: TOM CONRARDY, ENGINEERING SUPPORT SECTION

FROM: CHER PETRO, WASTE CLEANUP SECTION, SOUTHEAST DISTRICT

THROUGH: PAUL WIERZBICKI, P.G.II, WASTE CLEANUP SECTION
WASTE CLEANUP SECTION

SUBJECT: SOIL THERMAL TREATMENT FACILITIES QUESTIONNAIRE

DATE:

In reference to Question 6, concerning the Southeast District Office of DER, the enforcement correspondence is attached.

In reference to Questions 6 and 7, concerning Dade County Environmental Resources Management (DERM), according to Mr. Francisco Verrirre in Enforcement, Mr. Patrick Wong in the Air Section, Mr. John Farina in Compliance, and Mr. Paul Lasa in Hazardous Waste, no enforcement action has been initiated in reference to the operation of the soil thermal treatment facility operation at Rinker, and no complaints have been received concerning the same.

According to Mr. Verrirre, enforcement action in the form of a Notice of Violation against Rinker for an underground storage tank leak in the Northwest Wellfield protection area was initiated in 1988, with a second notice in 1989. A Consent Order is currently being drafted by DERM.

FILE

Florida Department of Environmental Regulation

Southeast District • 1900 S. Congress Ave., Suite A • West Palm Beach, Florida 33406

Lawton Chiles, Governor

Telephone: 407/433-2650
Fax: 407/433-2666

Carol M. Browner, Secretary

APR 2 4 1991

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. William J. Payne
c/o Mr. William Voshell
Rinker Materials Corporation
P.O. Box 24635
West Palm Beach, Florida 33416

Re: Proposed Final Agency Action (Consent Order) in Case of Rinker Materials Corporation (Portland), OGC File No.: 91-0875.

Dear Mr. Payne:

The purpose of this letter is to complete the resolution of the violation previously identified by the Department of Environmental Regulation ("DER") in the Warning Notice WN91-0026AP13SED, dated April 23,1991, which is attached. The corrective actions required to bring your facility into compliance have been performed. However, you must pay to the Department the amount of $ 200.00 to complete settlement of the violation described in the attached Warning Notice, along with $ 200.00 to reimburse the DER's costs, for a total of $ 400.00. This payment must be made to "The Department of Environmental Regulation" by certified check or money order and shall include thereon the OGC number assigned above and the notation "Pollution Recovery Fund". The payment shall be sent to the Southeast District Office, 1900 South Congress Avenue - Suite A, West Palm Beach, Florida 33406 within 30 days of your signing this letter.

Your signing of this letter constitutes your agreement to the terms of the letter. After this letter has been countersigned by the DER and filed with the Clerk of the DER, the letter shall constitute a consent order, which is final agency action of the DER, the terms and conditions of which may be enforced in a court of competent jurisdiction pursuant to Sections 120.69 and 403.121, Florida Statutes. Failure to comply with the terms of this letter once signed by you shall constitute a violation of Section 403.161(1)(b), Florida Statutes.

The DER by countersigning this letter, waives its right to seek judicial imposition of damages, or civil penalties for the violation(s) described above. By signing this letter, you waive

Rinker Materials Corporation
OGC File No. 91-0875
APR 2 4 1991

FILE

your rights as described on the back of this document in the Notice of Rights. If you do not sign and return this letter to the Department at the Southeast District address given above by May 20,1991, it will be assumed you are not interested in settling this matter according to the terms described herein, and this matter will be referred to the Department's Office of General Counsel with a recommendation that formal enforcement action be taken against you.

This document is entered into solely for the purpose of settling the claims hereto and does not constitute an admission of guilt or liability by any party hereto. The document shall not be used as evidence in any case except one instituted by the Department to enforce the terms of the consent order.

Sincerely,

J. Scott Benyon
Deputy Assistant Secretary

For Rinker Materials Corporation:

By: _____
William J. Payne
VP/General Counsel

Date: 5-6-91

For the DER:

_____
J. Scott Benyon
Deputy Assistant Secretary
State of Florida Department
of Environmental Regulation

ENTERED this 24th day of May, 1991 in West Palm Beach, Florida.

FILING AND ACKNOWLEDGEMENT FILED, on this date, pursuant to §120.52 Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

_____ MAY 2 4 1991
Clerk Date

Attachments: Warning Notice WN91-0026AP13SED

cc: Larry Morgan, OGC, DER, Tallahassee
Rick Vail, DARM, DER, Tallahassee
Air Enforcement Files, DER, WPB

NOTICE OF RIGHTS

Persons whose substantial interests are affected by the proposed agency action described in this document have a right, pursuant to Section 120.57, F.S., to petition for an administrative determination (hearing) on the proposed action. The Petition must contain the information set forth below and must be filed (received) in the Department's Office of General Counsel, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, within 21 days of receipt of this notice. A copy of the Petition must also be mailed at the time of filing to the (persons named) above at the address indicated. Failure to file a petition within the 21 days constitutes a waiver of any right such person has to an administrative determination (hearing) pursuant to Section 120.57, F.S.

The petition shall contain the following information:
(a) The name, address, and telephone number of each petitioner; the Department's identification number and the county in which the subject matter or activity is located; (b) A statement of how and when each petitioner received notice of the Department's action or proposed action; (c) A statement of how each petitioner's substantial interests are affected by the Department's action or proposed action; (d) A statement of the material facts disputed by petitioner, if any; (e) A statement of facts which petitioner contends warrant reversal or modification of the Department's action or proposed action; (f) A statement of which rules or statutes petitioner contends require reversal or modification of the Department's action or proposed action; (g) A statement of the relief sought by petitioner, stating precisely the action petitioner wants the Department to take with respect to the Department's action or proposed action;

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this Notice. Persons whose substantial interests will be affected by any decision of the Department with regard to the subject agency (proposed) action have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within 21 days of receipt of this notice in the Office of General Counsel at the above address of the Department. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Section 120.57, F.S., and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed.

* * * * * * * * * * * * * * *

A party who is adversely affected by this Consent Order is entitled to Judicial Review pursuant to Section 120.68, F.S. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing one copy of a Notice of Appeal with the Agency Clerk of the Division of Administrative Hearings and a second copy, accompanied by filing fees prescribed by law, with the District Court of Appeal, First District, or with the District Court of Appeal in the Appellate District where the party resides. The Notice of Appeal must be filed within 30 days of rendition of the Order to be reviewed.

FILE FILE

Florida Department of Environmental Regulation

Southeast District • 1900 S. Congress Ave., Suite A • , West Palm Beach, Florida 33406

Lawton Chiles, Governor

Telephone: 407/433-2650
Fax: 407/433-2666

Carol M. Browner, Secretary

APR 2 3 1991

CERTIFIED MAIL P645 678 583
RETURN RECEIPT REQUESTED

WARNING NOTICE
WN91-0026AP13SED
AP - Dade County

Mr. William Voshell
Rinker Materials Corporation
P.O. Box 24635
West Palm Beach, Florida 33416

Dear Mr. Voshell:

RE: Processing Contaminated Soils Through Kilns 1 & 2 at Rinker Portland Corporation, Dade County

A Department inspection on March 21, 1991 documented the processing of contaminated soils at the above referenced site in violation of an October 12, 1990 modification to permit AO13-172954. The Department considers the above as a violation of applicable Department air pollution regulations.

Be advised that the Department believes you to have been in violation of Florida Administrative Code (F.A.C.) Rule 17-2.210(2) for failure to obtain a valid Department air operation permit. Violations of Department rules constitutes a violation of Section 403.161(1)(b), Florida Statutes (F.S.). Furthermore, Sections 403.121 and 403.141 , F.S. provide that whoever commits a violation of Section 403.161, F.S. shall be liable to the State for damages caused and civil penalties and/or fines of up to $10,000 per violation for each day or portion of which that violation occurs.

An administrative resolution of this matter may include meeting with Department personnel in the West Palm Beach office to address the issues raised herein, additional recommended corrective actions, and an appropriate settlement. In accordance with the Department's Penalty Policy, the calculated penalty settlement for this matter is currently $200.00, not including Department costs and expenses. Any adjustments to this amount would be based on submittal of additional facts not already available to the Department.

You are hereby requested to contact Rich Hofmann of this office, telephone 407/433-2650, within fourteen (14) days from the date

Recycled Paper

of this Notice. Failure to timely respond to this Notice may result in further enforcement action.

Sincerely,

J. Scott Benyon
Deputy Assistant Secretary

JSB:

cc: Augusta Posner, Office of General Counsel, FDER, Tallahassee
Rick Vail, DARM, FDER, Tallahassee
Art Bolivar, Dade County DERM
Air Enforcement Files, FDER, WPB

Florida Department of Environmental Regulation

Southeast District • 1900 S. Congress Ave., Suite A • West Palm Beach, Florida 33406

Lawton Chiles, Governor

Telephone: 407/433-2650
Fax: 407/433-2666

Carol M. Browner, Secretary

SOIL THERMAL TREATMENT FACILITY INSPECTION REPORT

1. TYPE INSPECTION: ___ COMPLAINT _X_ ROUTINE ___ FOLLOW-UP ___ PERMITTING

2. FACILITY NAME Rinker Portland Cement Corp.

   DER/EPA ID FLD981758485 GMS ID _____

3. ADDRESS 1200 NW 137th Ave, Miami, Fl, 33182
   Mailing: P.O. Box 24635, West Palm Beach, Fl 33416-4635

COUNTY Dade PHONE 305- 221-7645 DATE 8/4/92 TIME 10:00

4. TYPE OF FACILITY Thermal Soil Treatment Facility

5. DESCRIPTION OF OPERATION:
Facility Operations include limerock mining and contaminated soil processing to produce cement. Rinker uses kilns fired by coal, natural gas, or used oil in production.

6. APPL. REGULATIONS: _____ 17-2, F.A.C. _X_ 17-775, F.A.C.

7. RESPONSIBLE OFFICIAL: (Name and Title)
James Jenkins, Vice President

8. SURVEY PARTICIPANTS AND PRINCIPAL INSPECTOR:
William Lee Martin and Cher Petro, FDER
Dave Marple and Mike Vardeman, Rinker Materials

9. FACILITY LATITUDE 25°46'48" LONGITUDE 80°25'10"

10. TYPE OWNERSHIP: FEDERAL STATE COUNTY MUNICIPAL PRIVATE

11. NOTICE NO: SO13-195017 DATE ISSUED: 4/17/91 EXP. DATE: 4/4/96

Rev 1/8/92

Recycled Paper

An unannounced routine inspection was conducted at the Rinker Portland Cement Corporation's soil thermal treatment facility regulated pursuant to Chapter 17-775, Florida Administrative Code. This facility operates a rotary kiln and utilizes the petroleum contaminated soil in the manufacture of cement.

BACKGROUND INFORMATION:

Rinker was issued a General Permit #SO13-195017 to operate a soil thermal treatment facility on April 17, 1991 which expires on April 4, 1996. The Rinker facility was operating as an existing facility as defined in 17-775.200, FAC prior to the effective date of this rule. A complete process description is provided in the Rinker permit application; however, the process was reviewed at the inspection as follows:

According to Dave Marple, prior to accepting any soil for thermal treatment pursuant to 17-775, FAC, Rinker requires a soil analysis profile. Based on this profile, and concurrence from Metro Dade Department of Resource Management (DERM), soils are brought by truck to the new soil storage facility. All materials accepted by Rinker still receive approval from DERM in the form of a standardized form letter. This is required as a condition of the facility's current Dade County permits but may change in the future due to the increased administrative workload experienced by the County. At the time of the inspection the new soil storage facility is in use and the old temporary soil storage facility is being prepared for closure. Contaminated soils have been removed from the perimeter of the old facility concrete slab and a closure plan has been prepared which includes soil sampling for confirmation and continued groundwater sampling from the four wells around the slab for two more quarters before closure approval. Rinker claims to accept no hazardous wastes as defined in 40 CFR Part 261.

Rinker has operated a materials substitution program for the last four years. This program researches and evaluates different alternative materials for use as raw materials in the production of cement or for use as an alternative fuel source in the kilns. Two alternative materials currently in use include the substitution of fuel contaminated soils for clean silica sand and the substitution of "on-spec" waste oil for fuel oil in kiln burners. Other alternative material substitutions under discussion and/or evaluation for possible future use include: (1) substitution of oily waste water for part of the slurry makeup water, (2) burning tires for fuel, (3) replacing FP&L slag with other power plant ashes such as ash from MSW incinerators, and (4) blending oily sludges with contaminated soils. Rinker has received approval for a trial burn using old tires as a fuel and iron supplement. The tires are injected whole, two at a time, through a patented system during each rotation of the kiln. The point of injection is approximately midway along the kiln where the temperature is approximately 1800 ^{o} F. The trial appears to be progressing well and a compliance burn is forecast in the near future. Dave Marple estimates the kiln could burn as many as 4,000,000 tires per year.

Additionally, the afterburner system for the petroleum contaminated soils is in operation, although the soils process through the afterburner first, then go through the kiln. Preliminary in house analysis of the soils, although not required, indicate the soils meet clean soil criteria before they are processed through the kiln.

SOIL STORAGE FACILITY:

Incoming soils to be thermally treated by Rinker arrive by independent contractors via truck to the new soil storage facility. Rinker does not handle drums or containers; therefore, in the event a

contractor delivers contaminated soils in drums or containers the contractor is responsible for emptying and removing the drums and/or containers from the facility. The new facility located South of the railroad tracks became operational February 9, 1992 and consists of a 100' by 300' monolith concrete slab sealed to solid concrete walls on three sides with a concrete curb across the front. The facility has an open front to accommodate trucks and equipment, enclosed sides, and a roof. The floor slopes to the southeast corner where a sump and holding tank are located to collect any contaminated water from wind blown rain seeping through the contaminated soils. Minimal water has been collected to date. The facility experienced severe rainfall the day before, according to Dave Marple, and exhibited standing water in the eastern portion of the facility (approximately one fifth of the facility). The presence of contaminated soil piled extremely high around the leachate collection system prevented observation of the sump and possible function of the system; however, Dave Marple agreed to photograph the system and provide a copy to DER confirm the soil storage was not interfering with the operation of the leachate collection system. Standing water was observed around the perimeter on the Northeast corner of the facility. The standing water outside exhibited an algae growth, mosquito larvae, and a slight sheen but it wasn't clear what the source of the water might be since the floor elevation is supposedly lower than the perimeter walkway. A water sample was taken and analyzed in Rinker's lab which indicated no volatiles present. This should be watched in the future. Additionally, several points along the outside wall approximately two feet off the floor are discharging small quantities of water around previously plugged holes. The small quantities, the presence of iron staining, and the absence of any odor or sheen indicate this may be internal condensation draining. This should be watched in the future and investigated if it increases. The four groundwater wells off the corners of the facility have flush mounted, secured manhole lids. The wells appear to be located on ground high enough to prevent flooding; however, the presence of watertight, lockable well caps could not be confirmed.

Improved screening capability has been installed and a modification to add metal removal by magnetic methods has been completed. The metal and plastics removed from the soils are collected for transport to the County landfill. The larger concrete debris screened out initially are taken to the rock crusher to be pulverized separately and mixed back in with the contaminated soils at the soil storage facility.

RECORDKEEPING:

Rinker has received a Department alternative procedure approval (File No. AP-STTF001) for testing of contaminated soils. Rinker relies solely on the test results supplied by other labs; however, Rinker requires acknowledgment of a Department approved Quality Assurance plan from the labs supplying the data. Rinker performs spot checks of some samples. Random review of records over the past several months indicated one load of untreated soils was received on 5/6/92 which exceeded the clean soil criteria for lead of 77 mg/kg. These soils were blended with other contaminated soils. No treated soils analyzed since the last visit through July 12, 1992 exceeded the VOA or TRPH criteria for clean soil in 17-775, FAC.

SUMMARY:

The new soil storage facility incorporates "state of the art" technology in handling and storing petroleum contaminated soil and significantly enhances Rinker's capability to process contaminated soils in an environmentally sound manner.

EXHIBIT E

Florida Department of Environmental Regulation

STATIONARY SOIL THERMAL TREATMENT FACILITY

INSPECTION REPORT

Name of Facility RINKER MATERIALS CORP.

Location 1200 NW 137th AVE, MIAMI FL 33182

General Permit No. SO 13-195017 Date of Inspection 8/4/92

Contact Person DAVE MARPLE

Person Completing Report LEE MARTIN / CHER PETRO

Instructions: Complete the appropriate spaces for each item listed below. Use comments space to provide additional information for each item. Additional paper may be used if necessary.

Yes	No	SITE SURVEY	
✓		1.	Does information provided on general permit notice of intent form coincide with actual facility?
✓		2.	Is soil sampling procedure correct?
✓		3.	Are monitoring wells properly installed (proper number and location)?
✓		4.	Are monitor wells being properly sampled and analysed for required parameters?
✓		5.	Is untreatd soil stockpiled separately from treated soil and properly identified?
✓		6.	Is untreated soil adequately covered by roofing?
✓		7.	Do floors for storage appear to be properly constructed and in good condition?
✓		8.	Are floors properly bermed to provide runoff control?
✓		9.	Is a leachate collection system provided?

Yes	No	REPORTING FORMS	
✓*		10.	Are untreated soil reporting forms being properly completed? starting date 2/28/92 end date 7/23/92
✓		11.	Are treated soil reporting forms being properly completed? starting date 3/2/92 end date 7/12/92

* MINOR OMISSIONS — TOTAL VOA NOT RECORDED FOR 7 BATCHES, OTHER RESULTS FOR THESE 7 BATCHES WERE RECORDED AND WERE WITHIN CRITERIA

12. Indicate frequency clean soil criteria is being met?
    a. 30 % TRPH - 10 mg/kg, or
    b. 70 % TRPH - 50 mg/kg, PAH - 6 mg/kg, and VOH - 50 ug/kg

13. Indicate ranges and approximate median values of untreated soil analyses for the following parameters.
    a. TRPH BDL mg/kg to 112,000 mg/kg, median 2710 mg/kg
    b. VOA BDL mg/kg to 382,000 mg/kg, median 8986 mg/kg
    c. Arsenic BDL mg/kg to 28.1 mg/kg
    d. Barium BDL mg/kg to 852 mg/kg
    e. Cadmium BDL mg/kg to 35 mg/kg
    f. Chromium BDL mg/kg to 129 mg/kg
    g. Lead BDL mg/kg to 81.9 mg/kg
    h. Mercury BDL mg/kg to .73 mg/kg
    i. Selenium BDL mg/kg to 36 mg/kg
    j. Silver BDL mg/kg to 7.4 mg/kg

14. Indicate ranges and approximate median values of treated soil analyses for the following parameters.
    a. TRPH 5.6 mg/kg to 26.6 mg/kg, median 14.4 mg/kg
    b. VOA BDL mg/kg to BDL mg/kg, median BDL mg/kg
    c. Arsenic BDL mg/kg to 7.5 mg/kg
    d. Barium BDL mg/kg to 39.0 mg/kg
    e. Cadmium BDL mg/kg to 1.5 mg/kg
    f. Chromium 1.0 mg/kg to 19.0 mg/kg
    g. Lead BDL mg/kg to 7.4 mg/kg
    h. Mercury BDL mg/kg to BDL mg/kg
    i. Selenium BDL mg/kg to BDL mg/kg
    j. Silver BDL mg/kg to 3.3 mg/kg
    k. _____ _____ mg/kg to _____ mg/kg
    i. _____ _____ mg/kg to _____ mg/kg

Comments: LEAD RESULTS IN ONE BATCH OF UNTREATED SOILS EXCEEDED 77 mg/kg, THESE SOILS WERE MIXED WITH OTHER UNTREATED SOILS AND ALL TREATED SOILS WERE WITHIN CRITERIA.

William L. Martin
Signature

8/6/92
Date

INTEROFFICE MEMO

To: Paul A. Wierzbicki
From: Lee Martin
Subject: Rinker Materials Corp
1200 NW 137th Ave, Miami, Fl
Noncompliance Response Review

Date: May 2, 1992
CC:

The information submitted in response to our noncompliance letter (i.e., retesting results by an independent laboratory) does not confirm the previous elevated TRPH results. Rinker states they have instituted more stringent sample handling and preparation procedures to preclude future problems. The following data is provided for comparison purposes:

Week of clinker production	Rinker results	VOC Analytical results
1/20-1/26 1992	11.9 mg/kg	Not sampled
1/27-2/2	9.8	Not sampled
2/3-2/9	124.0	31.1
2/10-2/16	59.9	19.7
2/17-2/23	20.1	20.2
2/24-3/1	23.2	19.9

The data apparently supports the premise of sample handling or preparation problems; therefore recommend no further action at this time with monitoring in the future for possible trends.

DA\RINKERNC.REV\wlm

CC: West Palm Beach DER File
West Palm Beach DER/Air Section
DERM
DER/BWC,Tallahassee; T. Conrardy
DER, West Palm Beach; V. Kamath

Rinker

Rinker Materials Corporation
1200 N.W. 137th Avenue
Miami, FL 33182

P.O. Box 650679
Miami, FL 33265-0679

Facsimile (305) 223-5403
Telephone (305) 221-7645

April 22, 1992

RECEIVED
APR 27 1992
DEPT. OF ENVIRONMENTAL REG.
WEST PALM BEACH

Florida Department of Environmental Regulation
Southeast District
1900 South Congress Avenue
Suite A
West Palm Beach, FL 33406

Attn: Mr. Vivek Kamath P.E.
Waste Program Adminstrator

Dear Mr. Kamath:

In regard to your letter dated April 8, 1992 concerning non-compliance according to Section 17-775.400(3), we have reviewed the items identified during the routine compliance inspection as being out of compliance with the above section and submit the following:

1. Retesting was done by a certified laboratory on retained clinker samples for the weeks in question (2/3 through 2/9/92 and 2/10 through 2/16/92.) The results of these tests show the TRPH to be within compliance standards (31.1 ppm and 19.7 ppm respectively.) Copies of the analysis are attached.

2. The weekly testing done for TRPH before and after the weeks in question showed all TRPH results in compliance with standards set in Section 17-775.400(3).

3. Since all clinker production is consumed to produce cement, TRPH testing was done on composited cement production samples that would include the clinker production for the weeks in question. The results show TRPH values of 20.2 ppm and 19.9 ppm respectively. All TRPH results were in compliance with Section 17.775.400(3).

cont.

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APR 27 1992
DEPT. OF ENVIRONMENTAL REG.
WEST PALM BEACH

From Rinkers investigation and the data presented, we conclude that the two samples in question were either contaminated with coal during the clinker composite sample processing, and/or that the recognized flaws in method 9073 produced results not representative of true TRPH content.

Rinker has instituted more stringent laboratory "House Keeping" policies to assure that future clinker composite samples can not be tainted with other raw materials (ie. coal) and we have reinstructed all affected laboratory personnell on the mandatory procedures for proper clinker composite handling and sample preparation.

Since petroleum contaminated soils are blended with other raw materials and exposed to temperatures in excess of 2800 F, we can assure your office that our process does produce clinker in compliance with Section 17-775.

By taking the added precautions to ensure clinker samples integrity, we will eliminate any further questions concerning TRPH compliance.

We appreciate the opportunity to supply responses to your letter of April 8, 1992.

If you or your staff require further information or have added questions concerning Rinkers thermal treatment activities, please feel free to call me.

Sincerely,

James S. Jenkins III

James Jenkins III
Vice President, Cement Operations

cc: Bureau of Waste Cleanup, FDER/Tallahassee
West Palm Beach FDER File
DERM/Miami
Tom Conrardy, FDER/Tallahassee
West Palm Beach FDER Air Section

V.O.C ANALYTICAL

RECEIVED
APR 27 1992
DEPT. OF ENVIRONMENTAL REG.
WEST PALM BEACH

CLIENT # 18
ADDRESS: RINKER MATERIALS
PO BOX 650679
MIAMI, FL 33165
ATTN: MIKE VARDEMAN

PAGE: 1
DATE: 04-16-1992
LOG #: 1732-1

SAMPLE DESCRIPTION: RINKER MATERIALS
RETEST
CLINKER
WK 2/3-2/9

LABEL: CLINKER 2/9
DATE SAMPLED: 02/09/92
DATE RECEIVED: 04/09/92
COLLECTED BY:CLIENT

Parameter	Result	Units	Method	Detection Limit	Extr. Date	Anal Date	Analyst
TRPH	31.1	mg/kg	9073	2.7	04/13/92	04/15/92	JV

* BDL = Below Detection Limits
All analyses were performed using EPA, ASTM, USGS, or Standard Methods

QAP # 90-0376G
HRS # 86356,86240
SUB HRS# 86122, 86109, E86048

Respectfully Submitted,

Jeffrey S. Glass

Jeffrey S. Glass LIC
Laboratory Director

1732-1

CLIENT # 18
ADDRESS: RINKER MATERIALS
PO BOX 650679
MIAMI, FL 33165
ATTN: MIKE VARDEMAN

PAGE: 1
DATE: 04-16-1992
LOG #: 1732-2

SAMPLE DESCRIPTION: RINKER MATERIALS
RETEST
CLINKER
WK OF 2/10-2/16

LABEL: CLINKER 2/16
DATE SAMPLED: 02/16/92
DATE RECEIVED: 04/09/92
COLLECTED BY:CLIENT

Parameter	Result	Units	Method	Detection Limit	Extr. Date	Anal Date	Analyst
TRPH	19.7	mg/kg	9073	2.7	04/13/92	04/15/92	JV

* BDL = Below Detection Limits
All analyses were performed using EPA, ASTM, USGS, or Standard Methods

QAP # 90-0376G
HRS # 86356,86240
SUB HRS# 86122, 86109, E86048

Respectfully Submitted,

Jeffrey S. Glass
Laboratory Director

1732-2

CLIENT # 18
ADDRESS: RINKER MATERIALS
PO BOX 650679
MIAMI, FL 33165
ATTN: MIKE VARDEMAN

PAGE: 1
DATE: 04-16-1992
LOG #: 1732-3

SAMPLE DESCRIPTION: RINKER MATERIALS
RETEST
CEMENT
WK OF 2/17-2/23

LABEL: CEMENT 2/23
DATE SAMPLED: 02/23/92
DATE RECEIVED: 04/09/92
COLLECTED BY: CLIENT

Parameter	Result	Units	Method	Detection Limit	Extr. Date	Anal Date	Analyst
TRPH	20.2	mg/kg	9073	2.7	04/13/92	04/15/92	JV

* BDL = Below Detection Limits
All analyses were performed using EPA, ASTM, USGS, or Standard Methods

QAP # 90-0376G
HRS # 86356,86240
SUB HRS# 86122, 86109, E86048

Respectfully Submitted,

Jeffrey S. Glass

Jeffrey S. Glass
Laboratory Director

1732-3

CLIENT # 18
ADDRESS: RINKER MATERIALS
PO BOX 650679
MIAMI, FL 33165
ATTN: MIKE VARDEMAN

PAGE: 1
DATE: 04-16-1992
LOG #: 1732-4

SAMPLE DESCRIPTION: RINKER MATERIALS
RETEST
CEMENT
WK OF 2/24-3/1

LABEL: CEMENT 3/01
DATE SAMPLED: 03/01/92
DATE RECEIVED: 04/09/92
COLLECTED BY:CLIENT

Parameter	Result	Units	Method	Detection Limit	Extr. Date	Anal Date	Analyst
TRPH	19.9	mg/kg	9073	2.7	04/13/92	04/15/92	JV

* BDL = Below Detection Limits
All analyses were performed using EPA, ASTM, USGS, or Standard Methods

QAP # 90-0376G
HRS # 86356,86240
SUB HRS# 86122, 86109, E86048

Respectfully Submitted,

Jeffrey S. Glass

Jeffrey S. Glass LK
Laboratory Director

1732-4

Florida Department of Environmental Regulation

Southeast District • 1900 S. Congress Ave., Suite A • West Palm Beach, Florida 33406

Lawton Chiles, Governor

Telephone: 407/433-2650
Fax: 407/433-2666

Carol M. Browner, Secretary

SOIL THERMAL TREATMENT FACILITY INSPECTION REPORT

1. TYPE INSPECTION: ___ COMPLAINT X ROUTINE ___ FOLLOW-UP ___ PERMITTING

2. FACILITY NAME Rinker Portland Cement Corp.

   DER/EPA ID FLD981758485 GMS ID _____

3. ADDRESS 1200 NW 137th Ave, Miami, Fl, 33182
   Mailing: P.O. Box 24635, West Palm Beach, Fl 33416-4635

COUNTY Dade PHONE 305- 221-7645 DATE 8/4/92 TIME 10:00

4. TYPE OF FACILITY Thermal Soil Treatment Facility

5. DESCRIPTION OF OPERATION:
Facility Operations include limerock mining and contaminated soil processing to produce cement. Rinker uses kilns fired by coal, natural gas, or used oil in production.

6. APPL. REGULATIONS: _____ 17-2, F.A.C. X 17-775, F.A.C.

7. RESPONSIBLE OFFICIAL: (Name and Title)
James Jenkins, Vice President

8. SURVEY PARTICIPANTS AND PRINCIPAL INSPECTOR:
William Lee Martin and Cher Petro, FDER
Dave Marple and Mike Vardeman, Rinker Materials

9. FACILITY LATITUDE 25°46'48" LONGITUDE 80°25'10"

10. TYPE OWNERSHIP: FEDERAL STATE COUNTY MUNICIPAL PRIVATE

11. NOTICE NO: SO13-195017 DATE ISSUED: 4/17/91 EXP. DATE: 4/4/96

Rev 1/8/92

Recycled Paper

An unannounced routine inspection was conducted at the Rinker Portland Cement Corporation's soil thermal treatment facility regulated pursuant to Chapter 17-775, Florida Administrative Code. This facility operates a rotary kiln and utilizes the petroleum contaminated soil in the manufacture of cement.

BACKGROUND INFORMATION:

Rinker was issued a General Permit #SO13-195017 to operate a soil thermal treatment facility on April 17, 1991 which expires on April 4, 1996. The Rinker facility was operating as an existing facility as defined in 17-775.200, FAC prior to the effective date of this rule. A complete process description is provided in the Rinker permit application; however, the process was reviewed at the inspection as follows:

According to Dave Marple, prior to accepting any soil for thermal treatment pursuant to 17-775, FAC, Rinker requires a soil analysis profile. Based on this profile, and concurrence from Metro Dade Department of Resource Management (DERM), soils are brought by truck to the new soil storage facility. All materials accepted by Rinker still receive approval from DERM in the form of a standardized form letter. This is required as a condition of the facility's current Dade County permits but may change in the future due to the increased administrative workload experienced by the County. At the time of the inspection the new soil storage facility is in use and the old temporary soil storage facility is being prepared for closure. Contaminated soils have been removed from the perimeter of the old facility concrete slab and a closure plan has been prepared which includes soil sampling for confirmation and continued groundwater sampling from the four wells around the slab for two more quarters before closure approval. Rinker claims to accept no hazardous wastes as defined in 40 CFR Part 261.

Rinker has operated a materials substitution program for the last four years. This program researches and evaluates different alternative materials for use as raw materials in the production of cement or for use as an alternative fuel source in the kilns. Two alternative materials currently in use include the substitution of fuel contaminated soils for clean silica sand and the substitution of "on-spec" waste oil for fuel oil in kiln burners. Other alternative material substitutions under discussion and/or evaluation for possible future use include: (1) substitution of oily waste water for part of the slurry makeup water, (2) burning tires for fuel, (3) replacing FP&L slag with other power plant ashes such as ash from MSW incinerators, and (4) blending oily sludges with contaminated soils. Rinker has received approval for a trial burn using old tires as a fuel and iron supplement. The tires are injected whole, two at a time, through a patented system during each rotation of the kiln. The point of injection is approximately midway along the kiln where the temperature is approximately 1800 ^{o} F. The trial appears to be progressing well and a compliance burn is forecast in the near future. Dave Marple estimates the kiln could burn as many as 4,000,000 tires per year.

Additionally, the afterburner system for the petroleum contaminated soils is in operation, although the soils process through the afterburner first, then go through the kiln. Preliminary in house analysis of the soils, although not required, indicate the soils meet clean soil criteria before they are processed through the kiln.

SOIL STORAGE FACILITY:

Incoming soils to be thermally treated by Rinker arrive by independent contractors via truck to the new soil storage facility. Rinker does not handle drums or containers; therefore, in the event a

contractor delivers contaminated soils in drums or containers the contractor is responsible for emptying and removing the drums and/or containers from the facility. The new facility located South of the railroad tracks became operational February 9, 1992 and consists of a 100' by 300' monolith concrete slab sealed to solid concrete walls on three sides with a concrete curb across the front. The facility has an open front to accommodate trucks and equipment, enclosed sides, and a roof. The floor slopes to the southeast corner where a sump and holding tank are located to collect any contaminated water from wind blown rain seeping through the contaminated soils. Minimal water has been collected to date. The facility experienced severe rainfall the day before, according to Dave Marple, and exhibited standing water in the eastern portion of the facility (approximately one fifth of the facility). The presence of contaminated soil piled extremely high around the leachate collection system prevented observation of the sump and possible function of the system; however, Dave Marple agreed to photograph the system and provide a copy to DER confirm the soil storage was not interfering with the operation of the leachate collection system. Standing water was observed around the perimeter on the Northeast corner of the facility. The standing water outside exhibited an algae growth, mosquito larvae, and a slight sheen but it wasn't clear what the source of the water might be since the floor elevation is supposedly lower than the perimeter walkway. A water sample was taken and analyzed in Rinker's lab which indicated no volatiles present. This should be watched in the future. Additionally, several points along the outside wall approximately two feet off the floor are discharging small quantities of water around previously plugged holes. The small quantities, the presence of iron staining, and the absence of any odor or sheen indicate this may be internal condensation draining. This should be watched in the future and investigated if it increases. The four groundwater wells off the corners of the facility have flush mounted, secured manhole lids. The wells appear to be located on ground high enough to prevent flooding; however, the presence of watertight, lockable well caps could not be confirmed.

Improved screening capability has been installed and a modification to add metal removal by magnetic methods has been completed. The metal and plastics removed from the soils are collected for transport to the County landfill. The larger concrete debris screened out initially are taken to the rock crusher to be pulverized separately and mixed back in with the contaminated soils at the soil storage facility.

RECORDKEEPING:

Rinker has received a Department alternative procedure approval (File No. AP-STTF001) for testing of contaminated soils. Rinker relies solely on the test results supplied by other labs; however, Rinker requires acknowledgment of a Department approved Quality Assurance plan from the labs supplying the data. Rinker performs spot checks of some samples. Random review of records over the past several months indicated one load of untreated soils was received on 5/6/92 which exceeded the clean soil criteria for lead of 77 mg/kg. These soils were blended with other contaminated soils. No treated soils analyzed since the last visit through July 12, 1992 exceeded the VOA or TRPH criteria for clean soil in 17-775, FAC.

SUMMARY:

The new soil storage facility incorporates "state of the art" technology in handling and storing petroleum contaminated soil and significantly enhances Rinker's capability to process contaminated soils in an environmentally sound manner.

EXHIBIT E

Florida Department of Environmental Regulation

STATIONARY SOIL THERMAL TREATMENT FACILITY

INSPECTION REPORT

Name of Facility RINKER MATERIALS CORP.

Location 1200 NW 137th AVE, MIAMI, FL 33182

General Permit No. SO 13-195017 Date of Inspection 8/4/92

Contact Person DAVE MARPLE

Person Completing Report LEE MARTIN / CHER PETRO

Instructions: Complete the appropriate spaces for each item listed below. Use comments space to provide additional information for each item. Additional paper may be used if necessary.

Yes	No	SITE SURVEY	
✓		1.	Does information provided on general permit notice of intent form coincide with actual facility?
✓		2.	Is soil sampling procedure correct?
✓		3.	Are monitoring wells properly installed (proper number and location)?
✓		4.	Are monitor wells being properly sampled and analysed for required parameters?
✓		5.	Is untreatd soil stockpiled separately from treated soil and properly identified?
✓		6.	Is untreated soil adequately covered by roofing?
✓		7.	Do floors for storage appear to be properly constructed and in good condition?
✓		8.	Are floors properly bermed to provide runoff control?
✓		9.	Is a leachate collection system provided?

Yes	No	REPORTING FORMS	
✓*		10.	Are untreated soil reporting forms being properly completed? starting date 2/28/92 end date 7/23/92
✓		11.	Are treated soil reporting forms being properly completed? starting date 3/2/92 end date 7/12/92

* MINOR OMISSIONS — TOTAL VOA NOT RECORDED FOR 7 BATCHES, OTHER RESULTS FOR THESE 7 BATCHES WERE RECORDED AND WERE WITHIN CRITERIA.

12. Indicate frequency clean soil criteria is being met?
   a. 30 % TRPH - 10 mg/kg, or
   b. 70 % TRPH - 50 mg/kg, PAH - 6 mg/kg, and VOH - 50 ug/kg

13. Indicate ranges and approximate median values of untreated soil analyses for the following parameters.
   a. TRPH BDL mg/kg to 112,000 mg/kg, median 2710 mg/kg
   b. VOA BDL mg/kg to 382,000* mg/kg, median 8986 mg/kg
   c. Arsenic BDL mg/kg to 28.1 mg/kg
   d. Barium BDL mg/kg to 852 mg/kg
   e. Cadmium BDL mg/kg to 35 mg/kg
   f. Chromium BDL mg/kg to 129 mg/kg
   g. Lead BDL mg/kg to 81.9 mg/kg
   h. Mercury BDL mg/kg to .73 mg/kg
   i. Selenium BDL mg/kg to 36 mg/kg
   j. Silver BDL mg/kg to 7.4 mg/kg

* Incorrect units, see 8/20/92 Rinker ltr

14. Indicate ranges and approximate median values of treated soil analyses for the following parameters.
   a. TRPH 5.6 mg/kg to 26.6 mg/kg, median 14.4 mg/kg
   b. VOA BDL mg/kg to BDL mg/kg, median BDL mg/kg
   c. Arsenic BDL mg/kg to 7.5 mg/kg
   d. Barium BDL mg/kg to 39.0 mg/kg
   e. Cadmium BDL mg/kg to 1.5 mg/kg
   f. Chromium 1.0 mg/kg to 19.0 mg/kg
   g. Lead BDL mg/kg to 7.4 mg/kg
   h. Mercury BDL mg/kg to BDL mg/kg
   i. Selenium BDL mg/kg to BDL mg/kg
   j. Silver BDL mg/kg to 3.3 mg/kg
   k. _____ _____ mg/kg to _____ mg/kg
   i. _____ _____ mg/kg to _____ mg/kg

Comments: LEAD RESULTS IN ONE BATCH OF UNTREATED SOILS EXCEEDED 77 mg/kg, THESE SOILS WERE MIXED WITH OTHER UNTREATED SOILS AND ALL TREATED SOILS WERE WITHIN CRITERIA.

William L. Martin
Signature

8/6/92
Date

Florida Department of Environmental Regulation
Soil Thermal Treatment Facility
Treated Soil Reporting Form

Name of Facility: _____
Air Permit No.: _____
Soil Treatment Permit No.: _____
Stationary: _____ or Mobile Facility: _____

Month: _____ Year: _____

1	2	3	4	5	6								7								8	9	10	11	
Day of Mo.	Soil Batch ID#	Sample Number	Length of Run, Hours	Amount, Volume or Weight cy/tn	Analytical Results																Totals				
					Total Metals								TCLP Metals												
					As	Ba	Cd	Cr	Pb	Hg	Se	Ag	As	Ba	Cd	Cr	Pb	Hg	Se	Ag	VOA	RPH	PAH	VOH	
2-3 2-9		42	168	316	BDL	29.0	BDL	3.0	BDL	BDL	BDL	BDL	BDL	BDL	BDL	BDL	BDL	BDL	BDL	BDL	BDL	124.0	BDL	BDL	10887
2-10 2-16		42	168	284	3.1	31.0	1.2	12.0	3.8	BDL	BDL	1.7	BDL	.4	BDL	.24	BDL	BDL	BDL	BDL	BDL	59.9	BDL	BDL	11815
2-17 2-23		42	168	1158	6.5	28.0	1.1	13.0	3.5	BDL	BDL	1.6	BDL	.5	BDL	BDL	BDL	BDL	BDL	BDL	BDL	20.1	BDL	BDL	9682
2A24 2-1		42	168	925	3.1	36.0	1.4	15.0	4.1	BDL	BDL	2.0	BDL	.5	BDL	.31	BDL	BDL	BDL	BDL	BDL	23.2	BDL	BDL	9952
3-2 3-8		42	168	1110	11.0	37.0	1.5	16.0	4.6	BDL	BDL	3.2	BDL	.6	BDL	.11	BDL	BDL	BDL	.1	BDL	14.0	BDL	BDL	11676
3-9 3-15		42	168	1213	4.5	20	1.1	11.0	3.3	BDL	BDL	1.8	BDL	.4	BDL	.22	BDL	BDL	BDL	.1	BDL	19.6	BDL	BDL	11682
3-16 3-22		42	168	1167	5.5	19.0	1.2	12.0	2.9	BDL	BDL	1.8	.20	.3	BDL	.33	BDL	BDL	BDL	BDL	BDL	22.2	BDL	BDL	9518
3-23 3-29		42	168	1701	7.5	27.0	1.5	14.0	4.1	BDL	BDL	2.6	.11	.3	BDL	.34	BDL	BDL	BDL	.1	BDL	26.6	BDL	BDL	11402
3-30 4-5		42	168	1214	4.0	19.0	1.3	12.0	3.0	BDL	BDL	1.5	BDL	.7	BDL	.15	BDL	BDL	BDL	BDL	BDL	22.3	BDL	BDL	11620
4-6 4-12		42	168	520	7.5	29.0	1.4	14.0	4.1	BDL	BDL	BDL	BDL	.6	BDL	.25	BDL	BDL	BDL	BDL	BDL	25.4	BDL	BDL	11713
4-13 4-19		42	168	488	3.0	14.0	BDL	7.5	4.1	BDL	BDL	BDL	BDL	.4	BDL	.18	.13	BDL	BDL	BDL	BDL	15.0	BDL	BDL	11866
4-20 4-26		42	168	423	4.9	37.0	1.5	15.0	5.6	BDL	BDL	1.4	BDL	.27	BDL	.34	BDL	BDL	BDL	BDL	BDL	10.7	BDL	BDL	11056
4A27 5-03		42	168	169	BDL	BDL	BDL	1.0	BDL	BDL	BDL	1.8	BDL	.32	BDL	.27	BDL	BDL	BDL	BDL	BDL	5.6			8783
5-04 5-10		42	168	192	1.5	35	BDL	2.5	BDL	BDL	BDL	1.1	BDL	.54	BDL	.32	BDL	BDL	BDL	BDL	BDL	5.9			5109
5-11 5-17		42	168	879	2.7	25	1.0	13	5.0	BDL	BDL	1.6	BDL	.41	BDL	.32	BDL	BDL	BDL	BDL	BDL	10.9	BDL	BDL	7178
5-18 5-24		42	168	739	3.2	25	1.0	12.4	3.7	BDL	BDL	1.1	BDL	.45	BDL	.31	BDL	BDL	BDL	BDL	BDL	8.3			7250
5-25 5-31		42	168	1059	2.0	21.0	BDL	10.0	5.9	BDL	BDL	1.4	BDL	.49	BDL	.14	BDL	BDL	BDL	BDL	BDL	11.7	BDL	BDL	11359
6-1 6-7		42	168	1240	4.9	35.0	1.5	18.0	7.4	BDL	BDL	1.7	.15	.54	BDL	.18	BDL	BDL	BDL	BDL	BDL	19.6	BDL	BDL	11356
6-8 6-14		42	168	1435	4.9	29	1.2	11.0	6.3	BDL	BDL	1.3	BDL	.65	BDL	BDL	BDL	BDL	BDL	BDL	BDL	10.9	BDL	BDL	10926
6-15 6-21		42	168	1108	5.9	31	1.4	14	5.1	BDL	BDL	1.5	BDL	.43	BDL	.31	BDL	BDL	BDL	BDL	BDL	15.4			11338

DER Form 17-775.900(3)

See reverse side for instructions

DAVE WILLSEND

Florida Department of Environmental Regulation
Soil Thermal Treatment Facility
Treated Soil Reporting Form

Name of Facility: _____
Air Permit No.: _____
Soil Treatment Permit No.: _____
Stationary:_____ or Mobile Facility: _____

Month: _____ Year:

1	2	3	4	5	6								7								8	9	10	11
Day of Mo.	Soil Batch ID#	Sample Number	Length of Run, Hours	Amount, Volume or Weight cy/tn	Analytical Results																Totals			
					Total Metals								TCLP Metals											
					As	Ba	Cd	Cr	Pb	Hg	Se	Ag	As	Ba	Cd	Cr	Pb	Hg	Se	Ag	VOA	RPH	PAH	VOC
6-22 6-28		42	168	1127	3.2	30	1.4	19	6.6	BDL	BDL	1.9	BDL	.36	BDL	BDL	BDL	BDL	BDL	BDL	BDL	7.2		
6-29 7-5		42	168	1027	2.4	23.6	1.2	14.8	5.1	BDL	BDL	1.7	BDL	.43	BDL	.12	BDL	BDL	BDL	BDL	BDL	18.2		
7-6 7-12		42	168	1181	2.2	22.2	1.2	18.2	6.1	BDL	BDL	3.3	BDL	.52	BDL	BDL	BDL	BDL	BDL	BDL	BDL	9.4		
7-13 7-19		42	168	1211																				

OER Form 17-775.900(3)

See reverse side for instructions

Florida Department of Environmental Regulation
Soil Thermal Treatment Facility
Untreated Soil Reporting Form

Name of Facility: RINKER MATERIALS CORP.
Air Permit No.: A013-172154
Soil Treatment Permit No.: SW-01117-91
Stationary XXX or Mobile Facility: _____

Month: JULY Year: 1992

1	2	3	4	5								6	7	8		
Day of Mo.	Soil Batch ID#	Sample Number	Amount Volume or Weight cy/tn	Analytical Results												
				Metals								Totals		Indicate Other Analyses Attach Lab Results Only		
				AS	BA	CD	CR	PB	HG	SE	AG	VOA	RPH			
07/17/92	111-92185	1	1.66	.0248	1.10	<.05	1.41	.381	.00212	.0362	<.05	<4.50	313			
07/17/92	160-92006	8	144.64	<3	9.8	<.76	<8.2	55.9	<.04	<1	<1	<89.62	1144			
07/17/92	295-92003	1	25.13	BDL	396	BDL	26	47.7	BDL	BDL	BDL	10600	41000			
07/20/92	111-92186	3	272.57	BDL	3.9	BDL	4.1	2.97	BDL	BDL	.47	BDL	195.6			
07/20/92	160-92006	8	82.00	<3	9.8	<.76	<8.2	55.9	<.04	<1	<1	<89.62	1144			
07/21/92	240-92009	1	94.91	2.34	40.40	.48	5.12	6.12	<.01	3.2	.02	BDL	20			
07/21/92	265-92002	3	46.55	BDL	3.3	BDL	.97	7.9	BDL	BDL	BDL	BDL	5.37			
07/21/92	278-92030	1	14.84	<.4	20	<.8	5.9	5.9	<.05	<.4	<1.6	BDL	38			
07/21/92	278-92031	1	78.04	.40	35.2	<0.80	4.6	<4.0	<0.050	<0.40	<1.6	BDL	<5.0			
07/22/92	140-92004	1	63.00	BDL	22.9	2.0	5.6	BDL	BDL	20	2.9	1800	208			
07/23/92	265-92002	3	40.80	BDL	3.3	BDL	.97	7.9	BDL	BDL	BDL	BDL	5.37			
07/23/92	302-92004	3	125.75	BDL	2.23	BDL	2.6	3.33	BDL	BDL	BDL	290	72.33			

775.900(2)

Florida Department of Environmental Regulation
Soil Thermal Treatment Facility
Untreated Soil Reporting Form

Name of Facility: RINKER MATERIALS CORP.
Air Permit No.: A013-172154
Soil Treatment Permit No.: SW-01117-91
Stationary XXX or Mobile Facility: _____

Month: JULY Year: 1992

1	2	3	4	5								6	7	8		
Day of Mo.	Soil Batch ID#	Sample Number	Amount Volume or Weight cy/tn	Analytical Results												
				Metals								Totals		Indicate Other Analyses Attach Lab Results Only		
				AS	BA	CD	CR	PB	HG	SE	AG	VOA	RPH			
07/13/92	297-92002	1	20.61	BDL	10.3	BDL	6.6	75	BDL	BDL	BDL	60900	13300			
07/13/92	300-92001	7	239.12	.13	2.73	.78	4.4	2.58	.039	.054	<.054	<12.59	431			
07/13/92	302-92001	1	38.90	1.6	4.2	BDL	2.2	2.7	BDL	BDL	BDL	BDL	15			
07/13/92	302-92003	1	44.68	<1	3.1	<.5	2.4	16	<.03	<1	<1	BDL	28			
07/14/92	136-92011	1	21.20	<1.0	<1.0	<0.50	6.55	2.10	<0.030	<1.0	<1.0	<38	9			
07/14/92	143-92010	1	60.19	BDL	BDL	BDL	5.20	13.2	BDL	BDL	BDL	BDL	260			
07/14/92	160-92006	8	147.49	<3	9.8	<.76	<8.2	55.9	<.04	<1	<1	<89.62	1144			
07/14/92	265-92002	3	138.09	BDL	3.3	BDL	.97	7.9	BDL	BDL	BDL	BDL	5.37			
07/14/92	265-92006	1	0.57	BDL	2.4	BDL	2.0	12.0	BDL	BDL	BDL	1830	64			
07/14/92	265-92007	1	1.24	BDL	1.6	BDL	1.5	.74	BDL	BDL	BDL	BDL	BDL			
07/14/92	265-92008	1	1.69	BDL	1.5	BDL	BDL	2.0	BDL	BDL	BDL	382000	64			
07/14/92	265-92009	1	0.48	1.1	5.8	BDL	5.4	2.0	BDL	BDL	BDL	BDL	94			
07/14/92	300-92001	7	368.83	.13	2.73	.78	4.4	2.58	.039	.054	<.054	<12.59	431			
07/14/92	302-92001	1	34.94	1.6	4.2	BDL	2.2	2.7	BDL	BDL	BDL	BDL	15			
07/14/92	302-92002	1	94.10	2.1	3.0	BDL	4.4	BDL	BDL	BDL	BDL	BDL	139			
07/14/92	302-92003	1	23.76	<1	3.1	<.5	2.4	16	<.03	<1	<1	BDL	28			
07/14/92	304-92001	1	13.89	6.0	31.0	2.35	16	20.5	BDL	BDL	1.35	BDL	28400			
07/15/92	111-92184	1	174.76	BDL	3.2	BDL	4.00	42.5	BDL	BDL	BDL	BDL	6560			
07/15/92	143-92010	1	70.29	BDL	BDL	BDL	5.20	13.2	BDL	BDL	BDL	BDL	260			
07/15/92	160-92006	8	140.16	<3	9.8	<.76	<8.2	55.9	<.04	<1	<1	<89.62	1144			
07/15/92	265-92002	3	216.55	BDL	3.3	BDL	.97	7.9	BDL	BDL	BDL	BDL	5.37			
07/15/92	304-92001	1	17.47	6.0	31.0	2.35	16	20.5	BDL	BDL	1.35	BDL	28400			
07/16/92	111-92184	1	18.86	BDL	3.2	BDL	4.00	42.5	BDL	BDL	BDL	BDL	6560			
07/16/92	160-92006	8	136.92	<3	9.8	<.76	<8.2	55.9	<.04	<1	<1	<89.62	1144			
07/16/92	267-92002	1	55.32	2.5	20	1.6	37.1	55.1	BDL	BDL	BDL	860	436			
07/16/92	301-92001	1	1.76	BDL	6	BDL	6	BDL	BDL	BDL	BDL	94	15			
07/16/92	304-92001	1	9.87	6.0	31.0	2.35	16	20.5	BDL	BDL	1.35	BDL	28400			

Florida Department of Environmental Regulation
Soil Thermal Treatment Facility
Untreated Soil Reporting Form

Name of Facility: RINKER MATERIALS CORP.
Air Permit No.: A013-172154
Soil Treatment Permit No.: SW-01117-91
Stationary XXX or Mobile Facility: _____

Month: JULY Year: 1992

1	2	3	4	5								6	7	8		
Day of Mo.	Soil Batch ID#	Sample Number	Amount Volume or Weight cy/tn	Analytical Results												
				Metals								Totals		Indicate Other Analyses		
				AS	BA	CD	CR	PB	HG	SE	AG	VOA	RPH	Attach Lab Results Only		
07/09/92	103-92013	1	42.10	BDL	3.8	BDL	5.4	30	BDL	BDL	BDL	11	500			
07/09/92	106-92166	5	118.32	BDL	1.36	BDL	1.64	1.12	BDL	BDL	BDL	BDL	18.38			
07/09/92	111-92183	3	508.41	BDL	4.3	BDL	3.4	4.5	BDL	BDL	BDL	BDL	18.7			
07/09/92	165-92003	1	34.15	1.0	15.0	<.5	9.10	12.8	<.1	<.1	<.5	BDL	86.4			
07/09/92	165-92004	1	44.93	.5	15	4.1	4.2	7.3	<.06	<.1	1.5	BDL	1126.4			
07/09/92	278-92028	5	133.65	BDL	3.1	.28	3.3	5.2	BDL	BDL	BDL	40339	537			
07/09/92	278-92029	3	229.48	1.1	54.8	<1.1	16.16	34.7	.067	<.4	1.9	BDL	2872			
07/10/92	106-92161	1	2.81	BDL	3.1	BDL	3.0	BDL	BDL	BDL	BDL	17370	28			
07/10/92	106-92162	1	0.13	<.4	46.6	<.8	10.6	59.9	.08	<.4	2.5	BDL	33603			
07/10/92	106-92163	1	5.09	1.3	852	<.8	8.4	43.6	<.05	<.4	4.2	BDL	3359			
07/10/92	106-92166	5	31.01	BDL	1.36	BDL	1.64	1.12	BDL	BDL	BDL	BDL	18.38			
07/10/92	111-92181	1	114.60	BDL	2.4	BDL	1.5	BDL	BDL		1.3	BDL	108			
07/10/92	136-92010	1	63.25	<1.0	<1.0	<0.50	6.55	2.10	<0.030	<1.0	<1.0	<38	9			
07/10/92	278-92028	5	18.98	BDL	3.1	.28	3.3	5.2	BDL	BDL	BDL	40339	537			
07/10/92	300-92001	7	329.32	.13	2.73	.78	4.4	2.58	.039	.054	<.054	<12.59	431			
07/13/92	106-92154	1	0.86	BDL	3.1	BDL	3.0	BDL	BDL	BDL	BDL	17370	28			
07/13/92	106-92155	1	2.17	BDL	9	BDL	2	BDL	BDL	BDL	BDL	BDL	33			
07/13/92	106-92156	1	0.20	<.4	<10	<.8	<4.0	7.2	<.05	<.4	<1.6	BDL	7.2			
07/13/92	106-92157	1	0.63	1.8	4.6	BDL	2.6	6.3	BDL	BDL	BDL	BDL	128			
07/13/92	106-92158	1	0.57	BDL	4.0	BDL	2.9	2.0	BDL	BDL	BDL	99200	35			
07/13/92	106-92159	1	0.25	<.4	<20	.8	<4	<4	<.05	<.4	<1.6	BDL	5503			
07/13/92	106-92160	1	0.75	1.5	5.9	BDL	7.7	23	BDL	BDL	BDL	BDL	105500			
07/13/92	106-92164	1	0.98	<1	2.8	<.5	2.7	9.8	<.03	<10	<1	37	320			
07/13/92	106-92165	1	0.99	<.4	<12	<.8	<4	<4	<.05	<.4	<1.6	BDL	<5			
07/13/92	111-92180	1	23.76	.433	58.9	4.44	47	20.6	.00183	.177	1.15	<53.8	16400			
07/13/92	111-92182	1	2.92	.176	4.12	<.05	4.24	1.81	.0319	.0874	<.5	<629	52.8			
07/13/92	160-92006	8	145.84	<3	9.8	<.76	<8.2	55.9	<.04	<1	<1	<89.62	1144			

775.900(2)

Florida Department of Environmental Regulation
Soil Thermal Treatment Facility
Untreated Soil Reporting Form

Name of Facility: RINKER MATERIALS CORP.
Air Permit No.: A013-172154
Soil Treatment Permit No.: SW-01117-91
Stationary XXX or Mobile Facility: _____

Month: JULY Year: 1992

1	2	3	4	5								6	7	8		
Day of Mo.	Soil Batch ID#	Sample Number	Amount Volume or Weight cy/tn	Analytical Results												
				Metals								Totals		Indicate Other Analyses Attach Lab Results Only		
				AS	BA	CD	CR	PB	HG	SE	AG	VOA	RPH			
06/30/92	278-92020	1	83.12	.3	8.4	1.6	.62	.96	<.01	<.02	1.1	BDL	<10			
06/30/92	278-92021	1	14.29	.17	11	.19	.28	.13	<.01	.04	<.5	BDL	24			
06/30/92	278-92022	1	66.96	BDL	3.6	BDL	BDL	BDL	BDL	BDL	BDL	BDL	122			
06/30/92	278-92025	1	29.21	.26	21	1.9	.67	3.8	<.01	<.02	1.3	BDL	700			
07/01/92	101-92009	7	354.50	1.64	10.36	<2.5	3.36	61.8	<.1	<.25	<.5	<51900	947			
07/01/92	106-92166	5	62.17	BDL	1.36	BDL	1.64	1.12	BDL	BDL	BDL	BDL	18.38			
07/01/92	111-92167	1	40.08	1.3	45.5	BDL	11.4	25.1	BDL	BDL	4.6	1500	635			
07/01/92	278-92012	1	43.37	BDL	15	BDL	6.9	36	BDL	BDL	BDL	690	2540			
07/01/92	278-92013	1	9.94	BDL	13	BDL	1.3	BDL	BDL	BDL	BDL	BDL	1220			
07/01/92	278-92014	1	31.88	2.1	7.7	BDL	8.0	27	BDL	BDL	BDL	BDL	1130			
07/01/92	300-92001	7	235.74	.13	2.73	.78	4.4	2.58	.039	.054	<.054	<12.59	431			
07/02/92	101-92009	7	776.12	1.64	10.36	<2.5	3.36	61.8	<.1	<.25	<.5	<51900	947			
07/02/92	103-92012	3	78.30	<.4	8	<.5	5.17	7.17	.03	<1	<1	<2	<5.0			
07/02/92	278-92012	1	9.00	BDL	15	BDL	6.9	36	BDL	BDL	BDL	690	2540			
07/02/92	278-92015	1	83.78	BDL	7.8	BDL	4.8	19.0	BDL	BDL	BDL	BDL	7180.0			
07/02/92	278-92016	1	22.81	BDL	7.6	BDL	4.6	8.2	BDL	BDL	1.2	BDL	155.0			
07/02/92	278-92017	1	30.82	BDL	4.9	BDL	5.3	25.0	BDL	BDL	BDL	BDL	643.0			
07/02/92	293-92005	1	37.12	<1.0	8.9	<.5	5.4	7.1	.031	<1.0	<1.0	BDL	220			
07/06/92	101-92009	7	215.00	1.64	10.36	<2.5	3.36	61.8	<.1	<.25	<.5	<51900	947			
07/06/92	254-92002	1	15.24	BDL	2.3	BDL	4.0	3.4	BDL	BDL	BDL	BDL	226			
07/06/92	300-92001	7	350.74	.13	2.73	.78	4.4	2.58	.039	.054	<.054	<12.59	431			
07/06/92	303-92001	1	26.36	1.65	6.3	<.50	4.15	34.5	<.03	<2	<1	<180	10800			
07/07/92	165-92002	1	39.52	1.2	6.3	BDL	3.4	7.8	BDL	BDL	BDL	BDL	1905			
07/07/92	303-92001	1	62.91	1.65	6.3	<.50	4.15	34.5	<.03	<2	<1	<180	10800			
07/08/92	206-92003	1	10.30	BDL	BDL	.001	.001	.083	BDL	.001	BDL	BDL	20			
07/08/92	278-92027	1	25.69	2.2	0.38	0.045	3.8	4.6	<0.010	<0.020	1.1	<130	1700			
07/08/92	278-92028	5	91.73	BDL	3.1	.28	3.3	5.2	BDL	BDL	BDL	40339	537			

775.900(2)

Florida Department of Environmental Regulation
Soil Thermal Treatment Facility
Untreated Soil Reporting Form

Name of Facility: RINKER MATERIALS CORP.
Air Permit No.: A013-172154
Soil Treatment Permit No.: SW-01117-91
Stationary XXX or Mobile Facility: _____

Month: JULY Year: 1992

1	2	3	4	5								6	7	8		
Day of Mo.	Soil Batch ID#	Sample Number	Amount Volume or Weight cy/tn	Analytical Results												
				Metals								Totals		Indicate Other Analyses		
				AS	BA	CD	CR	PB	HG	SE	AG	VOA	RPH	Attach Lab Results Only		
06/26/92	111-92168	1	3.96	.124	2.42	<.05	1.6	4.86	.0116	.0448	<.05	<15.549	35.2			
06/26/92	114-92032	1	30.02	1.7	3.8	BDL	3.5	12.8	BDL	BDL	BDL	BDL	587			
06/26/92	114-92033	1	3.76	<.4	7	<.5	2.8	1.5	<.02	<1	<1	182	<5			
06/26/92	278-92011	1	13.77	BDL	5.1	BDL	5.1	41	BDL	BDL	BDL	BDL	403			
06/26/92	278-92018	1	8.77	BDL	14	BDL	1.8	24.0	BDL	BDL	BDL	3100	1104			
06/26/92	300-92001	7	259.13	.13	2.73	.78	4.4	2.58	.039	.054	<.054	<12.59	431			
06/29/92	101-92009	7	1202.34	1.64	10.36	<2.5	3.36	61.8	<.1	<.25	<.5	<51900	947			
06/29/92	106-92166	5	56.47	BDL	1.36	BDL	1.64	1.12	BDL	BDL	BDL	BDL	18.38			
06/29/92	111-92174	1	1.46	BDL	47	BDL	3.8	2.4	BDL	BDL	4.2	0.21	50.5			
06/29/92	111-92175	1	2.04	.452	3.39	<.005	5.86	12.4	.00736	.0278	<.05	<10.88	44.9			
06/29/92	134-92009	1	15.46	BDL	2.3	BDL	3.0	22	BDL	BDL	BDL	BDL	611			
06/29/92	278-92021	1	36.89	.17	11	.19	.28	.13	<.01	.04	<.5	BDL	24			
06/29/92	278-92022	1	20.56	BDL	3.6	BDL	BDL	BDL	BDL	BDL	BDL	BDL	122			
06/29/92	278-92023	1	30.81	BDL	5.9	BDL	6.7	51	BDL	BDL	BDL	BDL	1780			
06/29/92	299-92001	1	15.92	<1.0	4.7	<5	4.8	1.7	<.03	<20	<1	BDL	110			
06/30/92	101-92009	7	1506.21	1.64	10.36	<2.5	3.36	61.8	<.1	<.25	<.5	<51900	947			
06/30/92	111-92166	1	2.33	.123	82.01	1.29	17.8	25.4	.0166	.0425	1.56	<9	1582			
06/30/92	111-92167	1	112.49	1.3	45.5	BDL	11.4	25.1	BDL	BDL	4.6	1500	635			
06/30/92	111-92169	1	18.77	BDL	11.9	BDL	3.70	56.6	BDL	BDL	BDL	BDL	6550			
06/30/92	111-92170	1	127.48	BDL	6.9	BDL	4.10	16	BDL	BDL	BDL	300	98			
06/30/92	111-92171	1	53.61	BDL	15.2	BDL	3.0	20.3	BDL	BDL	1.2	.79	608			
06/30/92	111-92172	1	1.40	.124	5.55	.0919	1.15	8.37	.158	.0279	<.05	<21.85	39.2			
06/30/92	111-92173	1	0.53	.255	170	<.05	11.9	7.9	.0311	.0757	<.05	<10.08	169			
06/30/92	265-92003	1	0.32	<1.4	27.9	.78	60.6	28.6	.00536	36	<.001	<194160	2200			
06/30/92	265-92004	1	4.27	.267	<.1	.294	2.48	3.78	.00397	.0553	<.01	<865.9	61.1			
06/30/92	265-92005	1	1.29	<.008	.114	<.001	.00258	.007	<.0002	<.01	.0782	27141	5.6			
06/30/92	278-92019	1	6.08	.099	7.0	2.0	1.6	3.5	<.01	<.02	1.3	BDL	218			

775.900(2)

Florida Department of Environmental Regulation
Soil Thermal Treatment Facility
Untreated Soil Reporting Form

Name of Facility: RINKER MATERIALS CORP.
Air Permit No.: A013-172154
Soil Treatment Permit No.: SW-01117-91
Stationary XXX or Mobile Facility: _____

Month: JULY Year: 1992

1	2	3	4	5								6	7	8		
Day of Mo.	Soil Batch ID#	Sample Number	Amount Volume or Weight cy/tn	Analytical Results												
				Metals								Totals		Indicate Other Analyses Attach Lab Results Only		
				AS	BA	CD	CR	PB	HG	SE	AG	VOA	RPH			
06/22/92	106-92152	1	13.94	<1	2.5	<.5	3.4	1.8	<.03	<1	<1	489.2	34			
06/22/92	106-92153	3	70.90	<.4	<13.77	<.8	<4	<4	<.001	<.4	<1.6	3128	1558.3			
06/22/92	106-92166	5	52.29	BDL	1.36	BDL	1.64	1.12	BDL	BDL	BDL	BDL	18.38			
06/22/92	111-92165	1	35.82	.451	4.19	.0661	4.43	5.91	.00659	.0318	<.05	9	50.2			
06/22/92	111-92179	3	7.49	14.41	1.667	.58	2.66	16.67	.037	13.99	.26	<8	41.2			
06/22/92	143-92009	1	83.69	BDL	BDL	BDL	5.20	13.2	BDL	BDL	BDL	BDL	260			
06/22/92	293-92004	5	17.96	<.4	4.2	<.5	.74	.5	<.02	<1	<1	BDL	141.6			
06/22/92	297-92001	1	2.82	2.2	7.3	BDL	4.3	53.4	BDL	BDL	BDL	BDL	1300			
06/23/92	106-92153	3	34.06	<.4	<13.77	<.8	<4	<4	<.001	<.4	<1.6	3128	1558.3			
06/23/92	112-92001	1	23.33	3.4	32	<.5	11	23	.00025	<5.0	<2.0	BDL	244			
06/23/92	300-92001	7	131.52	.13	2.73	.78	4.4	2.58	.039	.054	<.054	<12.59	431			
06/24/92	101-92008	1	123.82	4.4	1.0	<0.001	14	1.8	<0.1	1.3	<2.5	<1	540			
06/24/92	106-92151	1	28.02	1.0	16	3.3	34	27.4	.72	<1	<1	BDL	370			
06/24/92	114-92034	1	1.62	BDL	3.1	BDL	3.0	1.5	BDL	BDL	BDL	BDL	32.1			
06/24/92	278-92026	3	173.20	<1	1.4	<.5	1.73	6.4	.049	<1	<1	1454	62.3			
06/24/92	300-92001	7	205.67	.13	2.73	.78	4.4	2.58	.039	.054	<.054	<12.59	431			
06/25/92	106-92150	1	99.16	0.74	13.6	<0.800	<4.0	14.8	0.10	<0.40	<1.60	BDL	2480			
06/25/92	111-92176	1	2.25	.18	4.02	<.05	3.74	21.4	<.001	.0486	<.05	<9	74			
06/25/92	111-92177	1	2.38	.111	1.57	<.05	1.77	<.02	.00187	.006	<.05	10.37	15			
06/25/92	111-92178	3	158.73	BDL	37.6	BDL	3.13	65.9	BDL	BDL	2.16	BDL	3190			
06/25/92	114-92035	1	15.42	6.9	32	<.5	2.4	21	.03	<1	<1	<34.5	<5			
06/25/92	165-92002	1	98.95	1.2	6.3	BDL	3.4	7.8	BDL	BDL	BDL	BDL	1905			
06/25/92	240-92008	1	90.37	1.74	31.09	.08	4.05	10.25	.01	4.35	<.01	658	2900			
06/25/92	278-92024	1	5.72	1.6	20	BDL	7.63	35	BDL	BDL	1.8	33500	9280			
06/25/92	296-92001	1	65.79	1.05	.25	<.02	15.6	.3	<.05	2.44	.21	BDL	1			
06/25/92	298-92001	1	45.45	BDL	11.8	BDL	BDL	BDL	BDL	BDL	BDL	3.2	425.0			
06/25/92	300-92001	7	265.71	.13	2.73	.78	4.4	2.58	.039	.054	<.054	<12.59	431			

775.900(2)

Florida Department of Environmental Regulation
Soil Thermal Treatment Facility
Untreated Soil Reporting Form

Name of Facility: RINKER MATERIALS CORP.
Air Permit No.: A013-172154
Soil Treatment Permit No.: SW-01117-91
Stationary XXX or Mobile Facility: _____

Month: JUNE Year: 1992

1	2	3	4	5								6	7	8		
Day of Mo.	Soil Batch ID#	Sample Number	Amount Volume or Weight cy/tn	Analytical Results												
				Metals								Totals		Indicate Other Analyses Attach Lab Results Only		
				AS	BA	CD	CR	PB	HG	SE	AG	VOA	RPH			
06/17/92	293-92004	5	295.70	<.4	4.2	<.5	.74	.5	<.02	<1	<1	BDL	141.6			
06/18/92	106-92148	5	63.70	BDL	1.36	BDL	1.64	1.12	BDL	BDL	BDL	BDL	18.38			
06/18/92	106-92149	1	8.10	<0.40	42.4	<0.80	<4.0	<4.0	<0.050	<0.40	<1.6	BDL	536			
06/18/92	111-92163	1	194.16	7	5.19	<.05	4.5	21.9	.0186	.225	<.05	332.6	9570			
06/18/92	160-92005	6	666.84	<1	2.88	<.5	4.02	4.75	<.02	<1	<1	250267	605			
06/18/92	264-92004	1	17.27	BDL	2.5	BDL	1.3	1.4	BDL	BDL	BDL	BDL	2790			
06/18/92	293-92004	5	214.64	<.4	4.2	<.5	.74	.5	<.02	<1	<1	BDL	141.6			
06/18/92	295-92001	1	50.77	.8	82	<.5	10.40	8.60	<.1	<.1	<.5	40	1705			
06/19/92	106-92148	5	12.64	BDL	1.36	BDL	1.64	1.12	BDL	BDL	BDL	BDL	18.38			
06/19/92	111-92163	1	35.67	7	5.19	<.05	4.5	21.9	.0186	.225	<.05	332.6	9570			
06/19/92	111-92164	1	150.80	.451	4.19	.0661	4.43	5.91	.00659	.0318	<.05	<9	50.2			
06/19/92	143-92008	1	38.44	BDL	BDL	BDL	5.20	13.2	BDL	BDL	BDL	BDL	260			
06/19/92	160-92005	6	59.51	<1	2.88	<.5	4.02	4.75	<.02	<1	<1	250267	605			
06/19/92	250-92006	3	38.84	<.4	8.75	<.062	3.97	24.13	.0042	.033	<.05	220.35	564			
06/19/92	278-92010	1	145.42	<1	1.9	<.5	1.7	2.85	.058	<1	<1	<4985	<5			
06/19/92	293-92004	5	469.29	<.4	4.2	<.5	.74	.5	<.02	<1	<1	BDL	141.6			
06/19/92	295-92002	1	13.68	.3	<4.5	<.1	3.8	6.2	<.1	<.1	<.4	660	2620			

775.900(2)

Florida Department of Environmental Regulation
Soil Thermal Treatment Facility
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Air Permit No.: A013-172154
Soil Treatment Permit No.: SW-01117-91
Stationary XXX or Mobile Facility: _____

Month: JUNE Year: 1992

1	2	3	4	5								6	7	8		
Day of Mo.	Soil Batch ID#	Sample Number	Amount Volume or Weight cy/tn	Analytical Results												
				Metals								Totals		Indicate Other Analyses Attach Lab Results Only		
				AS	BA	CD	CR	PB	HG	SE	AG	VOA	RPH			
06/09/92	239-92002	3	29.52	BDL	1	BDL	2.67	2	BDL	BDL	BDL	91543	746.7			
06/09/92	293-92002	1	188.51	<.4	<2	<.5	.9	7.1	<.02	<1	<1	BDL	291			
06/10/92	106-92148	5	58.95	BDL	1.36	BDL	1.64	1.12	BDL	BDL	BDL	BDL	18.38			
06/10/92	239-92002	3	114.28	BDL	1	BDL	2.67	2	BDL	BDL	BDL	91543	746.7			
06/10/92	278-92007	1	36.39	1.1	8.7	<.5	8.0	25	<.03	<1	<1	<5.6	87			
06/10/92	293-92001	1	125.57	<1	8.8	<.5	4.4	.67	<.03	<1	<1	BDL	2500			
06/10/92	293-92002	1	109.10	<.4	<2	<.5	.9	7.1	<.02	<1	<1	BDL	291			
06/11/92	106-92148	5	42.65	BDL	1.36	BDL	1.64	1.12	BDL	BDL	BDL	BDL	18.38			
06/11/92	114-92031	1	0.74	5.0	12.0	BDL	3.6	8.5	BDL	BDL	BDL	10700	13400			
06/11/92	239-92002	3	19.58	BDL	1	BDL	2.67	2	BDL	BDL	BDL	91543	746.7			
06/12/92	101-92007	1	54.14	1.8	<5	<.05	<5	3.7	<.1	<.5	<5	<13	850			
06/12/92	103-92011	1	80.88	<.4	13	<.5	8	14	<.02	<1	<1	<19.5	<5			
06/12/92	239-92002	3	355.42	BDL	1	BDL	2.67	2	BDL	BDL	BDL	91543	746.7			
06/15/92	111-92161	1	5.60	BDL	4.5	BDL	5.4	2.9	0.124	BDL	BDL	BDL	27			
06/15/92	111-92162	1	0.72	<0.4	4.27	<0.05	3.12	2.37	.00505	9.49	<0.05	<9	43.2			
06/15/92	143-92007	1	42.14	BDL	BDL	BDL	4.8	4.6	BDL	BDL	BDL	BDL	1750			
06/15/92	220-92002	1	43.14	BDL	12.0	BDL	BDL	6.2	BDL	BDL	BDL	BDL	5830.0			
06/15/92	239-92002	3	647.60	BDL	1	BDL	2.67	2	BDL	BDL	BDL	91543	746.7			
06/16/92	160-92005	6	491.42	<1	2.88	<.5	4.02	4.75	<.02	<1	<1	250267	605			
06/16/92	187-92020	1	7.04	BDL	4.0	BDL	2.4	1.9	BDL	BDL	BDL	BDL	12			
06/16/92	239-92002	3	148.99	BDL	1	BDL	2.67	2	BDL	BDL	BDL	91543	746.7			
06/16/92	293-92003	5	73.54	<.8	19.8	<.5	8.36	2.27	<.02	<1	<1	BDL	2070.4			
06/16/92	293-92004	5	26.69	<.4	4.2	<.5	.74	.5	<.02	<1	<1	BDL	141.6			
06/17/92	106-92148	5	49.93	BDL	1.36	BDL	1.64	1.12	BDL	BDL	BDL	BDL	18.38			
06/17/92	160-92005	6	682.38	<1	2.88	<.5	4.02	4.75	<.02	<1	<1	250267	605			
06/17/92	278-92090	1	10.47	1.7	16	.63	9.2	14	.025	<.02	<.5	<130	<10			
06/17/92	293-92003	5	218.46	<.8	19.8	<.5	8.36	2.27	<.02	<1	<1	BDL	2070.4			

Florida Department of Environmental Regulation
Soil Thermal Treatment Facility
Untreated Soil Reporting Form

Name of Facility: RINKER MATERIALS CORP.
Air Permit No.: A013-172154
Soil Treatment Permit No.: SW-01117-91
Stationary XXX or Mobile Facility: _____

Month: JUNE Year: 1992

1	2	3	4	5								6	7	8		
Day of Mo.	Soil Batch ID#	Sample Number	Amount Volume or Weight cy/tn	Analytical Results												
				Metals								Totals		Indicate Other Analyses		
				AS	BA	CD	CR	PB	HG	SE	AG	VOA	RPH	Attach Lab Results Only		
05/26/92	250-92005	3	25.64	<.4	8.75	<.062	3.97	24.13	.0042	.033	<.05	220.35	564			
05/27/92	106-92147	1	9.61	2.2	269	<.8	28.0	<4.0	<.05	<.4	2.7	2310	36264			
05/27/92	290-92001	1	133.10	1.6	108.8	1.5	7.2	60.0	.061	<.4	<1.6	BDL	1280			
05/27/92	292-92001	1	110.33	BDL	71.2	BDL	BDL	17.2	BDL	BDL	BDL	21	1175			
05/28/92	278-92008	3	24.76	<1.1	8.17	<.5	4.67	<9.33	<.04	<10	<1	BDL	<47.5			
05/29/92	294-92001	1	3.18	BDL	5.9	BDL	2.6	2.0	BDL	BDL	BDL	BDL	63			
06/01/92	111-92160	1	23.29	<1	8.2	<1	<50	3.5	<.03	<4	<2	BDL	230			
06/01/92	278-92006	3	79.34	<1.0	18.5	<.5	8.7	7.8	<.16	<10	<1.03	1333	<251			
06/01/92	291-92001	5	625.67	<1	3.72	<.5	4.16	16.72	<.03	<1	<1	<4925	33.68			
06/01/92	291-92002	5	0.30	<1	3.72	<.5	4.16	16.72	<.03	<1	<1	<4925	33.68			
06/02/92	278-92006	3	140.72	<1.0	18.5	<.5	8.7	7.8	<.16	<10	<1.03	1333	<251			
06/02/92	291-92001	5	368.72	<1	3.72	<.5	4.16	16.72	<.03	<1	<1	<4925	33.68			
06/02/92	291-92002	5	24.21	<1	3.72	<.5	4.16	16.72	<.03	<1	<1	<4925	33.68			
06/03/92	278-92006	3	51.21	<1.0	18.5	<.5	8.7	7.8	<.16	<10	<1.03	1333	<251			
06/03/92	289-92001	1	11.39	BDL	BDL	BDL	BDL	1.3	BDL	BDL	BDL	BDL	19.8			
06/04/92	281-92003	1	200.44	BDL	BDL	BDL	BDL	BDL	BDL	BDL	BDL	BDL	12.4			
06/05/92	106-92148	5	71.74	BDL	1.36	BDL	1.64	1.12	BDL	BDL	BDL	BDL	18.38			
06/05/92	239-92002	3	19.06	BDL	1	BDL	2.67	2	BDL	BDL	BDL	91543	746.7			
06/05/92	281-92003	1	25.65	BDL	BDL	BDL	BDL	BDL	BDL	BDL	BDL	BDL	12.4			
06/08/92	106-92148	5	69.78	BDL	1.36	BDL	1.64	1.12	BDL	BDL	BDL	BDL	18.38			
06/08/92	114-92030	1	106.44	1.3	2.7	BDL	2.4	16.0	BDL	BDL	BDL	BDL	33.6			
06/08/92	187-92021	1	0.52	<.4	76.4	<.8	6.0	<4	<.05	<.4	<1.6	BDL	<5			
06/08/92	187-92022	1	6.69	.61	110	<.8	11.9	12.8	<.05	<.4	1.9	30503	157			
06/08/92	187-92023	1	1.02	2.0	7.17	<.001	4.21	7.43	.0182	.0527	<.001	<9	199			
06/08/92	187-92024	1	2.52	<.4	9.12	<.05	2.84	2.48	<.001	<.5	<.05	713.1	1040			
06/09/92	104-92003	1	3.59	3.9	6.2	1.2	15	5.7	BDL	BDL	1.6	1540	32800			
06/09/92	106-92148	5	48.37	BDL	1.36	BDL	1.64	1.12	BDL	BDL	BDL	BDL	18.38			

775.900(2)

Florida Department of Environmental Regulation
Soil Thermal Treatment Facility
Untreated Soil Reporting Form

Name of Facility: RINKER MATERIALS CORP.
Air Permit No.: A013-172154
Soil Treatment Permit No.: SW-01117-91
Stationary XXX or Mobile Facility: _____

Month: MAY Year: 1992

1	2	3	4	5								6	7	8		
Day of Mo.	Soil Batch ID#	Sample Number	Amount Volume or Weight cy/tn	Analytical Results												
				Metals								Totals		Indicate Other Analyses Attach Lab Results Only		
				AS	BA	CD	CR	PB	HG	SE	AG	VOA	RPH			
05/13/92	230-92003	5	19.24	BDL	4.6	BDL	3.6	25.4	BDL	BDL	BDL	23268.2	291.6			
05/13/92	278-92005	3	97.38	<1.1	8.17	<.5	4.67	<9.33	<.04	<10	<1	BDL	<47.5			
05/14/92	106-92142	1	1.65	1.0	<12.0	<.8	6.9	<4.0	<.05	<.4	<1.6	583	15			
05/14/92	106-92143	1	1.57	<1	1.8	<.5	<.01	9.2	<.03	<1	<1	43200	14000			
05/14/92	106-92144	1	1.13	<2.8	86	<1.4	22	7.5	<.14	<1.4	<2.8	BDL	115			
05/14/92	106-92145	1	1.14	1.2	3.6	<.5	2.3	3.9	<.03	<1	<1	950	14			
05/14/92	106-92146	1	1.56	BDL	3.2	BDL	1.7	1.9	BDL	BDL	BDL	1780	6			
05/14/92	111-92154	1	70.85	<.4	5.15	33.3	5.31	21.1	<.001	<.5	<.05	92700	390			
05/14/92	111-92156	1	0.60	.116	2.77	1.76	3.49	45.3	.00509	.0256	.593	<9	69.8			
05/14/92	111-92157	1	1.43	.186	<.1	2.92	7.3	47.1	.00195	.0384	4.85	<9	14.7			
05/14/92	111-92158	1	0.60	.156	2.57	2.25	3.88	32.1	.0206	.0211	2.07	<9	111.0			
05/14/92	134-92008	1	98.01	BDL	373	BDL	4.0	10.3	BDL	BDL	5.4	780	3543			
05/14/92	240-92007	1	18.91	<.4	4.07	23.5	4.85	25.6	.0189	<.5	<.05	<9	303			
05/14/92	250-92004	3	67.48	<.4	8.75	<.062	3.97	24.13	.0042	.033	<.05	220.35	564			
05/14/92	287-92001	1	24.56	.44	4.2	.015	2.7	13	<.01	<.02	.57	<130	<10			
05/15/92	250-92004	3	70.37	<.4	8.75	<.062	3.97	24.13	.0042	.033	<.05	220.35	564			
05/15/92	253-92007	1	35.97	<.4	5.12	4.32	5.25	23.8	.012	<.5	<.05	<9	386			
05/15/92	288-92001	1	14.61	BDL	BDL	BDL	2	11	BDL	BDL	BDL	BDL	98			
05/18/92	114-92028	1	2.55	<.4	3	<.5	2.1	1.8	.02	<1	<1	BDL	118.1			
05/18/92	250-92004	3	47.79	<.4	8.75	<.062	3.97	24.13	.0042	.033	<.05	220.35	564			
05/18/92	256-92008	1	11.73	BDL	8.2	BDL	2.4	10.7	BDL	BDL	BDL	BDL	280			
05/20/92	250-92004	3	47.60	<.4	8.75	<.062	3.97	24.13	.0042	.033	<.05	220.35	564			
05/21/92	103-92010	1	3.03	<.4	5	<.5	3.7	3.9	<.02	<1	<1	169	<5			
05/21/92	111-92159	1	31.81	<.4	3.1	<.05	3.08	10.01	.0169	<.5	<.05	<9	77.7			
05/22/92	114-92029	1	15.11	BDL	2.7	BDL	3.2	2.3	BDL	BDL	BDL	BDL	35			

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Florida Department of Environmental Regulation
Soil Thermal Treatment Facility
Untreated Soil Reporting Form

Name of Facility: RINKER MATERIALS CORP.
Air Permit No.: A013-172154
Soil Treatment Permit No.: SW-01117-91
Stationary XXX or Mobile Facility: _____

Month: MAY Year: 1992

1	2	3	4	5								6	7	8		
Day of Mo.	Soil Batch ID#	Sample Number	Amount Volume or Weight cy/tn	Analytical Results												
				Metals								Totals		Indicate Other Analyses Attach Lab Results Only		
				AS	BA	CD	CR	PB	HG	SE	AG	VOA	RPH			
05/06/92	230-92003	5	152.95	BDL	4.6	BDL	3.6	25.4	BDL	BDL	BDL	23268.2	291.6			
05/06/92	286-92001	1	3.50	BDL	BDL	.26	.99	1.5	.04	.68	.62	3400	17			
05/07/92	111-92149	1	62.53	<.4	6.2	7.62	5.41	23.8	.0181	<.5	<.05	<9	237			
05/07/92	230-92003	5	304.98	BDL	4.6	BDL	3.6	25.4	BDL	BDL	BDL	23268.2	291.6			
05/07/92	250-92004	3	111.02	<.4	8.75	<.062	3.97	24.13	.0042	.033	<.05	220.35	564			
05/08/92	111-92150	1	34.01	<.4	6.59	35	5.6	13.2	.012	<.5	<.05	7801.5	217			
05/08/92	134-92007	1	106.04	BDL	373	BDL	4.0	10.3	BDL	BDL	5.4	780	3543			
05/08/92	209-92004	1	2.33	BDL	1.6	BDL	2.9	2.6	BDL		BDL	BDL	226			
05/08/92	230-92003	5	186.97	BDL	4.6	BDL	3.6	25.4	BDL	BDL	BDL	23268.2	291.6			
05/08/92	250-92004	3	232.27	<.4	8.75	<.062	3.97	24.13	.0042	.033	<.05	220.35	564			
05/08/92	284-92001	1	12.74	BDL	9.2	BDL	2.8	2.0	BDL	BDL	BDL	BDL	1500			
05/11/92	230-92003	5	160.24	BDL	4.6	BDL	3.6	25.4	BDL	BDL	BDL	23268.2	291.6			
05/11/92	250-92004	3	231.91	<.4	8.75	<.062	3.97	24.13	.0042	.033	<.05	220.35	564			
05/11/92	285-92001	1	20.26	BDL	145	BDL	4.8	4.6	BDL	BDL	BDL	1100	2600			
05/12/92	106-92135	1	0.40	1.1	BDL	BDL	1.9	5.4	BDL	BDL	BDL	1239	BDL			
05/12/92	106-92136	1	0.24	.9	10	BDL	3.8	38	BDL	BDL	BDL	BDL	100000			
05/12/92	106-92137	1	0.22	.71	12.9	<.8	7.0	<4.0	<.05	<.4	<1.6	BDL	39			
05/12/92	106-92138	1	7.35	BDL	2.8	BDL	2.2	2.2	BDL	BDL	BDL	28485	BDL			
05/12/92	106-92139	1	2.32	<.4	7	<.5	1.3	4.0	<.02	<1.0	<1	BDL	31.1			
05/12/92	106-92140	1	1.47	<.4	<12.0	<.8	<4.0	<4.0	<.05	<.4	<1.6	75	82			
05/12/92	106-92141	1	4.51	BDL	25.7	BDL	9.3	2.1	BDL	BDL	BDL	BDL	11			
05/12/92	230-92003	5	228.84	BDL	4.6	BDL	3.6	25.4	BDL	BDL	BDL	23268.2	291.6			
05/12/92	250-92004	3	20.66	<.4	8.75	<.062	3.97	24.13	.0042	.033	<.05	220.35 *	564			
05/13/92	111-92151	1	1.28	.398	2.44	<.001	7.67	5.04	.0145	.0252	<.001	419.16	31.6			
05/13/92	111-92152	1	0.12	<.4	3.93	<.05	2.34	4.38	.0147	.0452	<.05	BDL	270			
05/13/92	111-92153	1	1.63	.0577	5.03	.384	1.65	5.51	<.001	.00805	.0148	<45 *	33			
05/13/92	111-92155	1	37.03	.289	52	5.96	10.5	42.1	.00939	.0118	4.35	429 *	130			

* See 8/20/92 Rinker ltr 20pp

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Florida Department .. Environmental Regulation
Soil Thermal Treatment Facility
Untreated Soil Reporting Form

Name of Facility: RINKER MATERIALS CORP.
Air Permit No.: A013-172154
Soil Treatment Permit No.: SW-01117-91
Stationary XXX or Mobile Facility: _____

Month: MAY Year: 1992

1	2	3	4	5								6	7	8		
Day of Mo.	Soil Batch ID#	Sample Number	Amount Volume or Weight cy/tn	Analytical Results												
				Metals								Totals		Indicate Other Analyses		
				AS	BA	CD	CR	PB	HG	SE	AG	VOA	RPH	Attach Lab Results Only		
04/27/92	114-92025	1	19.66	BDL	22.5	BDL	5.3	3.3	BDL	BDL	BDL	BDL	46			
04/27/92	114-92026	3	453.03	BDL	3.83	BDL	3.1	3.77	BDL	BDL	BDL	BDL	8137.8			
04/27/92	263-92003	5	805.89	<.4	4.31	<.05	8.37	10.06	.0575	<.5	<.05	<4097.3	386			
04/27/92	278-92004	1	19.84	1.4	<5.0	<.5	7.60	<.1	68	.30	2.0	BDL	1664	See atch lab results (transposed)		
04/27/92	281-92002	11	55.79	1.03	5.62	.07	4.18	4.09	<.035	<.03	<.02	BDL	10.55			
04/28/92	106-92133	1	28.23	.383	34.6	3.46	5.83	25.2	.338	.0463	.642	<8	120			
04/28/92	114-92027	1	31.93	BDL	1.5	BDL	BDL	BDL	BDL	BDL	BDL	BDL	17500			
04/28/92	250-92003	3	118.45	<.4	<.65	<.05	2.79	14.6	<.059	<.5	<.05	<9	137.6			
04/28/92	263-92003	5	376.16	<.4	4.31	<.05	8.37	10.06	.0575	<.5	<.05	<4097.3	386			
04/28/92	278-92004	1	7.10	1.4	<5.0	<.5	7.60	<.1	68	.30	2.0	BDL	1664	See atch lab results (transposed)		
04/28/92	281-92002	11	42.19	1.03	5.62	.07	4.18	4.09	<.035	<.03	<.02	BDL	10.55			
04/28/92	283-92001	1	32.51	BDL	BDL	BDL	BDL	BDL	BDL	BDL	BDL	BDL	790			
04/29/92	101-92006	3	109.53	1.39	2	BDL	BDL	25.2	BDL	BDL	BDL	BDL	65			
04/29/92	106-92133	1	41.79	.383	34.6	3.46	5.83	25.2	.338	.0463	.642	<8	120			
04/29/92	111-92140	1	43.74	<.4	4.94	.211	3.55	2.18	<.001	<.5	<.05	<9	94.6			
04/29/92	111-92144	1	0.26	.82	19	1.2	5.37	74.5	.926	.0865	.575	<382.91	231			
04/29/92	111-92145	1	1.70	.154	<.1	.689	5.11	14.6	<.001	.0316	3.16	<8	766			
04/29/92	240-92006	1	35.44	<.4	10.8	5.07	4.27	1.67	.00429	<.5	<.05	2145	262			
04/29/92	281-92002	11	72.87	1.03	5.62	.07	4.18	4.09	<.035	<.03	<.02	BDL	10.55			
04/30/92	111-92141	1	2.28	.0809	5.94	.568	1.37	5.68	.00593	.0912	.258	<6.85	3.05			
04/30/92	111-92143	1	1.28	1.86	22	1.9	3.6	6.0	BDL	BDL	3.5	3170	39.5			
04/30/92	111-92146	1	0.69	.182	4.8	.924	5.81	22	.0138	.0399	1.26	270046	409			
04/30/92	111-92147	1	0.34	1.59	17.4	1.21	6.61	42.1	.00876	.088	2.14	<9	266			
05/01/92	111-92141	1	1.10	.0809	5.94	.568	1.37	5.68	.00593	.0912	.258	<6.85	3.05			
05/01/92	282-92001	1	11.94	BDL	3.7	BDL	4.4	6.7	.1	BDL	1.2	BDL	44.4			
05/06/92	106-92134	1	55.06	<.4	6.72	<.05	4.6	.71	<.001	<.5	<.05	<10.6	181			
05/06/92	111-92148	1	1.15	.0578	<.01	1.78	129	81.9	.0117	.14	2.97	BDL	21.9			

775.900(2)

* See 8/20/92 Rinka ltr

Florida Department of Environmental Regulation
Soil Thermal Treatment Facility
Untreated Soil Reporting Form

Name of Facility: RINKER MATERIALS CORP.
Air Permit No.: A013-172154
Soil Treatment Permit No.: SW-01117-91
Stationary XXX or Mobile Facility: _____

Month: April Year: 1992

1	2	3	4	5								6	7	8
Day of Mo.	Soil Batch ID#	Sample Number	Amount Volume or Weight cy/tn	Analytical Results										
				Metals								Totals		SOURCE
				AS	BA	CD	CR	PB	HG	SE	AG	VOA	RPH	
04/22/92	143-92006	2	155.34	.6	3.55	BDL	5.5	7.95	BDL	BDL	1.25	BDL	413.5	SOUTHERN AIR TRANSPORT
04/22/92	194-92006	1	33.34	1.5	BDL	BDL	BDL	1.1	BDL	.75	BDL	6700	.038	MIAMI SHORES POLICE-10050
04/22/92	243-92004	3	70.23	4.23	9.1	.17	11.83	66.1	BDL	BDL	BDL	288	19967	COASTAL - PORT EVERGLADES
04/22/92	281-92001	11	112.97	1.03	5.62	.07	4.18	4.09	<.035	<.03	<.02	BDL	10.55	FIVE ASH SOILS
04/23/92	102-92012	2	4.13	BDL	14	BDL	5.15	.5 5	BDL	BDL	.7	2700	28.6	DADE COUNTY SCHOOL
04/23/92	111-92138	1	0.55	<.1	4.6	<.5	8.5	3.0	<.03	<2	<1	<146	3900	BUCHANAN FIRE STATION
04/23/92	111-92139	1	2.20	2.8	8.6	<.5	<50	8.2	<.03	<3.8	<1	BDL	29	BROWARD COUNTY AIRPORT
04/23/92	243-92004	3	72.07	4.23	9.1	.17	11.83	66.1	BDL	BDL	BDL	288	19967	COASTAL - PORT EVERGLADES
04/24/92	102-92012	2	9.23	BDL	14	BDL	5.15	.5 5	BDL	BDL	.7	2700	28.6	DADE COUNTY SCHOOL
04/24/92	103-92009	1	56.95	<.4	29	<.5	11	28	<.02	<1	<1	BDL	<5	SFWMD - INDIAN
04/24/92	203-92004	1	20.46	<1	3.8	<.5	7.4	.82	<.03	<1	<1	BDL	24	GOODYEAR #2-13872 N. KEND
04/24/92	206-92002	2	88.12	.002	.089	.001	.006	5.1	<.001	<.001	.009	145	450	SOUTHERN BELL-S.W. 100TH
04/24/92	243-92004	3	28.59	4.23	9.1	.17	11.83	66.1	BDL	BDL	BDL	288	19967	COASTAL - PORT EVERGLADES
04/24/92	283-92002	5	228.18	<.4	4.31	<.05	8.37	10.06	.0573	<.5	<.05	<4097.3	386	SHELL-9310 S.W. 56TH
04/24/92	278-92002	1	6.64	.94	9.6	.014	3.6	4.1	<.01	.0052	<.5	BDL	59	PALM BCH WATER-PINE HERST
04/24/92	278-92003	1	6.64	.81	8.4	.0023	3.6	2.7	<.01	<.02	<.5	BDL	<10	PALM BCH WATER-FORST HILL
04/24/92	281-92001	11	17.30	1.03	5.62	.07	4.18	4.09	<.035	<.03	<.02	BDL	10.55	FIVE ASH SOILS

775.900(2)

Florida Department of Environmental Regulation
Soil Thermal Treatment Facility
Untreated Soil Reporting Form

Name of Facility: RINKER MATERIALS CORP.
Air Permit No.: A013-172154
Soil Treatment Permit No.: SW-01117-91
Stationary XXX or Mobile Facility: _____

Month: April Year: 1992

1	2	3	4	5								6	7	8
Day of Mo.	Soil Batch ID#	Sample Number	Amount Volume or Weight cy/tn	Analytical Results										
				Metals								Totals		SOURCE
				AS	BA	CD	CR	PB	HG	SE	AG	VOA	RPH	
04/17/92	106-92131	3	110.32	<.4	<13.77	<.8	<4	<4	<.001	<.4	<1.6	3128	1558.3	BROWARD COUNTY WATER PLAN
04/17/92	111-92131	1	0.65	5.94	2.43	<.05	2.56	3.29	.0355	<.5	1.91	<15.75	131	HOLLYWOOD GOLF & COUNTRY
04/17/92	111-92133	1	0.28	1.05	8.25	1.06	4.21	17	.00952	.0859	1.65	<9	136	SHELL-8200 N. MIAMI AVE.
04/17/92	111-92136	1	0.81	.347	9.12	.986	20.6	28.6	.0094	.114	.263	429*	200	SHELL-1001 W. 49TH ST.
04/17/92	111-92137	1	0.58	.231	2.86	1.29	5.29	20.6	<.001	.0802	2.45	<9	553	AMOCO-1001 N.W. 7TH AVE.
04/17/92	160-92004	6	268.55	<5.53	18.45	<.53	2.78	19.55	<.056	<1	<1	86.88	34.2	2425 THOMPSON ST(DWNTN)RT
04/17/92	240-92005	1	86.87	<.4	5.89	.139	3.92	.7	.00959	<.5	<.25	652.51	250	AMOCO-945 5TH STREET
04/17/92	253-92006	1	38.70	<.4	5.81	4.23	2.98	5.55	.00154	<.5	<.05	507.5	234	AMOCO-4899 N.W. 183RD ST
04/17/92	279-92001	1	37.42	BDL	2.6	BDL	2.2	6.9	BDL	7.1	BDL	BDL	12	DEMCO
04/17/92	281-92001	11	90.87	1.03	5.62	.07	4.18	4.09	<.035	<.03	<.02	BDL	10.55	FIVE ASH SOILS
04/20/92	106-92131	3	109.08	<.4	<13.77	<.8	<4	<4	<.001	<.4	<1.6	3128	1558.3	BROWARD COUNTY WATER PLAN
04/20/92	106-92132	1	30.10	BDL	24.3	BDL	8.7	2.7	BDL	BDL	BDL	BDL	111	MOBIL-13898 S.W. 152ND ST
04/20/92	160-92004	6	180.52	<5.53	18.45	<.53	2.78	19.55	<.056	<1	<1	86.88	34.2	2425 THOMPSON ST(DWNTN)RT
04/20/92	194-92006	1	16.24	1.5	BDL	BDL	BDL	1.1	BDL	.75	BDL	6700	.038	MIAMI SHORES POLICE-10050
04/20/92	243-92004	3	45.30	4.23	9.1	.17	11.83	66.1	BDL	BDL	BDL	288	19967	COASTAL - PORT EVERGLADES
04/20/92	278-92001	1	84.85	BDL	7.7	BDL	3.1	BDL	BDL	BDL	1.4	BDL	18.6	FINA - COMMERCIAL BLVD.
04/20/92	279-92001	1	19.60	BDL	2.6	BDL	2.2	6.9	BDL	7.1	BDL	BDL	12	DEMCO
04/20/92	281-92001	11	87.82	1.03	5.62	.07	4.18	4.09	<.035	<.03	<.02	BDL	10.55	FIVE ASH SOILS
04/21/92	106-92131	3	108.17	<.4	<13.77	<.8	<4	<4	<.001	<.4	<1.6	3128	1558.3	BROWARD COUNTY WATER PLAN
04/21/92	160-92004	6	4.33	<5.53	18.45	<.53	2.78	19.55	<.056	<1	<1	86.88	34.2	2425 THOMPSON ST(DWNTN)RT
04/21/92	194-92006	1	42.49	1.5	BDL	BDL	BDL	1.1	BDL	.75	BDL	6700	.038	MIAMI SHORES POLICE-10050
04/21/92	243-92004	3	65.54	4.23	9.1	.17	11.83	66.1	BDL	BDL	BDL	288	19967	COASTAL - PORT EVERGLADES
04/21/92	278-92001	1	10.91	BDL	7.7	BDL	3.1	BDL	BDL	BDL	1.4	BDL	18.6	FINA - COMMERCIAL BLVD.
04/21/92	279-92001	1	6.78	BDL	2.6	BDL	2.2	6.9	BDL	7.1	BDL	BDL	12	DEMCO
04/21/92	281-92001	11	114.54	1.03	5.62	.07	4.18	4.09	<.035	<.03	<.02	BDL	10.55	FIVE ASH SOILS
04/22/92	106-92131	3	30.57	<.4	<13.77	<.8	<4	<4	<.001	<.4	<1.6	3128	1558.3	BROWARD COUNTY WATER PLAN
04/22/92	111-92135	1	54.44	.244	<.1	5.06	15.01	24.2	<.001	.0343	4.87	99.32	1486	SHELL SERVICE-2020 N.W. 1

*See 8/20/92 Rinker ltr

775.900(2)

Florida Department of Environmental Regulation
Soil Thermal Treatment Facility
Untreated Soil Reporting Form

Name of Facility: RINKER MATERIALS CORP.
Air Permit No.: A013-172154
Soil Treatment Permit No.: SW-01117-91
Stationary XXX or Mobile Facility: _____

Month: April Year: 1992

1	2	3	4	5								6	7	8
Day of Mo.	Soil Batch ID#	Sample Number	Amount Volume or Weight cy/tn	Analytical Results										
				Metals								Totals		SOURCE
				AS	BA	CD	CR	PB	HG	SE	AG	VOA	RPH	
04/09/92	275-92001	1	28.27	BDL	1.6	BDL	1.2	2.2	BDL	BDL	2.7	BDL	1300	LAKE WORTH FIRE-1229 DETR
04/10/92	111-92127	1	62.11	.204	14.8	3.34	25	20	.00599	.0592	2.87	<8	483	SHELL-10690 S.W. 8TH ST
04/10/92	136-92009	1	93.54	2.1	28	.92	<20	35	.18	<1	<1	52	8000	PIERCE PROPERTIES 511 SW
04/10/92	240-92004	1	53.78	.793	22.2	8.09	11.01	49.8	.00686	.013	4.15	<26.2	1310	AMOCO-875-71 STREET M
04/10/92	274-92001	1	31.52	<.005	<.1	.02	.182	2.86	<.002	<.002	<.01	<2.045	<.5	CANAM-16095 NW 57TH AVE.
04/13/92	111-92132	1	47.20	.459	<.1	3.54	8.05	18.5	<.001	.0175	3.64	116615	422	SHELL-690 N.W. 57TH AVE.
04/13/92	277-92001	4	177.82	BDL	22.7	BDL	3.7	9.4	BDL	BDL	BDL	BDL	108	MILLER IND. 16295 N.W. 13
04/14/92	106-92128	1	6.31	<1	1.7	<.5	2.5	1.1	<.03	<1	<1	BDL	370	BRWD CNTY MASS TRNST-3201
04/14/92	106-92129	1	0.28	2.8	8.6	<.5	<50	8.2	<.03	<3.8	<1.0	BDL	29	BROWARD COUNTY AIRPORT
04/14/92	106-92130	1	0.29	1.95	65.86	.14	4.59	1.9	<.01	12.85	1.3	BDL	193.3	MOBIL-20201 S. DIXIE
04/14/92	256-92005	1	1.79	BDL	2.0	BDL	BDL	BDL	BDL	BDL	BDL	BDL	635	ACME FUELING FACILITY
04/14/92	256-92006	1	17.60	BDL	6.8	BDL	2.9	2.2	BDL	BDL	BDL	BDL	2860	ACME PUMP #1
04/14/92	256-92007	1	51.04	BDL	3.2	BDL	2.0	BDL	BDL	BDL	BDL	BDL	2390	ACME PUMP #2
04/14/92	280-92001	1	12.82	.43	86.4	BDL	6.8	BDL	BDL	BDL	1.6	BDL	60	WOLLARD EQUIPMENT-6950 N.
04/15/92	106-92131	3	149.00	<.4	<13.77	<.8	<4	<4	<.001	<.4	<1.6	3128	1558.3	BROWARD COUNTY WATER PLAN
04/15/92	111-92132	1	13.18	.459	<.1	3.54	8.05	18.5	<.001	.0175	3.64	116615	422	SHELL-690 N.W. 57TH AVE.
04/15/92	160-92004	6	233.77	<5.53	18.45	<.53	2.78	19.55	<.056	<1	<1	86.88	34.2	2425 THOMPSON ST(DWNTN)RT
04/15/92	256-92006	1	47.60	BDL	6.8	BDL	2.9	2.2	BDL	BDL	BDL	BDL	2860	ACME PUMP #1
04/15/92	279-92002	1	8.74	9.89	3.2	BDL	2.03	BDL	BDL	BDL	BDL	1950	136	PRIME AUTO
04/16/92	106-92131	3	111.74	<.4	<13.77	<.8	<4	<4	<.001	<.4	<1.6	3128	1558.3	BROWARD COUNTY WATER PLAN
04/16/92	111-92134	3	213.68	<.4	7.28	<1.29	7.46	44.57	.0167	<.5	<.45	<9	230.67	1001 N. ROYAL POINCIANA
04/16/92	160-92004	6	238.67	<5.53	18.45	<.53	2.78	19.55	<.056	<1	<1	86.88	34.2	2425 THOMPSON ST(DWNTN)RT
04/16/92	187-92014	1	0.41	BDL	5.8	BDL	4.2	5.8	BDL	BDL	BDL	22.9	BDL	EXXON-301 GIRALDA - CO
04/16/92	187-92015	1	0.52	BDL	4.2	BDL	5.6	2.4	BDL	BDL	BDL	BDL	22	EXXON-450 N.W. 42ND AVE.
04/16/92	187-92016	1	0.64	BDL	6.8	BDL	.06	9.8	BDL	BDL	BDL	BDL	10	EXXON-18301 N.W. 2ND AVE.
04/16/92	187-92017	1	3.28	BDL	7.8	BDL	BDL	13	BDL	BDL	BDL	BDL	23	EXXON-2190 CORAL WAY
04/16/92	187-92018	1	3.36	1.0	5.0	BDL	3.9	38	BDL	<2.0	BDL	10	140	EXXON-13500 N.W. 7TH N

Florida Department o. ..vironmental Regulation
Soil Thermal Treatment Facility
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Soil Treatment Permit No.: SW-01117-91
Stationary XXX or Mobile Facility: _____

Month: April Year: 1992

1	2	3	4	5								6	7	8
Day of Mo.	Soil Batch ID#	Sample Number	Amount Volume or Weight cy/tn	Analytical Results										
				Metals								Totals		SOURCE
				AS	BA	CD	CR	PB	HG	SE	AG	VOA	RPH	
03/30/92	209-92003	1	2.15	1.3	71.0	BDL	3.2	1.9	BDL	BDL	1.3	10000	450	YACHT CENTER - POMPANO
03/30/92	243-92003	1	4.19	BDL	BDL	BDL	BDL	12.1	BDL	BDL	BDL	100	6040	COASTAL FUELS - PORT MANA
03/31/92	111-92128	1	33.24	<.479	3.8	.0523	3.57	38.5	.553	.0197	1.85	<8	20.6	SILVER STAR INC.
03/31/92	111-92129	1	66.70	.398	2.44	<.001	7.67	5.04	.0145	.0252	<.001	19718	31.6	SHELL-5700 S.W. 8TH
03/31/92	264-92003	1	18.11	9.1	BDL	3.7	BDL	14	BDL	2.2	BDL	BDL	180	RAFFERTYS TEXACO - ISLA M
04/01/92	111-92130	1	45.62	<.4	4.93	.592	5.21	.452	<.001	<.5	<.05	1065.6	97.01	AMOCO-6650 N.W. 7TH AVE.
04/01/92	143-92005	1	35.79	BDL	2.9	BDL	2.7	1.6	BDL	BDL	BDL	BDL	138	OAKRIDGE COUNTRY CLUB
04/02/92	223-92003	1	65.96	<1	43	<.5	100	39	.036	<1.0	7.4	<5100	16000	AD WEISS-2025 MCKINLEY
04/03/92	143-92005	1	69.08	BDL	2.9	BDL	2.7	1.6	BDL	BDL	BDL	BDL	138	OAKRIDGE COUNTRY CLUB
04/03/92	223-92003	1	38.59	<1	43	<.5	100	39	.036	<1.0	7.4	<5100	16000	AD WEISS-2025 MCKINLEY
04/03/92	242-92004	1	50.01	ND	1.5	ND	1.6	7.8	ND	ND	ND	<800	16	ABC SAW CUTTING
04/03/92	276-92001	3	484.94	BDL	9.6	2.9	6.7	3.2	BDL	BDL	2.4	<200	52.4	HIGHWAY OIL-14395 W.DIXIE
04/06/92	143-92005	1	48.19	BDL	2.9	BDL	2.7	1.6	BDL	BDL	BDL	BDL	138	OAKRIDGE COUNTRY CLUB
04/06/92	187-92010	1	0.40	BDL	6.9	BDL	12	5.4	BDL	BDL	BDL	131	56	EXXON 3501 HOLLYWOOD BLVD
04/06/92	187-92011	1	4.56	BDL	2.6	BDL	2.6	4.5	BDL	BDL	BDL	BDL	110	EXXON 4891 N FEDERAL HWAY
04/06/92	187-92012	1	1.45	6.7	22	BDL	45	50	.031	BDL	3.4	BDL	9.8	EXXON 390 NE 8th ST HOM
04/06/92	187-92013	1	2.99	12	6.2	BDL	20	3.0	BDL	BDL	5.1	15900	94	EXXON 17790 COLLINS AVE
04/06/92	276-92001	3	381.81	BDL	9.6	2.9	6.7	3.2	BDL	BDL	2.4	<200	52.4	HIGHWAY OIL-14395 W.DIXIE
04/07/92	106-92123	1	1.40	BDL	9.8	BDL	3.5	3.0	BDL	BDL	BDL	BDL	664	CARPENTER CONTRACTOR 941
04/07/92	106-92124	1	0.01	7.05	71.9	1.38	96.7	<4	<.05	<.446	1.60	152500	8773	AMOCO - 2091 W. OAKLAND P
04/07/92	106-92125	1	0.27	.66	469	<.8	5.6	5.1	<.05	<.4	4.5	BDL	40	EXXON - 2599 NW 40TH AVE.
04/07/92	106-92126	1	0.16	.71	12.9	<.8	7	<4.0	<.05	<.4	<1.6	BDL	39	SHELL - 7000 W. COMMERCIA
04/07/92	106-92127	1	6.36	4.99	17.3	<3.96	141	<19.8	<.25	<1.98	<7.9	BDL	<5	APPERSON CHEM-101 NW 13 A
04/08/92	114-92023	1	0.93	BDL	278	BDL	14	32	BDL	BDL	2.9	92000	72000	EAGLE TRANSPORT
04/08/92	114-92024	1	3.79	<1	2.8	<.5	3.0	3.0	<.03	<1	<1	<377	43	BROWARD COUNTY PARKS & RE
04/08/92	253-92005	1	22.57	<.4	5.16	4.52	9.59	34	<.001	<.5	5.77	<9	268	AMOCO-2522 N.E. 2ND AVE.
04/09/92	253-92005	1	15.90	<.4	5.16	4.52	9.59	34	<.001	<.5	5.77	<9	268	AMOCO-2522 N.E. 2ND AVE.

Florida Department of Environmental Regulation
Soil Thermal Treatment Facility
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Month: ___ Year: ___

1	2	3	4	5								6	7	8		
Day of Mo.	Soil Batch ID#	Sample Number	Amount, Volume or Weight cy/tn	Analytical Results												
				Metals								Totals		Indicate Other Analyses		
				As	Ba	Cd	Cr	Pb	Hg	Se	Ag	VOA	RPH	Attach Lab Results Only		
3/24	111-117	1	.37	2.31	36.2	3.09	7.91	32.3	<.001	.142	2.75	<8	740			
3/26	111-117	1	1.09	2.31	36.2	3.09	7.91	32.3	<.001	.142	2.75	<8	740			
3/24	111-118	1	.61	.0265	<.1	.488	1.25	15.2	.0165	.0205	.325	<8	530			
3/25	111-119	1	37.07	<.4	6	7.96	7.96	15.9	.01	<.5	<.05	<9	57.9			
3/25	106-122	1	.77	.0637	<.33	.257	4.19	8.54	<.025	<.063	<.1	<2471.	294.6			
3/26	136-08	1	7.87	1.2	6.9	<.5	9.7	1.0	<.03	<1.0	<1.0	BDL	2000			
3/26	111-120	1	.38	.532	<.1	1.71	9.98	38	.00437	.0642	2.04	<9 *	37.2			
3/26	111-121	1	.58	.732	<.1	1.89	9.27	39	.00752	.0506	2.76	<8	8.2			
3/27	253-02	1	9.52	28.1	5.06	2.82	6.52	40.7	.00782	32.6	.683	<9	<1			
3/27	253-03	1	3.45	.573	11.5	19.9	8.75	50.7	.00185	.0809	3.73	<4	180			
3/27	253-04	1	14.64	<.4	4.94	5.71	10.4	7.24	.00718	<.5	.461	<9	134			
3/27	134-05	1	7.92	BDL	8.0	BDL	2.2	17.0	BDL	BDL	BDL	BDL	8580			
3/27	111-122	1	35.33	1.19	6.06	.916	4.11	34.5	.001	.18	.19	<9	560			
3/27	111-123	1	.62	.0413	10.4	.375	1.08	2.92	.0206	.0793	.416	17.76	22			
3/27	111-124	1	3.12	.005	<.1	1.49	1.04	2.26	.002	.0308	.316	<12.06	720			
3/27	111-125	1	.31	.887	5.15	.845	3.34	27.8	<.001	.213	.59	<8	590			
3/27	134-06	1	14.21	2.7	22.0	2.7	16.0	53.0	BDL	BDL	2.1	1230	112000			
3/27	111-126	1	50.59	.237	12.2	.837	4.79	9.49	.0151	.0668	.998	<9	320			

* See 8/20/92 Rinker ltr

- 775.540(2)

See reverse side for instructions

Florida Department of Environmental Regulation
Soil Thermal Treatment Facility
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1	2	3	4	5								6	7	8		
Day of Mo.	Soil Batch ID#	Sample Number	Amount, Volume or Weight cy/tn	Analytical Results												
				Metals								Totals		Indicate Other Analyses		
				As	Ba	Cd	Cr	Pb	Hg	Se	Ag	VOA	RPH	Attach Lab Results Only		
3/18	102-11	1	4.36	BDL	7.5	1.1	3.1	BDL	BDL	BDL	BDL	640	23			
3/19	102-11	1	1.45	BDL	7.5	1.1	3.1	BDL	BDL	BDL	BDL	640	23			
3/19	203-04	1	38.86	<1	3.8	<.5	7.4	.82	<.03	<1	<1	BDL	24			
3/20	203-04	1	60.81	<1	3.8	<.5	7.4	.82	<.03	<1	<1	BDL	24			
3/19	136-06	1	151.58	1.3	5.5	<.39	1.6	15	<.03	<1	<.77	BDL	22.5			
3/19	111-112	1	61.95	.235	2.39	8.98	6.06	60.6	<.001	.0156	1.84	125.77	4844			
3/19	251-02	1	44.95	.59	4.3	.027	1.1	.32	<.01	<.2	<.5	BDL	22430			
3/19	111-113	1	30.80	.333	14.5	4.48	10.01	30.6	<.001	.117	2.71	4159.29	4563			
3/20	106-121	1	11.47	9.36	<12	<.8	14.8	54.55	.102	<.4	2.24	BDL	1326			
3/20	111-114	1	160.34	.0627	7.89	2.97	21.1	33.8	<.001	.0369	.41	20743	2373			
3/23	111-114	1	21.67	.0627	7.89	2.97	21.1	33.8	<.001	.0369	.41	20743	2373			
3/20	136-07	1	117.04	<.75	4.4	<.35	2.8	28	<.03	<.75	<.70	BDL	3.7			
3/20	273-01	1	2.84	.0677	2.65	.641	3.03	17.9	.0737	.0555	.163	4539.4	230			
3/20	111-115	7	33.10	.753	37.9	14	16.3	11.7	.00589	.199	1.95	<326.1	580			
3/23	160-03	3	197.08	6.3	6.16	<.5	<4.2	<2.63	<.042	<1	<1	<82.6	1773			
3/24	160-03	3	168.57	6.3	6.16	<.5	<4.2	<2.63	<.042	<1	<1	<82.6	1773			
3/25	160-03	3	222.32	6.3	6.16	<.5	<4.2	<2.63	<.042	<1	<1	<82.6	1773			
3/26	160-03	3	111.94	6.3	6.16	<.5	<4.2	<2.63	<.042	<1	<1	<82.6	1773			
3/24	111-116		-35	.259	438	.678	4.89	8.55	.036	.0553	.796	<9	173			

775.400(2)

See reverse side for instructions

Florida Department of Environmental Regulation
Soil Thermal Treatment Facility
Untreated Soil Report Form

Name of Facility: _____
Air Permit No.: _____
Soil Treatment Permit No.: _____
Stationary ____ or Mobile Facility: ____

Month: March Year: 92

1	2	3	4	5								6	7	8		
Day of Mo.	Soil Batch ID#	Sample Number	Amount, Volume or Weight cy/tn	Analytical Results												
				Metals								Totals		Indicate Other Analyses		
				As	Ba	Cd	Cr	Pb	Hg	Se	Ag	VOA	RPH	Attach Lab Results Only		
3/9	223-02	3	143.67	<1	43.7	<.50	120.6	20.7	<.065	<1	5.13	<721	2966.7			
3/10	223-02	3	23.30	<1	43.7	<.50	120.6	20.7	<.065	<1	5.13	<721	2966.7			
3/11	223-02	3	20.98	<1	43.7	<.50	120.6	20.7	<.065	<1	5.13	<721	2966.7			
3/13	223-02	3	40.28	<1	43.7	<.50	120.6	20.7	<.065	<1	5.13	<721	2966.7			
3/16	223-02	3	88.59	<1	43.7	<.50	120.6	20.7	<.065	<1	5.13	<721	2966.7			
3/17	223-02	3	69.33	<1	43.7	<.50	120.6	20.7	<.065	<1	5.13	<721	2966.7			

775.540(2)

See reverse side for instructions

Florida Department of Environmental Regulation
Soil Thermal Treatment Facility
Untreated Soil Report Form

Name of Facility: _____
Air Permit No.: _____
Soil Treatment Permit No.: _____
Stationary ____ or Mobile Facility: ____

Month: March Year: 92

1	2	3	4	5								6	7	8		
Day of Mo.	Soil Batch ID#	Sample Number	Amount, Volume or Weight cy/tn	Analytical Results												
				Metals								Totals		Indicate Other Analyses		
				As	Ba	Cd	Cr	Pb	Hg	Se	Ag	VOA	RPH	Attach Lab Results Only		
3/5	106-119	1	16.89	<1	8.9	<.5	<1	4.2	<.03	<1	<1	BDL	<5			
3/6	106-119	1	37.80	<1	8.9	<.5	<1	4.2	<.03	<1	<1	BDL	<5			
3/5	114-21	3	336.37	BDL	1.5	BDL	1.23	BDL	.73	BDL	2.07	122183	9460			
3/6	114-21	3	161.46	BDL	1.5	BDL	1.23	BDL	-73	BDL	2.07	122183	9460			
3/5	111-107	1	36.91	.16	11.01	1.78	11.8	21.2	<.001	.0388	1.89	57.94	463			
3/6	259-03	1	43.48	BDL	3.4	BDL	BDL	BDL	BDL	BDL	1.9	BDL	165			
3/6	111-103	1	40.35	26.7	3.63	1.69	5.29	37.9	.00249	32	.618	<8	11.6			
3/6	111-106	1	61.78	.764	<.1	5.53	11.5	61.6	<.001	.0352	4.25	<8	244			
3/9	111-105	1	45.60	.225	<.1	9.55	11.7	71.4	.0292	.242	1.73	999.9	601			
3/9	180-08	1	28.03	BDL	24.5	BDL	3.7	5.2	BDL	BDL	BDL	600	47			
3/10	190.08	1	28.87	BDL	24.5	BDL	3.7	5.2	BDL	BDL	BDL	600	47			
3/10	111-109	1	2.23	.601	6.07	1.62	9.64	46.7	.0257	.0634	.579	<9	150			
3/11	111-110	1	33.68	.213	3.85	1.85	3.22	5.85	.0108	.163	.282	<1919.9	575			
3/11	253-01	1	2.64	1.49	14.8	5.36	6.3	38.7	.00375	.0519	3.19	<8	30.4			
3/13	106-120	1	20.41	BDL	55.2	BDL	5.3	1.3	BDL	BDL	BDL	BDL	20			
3/17	203-02	1	11.42	<1	22	<.5	7	56	<.03	<1	<1	2000	2100			
3/17	203-03	1	2.86	<1	7.8	<.5	4.4	4.1	<.03	<1	<1	2000	1200			
3/17	143-04	3	244.04	BDL	5.5	BDL	5.3	59.7	.07	BDL	BDL	450	1789			
3/18	143-04	3	68.05	BDL	5.5	BDL	5.3	59.7	.07	BDL	BDL	450	1789			
3/18	111-111	1	46.46	.3	4.02	3.9	22.7	61	<.001	.0517	2.85	29*	2259			

* See 8/20/92 Rinker ltr

See reverse side for instructions

" 775.540(2)

Florida Department of Environmental Regulation
Soil Thermal Treatment Facility
Untreated Soil Report Form

Name of Facility: _____
Air Permit No.: _____
Soil Treatment Permit No.: _____
Stationary ____ or Mobile Facility: ____

Month: March Year: 92

1	2	3	4	5								6	7	8		
Day of Mo.	Soil Batch ID#	Sample Number	Amount, Volume or Weight cy/tn	Analytical Results												
				Metals								Totals		Indicate Other Analyses		
				As	Ba	Cd	Cr	Pb	Hg	Se	Ag	VOA	RPH	Attach Lab Results Only		
2/28	106-112	1	57.95	<.40	18	<.8	7.6	37.6	.12	<.4	<1.6	BDL	1490			
2/28	106-113	4	25.39	BDL	2.83	BDL	.45	.48	BDL	BDL	1.3	BDL	28.98			
3/6	106-113	4	101.67	BDL	2.83	BDL	.45	.48	BDL	BDL	1.3	BDL	28.98			
2/28	269-01	1	8.91	2.5	27	2.4	14.0	27	BDL	BDL	BDL	BDL	24400			
3/2	270-01	1	10.60	.307	9.23	3	5.4	31.9	.0515	.0358	2.91	<9	<1			
3/2	270-02	1	11.94	.457	<.1	2.02	6.25	33.5	.0382	.0463	1.97	<9	200			
3/3	102-10	1	56.65	2.7	32	1.8	6.4	14.3	BDL	BDL	2.1	BDL	23			
3/3	114-22	1	18.23	BDL	2.8	BDL	1.1	BDL	BDL	BDL	BDL	BDL	20			
3/3	111-108	1	191.49	.211	4.9	1.29	4.99	31.9	.0067	.0662	.579	<9	25.3			
3/4	187-07	1	.57	BDL	15.9	BDL	7.0	3.4	BDL	BDL	BDL	BDL	374			
3/4	187-08	1	.50	BDL	8.8	BDL	1.7	1.4	BDL	BDL	BDL	320	16			
3/4	187-09	1	2.07	BDL	26	BDL	3.6	BDL	BDL	BDL	BDL	4660	259			
3/4	272-01	3	37.68	<.79	14.9	<.8	<6.8	<4	<.061	<.598	<1.6	BDL	<37.3			
3/6	272-01	3	22.39	<.79	14.9	<.8	<6.8	<4	<.061	<.598	<1.6	BDL	<37.3			
3/4	106-114	1	1.73	1.98	117	<.8	5.2	14.4	<.05	<.4	3.32	BDL	<5			
3/4	106-115	1	1.36	<.4	78.8	<.8	<4	6	<.05	<.4	<1.6	BDL	60			
3/4	106-116		.84	<.4	56.4	<.3	<4	<4	<.05	<.4	<1.6	BDL	<5			
3/4	106-117	1	.31	2.1	2.9	<.5	4.4	.95	<.03	<10	<1.0	BDL	28			
3/4	106-118	1	3.22	.940	5.2	BDL	3.7	.19	BDL	.480	.390	BDL	6			

- 775.400(2)

See reverse side for instructions

FACSIMILE TRANSMISSION

Rinker Materials

Rinker Materials Corporation
1200 N.W. 137th Avenue
Miami, FL 33182

P.O. Box 650679
Miami, FL 33265-0679

MATERIALS SUBSTITUTION

FAX # 305-220-9875

WE ARE TRANSMITTING 6 PAGES INCLUDING COVER SHEET

TO: 1-407-433-2666 DATE: 8/6/92

ATTENTION: Lee Martin FROM: D. Mayo

Lee: Attached is analysis of Batch (278-92004) received on April 27 & April 28. From the analysis, the Mercury value (<0.1 ppm) and Lead (68ppm) were transposed in the report.

Please let me know if you have further question.

Thanks

Dave.

11/12/14 15:46

METROPOLITAN DADE COUNTY, FLORIDA

METRO-DADE CENTER

ENVIRONMENTAL RESOURCES MANAGEMENT
SUITE 1310
111 N.W. 1st STREET
MIAMI, FLORIDA 33128-1871
(305) 375-3376

April 27, 1992

J. Fett
Florida underground
5000 Oakes Road
Suite F
Ft. Lauderdale, FL 33314

RE: Disposal of twenty (20) tons of contaminated material from recent excavations at West Palm Beach Water Department, 1915 N. Haverhill Road, West Palm Beach, Florida.

Dear Mr. Fett:

Based upon the data submitted to this office on April 24, 1992, the subject material meets the F.A.C. 17-775.400(4) for metals and does not appear to be a hazardous waste according to applicable RCRA regulations. Therefore, DERM has no objection to transportation of the material to the Rinker Materials Rotary Kiln facility for beneficial reuse and recycle into the cement manufacturing process.

It should be noted that this approval is valid for sixty (60) days for the referenced materials only. The enclosed "Solid Waste Disposal Certification" form must be completed and returned to this office within ten (10) days of the materials' arrival at the facility in order to close our files on this subject.

Please contact Mike Vardeman at 221-7645 to make disposal arrangements.

Sincerely,

Lori Cunniff, Manager
Solid Waste Program
Pollution Prevention and
Control Division

PL:ml:1887

Enclosure

pc: M. Vardeman, Rinker Materials

SPECTRUM Laboratories, Inc. FORT LAUDERDALE - SAVANNAH

-CERTIFICATIONS-
EPA: #FL095
FL DRINKING WATER: #86144
FL ENVIRONMENTAL: #E86096
GA # 828
SC # 96015

CLIENT:US ENVIRONMENTAL GR.
SAMPLE:003-042392/ 922666 SS-1
DATA FILE:>42313::D4
DATE ANALYZED: 4/23/92 21:54
:LUTION FACTOR: 5.00000

EPA METHOD 8020 - PURGEABLE AROMATICS

CAS No.	PARAMETER	CONCENTRATION (ug/kg)	*MDL (ug/kg)
1-43-2	BENZENE	0.00	(1.00)
08-90-7	CHLOROBENZENE	0.00	(1.00)
5-50-1	o-DICHLOROBENZENE	0.00	(1.00)
41-73-1	m-DICHLOROBENZENE	0.00	(1.00)
06-46-7	p-DICHLOROBENZENE	0.00	(1.00)
00-41-1	ETHYLBENZENE	0.00	(1.00)
09-06-8	2-PICOLINE	0.00	(25.0)
10-86-1	PYRIDINE	0.00	(50.0)
00-42-5	STYRENE	0.00	(1.00)
08-88-3	TOLUENE	0.00	(1.00)
08-38-3	THIOPHENOL	0.00	(50.0)
330-20-7	TOTAL XYLENES	0.00	(1.00)

* ACTUAL DETECTION LIMIT = METHOD DETECTION LIMIT x DILUTION FACTOR
A Value of 0.0 = BMDL (BELOW METHOD DETECTION LIMIT)

LYLE A. JOHNSON - Chemist

Laboratories, Inc. FORT LAUDERDALE • SAVANNAH

CLIENT	US ENVIRONMENTAL
SAMPLE LOCATION	922666/SS-1
SAMPLE NUMBER	003-042392
DATE RECEIVED	04/23/92
DATE SAMPLED	04/23/92
SAMPLE TYPE	SOIL
SUBMITTER	ROSE CONIGLIO

DATE REPORTED: 04/24/92
EPA: # FL095
FL DRINKING WATER: # 86144
FL ENVIRONMENTAL: # E86006
GEORGIA: # 828
SOUTH CAROLINA: # 96015

TEST		RESULTS		
EPA 8010		NEGATIVE		
AROM VOL ORGAN	EPA 8020	NEGATIVE		
TRPH IN SOLID	EPA 9073	1664MG/KG		
TOT ORGANIC HALIDES	9020	<1.0	MG/L	
ARSENIC,T	3050/7060	1.40	MG/KG	D.W.
BARIUM,T	3050/7080	<5.0	MG/KG	D.W.
CADMIUM,T	3050/7131	<0.5	MG/KG	D.W.
CHROMIUM,T	3050/7191	7.60	MG/KG	D.W.
MERCURY,T	7471	<0.1	MG/KG	D.W.
LEAD,T	3050/7421	68.00	MG/KG	D.W.
SELENIUM,T	3050/7740	.30	MG/KG	D.W.
SILVER,T	3050/7760	2.000	MG/KG	D.W.

IF YOU HAVE ANY QUESTIONS PLEASE CONTACT ME.

LYLE A. JOHNSON
CHEMIST

Laboratories, Inc.
FORT LAUDERDALE • SAVANNAH

-CERTIFICATIONS-
EPA: #FL095
FL DRINKING WATER: #86144
FL ENVIRONMENTAL: #E86006
GA # 828
SC # 96015

CLIENT:US ENVIRONMENTAL GR.
SAMPLE:003-042392/ 922666 SS-1
DATA FILE:>42313::D4
DATE ANALYZED: 4/23/92 21:54
LUTION FACTOR: 5.00000

EPA METHOD 8010 - PURGEABLE HALOCARBONS

CAS NO.	PARAMETER	CONCENTRATION (ug/kg)	*MDL (ug/kg)
107-05-1	ALLYL CHLORIDE	0.00	(1.00)
100-44-7	BENZYL CHLORIDE	0.00	0.50
598-31-2	BROMOACETONE	0.00	1.00
108-86-1	BROMOBENZENE	0.00	0.20
75-27-4	BROMODICHLOROMETHANE	0.00	0.20
75-25-2	BROMOFORM	0.00	0.20
74-83-9	BROMOETHANE	0.00	0.20
56-23-5	CARBON TETRACHLORIDE	0.00	0.20
108-90-7	CHLOROBENZENE	0.00	0.20
75-00-3	CHLOROETHANE	0.00	0.50
110-75-8	2-CHLOROETHYLVINYLETHER	0.00	0.20
67-66-3	CHLOROFORM	0.00	0.50
74-87-3	CHLOROMETHANE	0.00	1.00
107-30-2	CHLOROMETHYLMETHYLETHER	0.00	0.20
126-99-8	CHLOROPRENE	0.00	0.20
106-43-4	4-CHLOROTOLUENE	0.00	0.20
124-48-1	DIBROMOCHLOROMETHANE	0.00	0.20
96-12-8	1,2-DIBROMO-3-CHLOROPROPANE	0.00	0.20
74-95-3	DIBROMOMETHANE	0.00	0.20
95-50-1	o-DICHLOROBENZENE	0.00	0.20
541-73-1	m-DICHLOROBENZENE	0.00	0.20
106-46-7	p-DICHLOROBENZENE	0.00	0.20
764-41-0	1,4-DICHLORO-2-BUTENE	0.00	0.25
75-71-8	DICHLORODIFLUOROMETHANE	0.00	0.20
75-34-3	1,1-DICHLOROETHANE	0.00	0.40
107-06-2	1,2-DICHLOROETHANE	0.00	0.25
75-35-4	1,1-DICHLOROETHENE	0.00	0.50
156-60-5	trans-1,2-DICHLOROETHENE	0.00	0.40
75-09-2	DICHLOROMETHANE	0.00	1.00
78-87-5	1,2-DICHLOROPROPANE	0.00	0.50
96-23-1	1,3-DICHLORO-2-PROPANOL	0.00	0.50
10061-01-5	cis,1,3-DICHLOROPROPENE	0.00	0.50
10061-02-6	trans,1,3-DICHLOROPROPENE	0.00	0.10
106-89-8	EPICHLORHYDRIN	0.00	1.00
106-93-4	ETHYLENE DIBROMIDE	0.00	0.20
74-88-4	METHYL IODIDE	0.00	0.20
79-34-5	1,1,2,2-TETRACHLOROETHANE	0.00	0.14
630-20-6	1,1,1,2-TETRACHLOROETHANE	0.00	0.30
127-18-4	TETRACHLOROETHENE	0.00	0.30
71-55-6	1,1,1-TRICHLOROETHANE	0.00	0.20
79-00-5	1,1,2-TRICHLOROETHANE	0.00	1.00
79-01-6	TRICHLOROETHENE	0.00	0.50
75-69-4	TRICHLOROFLUOROMETHANE	0.00	0.17
96-18-4	1,2,3-TRICHLOROPROPANE	0.00	
75-01-4	VINYL CHLORIDE		

*MDL = ACTUAL METHOD DETECTION LIMIT = MDL X DILUTION FACTOR
BMDL = A 0.0ug/l value

LYLE A. JOHNSON - Chemist

QUALITY ASSURANCE CERTIFICATION
(Please complete the appropriate section(s))

A. Laboratory Certification

Pursuant to the requirements set forth in FDER's chapter 17-775, F.A.C. Spectrum (Laboratory) 1460 W McNab Road, Ft Lauderdale, Fl. (Laboratory Address) herewith submit analytical results for Soil (Material) W.P.B. H2O Dept. from Haverhill & Okeechobee (Site) and represented by 1 (Number of Samples) and referenced as lab number/date 003-042392 4/28/92. All analysis was performed according to all the applicable parameters of 17-775.410 "Soil Sampling and Analysis."

Laboratory Quality Assurance No. 870206G
Authorized Signature [signature]
Date 4/24/92

B. Field Service Certification

Pursuant to the requirement set forth in FDER's Chapter 17-775 F.A.C., U.S. Environmental Group Inc. (Field Service Organization) 6161 NW 9th Ave Suite 210, Ft Lauderdale, Fl (Field Service Organization Address) herewith attest that the Soil (Material) W.P.B. H2O Dept. from Haverhill & Okeechobee (Site) is represented by 1 (Number of Samples).

All sampling was performed according to all the applicable parameters of 17-775.410 "Soil Sampling and Analysis."

Field Service Quality Assurance No. 910229G
Authorized Signature [signature]
Date 4/24/92

NOTE: Please provide a copy of the Quality Assurance Plan approval letter issued by Florida Department of Environmental Regulation, Quality Assurance Section.

RECEIVED
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DEPT. OF ENVIRONMENTAL REG.
WEST PALM BEACH

Rinker

Rinker Materials Corporation
1200 N.W. 137th Avenue
Miami, FL 33182

P.O. Box 650679
Miami, FL 33265-0679

Facsimile (305) 223-5403
Telephone (305) 221-7645

August 20, 1992

Department of Environmental Regulations
1900 South Congress Avenue
Suite A
West Palm Beach, FL 33406

Attn: Mr. William Lee Martin

Dear Lee:

In regard to the "Soil Thermal Treatment Facility Inspection Report" prepared on 8/6/92, I would like to provide the added VOA information that was inadvertently omitted from the untreated soils reports surveyed during your recent inspection.

These results are as follows:

	DATE	BATCH	VOA (PPB)
1.	3/18/92	111-111	<9
2.	3/26/92	111-120	<9
3.	4/17/92	111-92136	<9
4.	4/29/92	240-92006	<45
5.	4/30/92	111-92146	<70046
6.	5/13/92	111-92151	<19718
7.	5/13/92	111-92155	<9

In addition, on item 13(b) of Exhibit E (Inspection Report), the VOA results show the range of: BDL mg/kg to 382000 mg/kg, median 8986 mg/kg. It should be noted that the analytical data for VOA reporting (treated and untreated) is reported in ug/kg or parts per billion not parts per million (mg/kg).

These reporting units (ppb) are according to Chapter 17-775 FAC and the "Instructions for completing Untreated Soils Reporting Form" column 6.

Therefore, item 13(b) should read, in part, VOA BDL mg/kg to 382 mg/kg not VOA BDL mg/kg to 382000 mg/kg.

A copy of the analysis showing the 382000 ppb for VOA's is attached (Batch 265-92008 dated 7/14/92).

Please let me know if you have any questions.

Sincerely,

Dave Marple

enc.

cc: Mike Vardeman

SL SAVANNAH LABORATORIES & ENVIRONMENTAL SERVICES, INC.
414 SW 12th Avenue • Deerfield Beach, Florida 33442 • (305) 421-7400 • Fax (305) 421-2584

RECEIVED
AUG 3 1 1992
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WEST PALM BEACH

RECEIVED
MAR 26 1992

LOG NO: D2-20698

Received: 03 MAR 92

Mr. David Singleton
Applied Earth Sciences
2101 NW 33rd St, Suite 1700A
Pompano Beach, Florida 33069

Project: #0234-33
Sampled By: D. Singleton

REPORT OF RESULTS

LOG NO	SAMPLE DESCRIPTION , SOLID OR SEMISOLID SAMPLES	DATE SAMPLED
20698-1	Soil-1	03-02-92

PARAMETER	20698-1
Volatiles (8010/8020)	
Benzyl chloride, ug/kg dw	BDL
Bromobenzene, ug/kg dw	BDL
Bromodichloromethane, ug/kg dw	BDL
Bromoform, ug/kg dw	BDL
Bromomethane, ug/kg dw	BDL
Carbon Tetrachloride, ug/kg dw	BDL
Chlorobenzene, ug/kg dw	BDL
Chloroethane, ug/kg dw	BDL
Chloroform, ug/kg dw	BDL
1-Chlorohexane, ug/kg dw	BDL
2-Chloroethylvinyl Ether, ug/kg dw	BDL
Chloromethane, ug/kg dw	BDL
Chlorotoluene, ug/kg dw	BDL
Dibromochloromethane, ug/kg dw	BDL
Dibromomethane, ug/kg dw	BDL
1,2-Dichlorobenzene, ug/kg dw	BDL
1,3-Dichlorobenzene, ug/kg dw	BDL
1,4-Dichlorobenzene, ug/kg dw	BDL
Dichlorodifluoromethane, ug/kg dw	BDL
1,1-Dichloroethane, ug/kg dw	BDL
1,2-Dichloroethane, ug/kg dw	BDL
1,1-Dichloroethene, ug/kg dw	BDL
Cis/trans-1,2-dichloroethylene, ug/kg dw	BDL

SL SAVANNAH LABORATORIES & ENVIRONMENTAL SERVICES, INC.

RECEIVED
AUG 3 1 [illegible]2
DEPT. OF ENVIRONMENTAL REG.
WEST PALM BEACH

414 SW 12th Avenue • Deerfield Beach, Florida 33442 • (305) 421-7400 • Fax (305) 421-2584

LOG NO: D2-20698

Received: 03 MAR 92

Mr. David Singleton
Applied Earth Sciences
2101 NW 33rd St, Suite 1700A
Pompano Beach, Florida 33069

Project: #0234-33
Sampled By: D. Singleton

REPORT OF RESULTS

LOG NO	SAMPLE DESCRIPTION , SOLID OR SEMISOLID SAMPLES	DATE SAMPLED
20698-1	Soil-1	03-02-92

PARAMETER	20698-1
Methylene Chloride, ug/kg dw	BDL
1,2-Dichloropropane, ug/kg dw	BDL
1,3-Dichloropropylene, ug/kg dw	BDL
1,1,2,2-Tetrachloroethane, ug/kg dw	BDL
1,1,1,2-Tetrachloroethane, ug/kg dw	BDL
Tetrachloroethylene, ug/kg dw	BDL
1,1,1-Trichloroethane, ug/kg dw	BDL
1,1,2-Trichloroethane, ug/kg dw	BDL
Trichloroethene, ug/kg dw	BDL
Trichlorofluoromethane, ug/kg dw	BDL
Trichloropropane, ug/kg dw	BDL
Vinyl Chloride, ug/kg dw	BDL
Benzene, ug/kg dw	BDL
Ethylbenzene, ug/kg dw	62000
Toluene, ug/kg dw	120000
Xylenes, ug/kg dw	200000
Methyl-tert-butyl ether (MTBE), ug/kg dw	BDL
Date Analyzed	03.11.92
Petroleum Hydrocarbons (9073) , mg/kg dw	64
Arsenic, mg/kg dw	BDL
Barium, mg/kg dw	1.5
Cadmium, mg/kg dw	BDL
Chromium, mg/kg dw	BDL
Lead, mg/kg dw	2.0
Mercury, mg/kg dw	BDL
Selenium, mg/kg dw	BDL

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REPORT OF RESULTS

LOG NO	SAMPLE DESCRIPTION	SOLID OR SEMISOLID SAMPLES	DATE SAMPLED
20698-1	Soil-1		03-02-92

PARAMETER	20698-1
Silver, mg/kg dw	BDL
Potassium, mg/kg dw	BDL
Sodium, mg/kg dw	53
Chloride, mg/kg dw	400
Total halogens, mg/kg dw	110
Percent Solids, %	88

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL REGULATION
ENFORCEMENT TELEPHONE LOG

CASE NAME: Rinker Cement/Material Corp DATE: 8/25/92 TIME: 0900

CONTACT: Rinker/West Palm Beach OF: _____ CALLED/WAS CALLED

833-5555

****

DISCUSSION: Called to find out if they had any word from the Miami cement kiln. They had some minor damage but the kiln should be operating later today and no known ~~dam~~ environmental damage from the soil storage building

PREPARED BY: Lee Martin

Florida Department of Environmental Regulation

Southeast District • 1900 S. Congress Ave., Suite A • West Palm Beach, Florida 33406

Lawton Chiles, Governor

Telephone: 407/433-2650
Fax: 407/433-2666

Carol M. Browner, Secretary

APR - 8 1992

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

James Jenkins
Rinker Materials Corporation
P.O. Box 24635
West Palm Beach, Fl 33416-4635

RE: Rinker Portland Cement Corp.
1200 NW 137th Ave, Miami, Fl 33182
Gen. Permit No. SO13-195017

Dear Mr. Jenkins,

Based on information gathered during a routine compliance inspection, it has been determined the above referenced facility may be in violation of State rules.

The following item was found to be in non-compliance with Chapter 17-775, Florida Administrative Code and the alternate procedure, File No. AP-STTF001, approved for the referenced facility:

1. Section 17-775.400(3)- Failure to maintain less than 50 mg/kg Total Recoverable Petroleum Hydrocarbons (TRPH) provided the Polynuclear Aromatic Hydrocarbons (PAH) do not exceed 6 mg/kg and the Volatile Organic Halocarbons (VOH) do not exceed 50 ug/kg in the treated soils.

Please review this non-compliance item and within fourteen (14) days of your receipt of this notice, submit a response which addresses the noted deficiency.

Thank you for your prompt attention to this matter.

Sincerely,

Vivek Kamath

Vivek Kamath, P.E.
Waste Programs Administrator

cc: Bureau of Waste Cleanup, FDER/Tallahassee
West Palm Beach FDER File
DERM/Miami
Dave Marple,Rinker/Miami
Tom Conrardy, FDER/Tallahassee
West Palm Beach FDER Air Section

Recycled Paper

Florida Department of Environmental Regulation

Southeast District • 1900 S. Congress Ave., Suite A • West Palm Beach, Florida 33406

Lawton Chiles, Governor

Telephone: 407/433-2650
Fax: 407/433-2666

Carol M. Browner, Secretary

APR - 8 1992

SOIL THERMAL TREATMENT FACILITY INSPECTION REPORT

1. TYPE INSPECTION: ___ COMPLAINT _X_ ROUTINE ___ FOLLOW-UP ___ PERMITTING

2. FACILITY NAME Rinker Portland Cement Corp.

DER/EPA ID FLD981758485 GMS ID _____

3. ADDRESS 1200 NW 137th Ave, Miami, Fl, 33182
Mailing: P.O. Box 24635, West Palm Beach, Fl 33416-4635

COUNTY Dade PHONE 305- 221-7645 DATE 3/27/92 TIME 10:00

4. TYPE OF FACILITY Thermal Soil Treatment Facility

5. DESCRIPTION OF OPERATION:
Facility Operations include limerock mining and contaminated soil processing to produce cement. Rinker uses kilns fired by coal, natural gas, or used oil in production.

6. APPL. REGULATIONS: _____ 17-2, F.A.C. _X_ 17-775, F.A.C.

7. RESPONSIBLE OFFICIAL: (Name and Title)
James Jenkins, Vice President

8. SURVEY PARTICIPANTS AND PRINCIPAL INSPECTOR:
William Lee Martin and Carol Meeds, FDER
Dave Marple, Rinker Materials

9. FACILITY LATITUDE 25°46'48" LONGITUDE 80°25'10"

10. TYPE OWNERSHIP: FEDERAL STATE COUNTY MUNICIPAL PRIVATE

11. NOTICE NO: SO13-195017 DATE ISSUED: 4/17/91 EXP. DATE: 4/4/96

Rev 1/8/92

An unannounced routine inspection was conducted at the Rinker Portland Cement Corporation's soil thermal treatment facility regulated pursuant to Chapter 17-775, Florida Administrative Code. This facility operates a rotary kiln and utilizes the petroleum contaminated soil in the manufacture of cement.

BACKGROUND INFORMATION:

Rinker was issued a General Permit #SO13-195017 to operate a soil thermal treatment facility on April 17, 1991 which expires on April 4, 1996. The Rinker facility was operating as an existing facility as defined in 17-775.200, FAC prior to the effective date of this rule. A complete process description is provided in the Rinker permit application; however, the process was reviewed at the inspection as follows:

According to Dave Marple, prior to accepting any soil for thermal treatment pursuant to 17-775, FAC, Rinker requires a soil analysis profile. Based on this profile, and concurrence from Metro Dade Department of Resource Management (DERM), soils are brought by truck to the new soil storage facility. All materials accepted by Rinker still receive approval from DERM in the form of a standardized form letter. This is required as a condition of the facility's current Dade County permits but may change in the future due to the increased administrative workload experienced by the County. At the time of the inspection the new soil storage facility is in use and the old temporary soil storage facility is being prepared for closure. Rinker claims to accept no hazardous wastes as defined in 40 CFR Part 261.

Rinker has operated a materials substitution program for the last four years. This program researches and evaluates different alternative materials for use as raw materials in the production of cement or for use as an alternative fuel source in the kilns. Two alternative materials currently in use include the substitution of fuel contaminated soils for clean silica sand and the substitution of "on-spec" waste oil for fuel oil in kiln burners. Other alternative material substitutions under discussion and/or evaluation for possible future use include: (1) substitution of oily waste water for part of the slurry makeup water, (2) burning tires for fuel, (3) replacing FP&L slag with other power plant ashes such as ash from MSW incinerators, and (4) blending oily sludges with contaminated soils.

SOIL STORAGE FACILITY:

Incoming soils to be thermally treated by Rinker arrive by independent contractors via truck to the new soil storage facility. Rinker does not handle drums or containers; therefore, in the event a contractor delivers contaminated soils in drums or containers the contractor is responsible for emptying and removing the drums and/or containers from the facility. The new facility located South of the railroad tracks became operational February 9, 1992 and consists of a 100' by 300' monolith concrete slab sealed to solid concrete walls on three sides with a concrete curb across the front. The facility has an open front to accommodate trucks and equipment, enclosed sides, and a roof. The floor slopes to the southeast corner where a sump and holding tank are located to collect any contaminated water from wind blown rain seeping through the contaminated soils. No water has been collected to date. The ample ventilation provided and the fact the soils are not classed as flammable when delivered precluded the need for a sprinkler system for the facility according to Dave Marple. The facility was dry, no standing water was present, and no outward evidence of leachate or runoff was observed. Four new groundwater wells have been installed off the corners of the facility. All have flush mounted, secured manhole lids. The wells appear to be located on ground high enough to prevent flooding; however, the presence of watertight, lockable well caps could not be confirmed.

Improved screening capability has been installed with a proposed modification to add metal removal by magnetic methods in progress. The metal and plastics removed from the soils are collected for transport to the County landfill. The larger concrete debris screened out initially are taken to the rock crusher to be pulverized separately and mixed back in with the contaminated soils at the soil storage facility.

TEMPORARY SOIL STORAGE FACILITY

Operations ceased at the temporary facility when the new facility went into operation. All soils and equipment were relocated to the new facility. Excavation of soils on the outside of the concrete berms was observed during the inspection, with these soils being transported to the new storage facility for processing as contaminated soils. The canvas/vinyl overhang was also being dismantled for removal. Once excavation of soils are completed around the perimeter of the concrete slab, soil sampling and analysis will be performed to confirm no petroleum contaminated soils remain. The four monitor wells around the concrete slab will be sampled for the next two quarters beginning with the April sampling event. After the second sampling is complete, the results and a proposal to abandon the wells and deactivate the site will be forwarded to FDER and DERM for consideration.

RECORDKEEPING:

Rinker has received a Department alternative procedure approval (File No. AP-STTF001) for testing of contaminated soils. Rinker relies solely on the test results supplied by other labs; however, Rinker requires acknowledgment of a Department approved Quality Assurance plan from the labs supplying the data. Rinker performs spot checks of some samples. Random review of records over the past several months indicated three loads of untreated soils were received on 12/11/91, 12/12/91, and 2/18/92 respectively which exceeded the clean soil criteria for lead of 77 mg/kg. These soils were blended with other contaminated soils. Additionally, during the weeks of Feb 3-9 and Feb 10-16 the TRPH criteria of 50 mg/kg for treated soils were exceeded; however, the PAH and VOH were BDL. During these two consecutive weeks, 316 tons and 284 tons of treated soil were used to produce 10,887 and 11,815 tons of cement respectively.

SUMMARY:

The new soil storage facility incorporates "state of the art" technology in handling and storing petroleum contaminated soil and significantly enhances Rinker's capability to process contaminated soils in an environmentally sound manner. According to the facility records, the facility appears to have exceeded the clean soil criteria under Chapter 17-775.400(3), FAC and their approved alternate procedures for the weeks of February 3-9 and February 10-16. This warrants further investigation.

EXHIBIT E

Florida Department of Environmental Regulation

STATIONARY SOIL THERMAL TREATMENT FACILITY

INSPECTION REPORT

Name of Facility RINKER / MIAMI

Location 1200 NW 137th AVE, MIAMI, FL

General Permit No. SO 13-195017 Date of Inspection 3/27/92

Contact Person DAVE MARPLE

Person Completing Report LEE MARTIN

Instructions: Complete the appropriate spaces for each item listed below. Use comments space to provide additional information for each item. Additional paper may be used if necessary.

Yes	No	SITE SURVEY	
	✓	1.	Does information provided on general permit notice of intent form coincide with actual facility? NEW FACILITY IN OPERATION, NEED UPDATED SITE PLAN
✓		2.	Is soil sampling procedure correct?
✓		3.	Are monitoring wells properly installed (proper number and location)?
✓		4.	Are monitor wells being properly sampled and analysed for required parameters?
✓		5.	Is untreatd soil stockpiled separately from treated soil and properly identified?
✓		6.	Is untreated soil adequately covered by roofing?
✓		7.	Do floors for storage appear to be properly constructed and in good condition?
✓		8.	Are floors properly bermed to provide runoff control?
✓		9.	Is a leachate collection system provided?

Yes	No	REPORTING FORMS	
✓		10.	Are untreated soil reporting forms being properly completed? starting date 11/26/91 end date 2/21/92
✓		11.	Are treated soil reporting forms being properly completed? starting date 12/2/91 end date 3/1[illegible]/92

TVM

12. Indicate frequency clean soil criteria is being met?
    a. 46/92 % TRPH - 10 mg/kg, or
    b. ~~92~~ 97% % TRPH - 50 mg/kg, PAH - 6 mg/kg, and VOH - 50 ug/kg

13. Indicate ranges and approximate median values of untreated soil analyses for the following parameters.
    a. TRPH BDL mg/kg to 438317 mg/kg, median 8397 mg/kg
    b. VOA BDL mg/kg to 59686 mg/kg, median 3778 mg/kg
    c. Arsenic BDL mg/kg to 27.1 mg/kg
    d. Barium BDL mg/kg to 740 mg/kg
    e. Cadmium BDL mg/kg to 55 mg/kg
    f. Chromium BDL mg/kg to 68 mg/kg
    g. Lead BDL mg/kg to 281 mg/kg 3 loads, all remaining < 77mg/kg
    h. Mercury BDL mg/kg to .415 mg/kg
    i. Selenium BDL mg/kg to 24 mg/kg
    j. Silver BDL mg/kg to 70.97 mg/kg

14. Indicate ranges and approximate median values of treated soil analyses for the following parameters.
    a. TRPH BDL mg/kg to 124 mg/kg, median 19.6 mg/kg
    b. VOA BDL mg/kg to BDL mg/kg, median BDL mg/kg
    c. Arsenic BDL mg/kg to 11.0 mg/kg
    d. Barium 20 mg/kg to 630 mg/kg
    e. Cadmium BDL mg/kg to 1.5 mg/kg
    f. Chromium 1.2 mg/kg to 32 mg/kg
    g. Lead BDL mg/kg to 16.1 mg/kg
    h. Mercury BDL mg/kg to .9 mg/kg
    i. Selenium BDL mg/kg to BDL mg/kg
    j. Silver BDL mg/kg to 5.1 mg/kg
    k. _____ _____ mg/kg to _____ mg/kg
    i. _____ _____ mg/kg to _____ mg/kg

Comments: (12) On two occasions the clean soil criteria exceeded the 50 mg/kg for TRPH; however the PAH and VOH were BDL for these batches. During these two consecutive weeks, 316 tons and 284 tons of treated soil were used to produce 10,887 tons and 10,815 tons of cement respectively. All TCLP metals were less than criteria. (13) On three occasions lead in untreated soils exceeded clean soil criteria. This was blended with other contaminated soils.

William L. Martin 4/3/92

Florida Department of Environmental Regulation
Soil Thermal Treatment Facility
Treated Soil Reporting Form

Name of Facility: Rinker Materials Corp
Air Permit No.: A013-172954
Soil Treatment Permit No.: 5013-195017
Stationary: X or Mobile Facility: _____

Start

Month: 09 Year: 91

1	2	3	4	5	6								7								8	9	10	11
Day of Mo.	Soil-Batch ID#	Sample Number (Sample #)	Length of Run, Hours	Amount, Volume or Weight cy/tn	Analytical Results: Total Metals								TCLP Metals								Totals			
					As	Ba	Cd	Cr	Pb	Hg	Se	Ag	As	Ba	Cd	Cr	Pb	Hg	Se	Ag	VOA	RPH	PAH	VOH
9/26-9/27		42	168	1479	1.6	304	BDL	27	4.3	BDL	BDL	3.5	BDL	1.8	BDL	BDL	BDL	BDL	BDL	BDL	BDL	11	BDL	BDL
9-28 1-29		42	168	1484	1.6	160	BDL	32	4.1	BDL	BDL	3.2	BDL	2.2	BDL	.1	BDL	BDL	BDL	BDL	BDL	9.4		
9-30 10-6		42	168	1255	2.0	344	BDL	32	3.8	.1	BDL	3.1	BDL	3.5	BDL	BDL	BDL	BDL	BDL	BDL	BDL	BDL		
10-7 10-13		42	168	1283	3.2	472	BDL	28	16.1	BDL	BDL	4.7	BDL	3.9	BDL	BDL	BDL	BDL	BDL	BDL	BDL	2.6		
10-14 10-20		42	168	1907	BDL	119	BDL	1.2	2.3	BDL	BDL	2.4	BDL	2.5	BDL	BDL	BDL	BDL	BDL	BDL	BDL	BDL		
10-21 10-27		42	168	2346	BDL	152	BDL	4.0	46	BDL	BDL	3.3	BDL	2.0	BDL	BDL	BDL	BDL	BDL	BDL	BDL	4.2		
10-28 11-3		42	168	1358	BDL	321	BDL	3.0	BDL	BDL	BDL	4.3	BDL	4.0	BDL	BDL	BDL	BDL	BDL	BDL	BDL	8.7		
11-4 11-10		42	168	1385	BDL	217	BDL	2.0	BDL	BDL	BDL	3.7	BDL	3.2	BDL	BDL	BDL	BDL	BDL	BDL	BDL	39.9	BDL	BDL
11-11 11-19		42	168	2091	BDL	630	BDL	5.8	2.3	BDL	BDL	4.7	BDL	3.5	BDL	BDL	BDL	BDL	BDL	BDL	BDL	17.1	BDL	BDL
11-18 11-24		42	168	1665	2.3	270	BDL	28	BDL	.2	BDL	3.8	BDL	2.8	BDL	BDL	BDL	BDL	BDL	BDL	BDL	17.0	BDL	BDL
11-25 12-01		42	168	1461	BDL	280	BDL	19	1.8	BDL	BDL	4.3	BDL	3.7	BDL	BDL	BDL	BDL	BDL	BDL	BDL	12.4	BDL	BDL
12-2 12-8		42	168	1471	BDL	226	BDL	2.2	BDL	BDL	BDL	2.4	BDL	3.9	BDL	BDL	BDL	BDL	BDL	BDL	BDL	2.5		
12-9 12-15		42	168	857	1.7	356	BDL	21	BDL	BDL	BDL	2.8	BDL	2.8	BDL	.17	BDL	BDL	BDL	BDL	BDL	9.4		
12-16 12-22		42	168	450	BDL	281	BDL	12	BDL	BDL	BDL	4.3	BDL	3.3	BDL	BDL	BDL	BDL	BDL	BDL	BDL	9.2		
12-23 12-29		42	168	788	BDL	320	BDL	3	BDL	BDL	BDL	4.4	BDL	2.4	BDL	BDL	BDL	BDL	BDL	BDL	BDL	16.7	BDL	BDL
12-30 1-05		42	168	895	BDL	245	BDL	1.9	1.0	BDL	BDL	3.8	BDL	3.0	BDL	BDL	BDL	BDL	BDL	BDL	BDL	13.0	BDL	BDL
1-06 1-12		42	168	1161	3.6	34	1.4	17	5.2	BDL	BDL	3.1	.02	1.0	BDL	BDL	BDL	BDL	BDL	BDL	BDL	8.6		
1-13 1-19		42	168	1637	BDL	24.0	BDL	1.5	BDL	BDL	BDL	3.1	BDL	.5	BDL	BDL	BDL	BDL	BDL	BDL	BDL	11.9	BDL	BDL
1-20 1-26		42	168	341	BDL	27.0	BDL	1.3	BDL	BDL	BDL	3.0	BDL	.5	BDL	BDL	BDL	BDL	BDL	BDL	BDL	9.8		
1-27 2-2		42	168	398	4.3	32.0	1.2	9.5	3.4	.9	BDL	2.8	BDL	.7	BDL	BDL	BDL	BDL	BDL	BDL	BDL			

EKR Prod

8194
11065
10629
11293
11534
11255
10824
11462
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11023
[redacted]6
10193
11093
10008
9795
11451
11740
11442
11429

See reverse side for instructions

DER Form 17-775.900(3)

Soil Thermal [illegible]eatment Facility
Treated Soil Reporting Form

Name of Facility: _____
Air Permit No.: _____
Soil Treatment Permit No.: _____
Stationary:_____ or Mobile Facility: _____

Month: ____ Year:

1	2	3	4	5	6								7								8	9	10	11
Day of Mo.	Soil Batch ID#	Sample Number	Length of Run, Hours	Amount, Volume or Weight cy/tn	Analytical Results																Totals			
					Total Metals								TCLP Metals											
					As	Ba	Cd	Cr	Pb	Hg	Se	Ag	As	Ba	Cd	Cr	Pb	Hg	Se	Ag	VOA	RPH	PAH	VOH
2-3 2-9		42	168	316	BDL	25.0	BDL	3.0	BDL	BDL	BDL	BDL	BDL	BDL	BDL	BDL	BDL	BDL	BDL	BDL	BDL	124.0	BDL	BDL
2-10 2-16		42	168	284	3.1	31.0	1.2	12.0	3.8	BDL	BDL	1.7	BDL	.4	BDL	.24	BDL	BDL	BDL	BDL	BDL	59.9	BDL	BDL
2-17 2-23		42	168	1158	6.5	28.0	1.1	13.0	3.5	BDL	BDL	1.6	BDL	.5	BDL	BDL	BDL	BDL	BDL	BDL	BDL	20.1	BDL	BDL
2-24 3-1		42	168	925	3.1	36.0	1.4	15.0	4.1	BDL	BDL	2.0	BDL	.5	BDL	.31	BDL	BDL	BDL	BDL	BDL	23.2	BDL	BDL
3-2 3-8		42	168	1110	11.0	37.0	1.5	16.0	4.6	BDL	BDL	3.2	BDL	.6	BDL	.11	BDL	BDL	BDL	.1	BDL	14.0		
3-9 3-15		42	168	1213	4.5	20	1.1	11.0	3.3	BDL	BDL	1.8	BDL	.4	BDL	.22	BDL	BDL	BDL	.1	BDL	19.6		

DER Form 17-775.900(3)

See reverse side for instructions

Florida Department of Environmental Regulation
Soil Thermal Treatment ility
Untreated Soil Report. Form

Name of Facility: _____
Air Permit No.: _____
Soil Treatment Permit No.: _____
Stationary ___ or Mobile Facility: ___

Month: ___ Year: ___

1	2	3	4	5								6	7	8		
Day of Mo.	Soil Batch ID#	Sample Number	Amount, Volume or Weight cy/tn	Analytical Results										Indicate Other Analyses		
				Metals								Totals		Attach Lab Results Only		
				As	Ba	Cd	Cr	Pb	Hg	Se	Ag	VOA	RPH			
2/19	187-06	1	34.93	<.10	<10	<.10	3.4	20.7	<.1	<.1	<.1	<4100	170			
2/21	158-08	1	55.87	BDL	50	BDL	2.8	BDL	BDL	BDL	BDL	1200	41			
2/21	158-07	1	17.88	BDL	4.7	BDL	1.4	BDL	BDL	BDL	BDL	5600	383			
2/21	187-05	1	10.01	12	5.2	BDL	13	1.7	BDL	BDL	BDL	30	12			
2/21	187-04	1	10.01	BDL	3.8	BDL	4.4	7.2	.02	BDL	BDL	BDL	BDL			
2/21	187-03	1	10.01	1.1	3.2	BDL	5.8	3.5	.033	BDL	BDL	BDL	8.2			
2/21	187-02	1	10.01	BDL	47	BDL	11	2.6	BDL	BDL	BDL	30	9.8			
2/21	187-01	1	10.01	BDL	5.4	BDL	24	19	BDL	BDL	2.4	15500	14			

775.400(7)

See reverse side for instructions

Untreated Soil Report. Form

Name of Facility: _____
Air Permit No.: _____
Soil Treatment Permit No.: _____
Stationary ___ or Mobile Facility: ___

Month: ___ Year: ___

1	2	3	4	5								6	7	8		
Day of Mo.	Soil Batch ID#	Sample Number	Amount, Volume or Weight cy/tn	Analytical Results								Totals		Indicate Other Analyses		
				Metals										Attach Lab Results Only		
				As	Ba	Cd	Cr	Pb	Hg	Se	Ag	VOA	RPH			
2/13	111.97	1	58.59	27.1	5.12	.009	7.82	31.1	.0357	24	.391		71			
2/13	101-05	2	54.26	<.12	<4.40	55	2.65	5.45	<.01	<.05	<.57	BDL	5160			
2/13	106.103	3	70.39	BDL	22.5	1.03	6.36	13.17	.1	BDL	BDL	9600	438317			
2/14	106 103	3	49.76	BDL	22.5	1.03	6.36	13.17	.1	BDL	BDL	9600	438317			
2/17	106 103	3	13.44	BDL	22.5	1.03	6.36	13.17	.1	BDL	BDL	9600	438317			
2/13	267-01	3	427.98	1.11	65.47	BDL	14.9	337	.081	BDL	BDL	23	3086			
2/17	267-01	3	14.00	1.11	65.47	BDL	14.9	337	.081	BDL	BDL	23	3086			
2/14	265-01	1	97.08	1.5	16.4	BDL	3.0	1.2	BDL	BDL	BDL	550	13300			
2/18	265 01	1	14 45	1.5	16.4	BDL	3.0	1.2	BDL	BDL	BDL	550	13300			
2/14	269-01	1	27 80	1 9	25.0	BDL	3.0	35.0	BDL	BDL	BDL	BDL	399			
2/14	111-98	1	10.92	.216	<.1	1.66	5.27	27.5	.00445	.0339	2.49	BDL	<1			
2/17	106 110	6	249.04	<1	<1.75	<.5	<1.0	7.42	<.03	<1	<1	5648	61.16			
2/18	106 110	6	726.98	<1	<1.75	<.5	<1.0	7.42	<.03	<1	<1	5648	61.16			
2/19	106-110	6	331.88	<1	<1.75	<.5	<1.0	7.42	<.03	<1	<1	5648	61.16			
2/18	259-02	1	24.98	BDL	1.7	BDL	4.2	14 5	BDL	BDL	BDL	11.23	139			
2/18	106-104	1	19.35	16.6	123	2.72	22.9	281	.22	<.4	1.76	BDL	6090			
2/18	106-106	1	62.16	BDL	2.5	BDL	5.6	2.1	BDL	BDL	2.5	BDL	170			
2/19	134-04	1	11.05	BDL	500	BDL	36	2.2	BDL	BDL	4.9	44	939			
2/19	111-99	1	15.12	.149	<.01	2.36	5.38	21.4	.0445	.0399	3.54		66.8			

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See reverse side for instructions

Florida Department of Environmental Regulation
Soil Thermal Treatment :ility
Untreated Soil Report...g Form

Name of Facility: _____
Air Permit No.: _____
Soil Treatment Permit No.: _____
Stationary ___ or Mobile Facility: ___

Month: 1 Year: 92

1	2	3	4	5								6	7	8		
				Analytical Results												
				Metals								Totals		Indicate Other Analyses		
Day of Mo.	Soil Batch ID#	Sample Number	Amount, Volume or Weight cy/tn	As	Ba	Cd	Cr	Pb	Hg	Se	Ag	VOA	RPH	Attach Lab Results Only		
1/15	111-88	1	19.03	.48	<1	3.43	10	24.1	.032	.034	3.05	<1.57	42.3			0
1/15	190-07	1	96.45	BDL	173	BDL	5.3	1.7	BDL	BDL	BDL	18550	1075			.0018
1/16	160-02	5	99.86	<1.98	8.42	<.53	3.64	5.26	<.03	<1	<1	<1540	9930			.0002
1/17	160-02	5	99.96	<1.98	8.42	<.53	3.64	5.26	<.03	<1	<1	<1540	9930			.0002
1/20	160-02	5	144.66	<1.98	8.42	<.53	3.64	5.26	<.03	<1	<1	<1540	9930			.0002
1/21	160-02	5	143.62	<1.98	8.42	<.53	3.64	5.26	<.03	<1	<1	<1540	9930			.0002
1/22	160-02	5	143.56	<1.98	8.42	<.53	3.64	5.26	<.03	<1	<1	<1540	9930			.0002
1/23	160-02	5	149.24	<1.98	8.42	<.53	3.64	5.26	<.03	<1	<1	<1540	9930			.0002
1/24	160-02	5	145.46	<1.98	8.42	<.53	3.64	5.26	<.03	<1	<1	<1540	9930			.0002
1/16	264-01	1	74.90	.72	BDL	2.2	BDL	10.4	BDL	.22	BDL	BDL	56			0
1/16	106-98	1	1.66	1.87	44.8	3.2	68	64.4	.093	<.4	<1.6	686	10185			0
1/16	240-02	1	43.44	.109	57.9	8.94	5.26	18.4	<.001	.0629	1.96	<2652	340			.0001
1/17	240-02	1	21.10	.109	57.9	8.94	5.26	18.4	<.001	.0629	1.96	<2652	340			.0001
1/20	122-04	3	216.88	BDL	26.3	BDL	1.7	17.7	BDL	BDL	BDL	423.7	1195			.0001
1/21	122-04	3	115.82	BDL	26.3	BDL	1.7	17.7	BDL	BDL	BDL	423.7	1195			0
1/22	122-04	3	130.13	BDL	26.3	BDL	1.7	17.7	BDL	BDL	BDL	423.7	1195			0
1/20	114-07	1	15.31	BDL	2.8	BDL	1.1	BDL	BDL	BDL	BDL	BDL	20			0
1/21	222-05	1	53.89	BDL	33	BDL	3.6	BDL	BDL	BDL	BDL	BDL	24.9			0
1/22	121-02	1	38.30	BDL	2	BDL	2	BDL	BDL	BDL	BDL	8700	5510			.0003
1/24	121-02	1	60.51	BDL	2	BDL	2	BDL	BDL	BDL	BDL	8700	5510			.0005

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See reverse side for instructions

Untreated Soil Report Form

Name of Facility: Rinker Materials Corp.
Air Permit No.: _____
Soil Treatment Permit No.: _____
Stationary X or Mobile Facility: _____

Month: 1 Year: 92

1	2	3	4	5								6	7	8		
Day of Mo.	Soil Batch ID#	Sample Number	Amount, Volume or Weight cy/tn	Analytical Results												
				Metals								Totals		Indicate Other Analyses		
				As	Ba	Cd	Cr	Pb	Hg	Se	Ag	VOA	RPH	Attach Lab Results Only		
1/8	256-03	3	25.27	1.59	<12.53	<.8	8.67	34.13	<.05	<.4	<1.6	BDL	3355			0
1/9	256-03	3	23.63	1.59	<12.53	<.8	8.67	34.13	<.05	<.4	<1.6	BDL	3355			0
1/10	256-03	3	12.47	1.59	<12.53	<.8	8.67	34.13	<.05	<.4	<1.6	BDL	3355			0
1/11	256-03	3	12.92	1.59	<12.53	<.8	8.67	34.13	<.05	<.4	<1.6	BDL	3355			0
1/13	256-03	3	12.92	1.59	<12.53	<.8	8.67	34.13	<.05	<.4	<1.6	BDL	3355			0
1/14	256-03	3	26.83	1.59	<12.53	<.8	8.67	34.13	<.05	<.4	<1.6	BDL	3355			0
1/15	256-03	3	43.89	1.59	<12.53	<.8	8.67	34.13	<.05	<.4	<1.6	BDL	3355			0
1/8	222-04	1	.61	BDL	6.3	BDL	6.9	1.6	BDL	BDL	BDL	11600	88			0
1/8	104-100	1	4.35	BDL	88	BDL	3.3	9.6	.2	BDL	1.6	BDL	32700			0
1/9	11180	1	38.39	1.64	5.24	2.54	5.57	33.30	<.001	.0358	2.54	<8	56.9			0
1/10	143-03	1	73.38	BDL	31	BDL	4.2	3.4	BDL	BDL	7.2	890	23.7			0
1/10	114-19	1	1.68	<.4	6	<.5	4.5	2.8	<.02	<1	<1	<50	<5			0
1/10	146-02	1	4.4	.115	13.9	.385	2.73	3.85	.0127	.136	.577	<8	2180			0
1/10	103-08	3	77.07	BDL	4.5	BDL	5.37	18.67	.027	BDL	BDL	BDL	27			0
1/14	111-90	1	.53	<1	3.05	<.5	3.7	8.15	<.03	<1	<1	<9.5	<450			0
1/14	111-89	1	.97	<1	4	<.5	3.9	15	<.03	<1	<1	95	<5			0
1/14	256-04	1	12.58	.646	<12	<.8	<4	<4	<.05	<.4	<1.6	BDL	374			0
1/14	111-91	1	43.23	.12	<.1	4.16	4.84	25.2	.00207	.226	2.21	<27994	86.6			.0012
1/14	134-03	1	141.64	BDL	270	BDL	5.3	57	BDL	BDL	BDL	BDL	557			0
1/15	255-04	1	27.83	BDL	3	BDL	2	BDL	BDL	BDL	BDL	30	15			0

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See reverse side for instructions

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Florida Department of Environmental Regulation
Soil Thermal Treatment Facility
Untreated Soil Report. Form

Name of Facility: _____
Air Permit No.: _____
Soil Treatment Permit No.: _____
Stationary ____ or Mobile Facility: ____

Month: 1 Year: 92

1	2	3	4	5								6	7	8		
				Analytical Results												
				Metals								Totals		Indicate Other Analyses		
Day of Mo.	Soil Batch ID#	Sample Number	Amount, Volume or Weight cy/tn	As	Ba	Cd	Cr	Pb	Hg	Se	Ag	VOA	RPH	Attach Lab Results Only		
1/2	114-15	1	131.62	BDL	54	BDL	5.6	9.2	.2	BDL	2.4	BDL	11032			0
1/2	106-87	1	47.99	1.1	2.2	<.5	4.0	1.9	.022	<1	<1	BDL	57			0
1/3	106-89	1	2.55	BDL	8	BDL	4	44	BDL	BDL	BDL	4345	200			0
1/3	106-88	1	1.66	<.4	<12	<.8	5.6	<4	<.05	<.4	<1.6	53800	10369			0
1/3	114-18	1	21.95	<.4	<12	<.8	<4	<4	<.05	<.4	<1.6	BDL	25			0
1/7	114-18	1	14.50	<.4	<12	<.8	<4	<4	<.05	<4	<1.6	BDL	25			0
1/13	114-18	1	18.01	<.4	<12	<.8	<4	<4	<.05	<.4	<1.6	BDL	25			0
1/3	106-86	1	1.57	2.7	18	<6.4	60	18	.016	<5	<1.3	BDL	23			0
1/3	126-19	1	79.29	.27	<.1	2.2	3.32	14.5	<.001	2.34	5.15	4223	170			0
1/3	103-07	1	34.13	<.4	<2	<.5	1.0	.6	<.02	<1	<1	<240	<5			0
1/3	106-96	1	.327	<.4	<12	<.8	8	<4	<.05	<.4	<1.6	BDL	145			0
1/6	106-97	1	2.46	BDL	43.7	BDL	4.1	BDL	BDL	BDL	BDL	BDL	22			0
1/6	106-90	1	.64	1.91	<12	<.8	<4.0	<4.0	<.05	<.4	<5.0	BDL	190			0
1/6	106-91	1	.82	.033	8.8	1.3	9.1	.47	<.05	.11	1.6	<130	619			0
1/6	106-92	1	1.17	<.4	<12	<.8	<4.0	<4.0	<.05	<.4	<1.6	BDL	73			0
1/6	106-93	1	.76	.675	42.4	<.8	7.2	<4	<.05	<.4	2.4	BDL	<5			0
1/6	106-94	1	.82	<.4	16.4	<.8	5.92	<4.0	.415	<.44	1.6	BDL	97			0
1/6	255-03	3	126.85	1.53	54.9	BDL	18.1	48.3	.133	BDL	BDL	6383	1627			.0008
1/6	111-87	1	28.94	.922	10.5	2.69	11	27.3	<.001	<.002	339	<55.9	98			0
1/7	106-99	1	6.45	<1	3.6	<.5	3.9	1.8	<.03	<1	<1	8.8	66			0

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.0008

Untreated Soil Report Form

Name of Facility: _____
Air Permit No.: _____
Soil Treatment Permit No.: _____
Stationary ____ or Mobile Facility: _____

Month: 12 Year: 91

1	2	3	4	5								6	7	8		
Day of Mo.	Soil Batch ID#	Sample Number	Amount, Volume or Weight cy/tn	Analytical Results												
				Metals								Totals		Indicate Other Analyses		
				As	Ba	Cd	Cr	Pb	Hg	Se	Ag	VOA	RPH	Attach Lab Results Only		
12/24	258-01	3	32.47	<.4	6	<.5	2.96	3.97	.033	<1	<1	<8371	<13			.0003
12/26	258-01	3	78.05	<.4	6	<.5	2.96	3.97	.033	<1	<1	<8371	<13			.0067
12/27	258-01	3	49.16	<.4	6	<.5	2.96	3.97	.033	<1	<1	<8371	<13			.0004
12/23	180-02	3	30.66	<.151	<1.91	1.06	26.37	20.10	.056	<.008	70.97	<9.24	213.8			0
12/23	106-79	5	57.34	1.36	67.38	BDL	4.42	1.3	BDL	BDL	BDL	59686	45.2			.003
12/24	106-79	5	215.73	1.36	67.38	BDL	4.42	1.3	BDL	BAL	BDL	59686	45.2			.0129
12/23	111-79	1	1.35	<.002	<.1	1.09	2.52	10.01	.0091	.0777	.376	<9	270			0
12/23	111-81	3	147.62	.49	65.2	2.54	8.36	48.9	.031	.05	3.35	<8	48.1			0
12/26	111-81	3	47.98	.49	65.2	2.54	8.36	48.9	.031	.05	3.35	<8	48.1			0
12/23	111-82	1	.42	<.002	<.1	2.31	7.59	31.3	.0227	<.002	1.7	<9	170			0
12/23	111-83	1	.5	.0284	1.93	1.31	1.12	4.62	.00168	.105	.231	8	50.8			0
12/23	158-06	1	40.45	9.0	10	<.5	5	7.0	<.02	<1	<1	BDL	238			0
12/24	158-05	1	4.36	<.4	186.4	<1	1.9	1.4	.1	BDL	BDL	<55	6500			0
12/27	263-01	4	943.02	.52	13.98	3.04	<.035	38.32	.0242	<.031	2.88	<8	<28.25			0
12/30	111-84	3	567.21	.1482	24.27	3.58	6.04	68.36	.006	.0268	7.58	<13	40.75			0
12/30	111-86	3	140.11	BDL	18.87	1.9	2.57	13.8	BDL	BDL	BDL	BDL	26.5			0
12/31	111-85	2	124.08	2.5	740	4.35	3.45	54.9	.1445	BDL	4.2	BDL	47.4			0
12/31	106-95	1	47.24	BDL	520	2.9	1.75	30	BDL	BDL	2.2	BDL	285			0

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Florida Department of Environmental Regulation
Soil Thermal Treatment Facility
Untreated Soil Report Form

Name of Facility: Rinker Materials Corp
Air Permit No.: _____
Soil Treatment Permit No.: _____
Stationary X or Mobile Facility: _____

Month: 12 Year: 91

1	2	3	4	5								6	7	8		9
Day of Mo.	Soil Batch ID#	Sample Number	Amount, Volume or Weight cy/tn	Analytical Results										Indicate Other Analyses		
				Metals								Totals		Attach Lab Results Only		
				As	Ba	Cd	Cr	Pb	Hg	Se	Ag	VOA	RPH			
12/12	114-17	1	19.85	BDL	1	BDL	BDL	BDL	BDL	BDL	BDL	1300	34			0
12/13	111-60	1	21.45	.781	<.01	2.42	15.2	33.3	<.002	.0006	.008	.781	1681			0
12/13	230-02	1	19.51	2.5	3.6	2.0	3.3	16.1	BDL	BDL	2.1	BDL	37			0
12/16	136-04	3	52.98	1.93	24	<.63	30.67	58.67	<.031	<1	<1	BDL	29.3			0
12/17	136-04	3	377.53	1.93	24	<.63	30.67	58.67	<.031	<1	<1	BDL	29.3			0
12/17	262-01	1	2.08	.5	9.8	.5	3.5	22	BDL	1.4	BDL	BDL	24			6
12/17	106-85	1	90.51	BDL	10.3	BDL	3.0	12.2	BDL	BDL	BDL	2320	41			.0002
12/18	258-01	3	15.70	<.4	6	<.5	2.96	3.97	.033	<1	<1	<8371	<13			.0001
12/19	258-01	3	43.14	<.4	6	<.5	2.96	3.97	.033	<1	<1	<8371	<13			.0004
12/20	258-01	3	19.10	<.4	6	<.5	2.96	3.97	.033	<1	<1	<8371	<13			.0002
12/18	257-01	1	3.67	1.7	26	BDL	1.9	BDL	BDL	BDL	BDL	BDL	101			0
12/18	111-76	1	25.45	.241	<.1	2.57	12.4	30.5	.005	.0108	2.82	<8	486			0
12/19	190-06	1	18.82	<1	1.9	<.5	2.4	4.7	<.03	<1	<1	<7050	20			.0001
12/19	111-58	1	178.46	.0551	<.1	2.68	578	16	.0105	.0758	2.32	<3405	87.4			0
12/20	111-77	1	113.30	.625	<.1	1.96	3.3	19.6	<.001	.125	.766	<48.7	120			0
12/20	106-81	1	20.87	2.68	43.6	<.8	6.8	47.6	.06	<.4	1.88	BDL	17820			0
12/12	180-02	3	171.16	.151	<1.91	1.06	26.37	20.10	.056	<.003	70.97	<9.24	213.8			0
12/13	180-02	3	11.76	.151	<1.91	1.06	26.37	20.10	.056	<.003	70.97	<9.24	213.8			0
12/20	258-01	3	34.69	<.4	6	<.5	2.96	3.97	.033	<1	<1	<8371	<13			.0003
12/23	258-01	3	58.82	<.4	6	<.5	2.96	3.97	.033	<1	<1	<8371	<13			.0005

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See reverse side for instructions

Untreated Soil Report Form

Name of Facility: Rinker Materials Corp
Air Permit No.: ____
Soil Treatment Permit No.: ____
Stationary X or Mobile Facility: ____

Month: 12 Year: 91

1	2	3	4	5								6	7	8		
				Analytical Results												
				Metals								Totals		Indicate Other Analyses		
Day of Mo.	Soil Batch ID#	Sample Number	Amount, Volume or Weight cy/tn	As	Ba	Cd	Cr	Pb	Hg	Se	Ag	VOA	RPH	Attach Lab Results Only		
12/5	111-79	1	2.70	.0573	<.1	1.24	1.45	6.03	.0085	<.002	.993	<12.65	214			0
12/5	111-75	1	.327	.536	3.94	1.22	2.99	13.8	.0292	.102	1.34	<8	93.8			0
12/5	261-01	2	175.04	BDL	158	BDL	7.7	2.75	BDL	BDL	4.05	BDL	190.45			0
12/5	111-65	1	2.03	.0494	6.63	.862	3.65	9.28	.0016	.0588	.63	<36.4	67.3			0
12/5	111-68	1	.23	.0288	<.1	.975	1.5	8.97	<.001	<.002	<.01	<8	170			0
12/5	111-74	1	.42	.063	5.15	1.75	2.78	14.4	.0078	.0485	.978	<8	138			0
12/5	111-71	1	.17	.242	<.1	.837	9.18	8.62	.0284	.069	.812	<8	224			0
12/5	111-70	1	1.37	.0665	12.4	.0829	5.26	28.6	.0015	.0294	<.01	23505.37	168			0
12/6	114-06	1	45.55	BDL	42	BDL	BDL	8.9	BDL	BDL	BDL	BDL	1470			0
12/10	101-04	1	14.22	14	16	.33	BDL	38	BDL	BDL	BDL	BDL	210			0
12/10	106-79	5	733.21	1.36	67.38	BDL	4.42	1.3	BDL	BDL	BDL	59686	45.2			.0438
12/11	106-79	5	263.47	1.36	67.38	BDL	4.42	1.3	BDL	BDL	BDL	59686	45.2			.0157
12/12	106-79	5	38.70	1.36	67.38	BDL	4.42	1.3	BDL	BDL	BDL	59686	45.2			.0023
12/11	111-61	1	55.35	.361	<.1	9.87	10.7	44	<.001	.247	1.78	<8	1514			0
12/11	10305	1	87.88	<.4	6	<.5	4.5	2.8	<.02	<1	<1	<5	<5			0
12/11	111-62	1	14.61	.189	.359	2.41	5.58	44.7	.0012	.0011	.027	<80	5864			0
12/11	111-59	1	44.53	.281	<.1	16.6	10.7	104	<.001	.143	3.77	<8	1689			0
12/12	111-59	1	26.71	.281	<.1	16.6	10.7	104	<.001	.143	3.77	<8	1699			0
12/12	103-06	1	48.30	13.8	6	<.5	3.7	11.4	.04	<1	<1	BDL	11			0
12/12	114-05	3	355.10	1.61	2.87	.04	3.5	6.5	BDL	1.03	.75	4625.3	25.3			.0016

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Florida Department of Environmental Regulation
Soil Thermal Treatment Facility
Untreated Soil Report Form

Name of Facility: Rinker Materials Corp
Air Permit No.: _____
Soil Treatment Permit No.: _____
Stationary X or Mobile Facility: _____

Month: 12 Year: 91

1	2	3	4	5								6	7	8		
Day of Mo.	Soil Batch ID#	Sample Number	Amount, Volume or Weight cy/tn	Analytical Results										Indicate Other Analyses		
				Metals								Totals		Attach Lab Results Only		
				As	Ba	Cd	Cr	Pb	Hg	Se	Ag	VOA	RPH			
11/26	117-02	3	302.95	BDL	69.9	BDL	5.6	2.3	BDL	BDL	BDL	13261	744			.004
11/26	255-02	1	94.48	BDL	4.0	BDL	3.0	9.0	BDL	BDL	BDL	159	74			0
11/26	260-01	3	173.48	<.4	<2	<.5	1.3	4.2	<.02	<1	<1	<14	5			0
11/27	260-01	3	90.93	<.4	<2	<.5	1.3	4.2	<.02	<1	<1	<14	5			0
11/27	222-03	1	.95	<.589	68	<.236	7.19	14.2	<.036	<.589	2.23	34420	256			0
11/27	335-02	1	18.74	<1	1.9	<.5	2.5	6.4	<.03	<1	<1	<538	870			0
11/27	102-09	2	9.64	BDL	9.5	BDL	2.95	5.3	BDL	BDL	1.336	BDL	2842			0
12/12	102-09	2	156.17	BDL	9.5	BDL	2.95	5.3	BDL	BDL	1.336	BDL	2842			0
11/27	106-80	1	53.55	BDL	19.8	BDL	5.8	22.8	.1	BDL	BDL	100	549			0
12/2	106-84	1	1.69	.8	BDL	BDL	13.5	3.1	BDL	BDL	BDL	BDL	3200			0
12/2	106-82	1	1.35	.619	<.1	2.34	11.3	34.8	.00602	.287	4.81	4157	271			0
12/2	106-83	2	.32	.0875	<.1	.525	1.96	3.04	.0019	.0428	.189	<4391	<1			0
12/4	111-63	1	175.48	.308	2.001	.604	4.19	7.65	.009	.0106	.967	<8	44.5			0
12/5	111-63	1	22.37	.308	2.001	.604	4.19	7.65	.009	.0106	.967	<8	44.5			0
12/5	111-64	1	3.53	.0932	40.6	.749	.437	14.4	.0174	.0262	.25	<917	80			0
12/5	111-66	1	1.26	.217	10	1.61	3.52	19.1	.0358	.109	11.01	<15.43	190			0
12/5	111-67	1	1.55	.193	5.07	.463	1.05	2.03	.0188	.0114	.0388	<8	240			0
12/5	111-72	1	3.09	.0872	7.68	.461	.499	15.4	.0271	.007	.154	<1232.2	49.4			0
12/5	111-73	1	.43	.0889	9.4	2.35	4.84	18.8	.0246	.0421	2.58	<8	<1			0
12/5	111-69	1	.39	.16	22.7	2.67	4.55	21.4	.0134	.0602	4.23	<253	254			0

775.400(2)

See reverse side for instructions

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Teresa

Florida Department of Environmental Regulation

Twin Towers Office Bldg. ● 2600 Blair Stone Road ● Tallahassee, Florida 32399-2400

Lawton Chiles, Governor

Carol M. Browner, Secretary

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SEP 1 0 1992

DEPT. OF ENVIRONMENTAL REG.
WEST PALM BEACH

TO: Interested Parties

FROM: Thomas W. Conrardy, Engineering Support Section
Bureau of Waste Cleanup

DATE: August 27, 1992

SUBJECT: Chapter 17-775, F.A.C., Soil Thermal Treatment Facilities

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A third public workshop on proposed changes to the Soil Thermal Treatment Facilities Rule was held on July 31, 1992 at the Department's office in Tallahassee. Previous workshops have been held in January and February in Orlando and Tampa respectively. The rule had been scheduled for an adoption hearing by the Environmental Regulation Commission (ERC) on June 23, 1992 but was deferred until September to allow time to address two new issues. These issues are the allowable concentrations of the Clean Soil Criteria and allowable concentrations of PCBs in contaminated soil which is treated at these facilities.

Clean Soil Criteria

The Department was recently advised by EPA of revisions to the procedures and assumptions which are used in a risk assessment to determine allowable contaminant levels. This has resulted in the following changes in the allowable concentrations of total metals and Polynuclear Aromatic Hydrocarbons (PAHs) in the Clean Soil Criteria:

Contaminant	Current Rule (mg/kg)	New Proposal (mg/kg)
Arsenic	55	10
Barium	2,750	4,940
Cadmium	55	37
Chromium	275	50
Lead	77	108
Mercury	17	23
Selenium	165	389
Silver	165	353
PAHs	6	1

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When discussed at the workshop, it was determined that the thermal treatment facilities would be able to meet these standards most of the time but would occasionally receive soil with concentrations of some metals above the clean soil criteria. The current rule provisions allow blending of soil with other petroleum contaminated soil prior to treatment as a means to achieve the Clean Soil Criteria total metals limits. This provision will remain in the rule and will allow a means for the facilities to comply with the new standards.

It was suggested at the workshop that the Department should incorporate two sets of standards for treated soil in the rule. This is because the existing criteria is based on health risk due to exposure of the public to the soil, but several of the treatment facility representatives have stated that they ultimately dispose of treated soil in a manner which does not subject the public to the exposure scenario assumed in the risk analysis. One set of treatment standards would be the existing Clean Soil Criteria which allow unrestricted use or disposal of the treated soil. The other new standards would allow higher concentrations of contaminants in the treated soil, but the soil would have to be used for specified restricted uses such as landfill daily cover or part of the aggregate mix in concrete and asphalt.

The Department has given this concept detailed consideration. We have made a preliminary determination of what the allowable concentrations for the alternate cleanup criteria would be. After further consideration, the Department feels that this concept has merit but we do not feel it is appropriate to propose the alternate standards at this time. Implementing this would involve additional record keeping requirements to track the ultimate disposal of the soil and reappraisal of whether the facilities should operate under a general permit or a more conventional operating permit. The Department will examine the concept of alternate cleanup criteria as well as the permitting requirements and may propose additional modifications to the Soil Thermal Treatment Facility Rule.

PCBs

The other issue is whether low concentrations of PCBs should be allowed in soil to be treated at a soil thermal treatment facility. The Department's current proposal is to exclude these soils by stating in the definition of "petroleum contaminated soil" that such soils should contain no PCBs. The Florida Electric Power Coordinating Group (FCG), which represents utility companies, has made a

proposal which would allow soil with low concentrations of PCBs (<10 ppm) to be treated at a thermal treatment facility if the treated soil were used in one of several specified products, such as concrete or asphalt cement, and additional records of the soil source and ultimate disposition of treated soil are maintained. FCG representatives discussed their proposal at the July 31 public workshop. The Department feels the FCG proposal has merit, however, we have not incorporated the FCG proposal into the hearing draft of the rule. We have requested the FCG present their proposed modification at the ERC adoption hearing for consideration.

A current copy of the Soil Thermal Treatment Facilities Rule is attached. If you have any questions or comments, please write or call me at (904)488-0190.

TC/wp

17-775.620 Receiving, Handling, and Stockpiling.

(1) Each batch of contaminated soil shall be clearly identified by source and stockpiled separately until all sampling and analyses in accordance with Rule 17-775.410, F.A.C, are complete. Unless pretreatment soil samples are taken at the contamination site, a stockpile identification system shall be used which is consistent with the sample numbering system described in the Quality Assurance Standard Operating Procedures Manual for Soil Thermal Treatment Facilities. Once the contaminated soil is determined to be acceptable for treatment, soil batches may be mixed with other soil batches found acceptable for thermal treatment. All contaminated soils shall be stored separately and apart from all treated soils.

(2) through (2)(b)1. - No change.

2. The floor structure shall be designed and constructed for leachate collection and control. A record keeping system shall be provided to record quantity of leachate collected and means of treatment or disposal.

(3) A covered structure and surface seal shall be provided as described in Rule 17-775.620(2)(b), F.A.C., to prevent soil or ground water contamination during crushing, screening off loading, or other handling. If these areas are cleared of contaminated soil daily, surface sealing as described in Rule 17-775.620(2)(b), F.A.C., shall be provided.

(3) through (5) renumbered as (4) through (6).

(7) The maximum quantity of untreated soil stored at a thermal treatment facility shall be limited to 90 days treatment capacity based on the facility rated capacity stated in the Notice of Intent, Form 17-775.900(1).

Specific Authority: 376.303, 376.3071, 403.061, F.S.

Law Implemented: 376.303, 376.3071, F.S.

History: New 12-10-90, Amended _____.

17-775.710 Excavating, Handling, and Stockpiling.

(1) through (2) No change.

(3) Excavated soil shall be stockpiled on an impermeable surface or a liner with a minimum thickness of 5 mils. The stockpile shall be covered by a secured plastic cover with a minimum thickness of 5 mils until treatment in the thermal treatment unit commences.

(4) through (5) No change.

Specific Authority: 376.303, 376.3071, 403.061, 403.0877, F.S.

Law Implemented: 376.303, 376.3071, F.S.

History: New 12-10-90, Amended _____.

17-775.600 Security (No change).

17-775.610 Ground Water Monitoring.

(1) A ground water monitoring program, to provide assurances that ground water quality is maintained, shall be developed for each stationary facility ~~which shall provide assurances that ground water quality is maintained~~.

(2) No change.

(3) Monitoring wells shall be constructed in accordance with the provisions of Chapter ~~Rule~~ 17-532, F.A.C., except as follows:

(3)(a) through (4) No change.

(a) Volatile Organic Aromatics

1.	Benzene	EPA Method 602, 5030/8020, 5030/8021
2.	Toluene	EPA Method 602, 5030/8020, or 5030/8021
3.	Ethylbenzene	EPA Method 602, 5030/8020, or 5030/8021
4.	Total Xylenes	EPA Method 602, 5030/8020, or 5030/8021
(b)	Methyl Tert-Butyl Ether (MTBE)	EPA Method 602, 5030/8020, or 5030/8021
(c)	Polynuclear Aromatic Hydrocarbons	EPA Method 610, ~~or~~ 625, 8100, 8310, 8250 or 8270

(d) Metals*

1.	Arsenic	EPA Method 206.2, 206.3, ~~3010/7060~~ or ~~3020/7061~~

2.	Barium	EPA Method 200.7, 208.1, 208.2, 3010/6010, 3010/7080 or 3020/7081
3.	Cadmium	EPA Method 200.7, 213.1, 213.2, 3010,/6010, 3010/7130 or 3020/7131
4.	Chromium	EPA Method 200.7, 218.2, 3010/6010, or 3020/7191
5.	Lead	EPA Method 239.2 or 3020/7421
6.	Mercury	EPA Method 245.1, or ~~3010/7470 or 3020/7471~~
7.	Selenium	EPA Method 270.2, 270.3, ~~3010/7740~~ or ~~3020/7741~~
8.	Silver	EPA Method 200.7, 271.1, 271.2, 6010, ~~3010/7760~~ or ~~3020/7761~~

*The most sensitive analytical method of those methods listed above shall be used if the metal(s) of interest is not detected in natural background levels. An annual summary of ground water monitoring data shall be submitted to the Department's district office on the date the general permit notice of intent was submitted to the Department.

(5) If sampling analyses indicate any ~~levels~~ of the above parameters exceeding the unaffected natural background levels, the permittee shall notify the Department in writing within seven days of receiving analytical results.

Specific Authority: 376.303, 376.3071, 403.061, 403.0877, F.S.

Law Implemented: 376.303, 376.3071, F.S.

History: New 12-10-90, Amended _____.

TABLE II

Amount of Soil		Quantity of
by Volume (cubic yards)	by Weight (tons)	Composite Samples
Less than 100	Less than 140	1
100 to 500	140 to 700	3
500 to 1000	700 to 1400	5
For each additional 500	For each additional 700	1

(4) The soil must not be thermally treated pursuant to this chapter if it is classified as a hazardous waste. If any soil is suspected of containing a hazardous waste, then screening analyses for other contaminants may include, but are not limited to the following: volatile organic halogens; corrosivity; reactivity; toxicity characteristic constituents by the ~~Toxicity Characteristic Leachate Procedure (TCLP)~~, which includes metals, pesticides and additional organics, ~~;~~ and If the soil is suspected of containing polychlorinated biphenyls (PCBs), then it shall be analyzed by EPA Method 3550/3665/8080. TCLP analysis for metals shall not be required if total metals analysis do not indicate the potential for toxic leachate concentrations. Soil contaminated with used oil, hydraulic oil, or mineral oil may be a hazardous waste or contain PCBs and should be tested using toxicity characteristic, for total organic halides and

PCBs. Excavated soil which is classified as a hazardous waste must be managed as a hazardous waste and treated or disposed of at an approved hazardous waste treatment/disposal facility.

(5) Following thermal treatment, a soil sample shall be collected ~~at a sampling port~~ at least hourly and composited over an eight operational hour maximum time interval or at least once every 400 tons, whichever is less. Each composite sample shall be analyzed for the parameters identified in Rule 17-775.400(1),(2)(a), and (3)~~(4)~~, F.A.C. If the clean soil criterion in Rule 17-775.400(2)(a), F.A.C., is exceeded, the soil may be analyzed for PAH and VOH parameters identified in Rule 17-775.400(2)(b)~~(3)~~, F.A.C.

Specific Authority: 376.303, 376.3071, 403.061, F.S.

Law Implemented: 376.3071, 403.061, 403.062, F.S.

History: New 12-10-90, Amended _____.

17-775.500 Approval of Alternate Procedures.

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

(b) The specific provision of Chapter Rule 17-775, F.A.C., from which an exception is sought;

(2)(c)through (e) No change.

(3) The Secretary or the Secretary's his designee shall approve or deny each alternate procedure using the criteria in subsection (2) and shall provide written notice of such action.

Specific Authority: 376.303, 376.3071, F.S.

Law Implemented: 376.303, 376.3071, F.S.

History: New 12-10-90, Amended _____.

blended soil or resampling and analysis of blended pretreatment soil are acceptable. Uncontaminated soil shall not be used for blending.

(5) Soil which exhibits the hazardous characteristic of toxicity must be treated or disposed of at an approved hazardous waste treatment/disposal facility.

Specific Authority: 376.303, 376.3071, 403.087, F.S.

Law Implemented: 376.3071, 403.087, F.S.

History: New 12-10-90, Amended _____.

17-775.410 Soil Sampling and Analysis.

(1) No change.

(a) Total Volatile Organic Aromatics (VOA)	EPA Method 5030/8021 ~~8020~~ or 5030/8020
(b) Total Recoverable Petroleum Hydrocarbons	EPA Draft Method 3540/9073
(c) Polynuclear Aromatic Hydrocarbons (PAH)	EPA Method ~~3540/~~8100, ~~3550/8100,~~ ~~3540/~~8250, 3540/8270, or ~~3550/8250,~~ ~~3550/8270,~~ ~~3540/~~8310 or ~~3550/8310~~
(d) Volatile Organic Halocarbons (VOH)	EPA Method 5030/8021 ~~8010~~ or 5030/8010
(e) Total Organic Halides	EPA Method 5050/9056, 5050/9252, 5050/9253
(f) ~~(e)~~ Metals	
Arsenic	EPA Method 7060, 7061 or 6010

Barium	EPA Method 7080, 7081 or 6010
Cadmium	EPA Method 7130, 7131 or 6010
Chromium	Method 7190, 7191 or 6010
Lead	Method 7420, 7421 or 6010
Mercury	EPA Method 7471
Selenium	EPA Method 7740, ~~7040,~~ 7741, ~~7041~~ or 6010
Silver	EPA Method 7760, 7761, or 6010

(2) The acid digestion procedure by EPA Method 3050 shall be used to prepare soil samples for total metal analyses except mercury, and the extraction procedure by EPA Method 1311 ~~Toxicity Characteristic Leaching Procedure (~~TCLP~~)~~ shall be used to determine leachability characteristic of metals.

(3) Pretreatment soil shall be analyzed for Volatile Organic Aromatics, Total Recoverable Petroleum Hydrocarbons, Volatile Organic Halocarbons and total metals. The number of composite soil samples for ~~From~~ each contamination site, ~~composite soil sampling frequency~~ shall be in accordance with Table I-I. Each composite soil sample shall consist of soil samples taken from at least four locations. Each sample shall be collected from locations equally distributed throughout the soil surface area and from a depth of at least six inches below the surface. Sampling procedures are described in the Standard Operating Procedures Manual for Soil Thermal Treatment Facilities.

17-775.400 Criteria for Clean Soil. Treated ~~S~~soil which ~~has been treated by a soil thermal treatment facility~~ must meet comply with the following cleanup levels to be classified as clean soil. Mixing of treated soils to achieve these standards is prohibited, ~~however, if metal levels are exceeded without exceeding Toxicity Characteristic Leachate Procedure (TCLP) metals standards, blending of soil is allowed.~~

(1) Total Volatile Organic Aromatics shall not exceed 100 ug/kg (100 ppb) using the analysis identified in Rule 17-775.410(1)(a), F.A.C., and

(2) Total Recoverable Petroleum Hydrocarbons (TRPH) shall:

(a) not exceed 10 mg/kg (10 ppm) using the analysis identified in Rule 17-775.410(1)(b), F.A.C., or

~~(b) (3) Total Recoverable Petroleum Hydrocarbons (TRPH) shall not exceed 50 mg/kg (50 ppm) using the analysis identified in Rule 17-775.410(1)(b), F.A.C., provided the total of the Polynuclear Aromatic Hydrocarbons (PAH) does not exceed 1.6 mg/kg (1.6 ppm) using the analysis identified in Rule 17-775.410(1)(c), F.A.C., and the total of the Volatile Organic Halocarbons (VOH) does not exceed 50 ug/kg (50 ppb) using the analysis identified in Rule 17-775.410(1)(d), F.A.C., and~~

(3) ~~(4)~~ Metals shall not exceed the following concentrations in Table I using the analyses identified in Rule 17-775.410(1)(e), F.A.C. The appropriate ~~Both~~ preparation methods identified in Rule 17-775.410(2), F.A.C., shall be used prior to metal analysis.

TABLE I

	Maximum Concentration		
	TCLP*	Total	
Metals	(mg/l)	(mg/kg)	
Arsenic	5.0	10	~~55~~
Barium	100.0	4940	~~2750~~
Cadmium	1.0	37	~~55~~
Chromium	5.0	50	~~275~~
Lead	5.0	108	~~77~~
Mercury	0.2	23	~~17~~
Selenium	1.0	389	~~165~~
Silver	5.0	353	~~165~~

*TCLP = Toxicity Characteristic Leaching Procedure

(4) Under no circumstances may soils which exhibit the characteristic of toxicity for metals (EPA HW No. D004-D011) as established in 40 CFR 261.24 be blended. However, blending of soils prior to treatment to achieve the total metals criteria in Rule 17-775.400(3), F.A.C., is allowed if the pre-blended soil does not exhibit the characteristic of toxicity for those metals. Records shall be maintained of blending procedures used to comply with the total metals standards. Either records of blending ratios with calculations to estimate total metals concentrations of

operation begins or the existing permit expires. Any existing facility not in compliance with the requirements of this amended rule shall, by December 1, 1992, submit a new Notice of Intent, which demonstrates how the facility will comply.

(3) The notice of intent to use the general permit to treat petroleum contaminated soils at a soil thermal treatment facility shall bear the signature, date and seal of a professional engineer licensed in the State of Florida and the signature of the facility owner or operator.

(4) No change.

(5) Soil thermal treatment facilities shall treat soils to the extent necessary to ~~meet~~ comply with the criteria for clean soil in accordance with Rule 17-775.400, F.A.C. Soil sampling and analysis shall be in accordance with Rule 17-775.410, F.A.C.

(6) through (7) No change.

(8) When treating petroleum contaminated soil, soil thermal treatment facilities shall have a minimum soil retention time and a minimum operating soil temperature ~~and a maximum soil charging rate~~ which provides treatment to ~~meet~~ comply with the criteria in Rule 17-775.400, F.A.C.

(9) Soil must be screened, or otherwise processed in order to prevent ~~soil~~ particles greater than two inch mesh (diameter) from entering the thermal treatment unit. Soil thermal treatment facilities are allowed to treat debris,

other than soil, such as concrete, rocks, and wood.

(10) All sampling and analysis shall be conducted pursuant to Rule 17-160.300(7), F.A.C. Soil sampling procedures shall be in accordance with the Quality Assurance Standard Operating Procedures Manual for Soil Thermal Treatment Facilities. Analysis of soil samples shall be conducted by a laboratory with an approved Quality Assurance plan under Chapter 17-160, F.A.C. ~~Prior to conducting any sampling or analysis, a Comprehensive Quality Assurance Project Plan (formerly called a Generic Quality Assurance Plan) must be approved by the Department. For those persons who have an approved Comprehensive Quality Assurance Project Plan, a Short Form (site specific) Quality Assurance Project Plan or other appropriate quality assurance document approved by the Department will satisfy this requirement. The Short Form Quality Assurance Project Plan shall be prepared in accordance with the requirements of the Department's Guidelines for Preparing Quality Assurance Plans. If there is reasonable doubt as to the quality of data or methods used, the Department reserves the right to reject any or all data submitted prior to approval of the Short Form Quality Assurance Project Plan.~~

Specific Authority: 376.303, 376.3071, 403.0877, F.S.

Law Implemented: 376.3071, F.S.

History: New 12-10-90, Amended _____.

(11) renumbered as (13).

(14)~~(12)~~ "Used oil" means any lubricant which has been refined from crude oil and, as a result of use, storage or handling, has become unsuitable for its original purpose due to the presence of impurities or loss of properties, but which may be suitable for further use as a fuel or may be economically recycled for use as a fuel. "Used oil" shall not include any oil which has been mixed with any material which is a hazardous waste, unless the material is a hazardous waste solely due to the characteristic of ignitability as defined in 40 CFR Part ~~S~~ection 261, Subpart C as of July 1, 1991. Used oil containing more than 1000 parts per million of total organic halides ~~h~~alogens is presumed to be mixed with a halogenated hazardous waste listed ~~as-defined~~ in 40 CFR Part ~~S~~ection 261, Subpart D, unless a demonstration is made that the used oil does not contain a hazardous waste.

Specific Authority: 376.303, 376.3071, 403.061, F.S.

Law Implemented: 376.3071, 403.031, 403.061, 403.062, F.S.

History: New 12-10-90, Amended _____.

17-775.210 Reference Standards.

(1) through (2) No change.

(a) DER Manual ~~G~~uidelines for Preparing Quality Assurance Plans (DER-QA-001/90), Florida Department of Environmental Regulation, Quality Assurance Section.

(b) Test Methods for Evaluating Solid Waste,

Physical/Chemical Methods, EPA SW 846, Third Edition, Document No. 955-001-00000-1, as amended by Final Update Package I (November, 1990 ~~December, 1987~~).

(c) and (d) No change.

(e) Quality Assurance Standard Operating Procedures Manual for Soil Thermal Treatment Facilities as of November, 1991.

(f) EPA Method 3665 for sulfuric acid/permanganate cleanup as written in Proposed Update II (November 1990) of (b) above.

Specific Authority: 376.303, 376.3071, 403.061, F.S.

Law Implemented: 376.3071, 403.061, 403.062, F.S.

History: New 12-10-90, Amended _____.

17-775.300 General Permits.

(1) Soil thermal treatment facilities shall operate pursuant to a general permit, and shall meet the applicable general permit requirements in Rules 17-4.510 through 17-4.540, F.A.C., and the requirements of this Chapter Rule.

(2) Prior to operating under a general permit, the owners of a soil thermal treatment facility shall notify the Department on Form 17-775.900(1). ~~For an existing soil thermal treatment facility, the notification must be submitted within 90 days after the effective date of this Rule.~~ For a new soil thermal treatment facility, or for renewal of a general permit, or modification of a general permit, the notification must be submitted 30 days before the

17-775.100 Intent.

(1) Chapter ~~Rule~~ 17-770, F.A.C., establishes petroleum or petroleum product contamination cleanup criteria and a cleanup process which must be undertaken at all petroleum contamination sites. As a result of this cleanup effort, petroleum contaminated soils may be removed for thermal treatment.

(2) The State of Florida Department of Environmental Regulation promulgates this ~~c~~Chapter ~~rule~~ in order to provide assurances that petroleum contaminated soils as defined in Rule 17-77~~5~~0.200, F.A.C., which are removed for thermal treatment, are properly handled and are treated to levels that will not endanger public health or cause ~~prevent~~ future contamination of other soils, ground water, and surface water.

(3) The Department recognizes that thermal treatment of petroleum contaminated soils in asphalt plants, cement kilns, rotary kilns, or their equivalents, is a viable method of remediating petroleum contaminated soils.

(4) The Department intends for this rule to apply only to thermal treatment facilities and the petroleum contaminated soils which will be treated therein.

Specific Authority: 376.303, 376.3071, 403.061, F.S.

Law Implemented: 376.3071, F.S.

History: New 12-10-90, Amended _____.

17-775.200 Definitions.

(1) through (4) No change.

(5) "Hazardous substance" means any substance which is defined as a hazardous substance in the United States Comprehensive Environmental Response, Compensation and Liability Act of 1980, 94 Stat. 2767, as cited in Rule 17-150.200(2), F.A.C.

(5) through (7) renumbered as (6) through (8).

(9) "Petroleum contaminated soil" means soil which has become contaminated with one or more of the following liquid products made from petroleum. All forms of fuel known as gasoline, diesel fuel, jet fuel, kerosene, grades 2 through 6 fuel oils, crude oil, bunker C oil, residual oils; and non-hazardous petroleum based lubricating, hydraulic, and mineral oils containing no PCBs. This definition applies only to the regulation of soil thermal treatment facilities.

(8) and (9) renumbered as (10) and (11).

(12)~~(10)~~"Soil ~~T~~thermal treatment facility" means either a stationary or mobile facility ~~system~~ designed, constructed or utilized, and permitted by the Department to handle, store, and thermally treat or process petroleum contaminated soils. "Soil ~~T~~thermal treatment facility" does not include electrical power plants in which thermal treatment of contaminated soils from their own property results in ash which is disposed of in accordance with Chapters 17-701 or 17-702, F.A.C., or facilities that treat hazardous waste or hazardous substances.

Florida Department of Environmental Regulation
Twin Towers Office Bldg. ● 2600 Blair Stone Road ● Tallahassee, Florida 32399-2400
Lawton Chiles, Governor
Carol M. Browner, Secretary

July 17, 1992

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WEST PALM BEACH

The following rulemaking notices appeared in the July 17, 1992, Florida Administrative Weekly:

NOTICE OF PUBLIC WORKSHOP

The Department of Environmental Regulation announces a public workshop to which all persons are invited.
RULE CHAPTER AND TITLE: 17-775, Soil Thermal Treatment Facilities.
DATE AND TIME: Friday, July 31, 1992, 9:00 a.m. - 1:00 p.m.
PLACE: Room 609, Twin Towers Building, Florida Department of Environmental Regulation, 2600 Blair Stone Road, Tallahassee, Florida.
PURPOSE: The Department is seeking input from manufacturers and operators of soil thermal treatment facilities, experts and concerned citizens on the Department's proposed amendments to Chapter 17-775, F.A.C. The EPA refers to this technology as "thermal desorption". It is also known generally as "soil remediation". In Florida, the primary use of this process is to clean up sites contaminated with petroleum products. The objective of the workshop is to discuss the proposed amendments to Chapter 17-775. A copy of the proposed rule amendments, an agenda, and an economic impact questionnaire may be obtained by writing to Thomas Conrardy, Division of Waste Management, Department of Environmental Regulation, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or call (904)488-0190.

* * *

NOTICE OF PUBLIC MEETING

The Department of Environmental Regulation announces a public meeting to which all persons are invited.
DATE AND TIME: Friday, July 31st, 1992 from 1:00 p.m. to 5:00 p.m.
PLACE: Department of Environmental Regulation, Twin Towers Building, 2600 Blair Stone Road, Room #609
PURPOSE: To receive input from the public concerning the proposed revisions to Chapter 17-11, F.A.C., Fish Value Rule. A copy of the agenda may be obtained by writing to the Department of Environmental Regulation, Clyde L. Diao, Office of the General Counsel, Room #654, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or call (904) 488-9730.

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Printed with Soy Based Ink

Form No. 22 (NEW 199

THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL REGULATION

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

In the matter of notification
of use of general permit by: DER File No.#_____
_____ County

Mr. _____

_____

_____

NOTICE OF DENIAL OF USE OF GENERAL PERMIT

This is to notify you that the project noticed for a _____ general permit does not qualify for a general permit based on the information submitted with you notice received on _____. The requirements for the general permit that you noticed are specified in _____, Florida Administrative Code, and the requirements for all general permits are specified in Rules 17-4.510 through 17-4.540, Florida Administrative Code. Your notice does not comply for the following reasons:

_____
[specify deficiencies]

To use the general permit, a new Notice of Intent to Use General Permit that resolves these deficiencies must be resubmitted to the Department with a $25.00 fee.

A person whose substantial interests are affected by this action may petition for an administrative proceeding (hearing) in accordance with Section 120.57, Florida Statutes. The petition must contain the information set forth below and must be filed (received) in the Office of General Counsel of the Department at 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, within (14 or 21) days of receipt of this permit. Petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. Failure to file a petition within this time period shall constitute a waiver of any right such person may have to request an administrative determination (hearing) under Section 120.57, Florida Statutes.

The petition shall contain the following information;

(a) The name, address, and telephone number of each petitioner, the applicant's name and address, the Department File Number and the county in which the project is proposed;

(b) A statement of how and when each petitioner received notice of the Department's action or proposed action;

(c) A statement of how each petitioner's substantial interests are affected by the Department's action or proposed action;

(d) A statement of the material facts disputed by Petitioner, if any;

(e) A statement of facts which petitioner contends warrant reversal or modification of the Department's action or proposed action;

(f) A statement of which rules or statutes petitioner contends require reversal or modification of the Department's action or proposed action; and

(g) A statement of the relief sought by petitioner, stating precisely the action petitioner wants the Department to take with respect to the Department's action or proposed action.

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this permit. Persons whose substantial interests will be affected by any decision of the Department with regard to the application have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within [14 or 21 days] of receipt of this notice in the Office of General Counsel at the above address of the Department.

Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Section 120.57, F.S., and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed pursuant to Rule 28-5.207 F.A.C.

This action is final and effective on the date filed with the Clerk of the Department unless a petition is filed in accordance with the above paragraphs or unless a request for extension of time in which to file a petition is filed within the time specified for filing a petition and conforms to rule 17-103.070, F.A.C. Upon timely filing a petition or a request for an extension of time this permit will not be effective until further Order of the Department.

When the Order is final, any party to the Order has the right to seek judicial review of the Order pursuant to Section 120.68, Florida Statutes, by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate procedure, with the Clerk of the Department in the Office of General Counsel, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400; and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 days from the date the Final Order is filed with the Clerk of the Department.

Executed in West Palm Beach, Florida.

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL REGULATION

_____

J. Scott Benyon
Deputy Assistant Secretary
1900 South Congress Avenue, Suite A
West Palm Beach, FL 33406
407/433-2650

CERTIFICATE OF SERVICE

The undersigned duly designated Deputy Agency Clerk hereby certifies that this NOTICE OF DENIAL OF USE OF GENERAL PERMIT and all copies were mailed before the close of business on _____ to the listed persons.

Clerk Stamp

FILING AND ACKNOWLEDGEMENT FILED, on this date, pursuant to §120.52(11), Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

_____ _____

Clerk Date

JSB:975

Copies furnished to:

Florida Department of Environmental Regulation

Southeast District • 1900 S. Congress Ave., Suite A • West Palm Beach, Florida 33406

Lawton Chiles, Governor

Telephone: 407/433-2650
Fax: 407/433-2666

Carol M. Browner, Secretary

LETTER ACKNOWLEDGING ACCEPTABILITY OF USE OF GENERAL PERMIT

_____

_____

_____

_____

Dear Mr(s). _____:

Re: Notification of Use of General Permit
Notice No. _____

Dear _____:

In response to your request, this letter is to advise you that the Department has received your notice of intent to use a general permit as provided in Rule _____to _____ and does not object to your use of such general permit. Please be advised that your are required to abide by all conditions in Rules 17-4.510 through 17-4.540, Florida Administrative Code, the general requirements for general permits; and Rule _____, Florida Administrative Code.

_____

[Name and Address of Permit Processor]

JL:975

Recycled Paper

17-4.540 General Conditions for All General Permits.

(1) The terms, conditions, requirements, limitations, and restrictions set forth in this Part are "general permit conditions" and are binding upon the permittee. The conditions are enforceable under Chapter 403, F.S.

(2) The general permit is valid only for the specific activity indicated. Any deviation from the specified activity and the conditions for undertaking that activity shall constitute a violation of the permit. The permittee is placed on notice that violation of the permit may result in suspension or revocation of the permittee's use of the general permit and may cause the Department to begin legal proceedings.

(3) The general permit does not convey any vested rights or any exclusive privileges. It does not authorize any injury to public or private property nor any invasion of personal rights. It does not authorize any infringement of federal, state or local laws or regulations. It does not eliminate the necessity for obtaining any other federal, state or local permits that may be required, or allow the permittee to violate any more stringent standards established by federal or local law.

(4) The general permit does not relieve the permittee from liability and penalties when the construction or operation of the permitted activity causes harm or injury to human health or welfare; causes harm or injury to animal, plant or aquatic life; or causes harm or injury to property. It does not allow the permittee to cause pollution in contravention of Florida Statutes and Department rules.

(5) The general permit conveys no title to land or water, nor does it constitute State recognition or acknowledgement of title. It does not constitute authority for reclamation of submerged lands. Only the Board of Trustees of the Internal Improvement Trust Fund may express State opinion as to title.

(6) No general permit shall authorize the use of state owned land without the prior consent of the Board of Trustees of the Internal Improvement Trust Fund pursuant to Section 253.77, F.S.

(7) The general permit may be modified, suspended or revoked in accordance with Chapter 120, Florida Statutes, if the Secretary determines that there has been a violation of any of the terms or conditions of the permit, there has been a violation of state water quality standards or state air quality standards, or the permittee has submitted false, incomplete or inaccurate data or information.

(8) The general permit shall not be transferred to a third party except pursuant to Fla. Admin. Code Rule 17-4.120.

(9) The general permit authorizes construction and where applicable operation of the permitted facility.

(10) The permittee agrees in using the general permit to make every reasonable effort to conduct the specific activity or construction authorized by the general permit in a manner that will minimize any adverse effects on adjacent property or on public use of the adjacent property, where applicable, and on the environment, including fish, wildlife, natural resources of the area, water quality or air quality.

(11) The permittee agrees in using the general permit to allow a duly authorized representative of the Department access to the permitted facility or activity at reasonable times to inspect and test upon presentation of credentials or other documents as may be required by law to determine compliance with the permit and the Department rules.

(12) The permittee agrees to maintain any permitted facility, or activity in good condition and in accordance with the plans submitted to the department under Rule 17-4.530(1).

(13) A permittee's use of a general permit is limited to five years. However, the permittee may request continued use of the general permit by notifying the Department pursuant to Rule 17-4.530(1). However, the permittee shall give notice of continued use of a general permit thirty days before it expires.

Specific Authority: 403.814(1), F.S.

Law Implemented: 253.123, 253.124, 403.061, 403.087, 403.088, 403.702-403.73, 403.814, 403.851-403.864, F.S.

History: New 7-8-82. Amended 8-31-88. Previously numbered as 17-5.54.

Form No. 22 (NEW 1991)

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DEPARTMENT OF ENVIRONMENTAL REGULATION

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_____ County

Mr. _____

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(d) A statement of the material facts disputed by Petitioner, if any;

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Executed in West Palm Beach, Florida.

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL REGULATION

_____

J. Scott Benyon
Deputy Assistant Secretary
1900 South Congress Avenue, Suite A
West Palm Beach, FL 33406
407/433-2650

CERTIFICATE OF SERVICE

The undersigned duly designated Deputy Agency Clerk hereby certifies that this NOTICE OF DENIAL OF USE OF GENERAL PERMIT and all copies were mailed before the close of business on _____ to the listed persons.

Clerk Stamp

FILING AND ACKNOWLEDGEMENT FILED, on this date, pursuant to §120.52(11), Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

_____ _____
Clerk Date

JSB:975

Copies furnished to:

GMS I.D. No.: 5013PO3705

County: Dade

Project: Florida P[illegible]r & Light

Expiration Date: _____

Permit Files

Florida Department of Environmental Regulation
Southeast District • 1900 S. Congress Ave., Suite A • West Palm Beach, Florida 33406
Lawton Chiles, Governor
Carol M. Browner, Secretary

APR 17 1991

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. James S. Jenkins, III
Vice President, Cement Operations
Rinker Materials Corporation
Post Office Box 24635
West Palm Beach, FL 33416

GMS I.D. No.: 5013P03669
General Permit No.: SO13-195017
County: Dade
Project: To Construct/Operate a Soil Thermal Treatment facility
Expiration Date: April 4, 1996

Dear Mr. Jenkins:

This letter acknowledges receipt of your notice requesting the use of a General Permit. Based upon the representation submitted to the Department, this project appears to qualify for the operation of a soil thermal treatment facility located at 1200 Northwest 137th Avenue, Miami, Dade County, Florida 33182.

This facility shall be operated in accordance with the applicable paragraphs set forth in Florida Administrative Code Rules 17-775.

This General Permit is subject to the General Conditions of Florida Administrative Code Rules 17-4.510 through 17-4.540, F.A.C. (see backside).

If you need further information, please call Mr. Paul Wierzbicki, P.G., at telephone number 407/433-2650 or after hours 904/488-1320 for an emergency.

Sincerely,

J. Scott Benyon
Deputy Assistant Secretary

JSB:paw/28
cc: Mr. John Ruddell, Bureau of Waste Cleanup, DER, Tallahassee
Mr. Don Ehlenbeck, P.E., Bureau of Waste Cleanup, DER, Tallahassee
Mr. Chris McGuire, Esq., Office of General Counsel, DER, Tallahassee
Ms. Zoe Kulakowski, P.G., Bureau of Waste Cleanup, DER, Tallahassee
Mr. William E. Voshell, Rinker Materials Corporation
Mr. I. Goldman, P.E., Air Section, DER, West Palm Beach
Mara Austin, Metro-Dade Environmental Resources Management
West Palm Beach DER files

Recycled Paper

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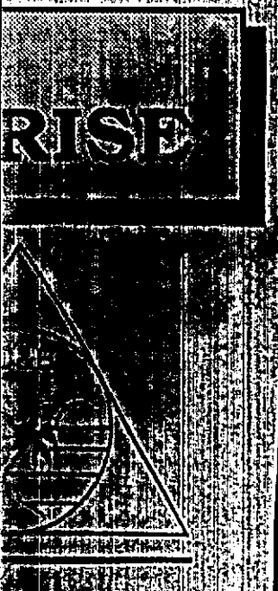
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Law Implemented: 253.123, 253.124, 403.061, 403.087, 403.088, 403.702-403.73, 403.814, 403.851-403.864, F.S.
History: New 7-8-82. Amended 8-31-88. Previously numbered as 17-5.54.

S, Inc.
8



A PLAN

briefs

Reed trims mangroves, then calls state's protection law unfair

♦ Nathaniel Reed, nationally known environmentalist and founder of 1,000 Friends of Florida, trimmed mangroves on his Jupiter Island property, violating laws protecting the plant but giving him a better view of the golf course. Both DNR and DER know of the violation, but neither agency has imposed any punishment on Reed.

DER workers say the violations are minor, compared to cases where the delicate plants are destroyed, adding that the agency lacks personnel to pursue everyone who trims mangroves.

Under the state law, Reed could face fines of $10,000 per day, per offense. Reed and John Morrison of the John's Island Property Association are seeking a state hearing to overturn the rule, calling it unfair.

Nitrate is discovered in Florida's springs

♦ A Southwest Florida Water Management District study has found rising nitrate levels in once-pure springs in Marion, Hernando, Pasco and Hillsborough counties. Nitrate levels are 2.5 to 13 times higher since 1955. The study blames nearby septic tanks, dairy farms and stormwater runoff for the increases.

The levels are below the U.S. EPA's standard of 10 ppm, but a national EPA study has found nitrates so pervasive that the agency is considering lowering the standard.

SWFWMD scientists say the polluted springs are partly to blame for algae outbreaks on area rivers and bays.

No development in the Green Swamp

FLORIDA

DER to level the soil-burner playing field

TALLAHASSEE

CALL IT 'THE FAIR COMPETITION RULE.'

Reacting to complaints that soil decontamination firms are badly undercutting competing soil burners while operating out of compliance with state thermal soil treatment policy, the Department of Environmental Regulation is moving to enact a somewhat tougher measure in rule form.

DER is also proposing amendments to a companion rule that would ban the burning of PCB-contaminated soil and strengthen non-air health and safety requirements at the facilities.

State officials say Resource Recovery of America, located in Clearwater, is apparently the only soil thermal treatment facility in Florida operating without the afterburner DER required in policy approved last summer. While most companies reportedly moved to comply with the policy, Resource Recovery challenged it, and so can legally operate without the afterburner until its challenge is resolved, according to DER officials.

Resource Recovery officials have in the past argued they already had their permit when DER issued the afterburner policy, and cannot be forced to comply.

DER's lawyers agreed, saying the company is legally right, and have recommended turning the policy into a rule as the best way to bring all soil burners under the same set of requirements.

Otherwise, DER officials and other soil burners say Resource Recovery has a substantial advantage when bidding for new business.

"It's just not fair. Some of the people with good controls are losing bids because they had afterburners," said DER's Willard Hanks, who helped draft the rule. "They [other soil burners] are pushing [the rule] and [it] is so everybody will be operating under the same rules."

DRE Environmental president Chris Sleeper said he is no longer operating his afterburner-equipped mobile burner in Florida because he cannot compete.

by MICHAEL MCCLELLAND
FE Tallahassee Bureau

Sleeper claims he has lost $100,000 to $200,000 of business over the last year, and that other companies were probably suffering similar losses.

Resource Recovery president David Dye did not return repeated phone calls for comment.

If approved by the Environmental Regulation Commission in June, the rule would in effect require all soil burners operating in Florida to have afterburners by Sept. 1—except for Resource Recovery. In negotiating a settlement to the company's policy challenge, DER has agreed to give Resource Recovery an additional 180 days after the rule takes effect to install an afterburner.

The new rule would require facilities to burn soil at temperatures of no less than 1500 degrees Fahrenheit, slightly higher than the policy's required 1400 degree minimum. It would also require monitoring for carbon monoxide (carbon monoxide is not a major emission during soil treatment, but rather serves as a good indicator of how efficiently a burner is running).

The only additional expense for most soil burners, Hanks said, would be the cost of installing and maintaining carbon monoxide monitors. Those monitors cost an estimated $30,000 to $50,000 each.

DER also plans to slightly amend its existing rule on non-air regulation of soil burning. DER administrator Thomas Conrardy said the proposed amendments would have only a small financial affect on burners.

The proposed amendments would limit the amount of untreated soil that could be stored at a facility to 90 days of the

PLEASE: [illegible] soil burners on p. 16

TANKS *cleanups*

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"But it's not really the money," he said. "I'm the kind of person who likes developing new things. I like a new challenge, like many of us do."

Smallwood said he is pleased with the work he did at DER, and leaves with no regrets. His only real concern is the effect Florida's ongoing budget problems will have on DER's air protection and improvement programs.

"Air quality is better in Florida, even though the population has grown," he said. "We certainly haven't solved all

ment has good people here who can present the secretary good information on whatever issue is before them."

As division director, Smallwood was indirectly involved with DER's decision to permit AES Cedar Bay, based on what has since been learned to be false information. Smallwood and spokesmen for DER and the governor's office all said, however, the AES fiasco had nothing to do with his resignation.

CONTINUED... — from page 3

Soil burners

facility's capacity. If a facility could burn 10 tons a day, for example, it could store no more than 900 tons of untreated soil at a time.

The amendments would also require facilities to have a concrete pad and a roof over areas where soil is transferred or screened, in addition to the roofed concrete pads now required for storage and treatment areas. A burner could use a concrete pad without a roof if he chooses, provided that pad is cleaned thoroughly at the end of every work day.

The amendments also require soil burners to keep records on where and how they dispose of leachate, and to test soil for volatile organic halocarbons.

Conrardy said the halocarbons test and roof pad for transfers will cost burners a combine $1.50 per cubic yard over the life of an average facility.

The rule would also prohibit the thermal treatment of PCB-contaminated soil. Hanks said that prohibition is necessary because it is difficult to say where treated soil will eventually end up; soil treated for petroleum contamination but still containing PCBs could end up in schoolyards or other public areas.

If the amendments are approved by the ERC, soil burners would either have to be in compliance or apply for a new permit by September 1. •

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• Asbestos Assessments
• Real Estate Prepurchase Assessments
• Environmental Audits

To learn more, contact Christopher H. Muir, Representative, at (813) 884-8268.

served as division [illegible]

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- U.S. Environmental Protection Agency Contract Laboratory
- U.S. Army Toxic and Hazardous Materials Agency
- American Industrial Hygiene Association
- National Voluntary Laboratory Accreditation Program—Asbestos
- Other State Certifications: Alabama, California, Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Minnesota, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, Wisconsin.

Matrices
- Ground Water
- Drinking Water
- Wastewater
- Soil
- Solid/Hazardous Waste
- Air
- Industrial Hygiene
- Asbestos

Instrumentation
- Atomic Absorption
- Injection Flow Analyzer
- Ion Chromatography
- Gas Chromatography
- Inductively Coupled Plasma
- Gas Chromatography/Mass Spectrometry
- Gel Permeation Chromatography
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- Field Sampling
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- Asbestos Assessments
- Real Estate Prepurchase Assessments
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To learn more, contact Christopher H. Muir, [illegible] Representative, at (813) 884-8268.

S, Inc.
8

RISE

A PLAN

briefs

Reed trims mangroves, then calls state's protection law unfair

♦ **Nathaniel Reed, nationally** known environmentalist and founder of 1,000 Friends of Florida, trimmed mangroves on his Jupiter Island property, violating laws protecting the plant but giving him a better view of the golf course. Both DNR and DER know of the violation, but neither agency has imposed any punishment on Reed.

DER workers say the violations are minor, compared to cases where the delicate plants are destroyed, adding that the agency lacks personnel to pursue everyone who trims mangroves.

Under the state law, Reed could face fines of $10,000 per day per offense. Reed and John Morrison of the John's Island Property Association are seeking a state hearing to overturn the rule, calling it unfair.

Nitrate is discovered in Florida's springs

♦ **A Southwest Florida Water** Management District study has found rising nitrate levels in once-pure springs in Marion, Hernando, Pasco and Hillsborough counties. Nitrate levels are 2.5 to 13 times higher since 1955. The study blames nearby septic tanks, dairy farms and stormwater runoff for the increases.

The levels are below the U.S. EPA's standard of 10 ppm, but a national EPA study has found nitrates so pervasive that the agency is considering lowering the standard.

SWFWMD scientists say the polluted springs are partly to blame for algae outbreaks on area rivers and bays.

No development in the Green Swamp

FLORIDA

DER to level the soil-burner playing field

TALLAHASSEE

'CALL IT 'THE FAIR COMPETITION RULE.'

Reacting to complaints that soil decontamination firms are badly undercutting competing soil burners while operating out of compliance with state thermal soil treatment policy, the Department of Environmental Regulation is moving to enact a somewhat-tougher measure in rule form.

DER is also proposing amendments to a companion rule that would ban the burning of PCB-contaminated soil and strengthen non-air health and safety requirements at the facilities.

by MICHAEL MCCLELLAND
—FE Tallahassee Bureau

State officials say Resource Recovery of America, located in Clearwater, is apparently the only soil thermal treatment facility in Florida operating without the afterburner DER required in policy approved last summer. While most companies reportedly moved to comply with the policy, Resource Recovery challenged it, and so can legally operate without the afterburner until its challenge is resolved, according to DER officials.

Resource Recovery officials have in the past argued they already had their permit when DER issued the afterburner policy, and cannot be forced to comply.

DER's lawyers agreed, saying the company is legally right, and have recommended turning the policy into a rule as the best way to bring all soil burners under the same set of requirements.

Otherwise, DER officials and other soil burners say Resource Recovery has a substantial advantage when bidding for new business.

"It's just not fair. Some of the people with good controls are losing bids because they had afterburners," said DER's Willard Hanks, who helped draft the rule. "They [other soil burners] are pushing us to get the rule passed and in place so everybody will be operating under the same rules."

DRE Environmental president Chris Sleeper said he is no longer operating his afterburner-equipped mobile burner in Florida because he cannot compete.

Sleeper claims he has lost $100,000 to $200,000 of business over the last year, and that other companies were probably suffering similar losses.

Resource Recovery president David Dye did not return repeated phone calls for comment.

If approved by the Environmental Regulation Commission in June, the rule would in effect require all soil burners operating in Florida to have afterburners by Sept. 1—except for Resource Recovery. In negotiating a settlement to the company's policy challenge, DER has agreed to give Resource Recovery an additional 180 days after the rule takes effect to install an afterburner.

TANKS *cleanups*

If approved by the Environmental Regulation Commission in June, the rule would in effect require all soil burners operating in Florida to have afterburners by Sept. 1

The new rule would require facilities to burn soil at temperatures of no less than 1500 degrees Fahrenheit, slightly higher than the policy's required 1400 degree minimum. It would also require monitoring for carbon monoxide (carbon monoxide is not a major emission during soil treatment, but rather serves as a good indicator of how efficiently a burner is running).

The only additional expense for most soil burners, Hanks said, would be the cost of installing and maintaining carbon monoxide monitors. Those monitors cost an estimated $30,000 to $50,000 each.

DER also plans to slightly amend its existing rule on non-air regulation of soil burning. DER administrator Thomas Conrardy said the proposed amendments would have only a small financial affect on burners.

The proposed amendments would limit the amount of untreated soil that could be stored at a facility to 90 days of the

PLEASE: see 'Soil burners' on p. 16

SOIL THERMAL TREATMENT FACILITIES
QUALIFIED TO OPERATE UNDER A GENERAL PERMIT
CHAPTER 17-775, F.A.C.

March 6, 1992

Stationary Facilities:

Central District

Southern Soil Services, Inc.
3505 Pug Mill Road
Kissimmee, FL 34741
(407)933-8414

C.A. Myer Paving & Construction
Post Office Box 555727
Orlando, FL 32855-5727
(407)849-0770

Northwest District

Capital Asphalt, Inc.
(Sonas Corporation)
600 Blountstown Highway
Tallahassee, FL 32314
(904)575-8102

Industrial Waste, Inc.
Ellyson Industrial Park
Post Office Box 34
Pensacola, FL 32514
(904)479-1788

Northeast District

Anderson Columbia Company
Post Office Box 1386
Lake City, FL 32056
(904)752-7585

Southwest District

Resource Recovery of America
2300 Highway 60 West
Mulberry, FL 33860
(813)425-1084

South District

South Florida Thermal Services
1 Foxmoor Lane
Post Office Box 309
Moore Haven, FL 33471
(813)946-3300

Southeast District

Rinker Materials Corporation
1200 Northwest 137th Avenue
Post Office Box 650679
Miami, FL 33265-0679
(305)221-7645

Mobile Facilities:

D.R.E. Environmental, Inc.
Model No. 528
Post Office Box 1386
2 Guerdon Road
Lake City, FL 32056
(904)755-1196

Mobile Reclaim, Inc.
Serial No. SR-202
3615 Northwest 13th Street
Gainesville, FL 32609
(904)373-4614

TPS Technologies, Inc.
Serial No. SRU-200P-103 thru
SRU-200P-110
2070 South Orange Blossom Trail
Apopka, FL 32703
(407)886-2000

Notice of Public Workshop

The Department of Environmental Regulation announces a public workshop to which all persons are invited.

RULE CHAPTER AND TITLE: 17-2, Air Pollution; and

RULE CHAPTER AND TITLE: 17-775, Soil Thermal Treatment Facilities.

DATE AND TIME: Tuesday, January 28, 1992, 9:00 a.m. - 6:00 p.m.

PLACE: Orlando Sheraton North Hotel, I-4 and Maitland Boulevard (Route 414, Exit 47), Orlando, Florida.

PURPOSE: The Department is seeking input from manufacturers and operators of soil thermal treatment facilities, experts and concerned citizens on the Department's proposed amendments to Chapters 17-2 and 17-775, F.A.C. The EPA refers to this technology as "thermal desorption." It is also known generally as "soil remediation." In Florida, the primary use of this process is to cleanup sites contaminated with petroleum products. Soil can be treated in stationary or transportable facilities which are designed to remediate soil exclusively or as a secondary process (e.g., asphalt plants, cement kilns, and rotary kilns). The objective of the workshop is to discuss the proposed amendments to Chapters 17-2 and 17-775 and to discuss the technology that will eliminate or reduce the discharge of pollutants into the air. A copy of the proposed rule amendments, an agenda, and an economic impact questionnaire may be obtained by writing to Willard Hanks, Division of Air Resources Management, Department of Environmental Regulation, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or calling (904) 488-1344.

DEPARTMENT OF ENVIRONMENTAL REGULATION
Bureau of Air Regulations
Bureau of Waste Cleanup
Orlando Sheraton Hotel North
I-4 and Maitland Boulevard (State Road 414)
Orlando, Florida

Rule 17-2, F.A.C.
Rule 17-775, F.A.C.
Soil Thermal Treatment Facilities

January 28, 1992
9:00 am - 6:00 pm

-AGENDA-

9:00 am	Call to Order
9:15 am	Explanation of Rule 17-2, F.A.C.
9:45 am	Presentation by Affected Parties and Members of the Public
10:30 am	Break
10:45 am	Discussion of Rule 17-2, F.A.C.
11:30 am	Lunch
1:00 pm	Call to Order
1:15 pm	Explanation of Rule 17-775, F.A.C.
1:45 pm	Presentation by Affected Parties and Members of the Public
2:45 pm	Discussion of Rule 17-775, F.A.C.
3:15 pm	Break
3:30 pm	Continued Discussion of Rule 17-775, F.A.C.
6:00 pm	Adjourn

17-2.100 Definitions.

(1) through (218) No change.

(219) "Thermal treatment facility" means either a stationary or mobile system designed and constructed to handle, store, and thermally treat petroleum contaminated soils. "Thermal treatment facility" does not include electrical power plants in which thermal treatment of contaminated soils from their own property results in ash which is disposed of in accordance with Chapters 17-701 or 17-702, F.A.C., or facilities that treat RCRA and hazardous waste or its residual oils.

(219) through (238) Renumber as (220) through (239).

Specific Authority: 403.061, F.S.

Law Implemented: 403.021, 403.031, 403.087, F.S.

History: Formerly 17-2.02; Revised 1-18-72; Amended 12-28-74, 6-10-76, 7-20-76, 1-3-78, 6-8-78, 3-14-79, 7-19-79, 6-24-80, 7-13-80, 4-7-81; Amended and Renumbered 11-1-81; Amended 1-12-82, 11-25-82, 7-21-83, 1-12-84, 2-28-84, 4-10-85, 5-1-85, 8-14-85, 5-28-86, 1-20-86; Amended and Renumbered 5-30-88, 7-9-89, 8-30-89, 11-9-89, 7-13-90, 9-13-90, 12-31-91, _____.

17-2.600 Specific Emission Limiting and Performance Standards.

(1) through (14) No change.

(15) Soil Thermal Treatment Facilities. This subsection prescribes air pollution requirements for soil thermal treatment facilities. Soil thermal treatment facilities are only authorized to treat soil contaminated with gasolines, No.2-6 fuel oils, diesel fuels, jet fuels, kerosenes, and ~~"on-spec" petroleum based internal combustion engine lubricating oils~~. The following requirements apply to all new, modified, and existing soil thermal treatment facilities. Any new facility or modifications for which a complete application for a permit to construct is received by the Department after the effective date of this rule shall comply with these requirements before operation may commence. All other facilities shall comply with these requirements by September 1, 1992.

(a) Volatile Organic Compounds (VOC).

1. Soil thermal treatment facilities treating contaminated soil shall be designed and operated to expose the organic vapors from the soil to one of the following temperature ~~ranges~~ and minimum residence time combinations:

Temperature (°F)		Residence Time (Seconds)
1400	and	2.0 minimum
1500	and	1.0 minimum
1600	and	0.5 minimum
1800	and	0.3 minimum

2. Carbon monoxide (CO) emissions exiting soil thermal treatment facilities shall not exceed 100 parts per million by volume, dry basis.

3. Facilities shall continually monitor the temperature and carbon monoxide content of the flue gases entering the stack or atmosphere pursuant to Rule 17-2.710(6), F.A.C.

(b) Particulate.

1. Visible emissions (VE) from stack(s) shall not exceed 5% opacity when thermally treating soil; and

2. The particulate matter emissions shall not exceed ~~0.05~~ grains per dry standard cubic foot (gr/dscf) ~~corrected to 50% excess air~~.

(c) Unconfined Emissions. Before and after thermal soil treatment is accomplished, unconfined emissions of particulate matter from dry soil shall be controlled by application of water. ~~No visible emissions of airborne dust, as measured by EPA Test Method 22, shall be allowed.~~

Specific Authority: 403.061, F.S.

Law Implemented: 403.021, 403.031, 403.061, 403.087, F.S.

History: Formerly 17-2.04(6), 17-2.05(6), Table II; Revised 1-18-72; Amended 11-21-73, 2-8-74, 4-9-74, 12-28-74, 6-30-75, 6-10-76, 7-20-76, 3-2-77, 5-10-77; Amended and Renumbered 1-3-78; Amended 10-1-78, 12-4-78, 1-10-79, 11-20-79, 1-8-81; Amended and Renumbered 11-1-81; Amended 2-24-82, 11-25-82, 4-10-85, 5-1-85, 2-20-86, 5-30-88, 7-15-89, 8-30-89, _____.

17-2.700 Stationary Point Source Emissions Test Procedures.

(1) through (1)(d)6. No change.

TABLE 700-1
APPLICABLE TEST PROCEDURES FOR POINT SOURCE COMPLIANCE TESTS

17-2.630 and 17-2.600(5)(a) through 17-2.600(14) No change.

Emission Limiting Standard	Type Source	Pollutant	Test Methods	Min. Sampling Volume	Special Conditions
17-2.600(15)	Soil Thermal Treatment Facilities	PM	EPA Method 5	30 dscf	
		VE	EPA Method 9 ~~EPA Method 22~~		
		~~VOC~~ CO	EPA Method 10 ~~EPA Method 25~~ ~~EPA Method 25A~~		

17-2.650(1)(f)3 through 17-2.660 No change.

Table 700-2 No change.

(2) through (8) No change.

Specific Authority: 403.061, F.S.

Law Implemented: 403.021, 403.031, 403.061, 403.087, F.S.

History: Formerly 17-2.07 and 17-2.12, 17-2.08, 17-2.23; Revised 1-18-72; Amended 1-3-78; Amended and Renumbered 1-8-81, 11-1-81; Amended 1-12-81, 11-25-82, 9-21-84, 4-10-85, 4-23-85, 5-1-85, 10-20-86, 7-9-89, 8-30-89, 12-31-91, _____.

17-2.710 Continuous Emission Monitoring Requirements.

(1) through (5) No change.

(6) Soil thermal treatment facilities subject to Rule 17-2.600(15), F.A.C., shall be equipped with instruments to continuously monitor and record temperature and the carbon monoxide concentration of the flue gases entering the stack or atmosphere. The temperature monitor shall be certified by the manufacturer to be accurate to within 1% of the temperature being measured. The carbon monoxide monitor shall be certified by the manufacturer to be accurate to within ~~5%~~ of the carbon monoxide concentration by volume.

Specific Authority: 403.061, F.S.

Law Implemented: 403.021, 403.031, 403.061, 403.087, F.S.

History: New 11-1-81; Formerly 17-2.08; Amended 8-26-81, 4-10-85, 10-20-86, 7-9-89, 8-30-89, _____.

PART I

INTENT, DEFINITIONS AND GENERAL PROVISIONS

17-775.100 Intent.

(1) Chapter Rule 17-770, F.A.C., establishes petroleum or petroleum product contamination cleanup criteria and a cleanup process which must be undertaken at all petroleum contamination sites. As a result of this cleanup effort, petroleum contaminated soils may be removed for thermal treatment.

(2) The State of Florida Department of Environmental Regulation promulgates this chapter rule in order to provide assurances that petroleum contaminated soils as defined in Rule 17-7750.200, F.A.C., which are removed for thermal treatment, are properly handled and are treated to levels that will not endanger public health or cause prevent future contamination of other soils, ground water, and surface water.

(3) The Department recognizes that thermal treatment of petroleum contaminated soils in asphalt plants, cement kilns, rotary kilns, or their equivalents, is a viable method of remediating petroleum contaminated soils.

(4) The Department intends for this rule to apply only to thermal treatment facilities and the petroleum contaminated soils which will be treated therein.

Specific Authority: 376.303, 376.3071, 403.061, F.S.

Law Implemented: 376.3071, F.S.

History: New 12-10-90, Amended _____.

17-775.200 Definitions.

(1) through (6) No change.

(7) "Petroleum contaminated soil" means soil which has become contaminated with a liquid product made from petroleum including all forms of fuel known as gasoline, diesel fuel, kerosene, grades 4,5, and 6 residual oils, bunker C residual oils and petroleum based lubricating oils. This definition is unique to the regulation of soil thermal treatment facilities and does not have applicability to any other Department rules.

(7) through (9) renumber as (8) through (10).

(11)(10)"Thermal treatment facility" means either a stationary or mobile system designed; and constructed; and permitted by the Department to handle, store, and thermally treat petroleum contaminated soils. "Thermal treatment facility" does not include electrical power plants in which thermal treatment of contaminated soils from their own property results in ash which is disposed of in accordance with Chapters 17-701 or 17-702, F.A.C. or facilities that treat RCRA hazardous waste.

(11) renumber as (12).

(13)(12) "Used oil" means any lubricant which has been refined from crude oil and, as a result of use, storage or handling, has become unsuitable for its original purpose due to the presence of impurities or loss of properties, but which may be suitable for further use as a fuel or may be economically recycled for use as a fuel. "Used oil" shall not include any oil which has been mixed with any material which is a hazardous waste, unless the material is a hazardous waste solely due to the characteristic of ignitability as defined in 40 CFR Part Section 261, Subpart C as of July 1, 1991. Used oOil containing more than 1000 parts per million of total halogens is presumed to be mixed with a halogenated hazardous waste listed as defined in 40 CFR Part Section 261, Subpart D, unless a demonstration is made that the used oil does not contain a hazardous waste.

Specific Authority: 376.303, 376.3071, 403.061, F.S.

Law Implemented: 376.3071, 403.031, 403.061, 403.062, F.S.

History: New 12-10-90, Amended _____.

17-775.210 Reference Standards.

(1) through (2) No change.

(a) DER Manual Guidelines for Preparing Quality Assurance Plans (DER-QA-001/90), Florida Department of Environmental Regulation, Quality Assurance Section.

(b) Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, EPA SW 846, Third Edition, Document No. 955-001-00000-1, as amended by Final Uupdate Package I (November, 1990 December; 1987).

(c) EPA Draft Method 9073 for Total Recoverable Petroleum Hydrocarbons.

(d) Federal Register; Volume 55, No. 61, pages 11798 to 11877; dated Thursday, March 29, 1990; on Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Toxicity Characteristics Revisions; Final Rule.

(e) Quality Assurance Standard Operating Procedures Manual for Soil Thermal Treatment Facilities as of November, 1991.

Specific Authority: 376.303, 376.3071, 403.061, F.S.

Law Implemented: 376.3071, 403.061, 403.062, F.S.

History: New 12-10-90, Amended _____.

17-775.300 General Permits.

(1) Soil thermal treatment facilities shall operate pursuant to a general permit, and shall meet the applicable general permit requirements in Rules 17-4.510 through 17-4.540, F.A.C., and the requirements of this chapter Rule.

(2) Prior to operating under a general permit, the owners of a soil thermal treatment facility shall notify the Department on Form 17-775.900(1). For an existing soil thermal treatment facility, the notification must be submitted within 90 days after the effective date of this Rule: For a new soil thermal treatment facility, or for renewal of a general permit, or modification of a general permit, the notification must be submitted 30 days before the operation begins or the existing permit expires.

(3) The notice of intent to use the general permit to treat contaminated soils at a thermal treatment facility shall bear the signature, date and seal of a professional engineer licensed in the State of Florida and the signature of the facility owner or operator.

(4) No change.

(5) Soil thermal treatment facilities shall treat soils to the extent necessary to meet comply with the [redacted] for clean soil in accordance with Rule 17-775.400, F.A.C. Soil sampling and analysis shall be in accordance wi[redacted] 17-775.410, F.A.C.

(6) through (7) No change.

(8) When treating contaminated soil, soil thermal treatment facilities shall have a minimum soil retention time and a minimum operating temperature and a maximum soil charging rate which provides treatment to meet comply with the criteria in Rule 17-775.400, F.A.C.

(9) Soil must be screened, or otherwise processed in order to prevent soil particles greater than two inch mesh (diameter) from entering the thermal treatment unit. Soil thermal treatment facilities are allowed to treat debris, other than soil, such as concrete, rocks, and wood.

(10) All sampling and analysis shall be conducted pursuant to Rule 17-160.300(7), F.A.C. Soil sampling procedures shall be in accordance with the Quality Assurance Standard Operating Procedures Manual for Soil Thermal Treatment Facilities. Analysis of soil samples shall be conducted by a laboratory with an approved Quality Assurance plan under Chapter 17-160, F.A.C. Prior to conducting any sampling or analysis; a Comprehensive Quality Assurance Project Plan (formerly called a Generic Quality Assurance Plan) must be approved by the Department; For those persons who have an approved Comprehensive Quality Assurance Project Plan; a Short Form (site specific) Quality Assurance Project Plan or other appropriate quality assurance document approved by the Department will satisfy this requirement; The Short Form Quality Assurance Project Plan shall be prepared in accordance with the requirements of the Department's Guidelines for Preparing Quality Assurance Plans; If there is reasonable doubt as to the quality of data or methods used; the Department reserves the right to reject any or all data submitted prior to approval of the Short Form Quality Assurance Project Plan:

Specific Authority: 376.303, 376.3071, 403.0877, F.S.

Law Implemented: 376.3071, F.S.

History: New 12-10-90, Amended _____.

17-775.400 Criteria for Clean Soil.

Treated sSoil which has been treated by a soil thermal treatment facility must meet comply with the fol[redacted] cleanup levels to be classified as clean soil. Mixing of treated soils to achieve these standards is prohibited, ho[redacted] if metal levels are exceeded without exceeding Toxicity Characteristic Leachate Procedure (TCLP) metals standards, blending of soil is allowed:

(1) Total Volatile Organic Aromatics shall not exceed 100 ug/kg (100 ppb) using the analysis identified in Rule 17-775.410(1)(a), F.A.C., and

(2) Total Recoverable Petroleum Hydrocarbons (TRPH) shall:

(a) not exceed 10 mg/kg (10 ppm) using the analysis identified in Rule 17-775.410(1)(b), F.A.C., or

(3)(b) Total Recoverable Petroleum Hydrocarbons (TRPH) shall not exceed 50 mg/kg (50 ppm) using the analysis identifie[redacted]

in Rule 17-775.410(1)(b), F.A.C., provided the total of the Polynuclear Aromatic Hydrocarbons (PAH) does not exceed 6 mg/kg (6 ppm) using the analysis identified in Rule 17-775.410(1)(c), F.A.C., and the total of the Volatile Organic Halocarbons (VOH) does not exceed 50 ug/kg (50 ppb) using the analysis identified in Rule 17-775.410(1)(d), F.A.C., and

(4)(3) Metals shall not exceed the following concentrations in Table I using the analyses identified in Rule 17-775.410(1)(e), F.A.C. Both preparation methods identified in Rule 17-775.410(2), F.A.C., shall be used prior to metal analysis.

TABLE I

Maximum Concentration

Metals	TCLP* (mg/l)	Total (mg/kg)
Arsenic	5.0	102 55
Barium	100.0	5325 2750
Cadmium	1.0	102 55
Chromium	5.0	512 275
Lead	5.0	77
Mercury	0.2	31 17
Selenium	1.0	512 165
Silver	5.0	307 165

*TCLP = Toxicity Characteristic Leaching Procedure

(4) Under no circumstances may soils which exceed the TCLP metals standards be blended. However, blending of soils prior to treatment to achieve the total metals criteria in Rule 17-775.400(3) is allowed if the pre-blended soil does not exceed the TCLP metals standards.

(5) Soil which is classified as a hazardous waste as a result of the TCLP analysis must be treated or disposed at an approved hazardous waste treatment/disposal facility.

Specific Authority: 376.303, 376.3071, 403.087, F.S.

Law Implemented: 376.3071, 403.087, F.S.

History: New 12-10-90, Amended _____.

17-775.410 Soil Sampling and Analysis.

(1) No change.

(a) Total Volatile Organic Aromatics	EPA Method 5030/8021 8020
(b) Total Recoverable Petroleum Hydrocarbons	EPA Draft Method 3540/9073
(c) Polynuclear Aromatic Hydrocarbons (PAH)	EPA Method 3540/8100, 3550/8100;-3540/8250, 3540/8270, 3550/8250; 3550/8270;-3540/8310 or 3550/8310
(d) Volatile Organic Halocarbons (VOH)	EPA Method 5030/8021 8010
(e) Metals	
Arsenic	EPA Method 7081, 7060, 7061 or 6010
Barium	EPA Method 7080 or 6010
Cadmium	EPA Method 7130, 7131 or 6010
Chromium	EPA Method 7190, 7191 or 6010
Lead	EPA Method 7420, 7421 or 6010
Mercury	EPA Method 7471
Selenium	EPA Method 7740, 7840 7741, or 7041 or 6010
Silver	EPA Method 7760, 7761, or 6010

(2) The acid digestion procedure by EPA Method 3050 shall be used to prepare soil samples for total metal analyses, and the extraction procedure by EPA Method 1311 Toxicity-Characteristic-Leaching-Procedure-(TCLP) shall be used to determine leachability characteristic of metals.

(3) Pretreatment soil shall be analyzed for Volatile Organic Aromatics, Total Recoverable Petroleum Hydrocarbons, and total metals. The number of composite soil samples for From each contamination site;-composite-soil-sampling frequency shall be in accordance with Table II. Each composite soil sample shall consist of soil samples taken from at least four locations. Each sample shall be collected from locations equally distributed throughout the soil surface area and from a depth of at least six inches below the surface. Sampling procedures are described in the Standard Operating Procedures Manual for Soil Thermal Treatment Facilities.

TABLE II

Amount of Soil by Volume (cubic yards)	Amount of Soil by Weight (tons)	Quantity of Composite Samples
Less than 100	Less than 140	1
100 to 500	140 to 700	3
500 to 1000	700 to 1400	5
For each additional 500	For each additional 700	1

(4) The soil must not be thermally treated pursuant to this chapter if classified as a hazardous waste. If any soil is suspected of containing a hazardous waste, then screening analyses for other contaminants may include, but are not limited to the following: volatile organic halogens; corrosivity; reactivity; toxicity characteristic [redacted] by the Toxicity-Characteristic-Leachate-Procedure-(TCLP), which includes metals, pesticides and additional [redacted]; and polychlorinated biphenyls (PCB). Soil contaminated with used oil may be a hazardous waste and should be tested using toxicity characteristic and for volatile organic halogens. Excavated soil which is classified as a hazardous waste must be treated or disposed at an approved hazardous waste treatment/disposal facility.

(5) Following thermal treatment, a soil sample shall be collected at a sampling port at least hourly and composited over an eight hour maximum time interval or at least once every 400 tons, whichever is less. Each composite sample shall be analyzed for the parameters identified in Rule 17-775.400(1),(2)(a), and (3)(4), F.A.C. If the clean soil criterion in Rule 17-775.400(2)(a), F.A.C., is exceeded, the soil may be analyzed for PAH and VOH parameters identified in Rule 17-775.400(2)(b)(3), F.A.C.

Specific Authority: 376.303, 376.3071, 403.061, F.S.

Law Implemented: 376.3071, 403.061, 403.062, F.S.

History: New 12-10-90, Amended _____.

17-775.500 Approval of Alternate Procedures.

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

(b) The specific provision of Chapter Rule 17-775, F.A.C., from which an exception is sought;

(2)(c)through (e) No change.

(3) The Secretary or the Secretary's his designee shall approve or deny each alternate procedure using the criteria in subsection (2) and shall provide written notice of such action.

Specific Authority: 376.303, 376.3071, F.S.

Law Implemented: 376.303, 376.3071, F.S.

History: New 12-10-90, Amended _____.

PART II

SPECIFIC CONDITIONS FOR STATIONARY FACILITIES

17-775.610 Ground Water Monitoring.

(1) A ground water monitoring program, to provide assurances that ground water quality is maintained, shall be developed for each stationary facility which-shall-provide-assurances-that-ground-water-quality-is-maintained.

(2) No change.

(3) Monitoring wells shall be constructed in accordance with the provisions of Chapter Rule 17-532 except as

follows:

(3)(a) through (4) No change.

(a) Volatile Organic Aromatics		
1. Benzene	EPA Method 602, 5030/8020, 5030/8021	
2. Toluene	EPA Method 602, 5030/8020, 5030/8021	
3. Ethylbenzene	EPA Method 602, 5030/8020, 5030/8021	
4. Total Xylenes	EPA Method 602, 5030/8020, 5030/8021	
(b) Methyl Tert-Butyl Ether (MTBE)	EPA Method 602, 5030/8020, 5030/8021	
(c) Polynuclear Aromatic Hydrocarbons	EPA Method 610, or 625,8100, 8310, 8250 or 8270	
(d) Metals*		
1. Arsenic	EPA Method 206.2, 206.3, 3010/7060 or 3020/7061	
2. Barium	EPA Method 208.1, 208.2, 3010/7080 or 3020/7081	
3. Cadmium	EPA Method 213.1, 213.2, 3010/7130 or 3020/7131	
4. Chromium	EPA Method 200.7, 218.2 or 3020/7191	
5. Lead	EPA Method 239.2 or 3020/7421,	
6. Mercury	EPA Method 245.1, or 3010/7470 or 3020/7471	
7. Selenium	EPA Method 270.2, 270.3, 3010/7740 or 3020/7741	
8. Silver	EPA Method 271.1, 271.2, 3010/7760 or 3020/7761	

*The most sensitive analytical method shall be used if the metal(s) of interest is not detected in natural background levels. An annual summary of ground water monitoring data shall be submitted to the Department's district office.

(5) If sampling analyses indicate any levels of the above parameters exceeding the unaffected natural background levels, the permittee shall notify the Department in writing within seven days of receiving analytical results.

Specific Authority: 376.303, 376.3071, 403.061, 403.0877, F.S.

Law Implemented: 376.303, 376.3071, F.S.

History: New 12-10-90, Amended _____.

17-775.620 Receiving, Handling, and Stockpiling.

(1) Each batch of contaminated soil shall be clearly identified by source and stockpiled separately until all sampling and analyses in accordance with Rule 17-775.410, F.A.C, are complete. A stockpile identification system shall be used which is consistent with the sample numbering systems described in the Quality Assurance Standard Operating Procedures Manual for Soil Thermal Treatment Facilities. Once the contaminated soil is determined to be acceptable for treatment, soil batches may be mixed with other soil batches found acceptable for thermal treatment. All contaminated soils shall be stored separately and apart from all treated soils.

(2) No change.

(3) Surface sealing shall be provided as necessary to prevent soil or ground water contamination during crushing, screening or other handling processes.

(3)(4) No leachate shall be discharged to soils, ground water, or surface water prior to treatment. Prior to discharge, treated leachate shall meet the standards established in Rule 17-3, F.A.C. Applicable permits for discharges to either surface water or ground water must be obtained prior to any discharge.

(5)(4) Leachate may be treated in the thermal treatment facility.

(6)(5) Until soil analyses have verified that the soil meets the clean soil criteria identified in Rule 17-775.400, F.A.C., treated soil shall be stockpiled on a permanent floor structure, which meets the criteria in Rule 17-775.620(2)(b).

(7) Contaminated soil may not be stored on site longer than 90 days prior to treatment.

Specific Authority: 376.303, 376.3071, 403.061, F.S.

Law Implemented: 376.303, 376.3071, F.S.

History: New 12-10-90, Amended _____.

PART III

SPECIFIC CONDITIONS FOR MOBILE FACILITIES

17-775.710 Excavating, Handling, and Stockpiling.

(1) through (2) No change.

(3) Excavated soil shall be stockpiled on an impermeable surface or a liner with a minimum thickness of 5 mils. The stockpile shall be covered by a secured plastic cover with a minimum thickness of 5 mils until treatment in the thermal treatment unit commences.

(4) through (5) No change.

Specific Authority: 376.303, 376.3071, 403.061, 403.0877, F.S.

Law Implemented: 376.303, 376.3071, F.S.

State of Florida
DEPARTMENT OF ENVIRONMENTAL REGULATION

For Routing To Other Than The Addressee

To: _____ Location: _____

To: _____ Location: _____

To: _____ Location: _____

From: _____ Date: _____

Interoffice Memorandum

TO: District Waste Program Administrators
District Waste Cleanup Supervisors

FROM: TC Tom Conrardy, Engineering Support Section
Bureau of Waste Cleanup

DATE: February 14, 1992

SUBJECT: Chapter 17-775, F.A.C.
Soil Thermal Treatment Facilities

The second workshop on proposed changes to the Soil Thermal Treatment Facilities Rule, Chapter 17-775 is scheduled for February 28, 1992 in Tampa. Enclosed is a notice of the workshop, workshop draft of Chapter 17-775, and also the proposed changes to the air pollution rule, Chapter 17-2. Your comments or suggestions prior to the workshop, either verbally or in writing, would be appreciated. If you have any questions please call me at SC 278-0190.

TC/wp

attachment

For Routing To Other Than The Addressee

To: Location:

To: Location:

From: Date:

State of Florida
DEPARTMENT OF ENVIRONMENTAL REGULATION

Interoffice Memorandum

TO: District Waste Program Administrators
District Waste Cleanup Supervisors
Local Program Tank Supervisors

FROM: Tom Conrardy, Engineering Support Section
Bureau of Waste Cleanup

DATE: December 20, 1991

SUBJECT: Chapter 17-775, F.A.C.
Soil Thermal Treatment Facilities

Rule development has been initiated on the Soil Thermal Treatment Facilities Rule. The primary purpose of rule development is to make 17-775 consistent with proposed changes to the air pollution rule, Chapter 17-2. This is also an opportunity to make changes or additions to Chapter 17-775 to make it more understandable and effective. Please direct your comments or suggestions to my attention. The first workshop has been scheduled for January 28, 1992 in Orlando (notice attached). Comments or suggestions received by January 7, 1992 may be incorporated into the workshop draft of the rule. If you have any questions please call me at SC 278-0190.

TC/wp

attachment

Andrell - please
cc: Paul W.
Teresa R.
V. Kamath

To: Nick for distribution

Return orig to Alex. VR

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Notice of Public Workshop

The Department of Environmental Regulation announces a public workshop to which all persons are invited.

RULE CHAPTER AND TITLE: 17-2, Air Pollution; and

RULE CHAPTER AND TITLE: 17-775, Soil Thermal Treatment Facilities.

DATE AND TIME: Tuesday, January 28, 1992, 1:00 p.m. - 5:00 p.m.

PLACE: Orlando Sheraton North, I-4 and Maitland Boulevard, Orlando, Florida.

PURPOSE: The Department is seeking input from manufacturers and operators of soil thermal treatment facilities, experts and concerned citizens on the Department's proposed amendments to Chapters 17-2 and 17-775, F.A.C. The EPA refers to this technology as "thermal desorption." It is also known generally as "soil remediation." In Florida, the primary use of this process is to cleanup sites contaminated with petroleum products. Soil can be treated in stationary or transportable facilities which are designed to remediate soil exclusively or as a secondary process (e.g., asphalt plants, cement kilns, and rotary kilns). The objective of the workshop is to discuss the proposed amendments to Chapters 17-2 and 17-775 and to discuss the technology that will eliminate or reduce the discharge of pollutants into the air. A copy of the proposed rule amendments, an agenda, and an economic impact questionnaire may be obtained by writing to Willard Hanks, Division of Air Resources Management, Department of Environmental Regulation, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or calling (904) 488-1344.

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WEST PALM BEACH

Interoffice Memorandum

TO: District Waste Program Administrators
District Waste Cleanup Supervisors
Local Program Tank Supervisors

FROM: Tom Conrardy, Engineering Support Section
Bureau of Waste Cleanup

DATE: December 20, 1991

SUBJECT: Chapter 17-775, F.A.C.
Soil Thermal Treatment Facilities

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TC/wp

attachment

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TALLAHASSEE, FLORIDA

Florida Department of Environmental Regulation

Twin Towers Office Bldg. ● 2600 Blair Stone Road ● Tallahassee, Florida 32399-2400

Lawton Chiles, Governor

Carol M. Browner, Secretary

December 4, 1991

Mr. Mark Ziegler
Mortensen Engineering, Inc.
5706 Benjamin Center Drive
Suite 120
Tampa, Florida 33634

Re: Chapter 17-775, F.A.C.
Soil Thermal Treatment Facilities

Dear Mr. Ziegler:

I am writing in response to our recent phone conversation in which you requested a clarification on whether the blending soils is allowable to meet the Total Metals limitations of the Clean Soil Criteria in the Soil Thermal Treatment Facility rule.

Blending of soils is allowed, however, soils must be blended **prior** to soil thermal treatment. Besides the rule provisions which state that mixing of treated soils is prohibited, another reason for mixing soil prior to treatment is the additional mixing which will be provided by the thermal treatment process itself.

The following additional restrictions apply to mixing of soils:

- Mixing may only be used as a means of achieving the Total Metals limits of the Clean Soil Criteria.

- Before mixing can be considered, the soil must be analyzed for TCLP, and the results demonstrate the soil is not a hazardous waste.

- Only petroleum contaminated soil which was to be thermally treated should be used for mixing with the petroleum contaminated soils with high metals concentrations. Uncontaminated soil should not be used for mixing with the soil which has high metals concentrations. Also, moderately contaminated soil or soil with low levels of petroleum contamination and which would otherwise

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be left in place at a petroleum contaminated site should not be used for mixing.

Revision to the Soil Thermal Treatment Facility rule is currently being considered to clarify this issue as well as several other areas. If you have any questions, please call me at (904) 488-0190.

Sincerely,

Thomas W. Conrardy, P.E.
Bureau of Waste Cleanup

TC/wp

cc: Paul Wierzbicki, Florida DER Southeast District

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Paul

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WEST PALM BEACH

17-4.050 Procedure to Obtain Permits; Application.

(1) through (3) No change.

(4) Processing fees are as follows:

(a) Air Pollution Source Permits.

1. Construction Permits.

a. Construction permit for a source having potential emissions of 100 or more tons per year of any single pollutant and requiring a Prevention of Significant Deterioration (PSD) or Nonattainment Area (NAA) new source review permit $7500 5000

b. Construction permit for a source having potential emissions of 100 or more tons per year of any single pollutant but not requiring a PSD or NAA new source review permit $5000

c. Construction permit for a source having potential emissions of 50 or more tons per year, but less than 100 tons per year, of any single pollutant $4500

d. Construction permit for a source having potential emissions of 25 or more tons per year, but less than 50 tons per year, of any single pollutant $2000

e. Construction permit for a source having potential emissions of 5 or more tons per year, but less than 25 tons per year, of any single

~~each~~ pollutant $1000

f. Construction permit for a source having potential emissions of less than 5 tons per year of each pollutant $ 250

2. Operation permits.

a. Operation permit for a major source required to measure actual emissions by stack sampling $2000

b. Operation permit for a major source required to measure actual emission by any method other than stack sampling (such as visible emissions observation or continuous emissions monitoring) $2000

c. Operation permit for any major source not required to measure actual emissions $2000

d. Operation permit for a minor source required to measure actual emissions by stack sampling $1500 ~~2000~~

e. Operation permit for a minor source required to measure actual emissions by any method other than stack sampling (such as visible emissions observation or continuous emissions monitoring) $1000 ~~750~~

f. Operation permit for any minor source not required to measure actual emissions $ 750

3. No change.

(b) Domestic Wastewater Facility Permits.

1. Construction Permits for Types I, II, and III domestic wastewater facilities as defined in Rule 17-600.200, F.A.C.

	Type I	Type II	Type III
a. Treatment plant with or without disposal system	$5000±000	$3750±500	$1200±000
b. Reuse/land application system	$5000±000	$3750±000	$1200 500
c. Residuals management facility	$7500±000	$4000±500	$1200±000
d. Limited wet weather discharge	$1000	$ 800	$ 600
e. Minor modifications~~, excluding time extensions~~	$1000 ~~400~~	$ 800 ~~300~~	$ 600 ~~250~~

2. Operation permits for Types I, II, and III domestic wastewater facilities as defined in Rule 17-600.200, F.A.C.

	Type I	Type II	Type III
a. Treatment plant with or without disposal system	$5000±000	$3000±500	$1000
b. Reuse/land application system	$5000±000	$3000±000	$1000 500
c. Residuals management facility	$7500±000	$4000±500	$1000
d. Limited wet weather discharge	$1000	$ 800	$ 600
e. Minor modifications~~,~~			

~~excluding-time-extensions~~ $1200 ~~400~~ $ 800 ~~300~~ $ 600 ~~2~~

f. Operation permits for Type III facilities having a permitted capacity of less than 10,000 gallons per day shall be $600.

g. Minor modifications for Type III facilities having a permitted capacity of less than 10,000 gallons per day shall be $250.

~~3.-Temporary-operation-permits-for-domestic-wastewater facilities.~~

	~~-Type-I~~	~~Type-II~~	~~Type-III~~
~~a.-Treatment-plant-with-or without-disposal-system~~	~~$3000~~	~~$2500~~	~~$1500~~
~~b.-Reuse/land-application system~~	~~$3000~~	~~$1500~~	~~$-750~~
~~c.-Residuals-management facility~~	~~$3000~~	~~$2500~~	~~$1500~~
~~d.-Limited-wet-weather discharge~~	~~$1000~~	~~$-800~~	~~$-600~~
~~e.-Minor-modifications, excluding-time-extensions~~	~~$-400~~	~~$-300~~	~~$-250~~

3.~~4.~~ Permit for a surface water discharge, when applied for separately from the treatment facility.

a. Type I facility	$2000
b. Type II facility	$1000
c. Type III facility	$ 500

4.~~5.~~ Construction Permit for domestic wastewater

transmission/collection system.

a. Domestic wastewater collection system serving 10 or more Equivalent Dwelling Units (EDUs). An EDU is equal to 3.5 persons. $ 500

b. Domestic wastewater collection system serving less than 10 EDUs $ 300 ~~250~~

(c) Industrial Wastewater Facility Permits.

1. Construction and Operation permits for Group 1 an industrial wastewater treatment facilities which include the following: Citrus Processing; Textiles; Organic Chemicals, Plastics, and Synthetic Fibers; Inorganic Chemicals; Soaps and Detergents; Fertilizer Manufacturing; Petroleum Refining; Iron and Steel Manufacturing; Nonferrous Metals; Phosphate Manufacturing; Steam Electric Power Generating; Asbestos Manufacturing; Pulp, Paper, and Paper Board; Builders Paper and Board Mills; Coal Mining; Phosphate Mining and Beneficiation; Ore Mining and Dressing; Paint Formulating; Ink Formulating; Gum and Wood Chemicals Manufacturing; Pesticides Chemicals Manufacturing; Explosives Manufacturing; Battery Manufacturing; Mechanized Scallop Processing; Distilled, Rectified, and Blended Liquors; Sugar Cane Processing.

~~for which there is a technology based effluent limitation specified by Department rule~~ ~~$5000~~

a. Surface water discharges $7500

b. Non-surface water discharges $6000

2. Construction and Operation permits for Group 2 ~~all other~~

industrial wastewater treatment facilities which include the following: Cement Manufacturing; Leather Tanning and Finishing; Glass Manufacturing; Rubber Processing; Meat Products; Meat Rendering; Metal Finishing; Paving and Roofing Materials; Carbon Black Manufacturing; Photographic Processing; Hospitals; Metal Molding and Casting; Coil Coating; Porcelain Enameling; Aluminum Forming; Copper Forming; Electrical and Electronic Components; Nonferrous Metals Forming and Metal Powders; Bulk Oil Terminals, Drawdown and Loading Rack Discharges.

a. Surface water discharges ~~Type I facility~~ $5000

b. Non-surface water discharges ~~Type II facility~~ $4000 ~~3000~~

~~c. Type III or smaller facility $2000~~

3. Construction and Operation permits for Group 3 ~~an~~ industrial wastewater treatment facilities~~y~~ which include the following: Dairy Products; Canned and Preserved Fruits and Vegetables; Fruit and Vegetable Packaging; Canned and Preserved Seafood; Cement Batch Plants; Fertilizer Blending Only; Timber Products; Mineral Mining and Processing; Peat Mining; Plastic Molding and Forming; Car Washes; Coin Operated Laundromats; Animal Holding Facilities and Kennels; Aquaculture Facilities. ~~for which there is a technology based effluent limitation specified by Department rule.~~ $2000

a. Surface water discharges $2500

b. Non-surface water discharges $2000

4. Construction and Operation permits for Group 4 ~~all other~~

industrial wastewater treatment facilities which include the following: Animal Feeding Operations, Feedlots, Egg Production Facilities.

a. Feedlots with greater than the number of animals listed in Rule 17-670.200(3), F.A.C. ~~Type I facility~~ $2500 ~~2000~~

b. Feedlots, Other ~~Type II facility~~ $1500

c. Egg Production Facility, Major ~~Type III or smaller facility~~ $2500 ~~1000~~

d. Egg Production Facility, Other $1500

5. Construction and Operation permits for Group 5 industrial wastewater treatment facilities which include facilities discharging concentrate and regenerant from Reverse Osmosis, Membrane Softening, Ultrafiltration, and Ion Exchange Units at Drinking Water Treatment Facilities.

~~Temporary operation permit for an industrial wastewater treatment facility for which there is a technology based effluent limitation specified by Department rule.~~ $4000

a. Design daily flow of greater than 500,000 gpd $6000

b. Design daily flow of greater than 100,000 gpd up to 500,000 gpd $4000

c. Design daily flow of of 100,000 gpd or less $2000

6. Construction and Operation permits for Group 6

industrial wastewater treatment facilities which include facilities discharging non-contact cooling water ~~Temporary operation permit for all other industrial wastewater treatment facilities.~~

a. 1 million BTU/hour, or less, heat loss ~~Type I facility~~ $ 500 ~~4000~~

b. Greater than 1 million BTU/hour, up to 20 million BTU/hour heat loss ~~Type II facility~~ $1500 ~~3000~~

c. Greater than 20 million BTU/hour, up to 100 million BTU/hour heat loss ~~Type III or smaller facility~~ $3000 ~~2000~~

d. Greater than 100 million BTU/hour heat loss $6000

7. Construction and Operation permits for other industrial wastewater treatment facilities not specified in Groups 1 through 6 that discharge to surface waters.

a. Design daily flow of greater than 500,000 gpd $7500

b. Design daily flow of greater than 100,000 gpd up to 500,000 gpd $5000

c. Design daily flow of 100,000 gpd or less $2500

8. Construction and Operation permits for other industrial wastewater facilities not specified in Groups 1 through 6 that do not discharge to surface waters.

a. Design daily flow of greater than 500,000 gpd $6000

b. Design daily flow of greater than 100,000 gpd up to 500,000 gpd $4000

c. Design daily flow of 100,000 gpd or less $2000

9. Modifications to existing industrial wastewater permits.

a. Modifications which do not affect the quantity, quality, or location of the discharge shall be 20 percent of the permit fee.

b. Modifications which affect the quantity, quality, or location of the discharge, but do not require an antidegradation determination as specified in Rule 17-4.240, F.A.C., shall be 50 percent of the permit fee.

c. Modifications which require an antidegradation determination shall require a new construction permit application and applicable fee.

10. Industrial wastewater general permits.

a. General permits requiring Professional Engineer or Professional Geologist certification $ 500

b. General permits not requiring Professional Engineer or Professional Geologist certification $ 100

11.~~7.~~ Collection systems for industrial wastewater treatment facilities. $ 500

(d) Wetland Resource Management (Dredge and Fill) Permits.

1. Dredge and fill construction projects up to and including 5 years:

a. Standard form ~~dredge-and-fill-construction~~ projects ~~up-to-and~~ including dredge and fill activities ~~5-years-duration-~~that affect 10 or more acres of jurisdictional area pursuant to Rule 17-312.070(2), F.A.C. $4000 ~~3000~~

b. Standard form construction projects that involve the construction of new docking facilities pursuant to Rule 17-312.070, F.A.C., that provide:

(I) 50 or more new boat slips	$4000
(II) 25 - 49 new boat slips	$3000
(III) 10 - 24 new boat slips	$1500
(IV) 3 - 9 new boat slips	$ 500
(V) 0 - 2 new boat slips	$ 300

c. ~~2.~~ Short form ~~dredge-and-fill~~ construction projects ~~up-to-and-including-5-years-duration~~ involving dredging and filling activities that affect ~~0-~~ 9.99 acres or less of jurisdictional area, pursuant to Rule 17-312.070(2), F.A.C. $ 500

~~3.--Standard-form-marina-construction-projects-up-to-and-including-5-years-duration-that-involve-the-construction-of:~~

~~a.--100-or-more-boat-slips~~ ~~$3000~~

~~b.--26---99-boat-slips~~ ~~$2000~~

~~c.--0---25-boat-slips~~ ~~$1000~~

d.4. Short form marina construction projects involving the construction of new docking or boardwalk facilities, pursuant to Rule 17-312.070, F.A.C, that provide:~~construction-of-up-to-10-boat-slips and-up-to-and-including-5-years-duration.~~ $-500

(I) 0 - 2 new boat slips $ 300

(II) 3 - 9 new boat slips $ 500

e. 5 year permits pursuant to Section 403.816, F.S., and permits for dredging of river channels pursuant to Section 403.816, F.S. $3000

2. Dredge and fill construction permits in excess of 5 years:

~~5.--25-year-permits-pursuant-to-Chapter 17-45,-F.A.C.~~ ~~$5000~~

~~6.--Modifications-to-25-year-permits pursuant-to-Chapter-17-45,-F.A.C.~~ ~~$1000~~

~~7.--10-year-permits-pursuant-to-Section 403.813(2)(f),-F.S.,-which-are-not-located within-river-channels,-except-river-channels within-a-deep-water-port~~ ~~$2500~~

~~8.--5-year-permits-pursuant-to-Section 403.813(2)(f),-403.816,-F.S.~~ ~~$1250~~

a.9. Short form permits from 6 years up

to and including 10 years	$3000 ~~1250~~
b.~~10.~~ Standard form permits for ~~from~~ 6 years ~~up to and including 10 year duration~~	$6000 ~~5000~~
c. Standard form permits for 7 years	$7000
d. Standard form permits for 8 years	$8000
e. Standard form permits for 9 years	$9000
f. Standard form permits for 10 years	$10,000
g.~~11.~~ Standard form pPermits for 11 years	$11,000
h.~~12.~~ Standard form pPermits for 12 years	$12,000
i.~~13.~~ Standard form pPermits for 13 years	$13,000
j.~~14.~~ Standard form pPermits for 14 years	$14,000
k.~~15.~~ Standard form pPermits for 15 years	$15,000
l.~~16.~~ Standard form pPermits for 16 years	$16,000
m.~~17.~~ Standard form pPermits for 17 years	$17,000
n.~~18.~~ Standard form pPermits for 18 years	$18,000
o.~~19.~~ Standard form pPermits for 19 years	$19,000
p.~~20.~~ Standard form pPermits for 20 years	$20,000
q.~~21.~~ Standard form pPermits for 21 years	$21,000
r.~~22.~~ Standard form pPermits for 22 years	$22,000
s.~~23.~~ Standard form pPermits for 23 years	$23,000
t.~~24.~~ Standard form pPermits for 24 years	$24,000
u.~~25.~~ Standard form pPermits for 25 years	$25,000
v. 10-year permits pursuant to Section 403.816, F.S., which are not located within river channels, except river channels within a deep water port	$5000

w. Minor modifications involving 5-year or 10-year permits issued pursuant to Section 403.816, F.S. $1000

x. 25-year permits pursuant to Chapter 17-45, F.A.C. $5000

y. Modifications to 25-year permits pursuant to Chapter 17-45, F.A.C. $1000

3. Mangrove alteration permits:

a. ~~26.~~ Mangrove alteration permits which involve the alteration of less than 20 mangroves $ 250 ~~100~~

b. Mangrove alteration permits which involve the alteration of 20 or more mangroves $ 500

~~4.27.~~ For the purposes of determining the fee for wetlands resource management permits, the term of duration for the permit shall be reduced by the period of time (in yearly increments) during which no dredging or filling activity occurs or no reclamation, restoration, or mitigation occurs and only minor monitoring and maintenance activities are required. The fee for the full term shall be submitted with the application, and Aafter the Department determines the period of time that the term of the permit can be reduced, the excess fee shall be returned.

5. For permit applications which involve a combination of the project fee categories listed above, the highest fee that applies to the appropriate standard form or short form project, pursuant to Rule 17-312.070, F.A.C., shall be charged.

6. Variances from permitting standards, permit conditions,

or water quality standards associated with a wetland resource permit application:

a. Variances from the prohibition of Rule 17-312.080(7), F.A.C. $100

b. Other variances $500

(e) Stormwater Permits.

1. through 2. No change.

~~3. Temporary operation permit for a stormwater facility.~~ ~~$100~~

(f) Solid Waste Permits.

1. Construction permit for a Class I facility. $10,000 ~~5000~~

2. Construction permit for a Class II facility. $10,000 ~~5000~~

3. Construction permit for a Class III facility. $6000 ~~3000~~

4. Construction permit for a waste-to-energy facility not covered by the Electric Power Plant Siting Act. $10,000 ~~5000~~

5. Construction permit for other resource recovery facilities. $2000

6. Construction permit for an incinerator. $3000

7. Construction permit for a yard trash composting facility. $2000 ~~1000~~

8. Construction permit for a manure composting facility. $2000 ~~1000~~

9. Construction permit for a solid waste composting facility. $5000

10. Construction/operation permit for a waste tire processing facility. $1250

11. Construction permit for all other solid waste facilities. $1000 ~~500~~

12. Operation permit for a Class I facility. $10,000 ~~3000~~

13. Operation permit for a Class II facility. $10,000 ~~3000~~

14. Operation permit for a Class III facility. $4000 ~~1000~~

15. Operation permit for a waste-to-energy facility not covered by the Electric Power Plant Siting Act. $10,000 ~~3000~~

16. through 22.h. No change.

23. Closure permit for a Class I facility. $7500 ~~3000~~

24. Closure permit for a Class II facility. $7500 ~~3000~~

25. Closure permit for a Class III facility. $4000 ~~1000~~

~~26. Closure permit for a waste tire processing facility. $-250~~

27. renumbered as 26.

(g) Petroleum Cleanup General Permits.

1. Soil thermal treatment - mobile. $ 500 ~~100~~

2. Soil thermal treatment - stationary. $ 500 ~~100~~

(h) Hazardous Waste Permits.

1. Construction of container and/or tank ~~permit for a~~ hazardous waste storage facilities~~y~~. $15,000

~~a. Treater of waste~~ ~~$5000~~

~~b. Storer of waste~~ ~~$5000~~

~~c. Disposer of waste~~ ~~$5000~~

~~d. Incinerator of waste~~ ~~$5000~~

~~e. Other waste facilities~~ ~~$5000~~

2. Construction of container and/or tank ~~Operation permit for a~~ hazardous waste storage and treatment facilities~~y~~. $20,000 ~~2000~~

3. Construction of landfill, surface impoundment, waste pile, land treatment, and miscellaneous unit ~~Temporary operation permit for a hazardous waste~~ facilities~~y~~. $25,000 ~~1000~~

4. Construction of ~~Closure permit for a~~ hazardous waste storage, treatment and/or disposal facilities~~y~~ with an incinerator for treatment of hazardous wastes generated on-site. $25,000 ~~5000~~

5. Construction of commercial treatment, storage, and/or disposal ~~and operation of a research and development hazardous waste~~ facility with a commercial incinerator

managing hazardous wastes generated off-site. $32,500 ~~3000~~

6. Operation of container and/or tank hazardous waste storage facilities. $10,000

7. Operation of container and/or tank hazardous waste storage and treatment facilities. $10,000

8. Operation of landfill, surface impoundment, waste pile, land treatment, and miscellaneous unit facilities. $15,000

9. Operation of hazardous waste storage, treatment and/or disposal facilities with an incinerator for treatment of hazardous wastes generated on site. $15,000

10. Operation of commercial treatment, storage, and/or disposal facilities with a commercial incinerator managing hazardous wastes generated off-site. $32,500

11. Closure of container and/or tank hazardous waste storage facilities. $10,000

12. Closure of container and/or tank hazardous waste storage and treatment facilities. $10,000

13. Closure of landfill, surface impoundment, waste pile, land treatment, and miscellaneous unit facilities. $20,000

14. Closure of hazardous waste storage, treatment and/or disposal facilities with an incinerator for treatment of hazardous wastes

generated on-site. $15,000

15. Closure of commercial treatment, storage, and/or disposal facilities with a commercial incinerator managing hazardous wastes generated off-site. $32,500

16. Hazardous waste research, development and demonstration facilities. $4000

17. All other hazardous waste facility permits or authorizations for which a specific fee is not specified. $32,500

(i) Underground Injection Control Permits.

1. Construction permit for each Class I well. $12,500 ~~5000~~

2. Operation permit for each Class I well. $10,000 ~~3000~~

3. Abandonment permit for each Class I well. $ 100

4. Construction permit for each Class III well. $1000 ~~500~~

5. Operation permit for each Class III well. $1000 ~~500~~

6. Abandonment permit for each Class III well. $ 100

7. Construction permit for each Class V well. $ 750 ~~400~~

8. Operation permit for each Class V well. $ 750 ~~400~~

9. Abandonment permit for each Class V well. $ 50

10. General permit for each Class V well. ~~$--25~~

a. General permits requiring Professional Engineer or Professional Geologist certification $ 250

b. General permits not requiring Professional Engineer or Professional Geologist certification $ 25

(j) Drinking Water (Public Water Supply) Permits.

1. Construction permit for each a Category I through IV treatment plant, as defined in Rule 17-602.370, F.A.C., with treatment other than disinfection only.

a. Treatment plant - 5 MGD and above $7500 ~~1000~~

b. Treatment plant - 1 MGD up to 5 MGD $6000 ~~800~~

c. Treatment plant - 0.25 MGD up to 1 MGD $4000 ~~600~~

d. Treatment plant - 0.1 MGD up to 0.25 MGD $2000 ~~400~~

e. Treatment plant - up to 0.1 MGD $1000

2. Construction permit for each a Category V treatment plant, as defined in Rule 17-602.370, F.A.C., - Disinfection only.

a. Treatment plant - 5 MGD and above $5000 ~~800~~

b. Treatment plant - 1 MGD up to 5 MGD $3000 ~~600~~

c. Treatment plant - 0.25 MGD up to 1 MGD $1000 ~~500~~

d. Treatment plant - 0.1 MGD up to 0.25 MGD $ 500 ~~300~~

e. Treatment plant - up to 0.1 MGD $ 300

3. Distribution and transmission systems except those under general permit.

a. Serving a cCommunity public water system $ 500

b. Serving a nNon-transient non-community public water system $ 350

c. Serving a nNon-community public water system $ 250

4. Construction permit for each ~~a~~ public water supply well.

a. Wells located in a delineated areas pursuant to Chapter 17-524, F.A.C. $ 500

b. Any other public water supply well. $ 250 ~~200~~

(k) Temporary operation permits shall be 20 percent over the fee for the operation permit for the activity to be permitted.

(l) General Permit fee for any General Permit not specifically listed in subsections (a) through (j). ~~$-100~~

a. General permits requiring Professional Engineer or Professional Geologist certification. $ 250

b. General permits not requiring Professional Engineer or Professional Geologist certification. $ 100

(m) Unless otherwise specified in this rule, the fee for applications for relief mechanisms shall be as follows:

1. Site specific alternative criteria for each water quality criteria $15,000

2. Variance or exemption for each water quality criteria $6000

3. Variance or exemption for public water system from maximum contaminant level/treatment techniques $1000

4. Variance from other permitting standards or conditions $2000

5. Aquifer exemption - major $15,000

6. Aquifer exemption - minor $7500

(n)~~(l)~~ Permits to construct or operate any other type of facility or stationary installation not specifically listed in subsections (a) through (l)~~(k)~~ $ 100

(o)~~(m)~~ Minor modifications of permits that do not require substantial technical evaluation by the Department, do not require a new site inspection by the Department, and will not lead to substantially different environmental impacts or will lessen the impacts of the original permit: ~~to permits, other than Domestic Wastewater Facility Permits, that do not require a construction permit.~~ ~~$ 250~~

1. to correct minor errors or typographical mistakes and that do not involve technical review $ 0

2. to incorporate changes requested by the Department $ 0

3. that consist of transfers of permits or time extensions $ 50

4. involving minor technical changes when the existing permit fee is less than $300, except for modifications to permits issued pursuant to Section 403.816, F.S. $ 50

5. involving minor technical changes when the existing permit fee is more than or equal to $300, except for Domestic Wastewater Facility Permits,

Industrial Wastewater Facility Permits, and

permits issued pursuant to Section 403.816, F.S. $ 250

(n) through (r) are renumbered as (p) through (t)

~~(s) The fee for renewal of an existing operation or closure permit where there has been no significant change in the authorized activity shall be 50% of the fee specified in this rule. However, the full fee shall be submitted with the application for renewal, and after the Department determines that there were no significant changes in the authorized activity, the excess fee shall be returned. This reduction of fees does not apply to a wetland resource management permit, stormwater permit, temporary operation permit, construction permit, abandonment permit, general permit, or renewal of an air permit where the Similar Source Fee provision applies.~~

(t) through (u) are renumbered as (u) through (v).

(5) through (7) No change.

Specific Authority: 403.061, 403.087, F.S.

Law Implemented: 373.309, 403.021, 403.031, 403.061, 403.087, 403.0877, 403.088, 403.722, 403.861(7), 403.921, 471.003, 492.102, F.S.

History: New 5-17-72, Amended 6-19-74, 7-8-82, Formerly 17-4.05, Amended 11-15-87, 8-31-88, 10-3-88, 4-4-89, 3-19-90, 6-11-90, 3-7-91, 3-18-91, 5-30-91, _____.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IV

345 COURTLAND STREET, N.E.
ATLANTA, GEORGIA 30365

4WD-RCRA&FFB

Mr. Barry Swihart, Chief
Bureau of Waste Planning and Regulation
Florida Department of Environmental
Regulation
Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

RECEIVED
AUG 16 1991
DEPT. OF ENVIRONMENTAL REG.
WEST PALM BEACH

Dear Mr. Swihart:

Ten facilities in Florida have submitted Part A's under the Toxicity Characteristic (TC) Rule, effective date September 25, 1991. Enclosed please find copies of the Part A's for these facilities, as follows:

<u>Northeast District</u>		
Anderson Columbia Environmental, Inc.	FLD 984 175 265	Lake City
Envirotech Southeast, Inc.	FLD 101 877 876	Jacksonville
Industrial Waters, Inc.	FLD 981 928 484	Jacksonville
<u>Southwest District</u>		
Howco Environmental Services, LTD	FLD 152 764 767	St. Petersburg
Diversified Environmental Services, Inc.	Pending	Tampa
Central Florida Pipeline Corporation	FLD 078 319 308	Tampa
International Petroleum Corporation	FLD 065 680 613	Plant City
<u>Southeast District</u>		
Integrated Resource Recovery	FLD 981 018 773	Davie
Cliff Berry, Inc.	FLD 000 831 156	Ft. Lauderdale
Rinker Materials Corporation	FLD 981 758 485	Miami

Each of these facilities submitted timely Part A's and the required Notifications of Hazardous Waste Activity and have therefore been granted interim status.

Printed on Recycled Paper

As Florida has not yet been authorized to implement the TC Rule, EPA will maintain the lead for compliance and enforcement at these facilities. Copies of all correspondence between EPA and these facilities will be forwarded to your office.

Should you have any questions regarding these facilities please contact Betty Willis or Lisa Perras at (404) 347-7603.

Sincerely yours,

John E. Dickinson, P.E., Chief
Waste Compliance Section
RCRA & Federal Facilities Branch

Enclosure

cc: Mr. Ernest E. Frey, FDER
Mr. Alex Alexander, FDER
Mr. Scott Benyon, FDER
Mr. Phillip Edwards, FDER
Dr. Richard Garrity, FDER
Mr. Robert Kreigel, FDER

SOIL THERMAL TREATMENT FACILITIES
QUALIFIED TO OPERATE UNDER A GENERAL PERMIT
CHAPTER 17-775, F.A.C.

June 5, 1991

RECEIVED
JUN 10 1991
Dept. of Environmental Reg.
West Palm Beach

Stationary Facilities:

Central District

Southern Soil Services, Inc.
3505 Pug Mill Road
Kissimmee, FL 34741
(407) 933-8414

Northwest District

Capital Asphalt, Inc.
600 Blountstown Highway
Tallahassee, FL 32314
(904) 575-8102

Southeast District

Rinker Materials Corporation
1200 N.W. 137th Avenue
P.O. Box 650679
Miami, FL 33265-0679
(305) 221-7645

Mobile Facilities:

D.R.E. Environmental, Inc.
Model No. 528
P.O. Box 1386
2 Guerdon Road
Lake City, FL 32056
(904) 755-1196

Mobile Reclaim, Inc.
Serial No. SR-202
3615 N.W. 13th Street
Gainesville, FL 32609
(904) 373-4614

TPS Technologies, Inc.
Serial No. SRU-200P-103 thru SRU-200P-110
2070 S. Orange Blossom Trail
Apopka, FL 32703
(407) 886-2000

State of Florida
DEPARTMENT OF ENVIRONMENTAL REGULATION

For Routing To Other Than The Addressee
[redacted] Location:
To: Location:
To: Location:
From: Date:

Interoffice Memorandum

TO: District Waste Program Administrators
District Tanks Supervisors
District Waste Cleanup Supervisors

FROM: Mary Jean Yon MJY
Division of Waste Management

DATE: April 18, 1991

SUBJECT: Soil Thermal Treatment Facilities

As a follow-up to last week's teleconference, I spoke with Don Ehlenbeck concerning the Department's progress in issuing general permits for both mobile and stationary soil thermal treatment facilities. Listed below are the facilities that are qualified to date to operate under a general permit:

Stationary Facilities:

Rinker Materials Corporation
1200 N.W. 137th Avenue
P.O. Box 650679
Miami, Florida 33265-0679
305/221-7645

Five other stationary facilities have submitted notices to construct/operate.

Mobile Facilities:

D.R.E. Environmental, Inc.
Model No. 528
P.O. Box 1386
2 Guerdon Road
Lake City, Florida 32056
904/755-1196

Mobile Reclaim, Inc.
Serial No. SR-202
3615 N.W. 13th Street
Gainesville, Florida 32609
904/373-4614

TPS Technologies, Inc.
Serial No. SRU-200P-103 thru SRU-200P-110
2070 S. Orange Blossom Trail
Apopka, Florida 32703
407/886-2000

Another question posed during the teleconference focused on recommended soil handling methods while awaiting the Department's concurrence or denial for a particular general permit notice. Stockpiling of these soils is permissible provided it is done in accordance with the Department's "Guidelines for Assessment and Remediation of Petroleum Contaminated Soils." If you have any further questions concerning specific sites, you should call the Engineering Support Section in the Bureau of Waste Cleanup at Suncom 278-0190.

Since several additional firms are currently in the permitting process, we expect the list of qualifying facilities to expand soon. We will make every effort to keep you apprised of the list of these facilities statewide as this permitting process continues. Please share this information with your contracted local governments and, as always, don't hesitate to call if you need more information.

MJY/dc

cc: Don Ehlenbeck
Doug Jones
Zoe Kulakowski
Clair Fancy

GMS I.D. No.: 5013P03469
General Permit No.: _____
County: _____
Project: _____
Expiration Date: _____

_____
_____
_____
_____

Dear Mr(s). _____ :

This letter acknowledges receipt of your notice requesting the use of a General Permit. Based upon the representation submitted to the Department, this project appears to qualify for the operation of a _____ located at _____ _____.

_____.

This facility shall be operated in accordance with the applicable paragraphs set forth in Florida Administrative Code Rules 17-_____ .

This General Permit is subject to the General Conditions of Florida Administrative Code Rules 17-4.510 through 17-4.540 (see backside).

If you need further information, please call Mr. Joe Lurix of this office, telephone number (407) 433-2650 or after hours (904) 488-1320 for an emergency.

Sincerely,

J. Scott Benyon
Deputy Assistant Secretary

JSB:jl:rh/82

cc: Chris McGuire, OGC, Tallahassee
Patricia Comer, OGC, Tallahassee
Carol Meeds, DER/WPB

State of Florida
DEPARTMENT OF ENVIRONMENTAL REGULATION

For Routing To Other Than The Addressee

To: _____ Location: _____

To: _____ Location: _____

To: _____ Location: _____

From: _____ Date: _____

Interoffice Memorandum

cc: Scott Benyon
Paul W.
V. Kamath
Alex Padva
Return orig. to
Joe Lurix

TO: Richard B. Tedder, P.E.
Central Florida District

THROUGH: Rick Wilkins, Director
Division of Waste Management

THROUGH: Dan Thompson, General Counsel

FROM: Chris McGuire, Assistant General Counsel

RE: General Permits

DATE: March 19, 1991

This is in response to your memo of February 8, 1991, which raised several questions concerning the procedures for reviewing general permit notifications for construction and demolition debris disposal areas.

You received a completed notification Form 17-701.900(1) as required by Rule 17-701.803, F.A.C., for a C&D facility. You then issued a letter to the applicant indicating that you did not believe he had demonstrated entitlement for use of the general permit, and included a list of "deficiencies in the notification." This list included requirements for an aerial photograph or detailed drawings, stormwater controls, a list of equipment and method of compaction, description of the source of soil for final cover, description of the depth of the water table, and a description of facility operations. The applicant protested that you did not have the authority to require this additional information. You then posed the following questions.

1. Does 17-701.803(1) prohibit the department from requiring any more information to process the GP than what is outlined in form 17-701.900(1)?

Rule 17-4.520 defines a general permit as "a permit issued by rule of the Department." Rule 17-4.530(1) states that persons wishing to use a general permit shall "notify the Department in writing or on forms adopted by the Department. They shall describe the proposed project, and include supporting documents depicting the proposed project, its location, and other pertinent information **as required by Rule** to demonstrate that they qualify for the requested general permit." Rule 17- 701.803(1) states that "the owner or operator . . . shall notify the Department in writing on form 17-701.900(1) of the facility location, size in acres, general description of the facility operations, planned active life of the facility and the mailing address and phone number of the owner and operator." Rule 17- 701.803 goes on to include operational requirements for C&D facilities, but nowhere does it require the owner or operator to submit evidence that it will comply with these requirements before using the general permit.

Section 403.814(1), F.S., authorizes the Department to establish general permits for projects which will have "a minimal adverse environmental effect." It goes on to state that "any person complying with the requirements of a general permit may use the permit 30 days after giving notice to the department without any agency action by the department." Compliance with the rule requirements is presumed to provide reasonable assurance to the Department that it will not violate rules or cause pollution. Except as provided below, the Department may not require information or documentation other than what is included on Form 17-701.900(1) as a condition precedent to the use of a general permit.

2. If the department cannot require additional information be submitted with the notice, are we limited to declaring notices for use of GP's ineligible only if some of the blanks are not completed on the appropriate form?

There are two circumstances under which the Department may deny a general permit. Rule 17-4.530(1) states that "projects undertaken without proof of notice to the Department shall be considered as being undertaken without a permit." This necessarily implies that a person submitting an incomplete notice to the Department may not use the general permit, and the Department may deny the use of the permit.

Rule 17-4.530(2) states that "a proposed project which may be reasonably expected to violate air quality standards, water quality standards, or drinking water standards . . . shall not be entitled to use of a general permit." While an applicant for a regular permit is required to provide reasonable assurance that it will not violate standards, a person wishing to use a general permit is entitled, upon proper notification, to use that general permit unless the Department can demonstrate that standards are likely to be violated. If the Department believes (and is willing to defend this belief in an administrative hearing) that a certain project, because of site-specific or other particular circumstances, is likely to cause violations of standards, it may deny the permit.

3. Do GP denial letters require "right of entry" language in accordance with Chapter 120, F.S.?

Denial of a general permit is agency action, and is thus subject to the provisions of Chapter 120, F.S. Denial letters must therefore include a notice of rights. A model denial letter is attached and should be used as the basis for all general permit denials issued by the Department. A model "no objection" letter is also attached.

4. Rule 17-701.803(4), F.A.C. requires compliance with stormwater rules (Chapter 17-25, F.A.C.) and the Water Management District rules. Does this require a separate stormwater permit? How can this be evaluated with the information provided on form 17-701.900(1). It is not clear to me how stormwater issues are to be managed for general permit facilities.

While it is not entirely clear in Rule 17-701.803, the paragraph requiring compliance with stormwater rules should be read as guidance to the applicant that other regulations may apply to the C&D facility and that a stormwater permit may be required. It is not necessary that the applicant provide evidence of such compliance with the notification of intent to use the general permit, nor is a stormwater permit a condition precedent to the use of the general permit. In fact, existing facilities may be exempt from getting a stormwater permit, and new facilities may be eligible for a stormwater general permit. The determination of the need for a stormwater permit should be left up to the appropriate agency, either the Water Management District or the Department. It may be advisable to provide a copy of the general permit notification form to this agency.

In sum, during the rulemaking process in which a general permit was adopted, the Department determined that if an applicant completed the notification form, the applicant was entitled to the use of a general permit unless particular circumstances dictate otherwise. If the notification form needs to be expanded to require the submittal of additional information, the Department will have to amend the rule to require this information. Until then, however, the Districts should not attach additional conditions to the notification form, and should not deny permits solely for failure to provide this additional information, unless we have determined that the project is likely to violate standards.

CDM/

cc: District Waste Program Administrators
Barry Swihart
Bill Hinkley
Carol Forthman
Larry Morgan

Form No. 21

LETTER ACKNOWLEDGING ACCEPTABILITY OF USE OF GENERAL PERMIT
(For Office Use Only)

[Applicant's Name]
[Applicant's Address]

Dear [Applicant]:

Re: Notification of Use of General Permit.
Notice No[#]

Dear [name of person noticing general permit]:
In response to your request, this letter is to advise you that the Department has received your notice of intent to use a general permit as provided in Rule [rule number of specific general permit] to [name of general permit] and does not object to your use of such general permit. Please be advised that you are required to abide by all conditions in Rules 17-4.510 through 17-4.540, Florida Administrative Code, the general requirements for general permits; and Rule [rule number for the specific general permit], Florida Administrative Code.

_____

[Name and Address of Permit Processor]

Form No. 22

NOTICE OF DENIAL OF USE OF GENERAL PERMIT
(For Office Use Only)

THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL REGULATION

CERTIFIED MAIL

In the matter of notification
of use of general permit by: DER File No.[#]

[Name and address of person giving notice]/ [Name of County]

NOTICE OF DENIAL OF USE OF GENERAL PERMIT

This is to notify you that the project noticed for a [name of general permit] does not qualify for a general permit based on the information submitted with your notice received on [date]. The requirements for the general permit that you noticed are specified in [rule number(s) applicable to specific general permit], Florida Administrative Code, and the requirements for all general permits are specified in Rules 17-4.510 through 17-4.540], Florida Administrative Code. Your notice does not comply for the following reasons:

[specify deficiencies]

To use the general permit, a new Notice of Intent to Use General Permit that resolves these deficiencies must be resubmitted to the Department with a $25.00 fee.

A person whose substantial interests are affected by this action may petition for an administrative proceeding (hearing) in accordance with Section 120.57, Florida Statutes. The petition must contain the information set forth below and must be filed (received) in the Office of General Counsel of the Department at 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, within [14 or 21 days] of receipt of this Permit. Petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. Failure to file a petition within this time period shall constitute a waiver of any right such person may have to request an administrative determination (hearing) under Section 120.57, Florida Statutes.

The Petition shall contain the following information;

(a) The name, address, and telephone number of each petitioner, the applicant's name and address, the Department File Number and the county in which the project is proposed;

Executed in [location - city in which signed], Florida.

STATE OF FLORIDA

DEPARTMENT

OF ENVIRONMENTAL

REGULATION

_____

[Name]
[Secretary, Deputy

Assistant

Secretary, Division Director]
[Address and Phone

Number]

CERTIFICATE OF SERVICE

The undersigned duly designated deputy agency clerk hereby certifies that this NOTICE OF DENIAL OF USE OF A GENERAL PERMIT and all copies were mailed before the close of business on [date] to the listed persons.

Clerk Stamp

FILING AND ACKNOWLEDGMENT

FILED, on this date, pursuant to §120.52(11), Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

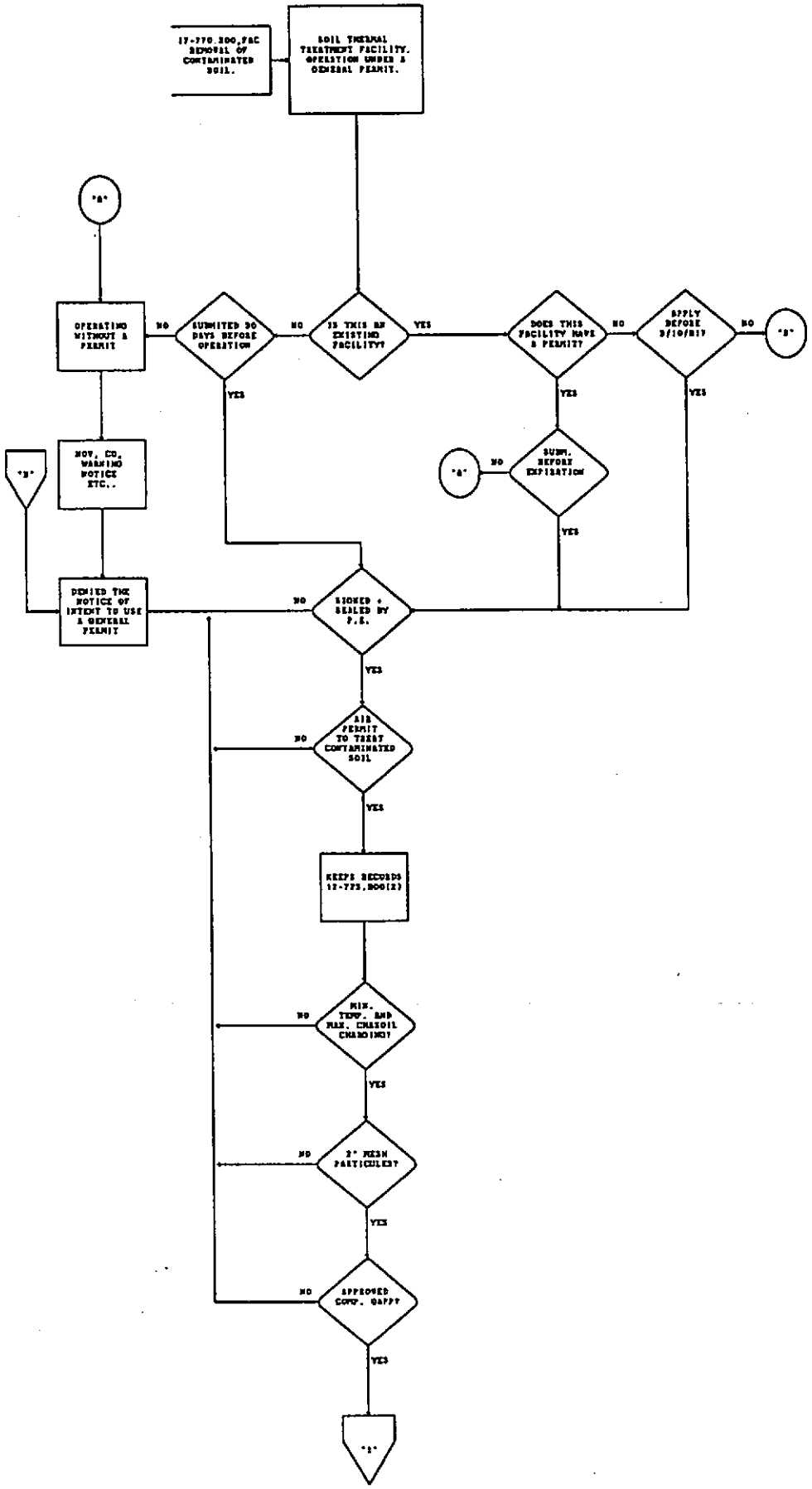
_____ _____
(Clerk)

(Date)

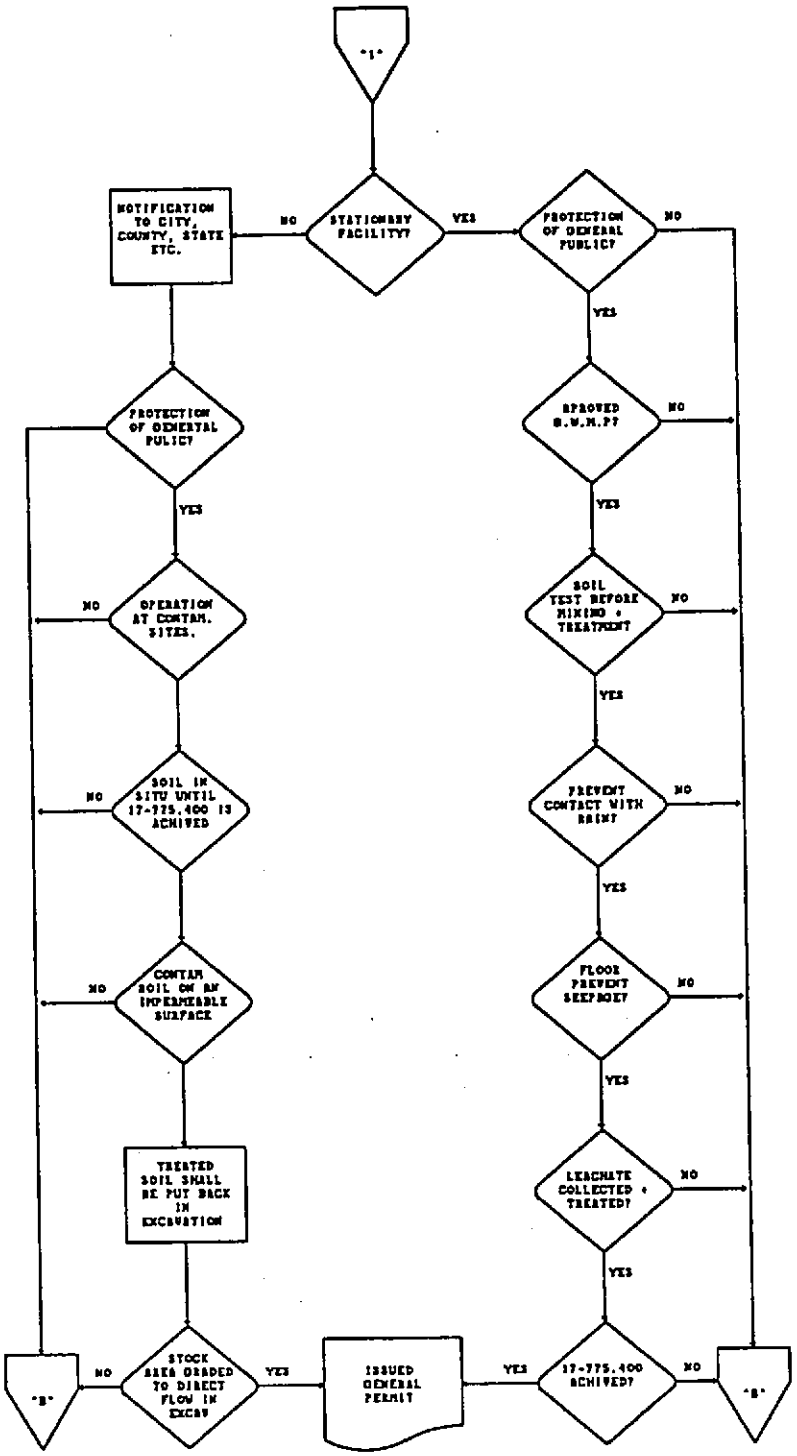
Copies furnished to:

[as applicable, copy to:
Applicant or applicant's agent
Persons who requested notice
Local program
Chair, County Commission
Chief local elected official]

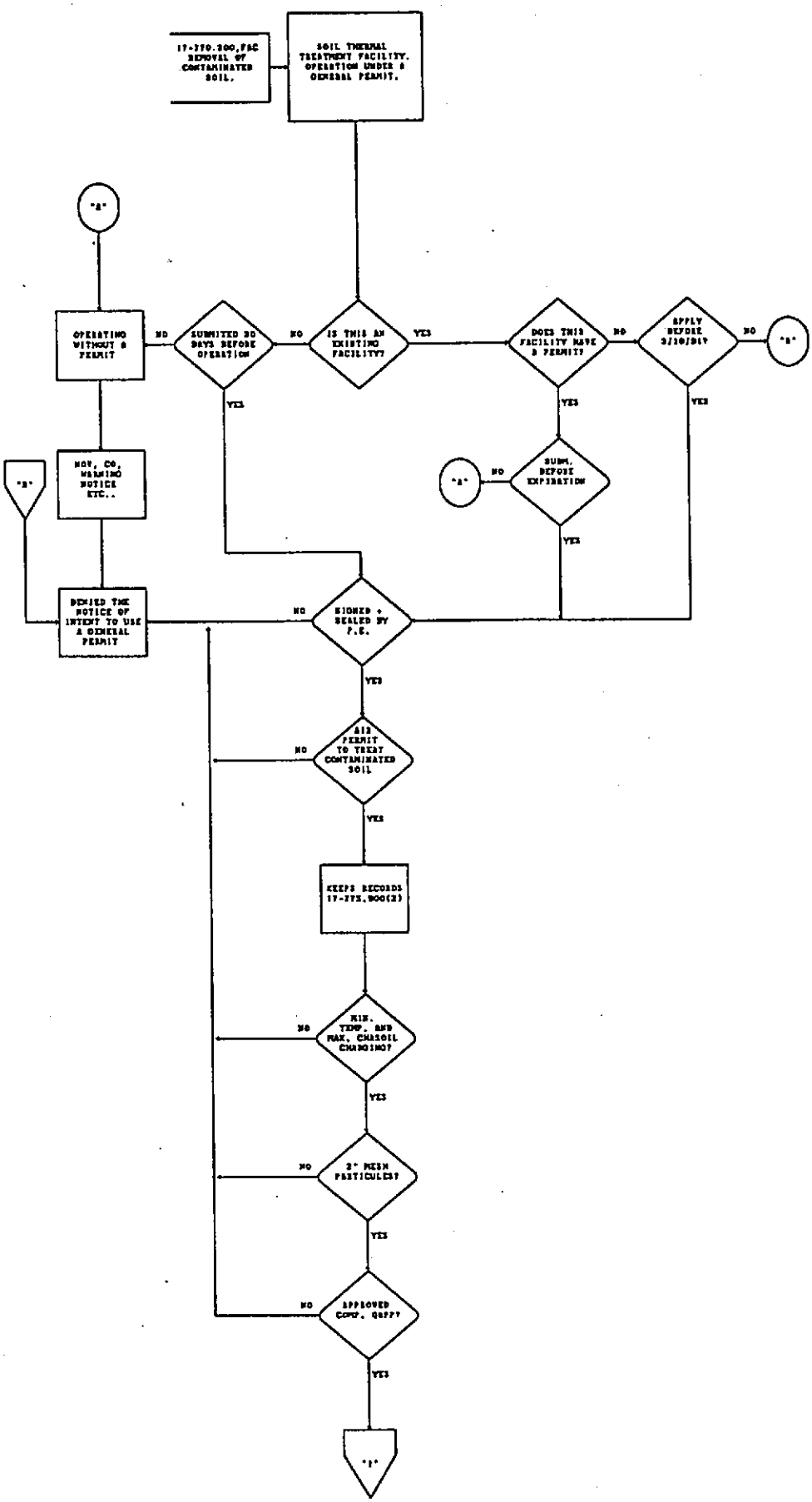
SOIL THERMAL TREATMENT FACILITIES
CHAPTER 17-775 FAC



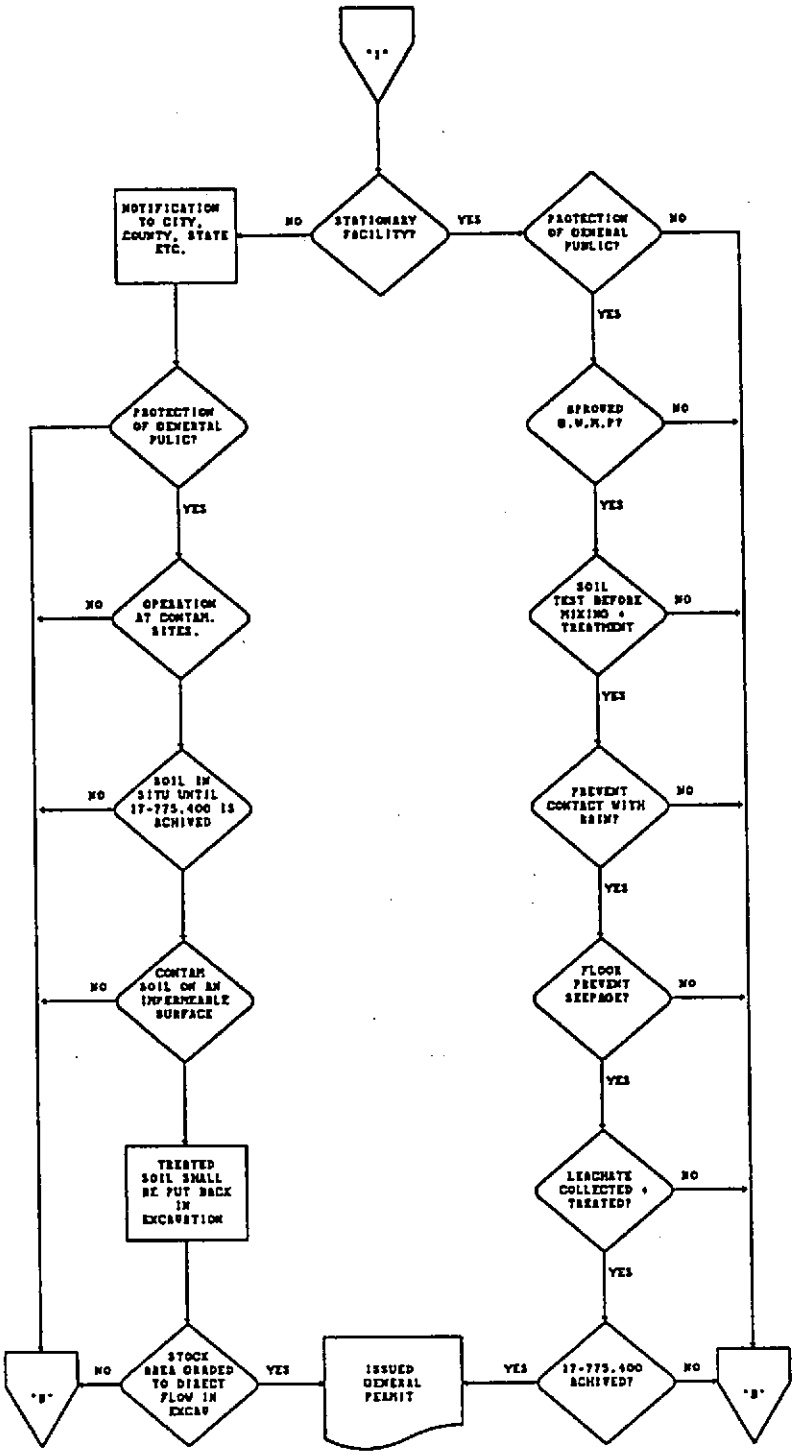
SOIL THERMAL TREATMENT FACILITIES
CHAPTER 17-775 FAC
(PAGE 2)



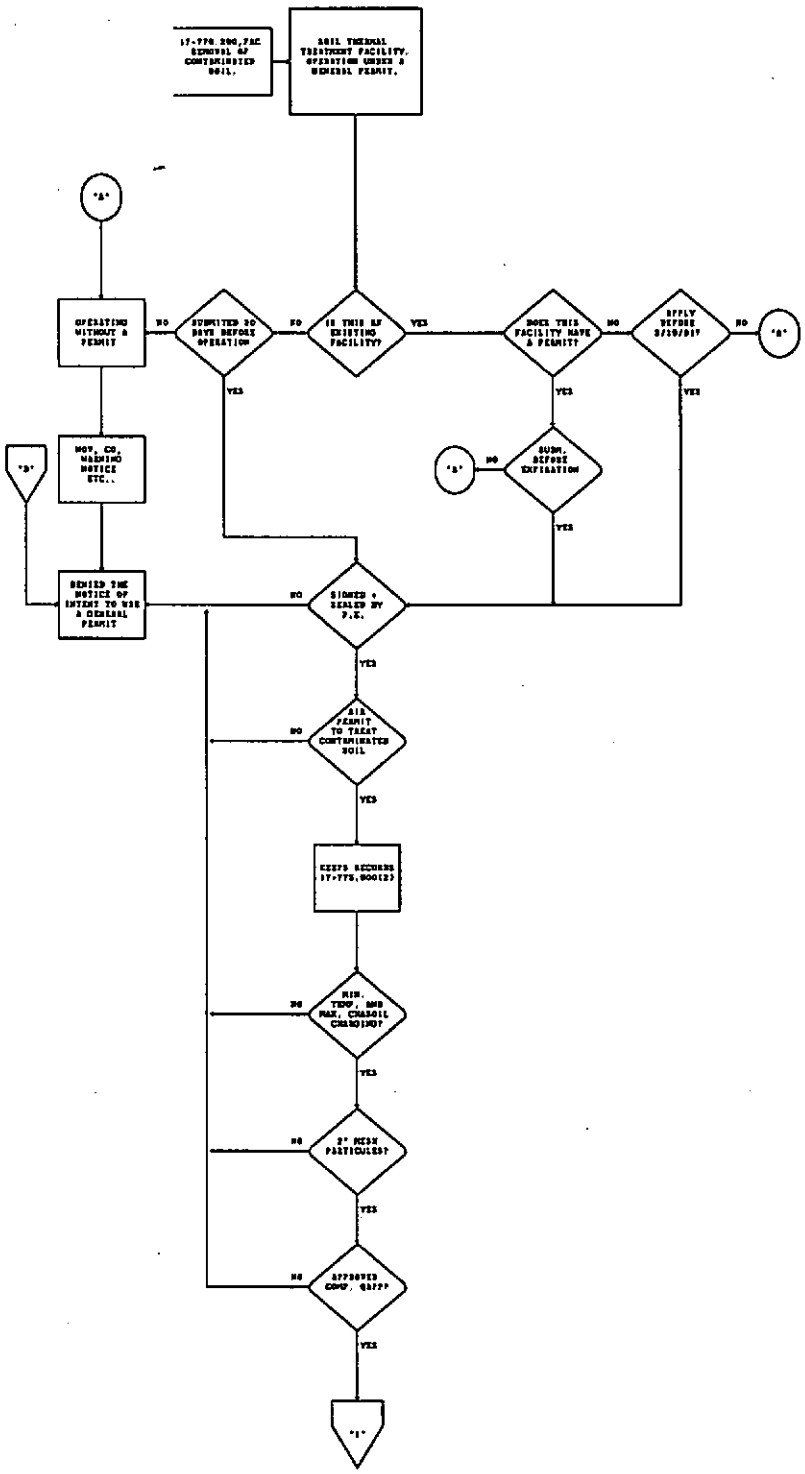
SOIL THERMAL TREATMENT FACILITIES
CHAPTER 17-775 FAC



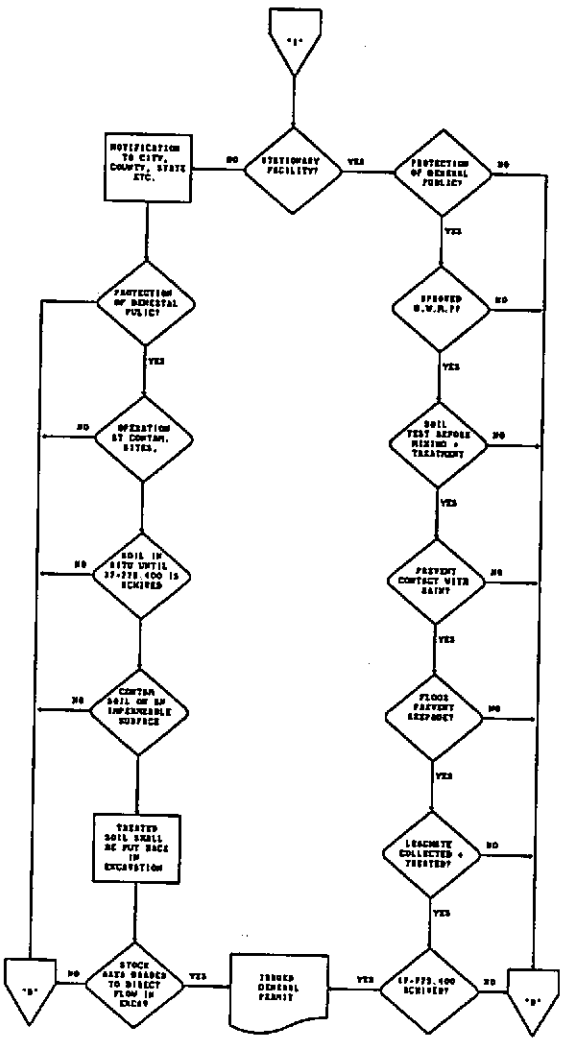
SOIL THERMAL TREATMENT FACILITIES
CHAPTER 17-775 FAC
(PAGE 2)



SOIL THERMAL TREATMENT FACILITIES
CHAPTER 17-775 FAC



SOIL THERMAL TREATMENT FACILITIES
CHAPTER 17-775 FAC
(PAGE 2)



Department of Environmental Regulation

Routing and Transmittal Slip

To: (Name, Office, Location)

1. Don Ehlenbeck, BWC, Tall.
2.
3.
4.

Remarks:

Re: Memo re: GP's
dated: 5/7/90

From: Paul Wierzbicki

Date 3/12/91

Phone 52-232-2450

n

uer
a
p

Mtg. Comments?
(1) Sgn. stamp DER PE
R.O & th W. instead of
letter?
(2) PATS 5 yr. tracking
(3) quarterly printout

nitting Procedures
luded Gerry Neubauer,
of the general
proposals were made
a brief summary of
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r GPs. The
ginal submittal, and
ate complete are the
t the letter
d.

ng that the project
bmitted information"
t-wide. It was
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was received by the
the GP is to
etermine whether
uired. The
d letter. → 5 year stamp DER for R.O.

that the project does not qualify for a GP will be drafted and approved by OGC for use Department-wide. It was requested that the committee again check with OGC for a determination as to whether denial of a GP is final agency action. If it is the opinion of OGC that such a denial is final agency action, the standard denial letters must be signed by the DAS. It was also suggested that the standard denial letter include the reasons for denial in a format (checklist or rule references) acceptable to OGC, and that the standard denial be sent by certified mail.

WE ARE USING STANDARD DENIAL NOW

Paul –
Your copy.
VK

State of Florida
DEPARTMENT OF ENVIRONMENTAL REGULATION

For Routing To Other Than The Addressee
From: Location
To: Location
To: Location
From: Date

RECEIVED
JAN 15 1991
Dept. of Environmental Reg.
West Palm Beach

Interoffice Memorandum

TO: Deputy Assistant Secretaries
Waste Program Administrators

FROM: Mary Jean Yon MJY
Division of Waste Management

DATE: January 10, 1991

SUBJECT: Soil Thermal Treatment General Permits - PATS

Indrell –
Please make copies for Barbara Jones
Joe Lurix
V. Kamath
Return org. to Teresa
thanks VK

The following accounts have been set up in PATS for soil thermal treatment general permits:

TYPE	SUBTYPE	DESCRIPTION	FEE	REVENUE CODE
SO	16	Mobil - Soil Thermal Treatment - GP	25	001025
SO	17	Stationary - Soil Thermal Treatment - GP	25	001025

General permits for mobile soil thermal treatment facilities will be processed in Tallahassee by the Engineering Support Section of the Bureau of Waste Cleanup. The Districts will process the general permits for the stationary soil thermal treatment facilities.

If you have any questions concerning these permits, please call Don Ehlenbeck at Suncom: 278-0190. Questions concerning PATS should be directed to Ken Snyder at Suncom: 278-0892.

Please share this information with your waste cleanup staff and data entry people.

MJY/dc

cc: Don Ehlenbeck
Ken Snyder
Larry Wright
Lee Olson

Interoffice Memorandum

JAN 18 1991
Dept. of Environmental Reg.
West Palm Beach

TO: District Air Permitting Engineers

THROUGH: Douglas A. Jones, Bureau of Waste Cleanup 1/9/91

FROM: Rebecca S. Lockenbach, Bureau of Waste Cleanup

DATE: January 7, 1991

SUBJECT: Permitted Heat Treatment Facilities Accepting Petroleum Contaminated Soils in Florida

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A revised list of the subject facilities is attached. This list has been drafted as an update to the December 7, 1990 list. If additional changes are necessary please contact me at SC 277-3299.

cc: District Tanks Supervisors

AS OF JANUARY 7, 199-

I. Southeast District Stationary Units (407) 433-2650
SC 232-2650

NONE REPORTED.

II. Central District Stationary Units (407) 894-7555
SC 325-1011

1. Southern Soil Services, Inc.
Contact Person: Christopher Hill
Phone: (407) 933-8414
3505 Pugmill Road
Kissimmee, FL 34741-6462

2. C.A. Meyer Paving
Contact Person: C.A. Meyer
Phone: (407) 933-8414
4978 McLeod Road
Orlando, Florida 32805

III. South Florida District Stationary Units (813) 332-6975
SC 748-6975

NONE REPORTED.

IV. Southwest District Stationary Units (813) 623-5561
SC 552-7612

1. Resource Recovery of America
Contact Person: David S. Dye or Janice J. Stewart
Phone: (813) 425-1084 or 1-800-752-3242
2300 Highway 60 West
Mulberry, FL 33860

2. Asphalt Pavers, Inc.
Contact Person: Tony Tripi
Phone: (904) 471-8628
4101 N.E. 35th Street
Ocala, FL 32650

Issued construction permit for facility located at 15100 Brittle Road, Brooksville.

V. Northeast District Stationary Units (904) 448-4300
SC 880-4300

1. Columbia-Anderson Asphalt Plant #7, Clay County
Contact Person: Mike McRae
Phone: (904) 752-7585
P.O. Box 1386
Lake City, FL 32056-1386

1. Capital Asphalt
   Contact Person: George Atkins
   Phone: (904) 575-8102
   Blountstown Hwy.
   Tallahassee, FL

VII. Mobile Units

1. Environmental Technology Southeast
   Contact Person: Carlton J. Dixon
   Phone: (904) 355-2157
   1819 Albert Street
   Jacksonville, FL 32202

2. Denard & Moore Construction Company
   Contact Person: Dan Moxley
   Phone: (813) 646-0366
   P.O. Box 5170
   Lakeland, FL 33807

3. Industrial Waste, Inc.
   Contact Person: Richard A. Singer
   Phone: (904) 479-1788
   Ellyson Industrial Park, Box 34
   Pensacola, FL 32514

   IWI is permitted to operate in the sixteen counties of FDER's Northwest District.

4. OHM Remediation Services Corp.
   Contact Person: Bob Mangham or David Urann
   Phone: (904) 394-8601
   P.O. Box 121190
   13400 Mohawk Road
   Clermont, FL 34712-1190

5. Site Reclamation Systems
   Contact Person: Larry Wood
   Phone: (904) 324-3651
   P.O. Box 11
   Howey-in-the-Hills, FL 32737

   SRS has applied for a Statewide Construction Permit to operate two mobile incineration units. Status is pending; Department awaiting public notice.

Contact Person: Ken Wood
Phone: (407) 886-2000
2070 South Orange Blossom Trail
Apopka, FL 32703

7. Clean Soils, Inc.
Contact Person: Robert Wills, Mgr. Process Engineering
Jim Ballis, Sales Mgr.
Phone: (612) 639-8811
84 Second Avenue SE
New Beighton, MN 55112

Unit may operate in the following counties: Alachua, Baker, Bay, Bradford, Brevard, Calhoun, Citrus, Clay, Columbia, De Soto, Dixie, Duval, Escambia, Franklin, Gadsden, Gulf, Hamilton, Hardee, Hernando, Highlands, Hillsborough, Jackson, Jefferson, Lafayette, Lake, Leon, Levy, Liberty, Madison, Manatee, Marion, Nassau, Orange, Osceola, Pasco, Pinellas, Polk, Putnam, Santa Rosa, Sarasota, St. Johns, Seminole, Sumter, Suwannee, Taylor, Union, Volusia, Wakulla, and Walton. Other counties may be added after public notice requirements are satisfied.

State of Florida
DEPARTMENT OF ENVIRONMENTAL REGULATION

For Routing To Other Than The Addressee
Location:
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To: Location:
From: Date:

Interoffice Memorandum

RECEIVED
DEC 28 1990
Dept. of Environmental Reg.
West Palm Beach

CENTRAL DISTRICT

OCD-SW-90-0385

Bureau of Waste Cleanup

DEC 14 1990

Bureau Chief's Office

TO: Don Ehlenbeck, P.E.
P. E. III
Division of Waste Management

THROUGH: John Ruddell
Bureau Chief
Division of Waste Management

FROM: Bill Bostwick, Jr., P.E.
Program Administrator
Waste Management

DATE: December 10, 1990

SUBJECT: November 20, 1990 Memorandum on Guidelines for Implementation of Chapter 17-775, Soil Thermal Treatment Facilities

We appreciate the subject memorandum; it's one of the few times anyone has drafted a strategy for implementation of a new rule. We wish everyone would to this. However, on page 3, number 9, this written notification is contrary to the Secretary's memorandum dated October 31 which excludes activities subject to general permits and exemptions.

Attached is a copy of my November 6 memorandum to Rick Wilkins. The verbal response to my memo is that notice for the permits mentioned would not be necessary.

WMB/ew

Attachment

cc: Waste Cleanup

Florida Department of Environmental Regulation
Twin Towers Office Bldg. ● 2600 Blair Stone Road ● Tallahassee, Florida 32399-2400
Bob Martinez, Governor Dale Twachtmann, Secretary John Shearer, Assistant Secretary

RECEIVED
NOV 27 1990
Dept. of Environmental Reg.
West Palm Beach

MEMORANDUM

TO: Interested Parties
District Waste Cleanup Supervisors
District Waste Program Administrators
District Air Program Administrators

THROUGH: John M. Ruddell, Bureau Chief
Bureau of Waste Cleanup

FROM: Donald R. Ehlenbeck, P.E.
Administrator, Engineering Support Section

DATE: November 20, 1990

SUBJECT: Guidelines for Implementation of Chapter 17-775, F.A.C., Soil Thermal Treatment Facilities

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In anticipation of Chapter 17-775, F.A.C, going into effect on December 10, 1990, we are issuing these guidelines to assist the affected parties, DER personnel, and other interested individuals in the implementation of this new rule. Our intent is to minimize any misunderstandings generally associated with implementing a new program requirement. The effective date of this rule is based on the date (November 20, 1990) the Rule Certification Package was submitted to the Secretary of State. General Permit notices for stationary facilities will be reviewed by the respective District Office, and General Permit notices for mobile facilities and the Ground Water Monitoring Plans for stationary facilities will be reviewed by the Bureau of Waste Cleanup. To expedite compliance with this rule, the following procedures must be followed.

1. For stationary facilities, submit the Notice and four copies with attachments to the appropriate district Waste Cleanup Supervisor, and one copy of the Ground Water Monitoring Plan to the Environmental Administrator, Technical Review Section, at the following address. For mobile facilities, submit the Notice and four copies with attachments to the Administrator, Engineering Support Section:

   Florida Department of Environmental Regulation
   Bureau of Waste Cleanup
   2600 Blair Stone Road
   Tallahassee, FL 32399-2400

Recycled Paper

2. Existing stationary facilities are encouraged to submit a draft copy of the ground water monitoring plan for review to the Department of Environmental Regulation, Bureau of Waste Cleanup, 2600 Blair Stone Road, Tallahassee, FL 32999-2400. The draft ground water monitoring plans may be submitted at any time.

3. The Ground Water Monitoring Plan must contain the information required by Section 17-775.600, F.A.C., including:

   a. A ground water monitoring program acknowledging quarterly submittal of ground water monitoring data to the Bureau of Waste Cleanup at the preceding address.

   b. The quarterly data submittals must include ground water level information.

   c. Since no "zone of discharge" is allowed, the plan must identify monitoring wells locations which would prevent a zone of discharge.

4. Soil Thermal Treatment Facilities are classified as Category 3 and will require approved Comprehensive Quality Assurance Plans (CompQAP) for field and laboratory activities. Each facility is encouraged to submit the CompQAP at the earliest possible date to the Florida Department of Environmental Regulation, Quality Assurance Section, 2600 Blair Stone Road, Tallahassee, FL 32399-2400. <u>A Short Form (site specific) Quality Assurance Project Plan (QAPP) is not required for Soil Thermal Treatment Facilities.</u>

5. For facilities which are currently thermally treating petroleum-contaminated soil under a valid permit issued by the Department Air Program, by February 8, 1991 (at least 30 days prior to March 10, 1991), a NOTICE OF INTENT TO USE THE GENERAL PERMIT TO CONSTRUCT/OPERATE A SOIL THERMAL TREATMENT FACILITY, Form 17-775.900(1), must be submitted to the appropriate office. For new facilities the Notice must be submitted at least 30 days prior to initiating operation.

6. Each Notice submittal must be accompanied by a check to the Florida Department of Environmental Regulation for $ 25.00. The $ 25.00 fee is assessed each time a notice is filed; therefore, each time the Department issues a denial, an additional permit fee is assessed.

7. For stationary facilities the following information must be submitted with the notice:

   a. Site location map (USGS quad).

   b. Ground Water Monitoring Plan.

   c. Process Flow Diagram.

   d. Copies of the Comprehensive Quality Assurance Project Plan (ComQAPP) approvals for both the field and laboratory activities.

   e. Design details of the pretreatment and post-treatment soil storage areas. The drawings must delineate leachate controls.

   f. Method used to reduce soil particles to less than two inch mesh (diameter).

8. For mobile facilities the following information must be submitted with the notice:

   a. Process Flow Diagram.

   b. Sample copy of the proposed notice of operation.

   c. Method used to reduce soil particles to less than two inch mesh (diameter).

   d. Permanent address where operating records, i.e., Forms 17-775.900(2) and (3), will be kept.

9. The Department will notify in writing within seven days of receipt of Notice to: the Chair of the Board of County Commissioners, the highest ranking elected official of the municipality (if applicable), and each State Senator and Representative serving the jurisdiction in which the project is located or will be operated.

10. Some of the requirements of Chapter 17-775 may be inconsistent with existing air permits. As long as the inconsistences do not conflict with air regulations, each district Air Program and the Bureau of Air Regulation are requested to modify existing air permits to be consistent with the requirements of Chapter 17-775. These inconsistences may include:

a. At stationary facilities, Section 17-775.620(5) requires treated soil to be stored on a permanent floor structure; however, no cover structure is required for treated soil.

b. Section 17-775.410(3) requires pretreatment soil to be to be analyzed for total volatile organic aromatics (VOA), total recoverable petroleum hydrocarbon (TRPH), and total metals.

c. Section 17-775.410(1) and (2) identifies the analyses for treated soil. The required analyses includes total VOA, TRPH, and both total and TCLP levels for eight different metals. TCLP Polynuclear Aromatic Hydrocarbons (PAH) and Volatile Organic Halocarbons (VOH) constituents must also be identified if the TRPH levels exceed 10 mg/kg. Paragraph 1.2 of Method 1311 (TCLP) allows the TCLP not to be run if the total analysis of the individual contaminants are not present or the concentrations are so low that the regulatory thresholds could not possible be exceeded.

d. Section 17-775.410(3), Table II, establishes sampling frequencies for untreated soil, and Section 17-775.410(5) establishes sampling frequencies for treated soil.

e. Provided TCLP metal levels are not exceeded, Section 17-775.400 allows blending of soil to meet total metal levels. Blending of soil to meet clean soil criteria is prohibited.

11. The District Waste Cleanup Supervisors will conduct initial inspection of each facility within his/her district. Subsequent compliance inspections should be coordinated with the Air Program inspectors. Inspection procedures will be issued by the Engineering Support Section by February 1991.

cc: Rick Wilkins - DER/Tallahassee
John Gentry - DER/Tallahassee

attachment (Chapter 17-775)

Chapter 17-775

SOIL THERMAL TREATMENT FACILITIES

PART I

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PART II

SPECIFIC CONDITIONS FOR STATIONARY FACILITIES

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SOIL THERMAL TREATMENT FACILITY FORMS

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PART I

INTENT, DEFINITIONS AND GENERAL PROVISIONS

17-775.100 Intent

(1) Rule 17-770, F.A.C., establishes petroleum or petroleum product contamination cleanup criteria and a cleanup process which must be undertaken at all petroleum contamination sites. As a result of this cleanup effort, contaminated soils may be removed for thermal treatment.

(2) The State of Florida Department of Environmental Regulation promulgates this rule in order to provide assurances that contaminated soils as defined in Rule 17-770.200, F.A.C., which are removed for thermal treatment, are properly handled and treated to levels that will prevent future contamination of other soils, ground water, and surface water.

(3) The Department recognizes that thermal treatment of contaminated soils in asphalt plants, cement kilns, rotary kilns, or their equivalents, is a viable method of remediating soils.

(4) The Department intends for this rule to apply only to thermal treatment facilities and the contaminated soils which will be treated therein.

Specific Authority: 376.303, 376.3071, 403.061, F.S.

Law Implemented: 376.3071, F.S.

History: New

17-775.200 Definitions

All words and phrases defined in Section 376.301, F.S., shall have the same meaning when used in this Chapter unless the context clearly indicates otherwise. The following words and phrases when used in this Chapter shall, unless the context clearly indicates otherwise, have the following meanings:

(1) "Contamination" or "contaminated" means a discharge of petroleum or petroleum products into the surface waters, ground waters or upon the land, in quantities which may result in a violation of water quality standards set forth in Chapters 17-3 and 17-302, F.A.C.

(2) "Department" means the State of Florida Department of Environmental Regulation.

(3) "Environmental Protection Agency" or "EPA" means The United States Environmental Protection Agency.

(4) "Existing facility" shall mean a soil thermal treatment facility which is in operation prior to the effective date of this Chapter.

(5) "Hazardous waste" means a solid waste identified as a hazardous waste in 40 CFR 261.3.

(6) "Leachate" means liquid which percolates through or emerges from stockpiled soil and contains soluble, suspended or miscible materials.

(7) "Mobile facility" means a thermal treatment system which is transported to a soil contamination site and only treats soil from that specific site.

(8) "Stationary facility" means a thermal treatment system which thermally treats contaminated soil transported to the facility.

(9) "Thermal treatment" means to apply heat to increase soil temperatures sufficiently to volatilize or burn contaminants within the soil.

(10) "Thermal treatment facility" means either a stationary or mobile system designed, constructed, and permitted by the Department to handle, store, and thermally treat contaminated soils. "Thermal treatment facility" does not include electrical power plants in which thermal treatment of contaminated soils from their own property results in ash which is disposed of in accordance with Chapters 17-701 or 17-702, F.A.C.

(11) "Total Volatile Organic Aromatics" or "total VOA" means the sum of concentrations of benzene, toluene, total xylenes, and ethylbenzene as determined by EPA Method 602, 5030/8020, or 5030/8021.

(12) "Used oil" means any lubricant which has been refined from crude oil and, as a result of use, storage or handling, has become unsuitable for its original purpose due to the presence of impurities or loss of properties, but which may be suitable for further use as a fuel or may be economically recycled for use as a fuel. "Used oil" shall not include any oil which has been mixed with any material which is a hazardous waste, unless the material is a hazardous waste solely due to the characteristic of

ignitability as defined in 40 CFR Section 261, Subpart C. Oil containing more than 1000 parts per million of total halogens is presumed to be mixed with a hazardous waste as defined in 40 CFR Section 261, Subpart D, unless a demonstration is made that the used oil does not contain a hazardous waste.

Specific Authority: 376.303, 376.3071, 403.061, F.S.

Law Implemented: 376.3071, 403.031, 403.061, 403.062, F.S.

History: New

17-775.210 Reference Standards

(1) Reference standards are available for inspection at the Department's district and central offices.

(2) Specific references to documents or parts thereof are adopted and incorporated as standards only to the extent that the documents are specifically referenced in this Chapter.

(a) DER Guidelines for Preparing Quality Assurance Plans (DER-QA-001/90), Florida Department of Environmental Regulation, Quality Assurance Section.

(b) Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, EPA SW 846, Third Edition, Document No. 955-001-00000-1, as amended by update Package I (December, 1987).

(c) EPA Draft Method 9073 for Total Recoverable Petroleum Hydrocarbons.

(d) Federal Register; Volume 55, No. 61, pages 11798 to 11877; dated Thursday, March 29, 1990; on Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Toxicity Characteristics Revisions; Final Rule.

Specific Authority: 376.303, 376.3071, 403.061, F.S.

Law Implemented: 376.3071, 403.061, 403.062, F.S.

History: New

17-775.300 General Permits

(1) Soil thermal treatment facilities shall operate pursuant to a general permit, and shall meet the applicable general permit requirements in Rules 17-4.510 through 17-4.540, F.A.C., and the requirements of this Rule.

(2) Prior to operating under a general permit, the owners of a soil thermal treatment facility shall notify the Department on Form 17-775.900(1). For an existing soil thermal treatment facility, the notification must be submitted within 90 days after the effective date of this Rule. For a new soil thermal treatment facility or for renewal of a general permit, the notification must be submitted 30 days before the operation begins or the existing permit expires.

(3) The notice of intent to use the general permit to treat contaminated soils at a thermal treatment facility shall bear the signature, date and seal of a professional engineer licensed in the State of Florida.

(4) Soil thermal treatment facilities also must be permitted under Rule 17-2, F.A.C., prior to thermally treating contaminated soil.

(5) Soil thermal treatment facilities shall treat soils to the extent necessary to meet the criteria for clean soil in accordance with Rule 17-775.400, F.A.C. Soil sampling and analysis shall be in accordance with Rule 17-775.410, F.A.C.

(6) For stationary soil thermal treatment facilities, the specific conditions in Rules 17-775.600 through 17-775.620, F.A.C., shall apply. For mobile soil thermal treatment facilities, the specific conditions in Rule 17-775.700 and 17-775.710, F.A.C., shall apply.

(7) All soil thermal treatment facilities operating under a general permit shall maintain accurate records of operations. Operating report logs shall be maintained on a normal work day basis on Forms 17-775.900(2) and (3), F.A.C., and shall be maintained for a period of three years at the facility for a stationary facility, or, at an approved location for mobile facility. The Department shall have complete access to all records, field and laboratory chain-of-custody records, quality control records, raw data records, calibration records, and laboratory analyses.

(8) When treating contaminated soil, soil thermal treatment facilities shall have a minimum operating

temperature and a maximum soil charging rate which provides treatment to meet the criteria in Rule 17-775.400, F.A.C.

(9) Soil must be screened, or otherwise processed in order to prevent soil particles greater than two inch mesh (diameter) from entering the thermal treatment unit. Soil thermal treatment facilities are allowed to treat debris, other than soil, such as concrete, rocks, and wood.

(10) Prior to conducting any sampling or analysis, a Comprehensive Quality Assurance Project Plan (formerly called a Generic Quality Assurance Plan) must be approved by the Department. For those persons who have an approved Comprehensive Quality Assurance Project Plan, a Short Form (site specific) Quality Assurance Project Plan or other appropriate quality assurance document approved by the Department will satisfy this requirement. The Short Form Quality Assurance Project Plan shall be prepared in accordance with the requirements of the Department's Guidelines for Preparing Quality Assurance Plans. If there is reasonable doubt as to the quality of data or methods used, the Department reserves the right to reject any or all data submitted prior to approval of the Short Form Quality Assurance Project Plan.

Specific Authority: 376.303, 376.3071, 403.0877, F.S.

Law Implemented: 376.3071, F.S.

History: New

17-775.400 Criteria for Clean Soil

Soil which has been treated by a soil thermal treatment facility must meet the following cleanup levels to be classified as clean soil. Mixing of treated soils to achieve these standards is prohibited; however, if metal levels are exceeded without exceeding Toxicity Characteristic Leachate Procedure (TCLP) metals standards, blending of soil is allowed.

(1) Total Volatile Organic Aromatics shall not exceed 100 ug/kg (100 ppb) using the analysis identified in Rule 17-775.410(1)(a), F.A.C., and

(2) Total Recoverable Petroleum Hydrocarbons (TRPH) shall not exceed 10 mg/kg (10 ppm) using the analysis identified in Rule 17-775.410(1)(b), F.A.C., or

(3) Total Recoverable Petroleum Hydrocarbons (TRPH) shall not exceed 50 mg/kg (50 ppm) using the analysis identified in Rule 17-775.410(1)(b), F.A.C., provided the total of the Polynuclear Aromatic Hydrocarbons (PAH) does not exceed 6 mg/kg (6 ppm) using the analysis identified in Rule 17-775.410(1)(c), F.A.C., and the total of the Volatile Organic Halocarbons (VOH) does not exceed 50 ug/kg (50 ppb) using the analysis identified in Rule 17-775.410(1)(d), F.A.C., and

(4) Metals shall not exceed the following concentrations in Table I using the analyses identified in Rule 17-775.410(1)(e), F.A.C. Both preparation methods identified in Rule 17-775.410(2), F.A.C., shall be used prior to metal analysis.

TABLE I

	Maximum Concentration	
	TCLP	Total
Metals	(mg/l)	(mg/kg)
Arsenic	5.0	55
Barium	100.0	2750
Cadmium	1.0	55
Chromium	5.0	275
Lead	5.0	77
Mercury	0.2	17
Selenium	1.0	165
Silver	5.0	165

Specific Authority: 376.303, 376.3071, 403.087, F.S.

Law Implemented: 376.3071, 403.087, F.S.

History: New

17-775.410 Soil Sampling and Analysis

(1) Soil samples shall be analyzed for the following parameters using the test methods indicated:

(a) Total Volatile Organic Aromatics (VOA) — EPA Method 5030/8020

(b) Total Recoverable Petroleum Hydrocarbons — EPA Draft Method 9073

(c)	Polynuclear Aromatic Hydrocarbons (PAH)	EPA Method 3540/8100, 3550/8100, 3540/8250, 3540/8270, 3550/8250, 3550/8270, 3540/8310 or 3550/8310
(d)	Volatile Organic Halocarbons (VOH)	EPA Method 5030/8010
(e)	Metals	
	Arsenic	EPA Method 7060, 7061 or 6010
	Barium	EPA Method 7080 or 6010
	Cadmium	EPA Method 7130, 7131 or 6010
	Chromium	EPA Method 7190, 7191 or 6010
	Lead	EPA Method 7420, 7421 or 6010
	Mercury	EPA Method 7471
	Selenium	EPA Method 7040, 7041 or 6010
	Silver	EPA Method 7760 or 6010

(2) The acid digestion procedure by EPA Method 3050 shall be used to prepare soil samples for total metal analyses, and the extraction procedure by EPA Method 1311 Toxicity Characteristic Leaching Procedure (TCLP) shall be used to determine leachability characteristic of metals.

(3) Pretreatment soil shall be analyzed for Volatile Organic Aromatics, Total Recoverable Petroleum Hydrocarbons, and total metals. From each contamination site, composite soil sampling frequency shall be in accordance with Table II. Each composite soil sample shall consist of soil samples taken from at least four locations. Each sample shall be collected from locations equally distributed throughout the soil surface area and from a depth of at least six inches below the surface.

TABLE II

Amount of Soil		Quantity of
by Volume (cubic yards)	by Weight (tons)	Composite Samples
Less than 100	Less than 140	1
100 to 500	140 to 700	3
500 to 1000	700 to 1400	5
For each additional 500	For each additional 700	1

(4) The soil must not be thermally treated pursuant to this Chapter if classified as a hazardous waste. If any soil is suspected of containing a hazardous waste, then screening analyses for other contaminants may include, but are not limited to the following: volatile organic halogens; corrosivity; reactivity; toxicity characteristic constituents by the Toxicity Characteristic Leachate Procedure (TCLP), which includes metals,

pesticides and additional organics; and polychlorinated biphenyls (PCB).

(5) Following thermal treatment, a soil sample shall be collected at a sampling port at least hourly and composited over an eight hour maximum time interval or at least once every 400 tons, whichever is less. Each composite sample shall be analyzed for the parameters identified in Rule 17-775.400(1),(2), and (4), F.A.C. If the clean soil criterion in Rule 17-775.400(2), F.A.C., is exceeded, the soil may be analyzed for PAH and VOH parameters identified in Rule 17-775.400(3), F.A.C.

Specific Authority: 376.303, 376.3071, 403.061, F.S.

Law Implemented: 376.3071, 403.061, 403.062, F.S.

History: New

17-775.500 Approval of Alternate Procedures

(1) The owner or operator of a facility subject to the provisions of this Chapter may request in writing a determination from the Department that any requirement of this Chapter should not apply to such facility, and shall request approval of alternate procedures.

(2) The request shall set forth at a minimum the following information:

(a) The facility for which an exception is sought;

(b) The specific provision of Rule 17-775, F.A.C., from which an exception is sought;

(c) The basis for the exception;

(d) The alternate procedure or requirement for which approval is sought and a demonstration that the alternate procedure or requirement provides a substantially equivalent degree of protection for the lands, surface waters, or ground waters of the state as the established requirement; and

(e) A demonstration that the alternate procedure or requirement is at least as effective as the established procedure or requirement.

(3) The Secretary or his designee shall approve or deny each alternate procedure using the criteria in subsection (2) and shall provide written notice of such action.

Specific Authority: 376.303, 376.3071, F.S.

Law Implemented: 376.303, 376.3071, F.S.

History: New

PART II

SPECIFIC CONDITIONS FOR STATIONARY FACILITIES

17-775.600 Security

(1) All stationary thermal treatment facilities shall take appropriate measures to assure protection of the general public.

Specific Authority: 376.303, 376.3071, 403.061, F.S.

Law Implemented: 376.303, 376.3071, F.S.

History: New

17-775.610 Ground Water Monitoring

(1) A ground water monitoring program shall be developed for each facility which shall provide assurances that ground water quality is maintained.

(2) A ground water monitoring plan shall be provided to the Department as an attachment to the general permit application. The ground water monitoring plan shall be signed, sealed, and dated by a professional geologist. The monitoring plan shall contain the following information:

(a) Location(s) of the proposed unaffected natural background and downgradient monitoring well(s) and construction details of the monitoring well(s).

(b) Hydrogeological, physical, and chemical data for the site, including:

1. Direction and rate of ground water flow:

2. Background ground water quality;

3. Porosity, horizontal and vertical permeability for the aquifer(s), and the depth to, and lithology of the first confining bed(s);

4. Vertical permeability, thickness, and extent of any confining beds;

5. Topography, soil information, and surface water drainage systems surrounding the site; and

6. Inventory depth, construction details (well drilling logs), and cones of depression of water supply wells located within a one mile radius of the site.

(3) Monitoring wells shall be constructed in accordance with the provisions of Rule 17-532 except as follows:

(a) The minimum inside diameter shall be two inches.

(b) Flush threaded couplings shall be used to join polyvinyl chloride (PVC) pipe.

(4) The ground water monitoring wells shall be sampled and analyzed on a quarterly basis for the following parameters using the designated test methods:

(a)	Volatile Organic Aromatics	
1.	Benzene	EPA Method 602
2.	Toluene	EPA Method 602
3.	Ethylbenzene	EPA Method 602
4.	Total Xylenes	EPA Method 602
(b)	Methyl Tert-Butyl Ether (MTBE)	EPA Method 602

(c) Polynuclear Aromatic Hydrocarbons — EPA Method 610 or 625

(d) Metals

1.	Arsenic	EPA Method 206.2, 206.3, 3010/7060 or 3020/7061
2.	Barium	EPA Method 208.1, 208.2, 3010/7080 or 3020/7081
3.	Cadmium	EPA Method 213.1, 213.2, 3010/7130 or 3020/7131
4.	Chromium	EPA Method 200.7, 218.2 or 3020/7191
5.	Lead	EPA Method 239.2 or 3020/7421
6.	Mercury	EPA Method 245.1 or 3010/7470 or 3020/7471
7.	Selenium	EPA Method 270.2, 270.3, 3010/7740 or 3020/7741
8.	Silver	EPA Method 271.1, 271.2, 3010/7760 or 3020/7761

(5) If sampling analyses indicate any levels of the above parameters exceeding the unaffected natural background levels, the permittee shall notify the Department in writing within seven days of receiving analytical results.

Specific Authority: 376.303, 376.3071, 403.061, 403.0877, F.S.

Law Implemented: 376.303, 376.3071, F.S.

History: New

17-775.620 Receiving, Handling, and Stockpiling

(1) Each batch of contaminated soil shall be clearly identified by source and stockpiled separately until all sampling and analyses in accordance with Rule 17-775.410, F.A.C, are complete. Once the contaminated soil is determined to be acceptable for treatment, soil batches may be mixed with other soil batches found acceptable for thermal treatment. All contaminated soils shall be stored separately and apart from all treated soils.

(2) Contaminated soil shall be stored pursuant to this Chapter in such a manner to prevent contact with rainfall or release of leachate to ground water or surface water. The following pre-treatment storage measures shall be provided at each facility:

(a) All soil shall be stored under a permanent cover structure designed and constructed to prevent rainfall to either directly or indirectly come into contact with the stockpiled soil.

(b) The soil shall be stored on a permanent floor designed and constructed to prevent seepage, which will maintain a maximum hydraulic conductivity of no more than 10^{-7}cm/sec through a minimum of four inches.

1. Plastic or synthetic liners as flooring shall not be considered as suitable alternates.

2. The floor structure shall be designed and constructed for leachate collection and control.

(3) No leachate shall be discharged to soils, ground water, or surface water prior to treatment. Prior to discharge, treated leachate shall meet the standards established in Rule 17-3, F.A.C. Applicable permits for discharges to either surface water or ground water must be obtained prior to any discharge.

(4) Leachate may be treated in the thermal treatment facility.

(5) Until soil analyses have verified that the soil meets the clean soil criteria identified in Rule 17-775.400, F.A.C., treated soil shall be stockpiled on a permanent floor structure, which meets the criteria in Rule 17-775.620(2)(b).

Specific Authority: 376.303, 376.3071, 403.061, F.S.

Law Implemented: 376.303, 376.3071, F.S.

History: New

PART III

SPECIFIC CONDITIONS FOR MOBILE FACILITIES

17-775.700 Notices and Security

(1) Any mobile thermal treatment facility which intends to treat contaminated soil, shall notify the following entities by registered mail at least three days prior to initiating operation at a contaminant site:

(a) The local City and County governments and local environmental agency, and

(b) The appropriate District Office of the Department.

(2) Any permitted mobile thermal treatment facility shall take appropriate measures to assure protection of the general public including the following:

(a) A security fence shall surround all areas where contaminated soil is being processed, including stockpiling, handling and burning areas. The fence shall extend at least six feet above ground surface. In lieu of a security fence, surveillance personnel on site at all times is an acceptable alternative.

(b) Gate accesses shall be locked when no attendant is present.

(c) Appropriate warning notices shall be clearly posted.

Specific Authority: 376.303, 376.3071, 403.061, F.S.

Law Implemented: 376.303, 376.3071, F.S.

History: New

17-775.710 Excavating, Handling, and Stockpiling

(1) Mobile facilities shall operate only at sites with confirmed contaminated soils and may treat only soil native to the site.

(2) Soil which is excavated shall remain on-site and within the area of suspected ground water contamination until soil has been treated, and cleanup levels identified in Rule 17-775.400, F.A.C., have been confirmed.

(3) Excavated soil shall be stockpiled on an impermeable surface or liner. The stockpile shall be covered by a secured plastic cover until treatment in the thermal treatment unit commences.

(4) To the greatest extent possible, soil treated by mobile facilities shall be returned to the original excavation pit.

(5) The stockpile area for untreated soil shall be graded to direct leachate flow to return to the original excavation pit.

Specific Authority: 376.303, 376.3071, 403.061, 403.0877, F.S.

Law Implemented: 376.303, 376.3071, F.S.

History: New

PART IV

SOIL THERMAL TREATMENT FACILITY FORMS

17-775.900 Forms

The forms and instructions used by the Department in the general permitting of soil thermal treatment facilities are adopted and incorporated by reference in this section. The forms are 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 Director, Division of Waste Management, Department of Environmental Regulation, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

(1) Notice of Intent to Use the General Permit to Construct/Operate a Soil Thermal Treatment Facility, 1990.

(2) Untreated Soil Reporting Form, 1990.

(3) Treated Soil Reporting Form, 1990.

Specific Authority: 376.303, 376.3071, 403.061, 403.087, F.S.

Law Implemented: 376.303, 376.3071, F.S.

History: New

Florida Department of Environmental Regulation

Twin Towers Office Bldg. • 2600 Blair Stone Road • Tallahassee, Florida 32399-2400

Bob Martinez, Governor Dale Twachtmann, Secretary John Shearer, Assistant Secretary

NOTICE OF INTENT TO USE THE GENERAL PERMIT TO CONSTRUCT/OPERATE A SOIL THERMAL TREATMENT FACILITY

INSTRUCTIONS: Please provide all information as requested below. For stationary facilities submit the original and four copies of this notice of intent application along with site location map, process flow chart drawings of the treatment facility, and groundwater monitoring plan to the appropriate district office, and one copy of the groundwater monitoring plan to the Bureau of Waste Cleanup. For mobile units submit applicable information to the Bureau of Waste Cleanup, Florida Department of Environmental Regulation, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

Type: Stationary __ Mobile __ General Permit No.: _____

Name of Facility: _____ County: _____

Facility Address: _____

Latitude ___° ___' ___"N Longitude ___° ___' ___"W

Telephone Number: _____

Name of Owner(s): _____

Owner(s) Address if different from above: _____

_____

Department of Environmental Regulation Air Permit Number: _____

Expiration Date: _____

Length of primary chamber (ft): _____

Heat generation capability (BTU/hr): _____

Capacity of facility at a _____ minute retention time (yd^3/hr): _____ or (tons/hr): _____

Operating temperature of primary chamber (^oF): _____

Estimated average volume of soil to be processed (yd^3/mth): _____

Covered storage area (ft^2): _____ Height of cover (ft): _____

Floor construction (cement, asphalt, etc.): _____

Statement by Applicant:

I hereby attest as the owner or authorized representative of _____ (attach letter of authorization) the preceding information is accurate and that I will operate this facility in accordance with the requirements of Chapter 17-775 entitled "Soil Thermal Treatment Facilities." I understand that failure to operate this facility as required will constitute grounds for revocation of this permit.

_____
Signature of Owner or Authorized Representative

_____
Name and Title

_____
Date

Statement by Florida Registered Professional Engineer:

I hereby certify that the above information pertinent to the construction an operation of this facility is correct and that this facility is capable of operating to achieve the requirements and standards as set forth in Chapter 17-775 of the Florida Administrative Code.

_____
Signature of Engineer
(affix seal)

_____
Engineer's Name (Please Type)

_____
Florida Registration Number

_____
Company Name

_____
Address Street City

_____
Date Telephone Number

Florida Department of Environmental Regulation
Soil Thermal Treatment Facility
Untreated Soil Reporting Form

Name of Facility: _____
Air Permit No.: _____
Soil Treatment Permit No.: _____
Stationary ____ or Mobile Facility: ____

Month: ____ Year: ____

1	2	3	4	5								6	7	8		
Day of Mo.	Soil Batch ID#	Sample Number	Amount, Volume or Weight cy/tn	Analytical Results												
				Metals								Totals		Indicate Other Analyses		
				As	Ba	Cd	Cr	Pb	Hg	Se	Ag	VOA	RPH	Attach Lab Results Only		

DER Form 17-775.900(2)

See reverse side for instructions

Instructions for Completing
Untreated Soil Reporting Form

Samples from both untreated and treated soil must be collected and analyzed. Pretreatment sampling is based on the volume of soil from each source, and post treatment sampling is determined by the hours of operation. Each composite sample must be made up of several representative samples. For all analytical results showing below detection limits, BDL should be shown in the proper space. When results indicate contaminants above detectable limits, the concentrations should be shown. Copies of lab reports must be attached to form.

Column

1. Date soil received.

2. Identification number of specific batch of soil.

3. Sample number. The required number of samples is based upon the volume of soil before treatment and is based upon hours of operation after treatment.

4. Total volume of soil being processed through heat treatment facility, yd^3 or tons.

5. Metals concentrations of Arsenic, Barium, Cadmium, Chromium, Lead, Mercury, Selenium and Silver in the untreated soil in ppm (mg/kg) by extraction procedure EPA Method 3050.

6. Total benzene, toluene, ethylbenzene and xylene concentration in untreated soils in ppb (ug/kg). EPA Method 5030/8020. There are no maximum allowable concentrations.

7. Total recoverable petroleum hydrocarbons in untreated soils. EPA Draft Method 9073.

8. Other parameters that are monitored by the facility should be indicated but not quantified. Attach lab results only.

Florida Department of Environmental Regulation
Soil Thermal Treatment Facility
Treated Soil Reporting Form

Name of Facility: _____
Air Permit No.: _____
Soil Treatment Permit No.: _____
Stationary:_____ or Mobile Facility: _____

Month: _____ Year: _____

1	2	3	4	5	6								7								8	9	10	11
Day of Mo.	Soil Batch ID#	Sample Number	Length of Run, Hours	Amount, Volume or Weight cy/tn	Analytical Results																			
					Total Metals								TCLP Metals								Totals			
					As	Ba	Cd	Cr	Pb	Hg	Se	Ag	As	Ba	Cd	Cr	Pb	Hg	Se	Ag	VOA	RPH	PAH	VOH

DER Form 17-775.900(3)

See reverse side for instructions

Instructions for Completing Treated Soil Reporting Fo

Samples must be collected and analyzed at least once each day that the thermal treatment facility is processing contaminated soil. Samples from both untreated and treated soil must be collected and analyzed. Pretreatment sampling is based on the volume of soil from each source, and post treatment sampling is determined by the hours of operation. Each composite sample must be made up of several representative samples. For all analytical results showing below detection limits, BDL should be shown in the proper space. When results indicate contaminants above detectable limits, the concentrations should be shown. Copies of lab reports must be attached to form.

Column

1. Date soil processed.

2. Identification number of specific batch of soil.

3. Sample number. The required number of samples is based upon the volume of soil before treatment and is based upon hours of operation during treatment.

4. Number of hours required of treat specific batch of soil.

5. Amount of soil that was processed through thermal treatment facility, yd^3 or tons.

6. Total metals concentrations of Arsenic, Barium, Cadmium, Chromium, Lead, Mercury, Selenium and Silver in the treated soil in ppm (mg/kg) by digestion procedure EPA Method 3050.

7. TCLP metals concentrations of Arsenic, Barium, Cadmium, Chromium, Lead, Mercury, Selenium and Silver in the treated soil in ppm (mg/l) by extraction procedure EPA Method 1311.

8. Total benzene, toluene, ethylbenzene and xylene in treated soil in ppb. (Maximum allowable to dispose of as clean fill-100 ppb).

9. Total recoverable petroleum hydrocarbons in treated soil in ppm. Maximum allowable to dispose of as clean fill-10 ppm, or 50 ppm if PAHs less than 6 ppm and VOH less than 50 ppb. EPA Draft Method 9073.

10. PAH concentrations in the treated soil consisting of (Benzo(a)pyrene, Benzo(a)antracene, Benzo(b)fluoranthene, Benzo(k)fluoranthene, Benzo(g,h,i)perylene, Chrysene, Dibenzo(a,h)anthracene, Ideno(1,2,3-c,d)pyrene), in ppm (mg/kg) by EPA Methods 3510/8250, 3510/8270, 3540/8250, 3540/8270, 3550/8250, 3550/8270, 3540/8310 or 3550/8310.

11. Total volatile organic halogen concentrations in treated soils in ppb by EPA Method 5030/8010.

State of Florida
DEPARTMENT OF ENVIRONMENTAL REGULATION

For Routing To Other Than The Addressee
To: Alex Padva Location:
To: Location:
To: Location:
From: Date:

RECEIVED
NOV 7 1990
Dept. of Environmental Reg.
West Palm Beach

Interoffice Memorandum

TO: Division Directors
Deputy Assistant Secretaries

FROM: Dale Twachtmann

DATE: October 31, 1990

RE: Notice Requirements for Permitting Activity

Copy for
Joe Lurix
Bob Kubleski
V. Kamath
Return to Alex

It is the Department's policy to encourage full public participation in the evaluation of permit applications. The legislature has established notice provisions for public participation in Section 403.815, Florida Statutes, which states that the Department can publish or require the applicant to publish notices of permit applications and intended agency action on applications. The Department has implemented this statute in Florida Administrative Code Rule 17-103.150.

During the past several months -- in locations throughout the state -- we have found that we need to enhance our procedures for providing notice to citizens and to elected officials. During the upcoming legislative session we plan to offer additional ideas to enable the Department to provide broader notice and participation than that which is currently authorized. Beginning immediately, we will make an extra effort to make sure that the citizens and the elected officials have more opportunity to be aware of:

- Our receipt of applications for projects of heightened public concern
- Department decisions on permit applications for such projects

This memorandum describes certain procedures, in addition to the current requirements of the law and our rules, that must apply to these projects.

Projects of heightened public concern

The notice requirements described in this memorandum apply to the following projects that require construction or operation permits:

- Biohazardous waste incinerators
- Class I, II and III solid waste landfills
- Waste-to-energy combustors not covered under the Power Plant Siting Act

- Hazardous Waste Treatment, Storage and Disposal facilities
- Thermal treatment facilities for soil remediation

If, after consultation with the Assistant Secretary or myself, the Deputy Assistant Secretary or the Division Director determines that an individual project not included in this list is a project of heightened public concern, the notice requirements in this memorandum should apply to that project as well. Excluded from the notice requirements are activities subject to general permits or exemptions.

Please remember that some of these projects, such as hazardous waste facilities and facilities affecting air quality needing State Implementation Plan amendments, may require additional notices beyond those described in the memorandum. Also, the Henderson Act requires special notice for wetland resource projects, as described in Section 403.916, Florida Statutes.

Sending Notice to Elected Officials

For all listed projects, the Department will mail a notice of permit application, immediately after its receipt, to the Chair of the Board of County Commissioners, the highest ranking elected official of the municipality, and each State Senator and Representative serving the jurisdiction in which the project is located. After the Department completes the permit review, a copy of the notice of intent to issue, or intent to deny or denial, will also be sent to these same officials.

Requiring Notice to be Advertized in Newspaper

For the listed projects the Department will require the applicant to publish a "Notice of Application" immediately upon receipt of the permit application. Florida Administrative Code Rule 17-103.150(1)(c) sets out the content of the notice. The applicant must be advised that failure to publish notice is grounds for permit denial. Then later, applicants must also publish notice of the Department's intended action to issue, or intent to deny or denial, in conformance with Florida Administrative Code Rule 17-103.150(2).

Upon receipt of proof of publication of notice, the Department must carefully review it to determine whether the newspaper in which the notice has been published is a newspaper of general circulation in the county in which the activity will be located. If the notice has been published in any newspaper other than a well established newspaper with wide circulation in that area, we will need to find out more about the newspaper, including where and how often it is printed, what its circulation is, where it is available, whether it is available to the public generally, and what kind of information it prints. Section 50.031, Florida Statutes, copy attached, describes these legal requirements in

greater detail. The district office or division affected mu then review this information with the General Counsel t determine whether the newspaper meets the legal requirements for notice. If the Department concludes that it does not we must advise the applicant promptly that notice must be readvertized in an appropriate newspaper and that failure to do so will result in denial of the permit.

In the next few days you will receive new forms for sending out notices of receipt of application and agency action. These new forms will be consistent with the policies in this memorandum.

CHAPTER 50

LEGAL AND OFFICIAL ADVERTISEMENTS

50.011 Where and in what language legal notices to be published.
50.021 Publication when no newspaper in county.
50.031 Newspapers in which legal notices and process may be published.
50.041 Proof of publication; uniform affidavits required.
50.051 Proof of publication; form of uniform affidavit.
50.061 Amounts chargeable.
50.071 Publication costs; court docket fund.

50.011 Where and in what language legal notices to be published.—Whenever by statute an official or legal advertisement or a publication, or notice in a newspaper has been or is directed or permitted in the nature of or in lieu of process, or for constructive service, or in initiating, assuming, reviewing, exercising or enforcing jurisdiction or power, or for any purpose, including all legal notices and advertisements of sheriffs and tax collectors, the contemporaneous and continuous intent and meaning of such legislation all and singular, existing or repealed, is and has been and is hereby declared to be and to have been, and the rule of interpretation is and has been, a publication in a newspaper printed and published periodically once a week or oftener, containing at least 25 percent of its words in the English language, entered or qualified to be admitted and entered as second-class matter at a post office in the county where published, for sale to the public generally, available to the public generally for the publication of official or other notices and customarily containing information of a public character or of interest or of value to the residents or owners of property in the county where published, or of interest or of value to the general public.

History.—s. 2, ch. 3022, 1877; RS 1295; GS 1727; s. 1, ch. 5610, 1907; RGS 2942; s. 1, ch. 12104, 1927; CGL 4656, 4901; s. 1, ch. 63-387; s. 6, ch. 67-254.
Note.—Former s. 49.01.

50.021 Publication when no newspaper in county. When any law, or order or decree of court, shall direct advertisements to be made in any county and there be no newspaper published in the said county, the advertisement may be made by posting three copies thereof in three different places in said county, one of which shall be at the front door of the courthouse, and by publication in the nearest county in which a newspaper is published.

History.—RS 1297; GS 1728; RGS 2943; CGL 4657; s. 6, ch. 67-254.
Note.—Former s. 49.02.

50.031 Newspapers in which legal notices and process may be published.—No notice or publication required to be published in a newspaper in the nature of or in lieu of process of any kind, nature, character or description provided for under any law of the state, whether heretofore or hereafter enacted, and whether pertaining to constructive service, or the initiating, assuming, reviewing, exercising or enforcing jurisdiction or power, by any court in this state, or any notice of sale of property, real or personal, for taxes, state, county or municipal, or sheriff's, guardian's or administrator's or any sale made pursuant to any judicial order, decree or statute or any other publication or notice pertaining to any affairs of the state, or any county, municipality or other political subdivision thereof, shall be deemed to have been published in accordance with the statutes providing for such publication, unless the same shall have been published for the prescribed period of time required for such publication, in a newspaper which at the time of such publication shall have been in existence for 1 year and shall have been entered as second-class mail matter at a post office in the county where published, or in a newspaper which is a direct successor of a newspaper which together have been so published; provided, however, that nothing herein contained shall apply where in any county there shall be no newspaper in existence which shall have been published for the length of time above prescribed. No legal publication of any kind, nature or description, as herein defined, shall be valid or binding or held to be in compliance with the statutes providing for such publication unless the same shall have been published in accordance with the provisions of this section. Proof of such publication shall be made by uniform affidavit.

History.—ss. 1-3, ch. 14830, 1931; CGL 1936 Supp. 4274(1); s. 7, ch. 22858, 1945; s. 6, ch. 67-254; s. 1, ch. 74-221.
Note.—Former s. 49.03.

50.041 Proof of publication; uniform affidavits required.—

(1) All affidavits of publishers of newspapers (or their official representatives) made for the purpose of establishing proof of publication of public notices or legal advertisements shall be uniform throughout the state.

(2) Each such affidavit shall be printed upon white bond paper containing at least 25 percent rag material and shall be 8½ inches in width and of convenient length, not less than 5½ inches. A white margin of not less than 2½ inches shall be left at the right side of each affidavit form and upon or in this space shall be substantially pasted a clipping which shall be a true copy of the public notice or legal advertisement for which proof is executed.

(3) In all counties having a population in excess of 450,000 according to the latest official decennial census, in addition to the charges which are now or may hereafter be established by law for the publication of every official notice or legal advertisement, there may be a charge not to exceed $2 for the preparation and execution of each such proof of publication or publisher's affidavit.

History.—s. 1, ch. 19290, 1939; CGL 1940 Supp. 4658(1); s. 1, ch. 63-49; s. 25, ch. 67-254; s. 1, ch. 76-58.
Note.—Former s. 49.04.

50.051 Proof of publication; form of uniform affidavit.—The printed form upon which all such affidavits establishing proof of publication are to be executed shall be substantially as follows:

P. Bch	Brow.	Dade	Martin	St Lucie	Okee
Marion Lewis Ray Liberti ~~Mark Foley~~ Steve Press Carol Hanson Ed Healey James Hill Lois Frankel Frank Messersmith	Carol Hanson John Rayson Debby Sanderson Tracy Stafford Anne Mackenzie Norman Ostrau Fred Lippman Ronald Silver Walter Young Jack Tobin Bill Clark Peter Deutsch Ben Graber Steve Geller	Michael Friedman Darryl Reaves James Burke Willie Logan Ronald Silver Mike Abrams Elaine Gordon Alberto Gutman Luis Morse Art Simon Susan Huber John Cosgrove Ron Saunders Miguel DeGrandy Mario Diaz-Balart Elaine Bloom Luis Rojas Rodolfo Garcia, Jr Carlos Valdes Bruce Hoffman Daryl # Jones	James Hill	Irlo Bronson Charles Sembler Ken Pruitt	Irlo Bronson Bert Harris *76
Senator					
Eleanor Weinstock Doc Myers Don Childers					

P.O. Box 2469 #77
Kissimmee, Fl. 32742Representative Bronson:

Representative R. Dale Patchett #78
P.O. Box 2380
Vero Beach, Fl. 32960Representative Patchett:

Charles Sembler, II
PO Box 481
Vero Beach, Fl 32961-0481

Representative Charles Nergard #79
7270 South U.S. 1, Suite B
Port St. Lucie, Fl. 34952Representative Nergard:

Ken Pruitt
2400 SE Midport Road
Pt. St Lucie Fl 34982

Representative Marian Lewis #81
721 U.S. Hwy 1, Suite 110
North Palm Beach, Fl. 33408Representative Lewis:

Representative Ray Liberti #82
4524 Gun Club Road
West Palm Beach, Fl. 33414Representative Liberti:

Representative Frank S. Messersmith #85
200 Hypoluxo Road, Suite 202
Hypoluxo, Fl. 33462Representative Messersmith:

Mark Foley
2324 S! Congress Ave
Suite 2-A, WPB 33406

Representative Steve Press #86
1300 Park of Commerce Blvd. #270
Delray Beach, Fl. 33445Representative Press:

Representative Carol G. Hanson #87
855 S. Federal Highway, Suite 202
Boca Raton, Fl. 33432Representative Hanson:

Representative Robert J. Shelley #92
700 E. Atlantic Boulevard
Suite 101
Pompano Beach, Fl. 33060Representative Shelley:

John Rayson
1031 NE 27 Ave
Pompano Bch, 33062

Representative Debby Sanderson #93
2400 E. Commercial Blvd., Suite 213
Ft. Lauderdale, Fl. 33308Representative Sanderson:

Representative Tom Gustafson #94
128 S.E. First Street
City Park Mall
Ft. Lauderdale, Fl. 33302Representative Gustafson:

Tracy Stafford
115 S Andrews Ave, Suite 429
Ft Laud 33301

Representative Anne Mackenzie #95
1000 S. Federal Highway, Suite 103
Ft. Lauderdale, Fl. 33316Representative Mackenzie:

Representative M. Friedman #103
Capital Bank Building, Suite 701
1666 79th Street Causeway
North Bay Village, Fl. 33141Representative Friedman:

Representative Jefferson Reaves, Sr. #106
1001 N.W. 54 Street, Suite G
Miami, Fl. 33127Representative Reaves:

Representative James Burke #107
645 N.W. 62 Street, Suite 100
Miami, Fl. 33150Representative Burke:

Representative Willie Logan, Jr. #103
14251 N.W. 42st Avenue
Opa Locka, Fl. 33054Representative Logan:

Representative Norman Ostrau #96
7463 N.W. 4th Street
Plantation, Fl. 33317Representative Ostrau:

Representative Fred Lippman #97
4000 Hollywood Blvd. Room 330N
Hollywood, Fl. 33021Representative Lippman:

Representative Ronald A. Silver #100
2750 N.E. 187 Street
North Miami Beach, Fl. 33180Representative Silver:

Representative Mike Abrams #101
1928 N.E. 154 Street, Room 100
North Miami Beach, Fl. 33162Representative Abrams:

Representative Elaine Gordon #102
12100 N.E. 16 Avenue
North Miami, Fl. 33161Representative Gordon:

Representative Alberto Gutman #105
300 S.W. 12 Avenue, #324-A
Miami, Fl. 33130Representative Gutman:

Representative Edward J. Healey #84
50 S. Military Trail, Suite 205
West Palm Beach, Fl. 33405Representative Healey:

Representative Luis C. Morse #113
807 S.W. 25 Avenue, Suite 302
Miami, Fl. 33135Representative Morse:

Representative Walter C. Young #99
P.O. Box 9058
Pembroke Pines, Fl. 33084Representative Young:

Representative Jack N. Tobin #88
4800 West Copans Road
Coconut Creek, Fl. 33063Representative Tobin:

Representative Art Simon #116
13500 N. Kendall Drive, Suite 220
Miami, Fl. 33186Representative Simon:

Representative Susan Guber #117
9020 S.W. 77 [redacted]nue, E-3
Miami, Fl. 331[redacted]Representative Guber:

Representative John Cosgrove #119
19 W. Flagler Street, Suite 212
Miami, Fl. 33130Representative Cosgrove:

~~Representative Ron Saunders~~ #120
~~P.O. Box 727~~
~~Key West, Fl. 32399~~Representative Saunders:

~~Representative Bill Clark~~ #91
660 N. State Road 7, Suite 5-A
Plantation, Fl. 33317Representative Clark:

~~Representative Peter R. Deutsch~~ #90
2692 N. University Drive, Suite 7
Sunrise, Fl. 33322Representative Deutsch:

Representative James C. Hill, Jr. #80
P.O. Box 2024
Hobe Sound, Fl. 33455Representative Hill:

Representative Lois Frankel #83
2161 Palm Beach Lakes Blvd., Suite 306
West Palm Beach, Fl. 33402Representative Frankel:

Representative Lincoln Diaz-Balart #110
8100 W. Flagler Street, Suite 202
Miami, Fl. 33144Representative Diaz-Balart:

Miguel DeGrandy
999 Ponce DeLeonBlvd
Suite 1010
Miami 33134

Representative Mario Diaz-Balart #115
8890 Coral Way, Suite 206
Miami, Fl. 33165Representative Diaz-Balart:

~~Representative Elaine Bloom~~ #104
420 Lincoln Road, Suite 442
Miami Beach, Fl. 33139Representative Bloom:

~~Representative Luis E. Rojas~~ #109
6011 W. 16th Avenue, Suite A
Hialeah, Fl. 33012Representative Rojas:

Representative Ben Graber #89
2929 N. University Drive, Suite 201
Coral Springs, Fl. 33065Representative Graber:

~~Representative Steve Geller~~ #98
616 Atlantic Shores Boulevard
Hallendale, Fl. 33009Representative Geller:

Representative Nilo Juri #111
4686 W. 4th Avenue
Hialeah, Fl. 33012Representative Juri:

Rodolfo Garcia JR
362 W. 21 Street
Hialeah, Fl 33010

Representative Carlos L. Valdes #112
7175 S.W. 8th Street, Suite 201
Miami, Fl. 33144Representative Valdes:

✓ Representative Bruce Hoffmann #114
2742 S.W. 8th Street, Suite 14
Miami, Fl. 33[redacted]Representative Hoffmann:[redacted]

✓ Representative Tom Easterly #118 Daryl Jones 15820 S.W 98 Ct Miami, Fl 33157
12378 Quail Roost Drive
Miami, Fl. 33177Representative Easterly:

✓ Senator Eleanor Weinstock #26
324 Datura Street, Suite 311
West Palm Beach, Fl. 33401Senator Weinstock:

? Senator Jack Gordon #35
407 Lincoln Road, Suite 11-D
Miami Beach, Fl. 33139Senator Gordon:

? Senator Carrie P. Meek #36
149 W. Plaza, Suite 236
Miami, Fl. 33147Senator Meek:

? Senator Gwen Margolis #37
13899 Biscayne Blvd.
N. Miami Beach, Fl. 33181Senator Margolis:

? Senator Lawrence H. Plummer #39
6001 S.W. 40 Street
S. Miami, Fl. 33155Senator Plummer:

Senator Bob Crawford #13
P.O. Box 9445
Winter Haven, Fl. 33883Senator Crawford: Dantzler

? Senator William G. Myers #27
5765 S.E. Federal Highway
Stuart, Fl. 33497Senator Myers:

Senator Don C. Childers #28
50 S. Military Trail, Suite 109-A
W. Palm Beach, Fl. 33415Senator Childers:

? Senator Peter M. Weinstein #29
7880 N. University Drive
Tamarac, Fl. 33321Senator Weinstein:

? Senator Tom McPherson #30
5273 S.W. 106 Avenue
Ft. Lauderdale, Fl. 33328Senator McPherson:

? Senator Jim Scott #31
2000 E. Oakland Park Blvd.
Ft. Lauderdale, Fl. 33306Senator Scott:

? Senator Roberto Casas #33
60 East 3rd Street, Suite 202
Hialeah, Fl. 33010Senator Casas:

✓ Senator Javier Souto #40
8300 S.W. 8 Street, Suite 304
Miami, Fl. 33144Senator Souto:

✓ Senator Howard C. Forman #32
1926 Tyler Street
Hollywood, Fl. 33020Senator Forman:

P. Bch	Brow.	Dade	Martin	St Lucie	Okee
Marion Lewis Kay Liberta ~~Mack Foley~~ Steve Rees Carol Hanson Ed Healey James Hill Lois Frankel Frank Messersmith	Carol Hanson John Rayson Debby Sanderson Tracy Stafford Anne Mackenzie Norman Ostrau Fred Lippman Ronald Silver Walter Young Jack Tobin Bill Clark Peter Deutsch Ben Graber Steve Geller	Michael Friedman Darryl Reaves James Burke Willie Logan Ronald Silver Mike Abrams Elaine Gordon Alberto Gutman Luis Morse Art Simon Susan Huber John Cosgrove Ron Saunders Miguel DeGrandy Mario Diaz-Balart Elaine Bloom Luis Rojas Rodolfo Garcia, Jr Carlos Valdes Bruce Hoffman Daryl N Jones	James Hill	Irlo Bronson Charles Sembler Ken Pruitt	Irlo Bronson Bert Harris *76
Senator Leonard Weinstock Doc Myers Don Childers					

P.O. Box 2469 #77
Kissimmee, Fl. 32742Representative Bronson:

Representative R. Dale Patchett #78
P.O. Box 2380
Vero Beach, Fl. 32960Representative Patchett:

Charles Sembler, II
PO Box 481
Vero Beach, Fl 32961-0481

Representative Charles Nergard #79
7270 South U.S. 1, Suite B
Port St. Lucie, Fl. 34952Representative Nergard:

Ken Pruitt
2400 S.E. Midport Road
Pt. St Lucie Fl 34982

Representative Marian Lewis #81
721 U.S. Hwy 1, Suite 110
North Palm Beach, Fl. 33408Representative Lewis:

Representative Ray Liberti #82
4524 Gun Club Road
West Palm Beach, Fl. 33414Representative Liberti:

Representative Frank S. Messersmith #85
200 Hypoluxo Road, Suite 202
Hypoluxo, Fl. 33462Representative Messersmith:

Mark Foley
2324 S! Congress Ave
Suite 2-A, WPB 33406

Representative Steve Press #86
1300 Park of Commerce Blvd. #270
Delray Beach, Fl. 33445Representative Press:

Representative Carol G. Hanson *87
855 S. Federal Highway, Suite 202
Boca Raton, Fl. 33432Representative Hanson:

Representative Robert J. Shelley #92
700 E. Atlantic Boulevard
Suite 101
Pompano Beach, Fl. 33060Representative Shelley:

John Rayson
1031 NE 27 Ave
Pompano Bch, 33062

Representative Debby Sanderson #93
2400 E. Commercial Blvd., Suite 213
Ft. Lauderdale, Fl. 33308Representative Sanderson:

Representative Tom Gustafson #94
128 S.E. First Street
City Park Mall
Ft. Lauderdale, Fl. 33302Representative Gustafson:

Tracy Stafford
115 S Andrews Ave, Suite 429
Ft Laud 33301

Representative Anne Mackenzie #95
1000 S. Federal Highway, Suite 103
Ft. Lauderdale, Fl. 33316Representative Mackenzie:

Representative M. Friedman #103
Capital Bank Building, Suite 701
1666 79th Street Causeway
North Bay Village, Fl. 33141Representative Friedman:

Representative ~~Jefferson~~ Reaves, Sr. #106
1001 N.W. 54 Street, Suite G
Miami, Fl. 33127Representative Reaves:

Representative James Burke #107
645 N.W. 62 Street, Suite 100
Miami, Fl. 33150Representative Burke:

Representative Willie Logan, Jr. #109
14251 N.W. 42st Avenue
Opa Locka, Fl. 33054Representative Logan:

Representative Norman Ostrau #96
7463 N.W. 4th Street
Plantation, Fl. 33317Representative Ostrau:

Representative Fred Lippman #97
4000 Hollywood Blvd. Room 330N
Hollywood, Fl. 33021Representative Lippman:

Representative Ronald A. Silver #100
2750 N.E. 187 Street
North Miami Beach, Fl. 33180Representative Silver:

Representative Mike Abrams #101
1928 N.E. 154 Street, Room 100
North Miami Beach, Fl. 33162Representative Abrams:

Representative Elaine Gordon #102
12100 N.E. 16 Avenue
North Miami, Fl. 33161Representative Gordon:

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300 S.W. 12 Avenue, #324-A
Miami, Fl. 33130Representative Gutman:

Representative Edward J. Healey #84
50 S. Military Trail, Suite 205
West Palm Beach, Fl. 33405Representative Healey:

Representative Luis C. Morse #113
807 S.W. 25 Avenue, Suite 302
Miami, Fl. 33135Representative Morse:

Representative Walter C. Young #99
P.O. Box 9058
Pembroke Pines, Fl. 33084Representative Young:

Representative Jack N. Tobin #88
4800 West Copans Road
Coconut Creek, Fl. 33063Representative Tobin:

Representative Art Simon #116
13500 N. Kendall Drive, Suite 220
Miami, Fl. 33186Representative Simon:

Representative Susan Guber #117
9020 S.W. 77 Avenue, E-3
Miami, Fl. 33156Representative Guber:

Representative John Cosgrove #119
19 W. Flagler Street, Suite 212
Miami, Fl. 33130Representative Cosgrove:

Representative Ron Saunders #120
P.O. Box 727
Key West, Fl. 32399Representative Saunders:

Representative Bill Clark #91
660 N. State Road 7, Suite 5-A
Plantation, Fl. 33317Representative Clark:

Representative Peter R. Deutsch #90
2692 N. University Drive, Suite 7
Sunrise, Fl. 33322Representative Deutsch:

Representative James C. Hill, Jr. #80
P.O. Box 2024
Hobe Sound, Fl. 33455Representative Hill:

Representative Lois Frankel #83
2161 Palm Beach Lakes Blvd., Suite 306
West Palm Beach, Fl. 33402Representative Frankel:

Representative Lincoln Diaz-Balart #110
8100 W. Flagler Street, Suite 202
Miami, Fl. 33144Representative Diaz-Balart:

Miguel DeGrandy
999 Ponce DeLeon Blvd
Suite 1010
Miami 33134

Representative Mario Diaz-Balart #115
8890 Coral Way, Suite 206
Miami, Fl. 33165Representative Diaz-Balart:

Representative Elaine Bloom #104
420 Lincoln Road, Suite 442
Miami Beach, Fl. 33139Representative Bloom:

Representative Luis E. Rojas #109
6011 W. 16th Avenue, Suite A
Hialeah, Fl. 33012Representative Rojas:

Representative Ben Graber #89
2929 N. University Drive, Suite 201
Coral Springs, Fl. 33065Representative Graber:

Representative Steve Geller #98
616 Atlantic Shores Boulevard
Hallendale, Fl. 33009Representative Geller:

Representative Nilo Juri #111
4686 W. 4th Avenue
Hialeah, Fl. 33012Representative Juri:

Rodolfo Garcia Jr
362 W. 21 Street
Hialeah, Fl 33010

Representative Carlos L. Valdes #112
7175 S.W. 8th Street, Suite 201
Miami, Fl. 33144Representative Valdes:

✓ Representative Bruce Hoffmann #114
2742 S.W. 8th Street, Suite 14
Miami, Fl. 33135Representative Hoffmann:

✓ Representative Tom Easterly #118 Daryl Jones 15820 S.W 98 Ct Miami, Fl 33157
12378 Quail Roost Drive
Miami, Fl. 33177Representative Easterly:

✓ Senator Eleanor Weinstock #26
324 Datura Street, Suite 311
West Palm Beach, Fl. 33401Senator Weinstock:

? Senator Jack Gordon 35
407 Lincoln Road, Suite 11-D
Miami Beach, Fl. 33139Senator Gordon:

? Senator Carrie P. Meek #36
149 W. Plaza, Suite 236
Miami, Fl. 33147Senator Meek:

? Senator Gwen Margolis #37
13899 Biscayne Blvd.
N. Miami Beach, Fl. 33181Senator Margolis:

? Senator Lawrence H. Plummer #39
6001 S.W. 40 Street
S. Miami, Fl. 33155Senator Plummer:

Senator Bob Crawford #13
P.O. Box 9445 Dintzler
Winter Haven, Fl. 33883Senator Crawford:

? Senator William G. Myers #27
5765 S.E. Federal Highway
Stuart, Fl. 33497Senator Myers:

Senator Don C. Childers #28
50 S. Military Trail, Suite 109-A
W. Palm Beach, Fl. 33415Senator Childers:

? Senator Peter M. Weinstein #29
7880 N. University Drive
Tamarac, Fl. 33321Senator Weinstein:

? Senator Tom McPherson #30
5273 S.W. 106 Avenue
Ft. Lauderdale, Fl. 33328Senator McPherson:

? Senator Jim Scott #31
2000 E. Oakland Park Blvd.
Ft. Lauderdale, Fl. 33306Senator Scott:

? Senator Roberto Casas #33
60 East 3rd Street, Suite 202
Hialeah, Fl. 33010Senator Casas:

✓ Senator Javier Souto #40
8300 S.W. 8 Street, Suite 304
Miami, Fl. 33144Senator Souto:

✓ Senator Howard C. Forman #32
1926 Tyler Street
Hollywood, Fl. 33020Senator Forman:

DEPARTMENT OF ENVIRONMENTAL REGULATION

Interoffice Memorandum

TO: Mike Batts, Mary Jean Yon, Phil Coram, Doug MacLaughlin, Gerry Neubauer, Joe Lurix, Joe McNamara

FROM: Dotty Diltz

DATE: May 7, 1990

SUBJECT: General Permitting Procedures Workgroup

On April 24, the first meeting of the General Permitting Procedures Workgroup was held in Tallahassee. The attendees included Gerry Neubauer, Joe Lurix, Joe McNamara, Phil Coram, and myself. Each of the general topics listed in the April 17 memo were discussed and proposals were made as to how to proceed on each issue. The following is a brief summary of the discussions and assignments that came from the meeting:

1) Determination of Completeness - There was agreement that no written requests for additional information should be made for GPs. The Department's determination should be based on the original submittal, and PATS should indicate that the date received and the date complete are the same. The status date in PATS should be the date that the letter notifying the applicant on his acceptability is signed.

2) Standard Approval - A standard letter indicating that the project "appears to qualify for the GP after review of the submitted information" will be drafted and approved by OGC for use Department-wide. It was recommended that the letter include the expiration date of the GP, which was agreed to be five years from the date the notice was received by the Department. The letter should also indicate whether the GP is to construct and/or to operate the project, which will determine whether notification of continued use after five years is required. The procedures will also clarify who may sign the standard letter.

3) Standard Denial - A standard letter indicating that the project does not qualify for a GP will be drafted and approved by OGC for use Department-wide. It was requested that the committee again check with OGC for a determination as to whether denial of a GP is final agency action. If it is the opinion of OGC that such a denial is final agency action, the standard denial letters must be signed by the DAS. It was also suggested that the standard denial letter include the reasons for denial in a format (checklist or rule references) acceptable to OGC, and that the standard denial be sent by certified mail.

4) GP Expiration - Section 17-4.540(13), FAC, sets out procedures for notification of continued use after five year for operation GPs. There is no need to re-notify for construction GPs after the project is constructed and closed out in accordance with the terms of the GP.

5) Requirement for PE Certification - The PE Committee wants the issue of GP denials being considered as final agency action re-visited. It also recommends higher fees for those GPs requiring PE certification and wants to identify those GPs requiring certification of completion of construction and those requiring PE certification. Additionally, the committee wants to develop and incorporate into the GPs standardized statements for the applicant's PEs.

6) Appropriate Time to Review - Each GP should be given a standard recommended review time based on the general complexity and type of review required. This should be used as a guideline for the Districts to provide for more consistency throughout the Department.

The following assignments were given:

- The Districts will be asked to submit sample copies of GP approval and denial letters for the GPs in each program. These should be sent to Mike Batts, Mary Jean Yon, or Dotty Diltz, as appropriate.

- A list will be developed jointly by committee members and District staff indicating those GPs requiring PE certifications, certifications of completion, and as-builts. The list will also identify whether the GP is for construction and/or operation.

- OGC will draft standard approval and denial notices.

- Joe Lurix will draft a chart that will be used to identify all the required information in a standard format. The chart will be initially completed by the committee members and then sent to the Districts for additional comments and suggestions.

The next meeting of the General Permitting Procedures Workgroup will be held in Tallahassee on May 23 at 10:00 in Room 272

/dd

cc: Program Administrators

Florida Department of Environmental Regulation
Twin Towers Office Bldg. • 2600 Blair Stone Road • Tallahassee, Florida 32399-2400
Bob Martinez, Governor Dale Twachtmann, Secretary John Shearer, Assistant Secretary

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL REGULATION
NOTICE OF PERMIT

RECEIVED
DEC 28 1990
Dept. of Environmental Reg.
West Palm Beach

Mr. W. Arnold Dinkins, President
Mobile Reclaim, Inc.
3120 NW 37th Street
Gainesville, Florida 32605

December 20, 1990

Enclosed is construction permit No. AC 01-179694. This permit is issued pursuant to Section 403, Florida Statutes.

Any party to this permit has the right to seek judicial review of the permit pursuant to Section 120.68, Florida Statutes, by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the Clerk of the Department in the Office of General Counsel, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400; and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 days from the date this permit is filed with the Clerk of the Department.

Executed in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL REGULATION

C. H. Fancy, P.E.
Chief
Bureau of Air Regulation

Copy furnished to:

Don Ehlenbeck, BWC
District Air Program Administrators
County Air Program Administrators
Stephen L. Neck, P.E.
John Austin

Recycled Paper

CERTIFICATE OF SERVICE

The undersigned duly designated deputy clerk hereby certifies that this NOTICE OF PERMIT and all copies were mailed before the close of buisness on 12-21-90.

FILING AND ACKNOWLEDGEMENT FILED, on this date, pursuant to §120.52(9), Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

Lynn Baker — Clerk

12-21-90 — Date

Final Determination

Mobile Reclaim, Inc.
Gainesville, Alachua County, Florida

25 TPH Mobile Soil Remediation Unit
Statewide Operation
Permit No. AC 01-179694

Department of Environmental Regulation
Division of Air Resources Management
Bureau of Air Regulation

December 20, 1990

Final Determination

The Technical Evaluation and Preliminary Determination for the permit to construct a 25 TPH mobile soil remediation unit for Mobile Reclaim, Inc. was distributed on June 19, 1990. The Notice of Intent to Issue was published in the newspapers listed in the July 24, 1990, letter from Chandler, Gray, Lang & Haswell, P.A. (attached). Copies of the evaluation were available for public inspection at all approved County program offices, all Department District offices, and the Bureau of Air Regulation office.

In response to the public notices of the Department's Intent, a Petition for Administrative Proceedings was submitted by Mr. John N. Austin of Jacksonville, Florida on July 13, 1990. A summary of Mr. Austin's comments and the review engineer's responses is attached. The final order dismissing Mr. Austin's petition required the terms of an agreement (the Ancillary Agreement) between Mr. Austin and Mobile Reclaim, Inc. to be included in any permit issued by the Department. Specific Conditions Nos. 7, 14, 18, and 30 of the permit were revised to include the first four items of the Ancillary Agreement.

Mary Jelks, M.D., objected to the Department allowing the use of an incinerator to decontaminate the soil. She recommended the use of bacteria to decontaminate the soil. Although there are other methods to treat contaminated soil, the Department has concluded that incineration in a properly designed and operated unit will comply with the air pollution control regulations.

The applicant's engineer asked that EPA Method 25A instead of EPA Method 25 be allowed to determine compliance with the emission limits because VOC concentration in the stack would be less than 1 ppm. The Department notes that the allowable VOC emissions are above the minimum detectable level of 50 ppm for EPA Method 25. The Department will accept results by the EPA Method 25A test if the VOC concentrations are less than 50 ppm. Results above 50 PPM VOC by EPA Method 25A must be correlated with an EPA Method 25 test to be acceptable to the Department. Specific Condition No. 22 was revised to allow the use of Method 25A for low concentrations of VOC.

The Dade County Department of Environmental Resources Management commented that this source would have to obtain a county permit prior to operating in Dade County. Specific Condition No. 23 was revised to address this issue.

In late September, 1990, the Department adopted Chapter 17-775, F.A.C., Soil Thermal Treatment Facility. Specific Conditions Nos. 15 and 24 of the proposed permit have been revised to be consistent with this new rule.

The final action of the Department will be to issue construction permit No. AC 48-176117 with the changes discussed above.

LAW OFFICES
CHANDLER, GRAY, LANG & HASWELL, P. A.
POST OFFICE BOX 23679
GAINESVILLE, FLORIDA 32602

WILLIAM H. CHANDLER
HENRY L. GRAY, JR.
JAMES F. LANG
JOHN H. HASWELL
KATHERINE M. WALTON
C. WHARTON COLE

TELEPHONE 904/376-5226
TELECOPIER 904/372-8858
211 N.E. FIRST STREET

July 24, 1990

VIA CERTIFIED MAIL
P278 265 539

RECEIVED
JUL 25 1990
DER - BAQM

Mr. Barry Andrews
Bureau of Air Regulation
Twin Tower Office Building
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Re: DER File No. AC-01-179694
Application for Permit by Mobile Reclaim, Inc.

Dear Mr. Andrews:

I enclose herewith the following proofs of publication from the following newspapers:

1. The Florida Times Union, published July 2, 1990.
2. The Tallahassee Democrat, published July 2, 1990.
3. The Miami Herald, published July 3, 1990.
4. The Gainesville Sun, published July 2, 1990.
5. News/Sun-Sentinel, Fort Lauderdale, published July 2, 1990.
6. The Orlando Sentinel, published July 3, 1990.
7. St. Petersburg Times, published July 2, 1990.
8. The Palm Beach Post, published July 2, 1990.
9. Sarasota Herald-Tribune, published July 2, 1990.
10. The Ledger, Lakeland, Florida, published July 2, 1990.
11. The Tampa Tribune, published July 2, 1990.
12. Pensacola News Journal, published July 2, 1990.

13. The News Journal, Pensacola, FL, published July 2, 1990.

These proofs of publication are being submitted to you pursuant to the above-referenced file, upon receipt, this date, of the last of the proofs of the publication from the newspapers as set forth hereinabove.

We have received no information, whatsoever, from any source regarding objections to, or inquiries concerning, the application process. Trusting everything herein set forth is satisfactory, and that the permit application will be acted upon favorably, I am

Very truly yours,

CHANDLER, GRAY, LANG & HASWELL, P.A.

Henry L. Gray, Jr.

Enclosures

HLG/kwb
cc: Mobile Reclaim, Inc.
MOBILE\ANDREWS.LTR

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL REGULATION

JOHN N. AUSTIN,

Petitioner,

vs.

DOAH CASE NO. 90-5114
OGC CASE NO. 90-1130

MOBILE RECLAIM, INC., and
STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL REGULATION,

Respondents.
_____/

FINAL ORDER

On July 16, 1990, the State of Florida Department of Environmental Regulation ("Department") received a letter requesting an administrative hearing from Petitioner, John N. Austin ("Austin"). The letter challenged the Department's decision to issue Permit No. AC01-179694 to Mobile Reclaim, Inc., ("Mobile") to construct a portable soil remediation unit for operation throughout the state of Florida. Upon Mobile's Motion to Dismiss the Petition, the Hearing Officer entered an Order Dismissing the Petition With Leave to Amend. An amended petition was filed and Mobile again moved to dismiss it. On October 9, 1990, the Hearing Officer entered a Recommended Order of Dismissal of the Amended Petition. (Exhibit 1) Austin filed Exceptions to that Recommended Order.

On October 29, 1990, after Austin and Mobile reached a settlement concerning the issues herein, Austin filed a pleading titled "Petitioner's Motion To Withdraw His Amended

Petition For Administrative Proceeding And His Motion Requesting Recommended Order Of Dismissal Be Set Aside." (Exhibit 2) Because of the withdrawal of Austin's petition, there are no further matters to consider. Therefore,

IT IS ORDERED:

The petition is hereby dismissed and the Department's Northeast District Office is directed to issue Permit No. AC01-179694 to Mobile Reclaim, Inc., consistent with the terms of the parties Ancillary Agreement, as soon as possible.

Any party to this Order has the right to seek judicial review of the Order pursuant to Section 120.68, Florida Statutes, by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the clerk of the Department in the Office of General Counsel, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400; and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 days from the date this Order is filed with the clerk of the Department.

DONE AND ORDERED this 5 day of November, 1990, in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL REGULATION

DALE TWACHTMANN
Secretary

[illegible] AND ACKNOWLEDGEMENT
[illegible] date, pursuant to S120.52
[illegible], with the designated Depart-
[illegible] Clerk, receipt of which is hereby acknow-
ledged.

Clerk

11-6-90
Date

****

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy hereof has been furnished to:

John N. Austin
6356 Sundown Drive
Jacksonville, Florida 32244

Mr. W. Arnold Dinkins, President
Mobile Reclaim, Inc.
3120 Northwest 37th Street
Gainesville, Florida 32605

Diane K. Kiesling, Hearing Officer
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-1550

by U.S. Mail on this 6th day of November, 1990.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL REGULATION

Carol A. Forthman, for

WILLIAM H. CONGDON
Assistant General Counsel

2600 Blair Stone Road
Tallahassee, FL 32399-2400
Telephone: (904) 488-9730

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

JOHN N. AUSTIN, Petitioner, vs. MOBILE RECLAIM, INC., and DEPARTMENT OF ENVIRONMENTAL REGULATION, Respondents.	)	CASE NO. 90-5114

RECOMMENDED ORDER OF DISMISSAL

This cause comes on for consideration on the Motion to Dismiss the Amended Petition of John N. Austin, Objecting to the Issuance by the Co-Respondent, State of Florida Department of Environmental Regulation, of a Permit, with Statewide Application, Pursuant to the Application by Respondent, Mobile Reclaim, Inc., in Such Regard [sic] filed by Mobile Reclaim, Inc. By its Motion, Mobile Reclaim apparently seeks the dismissal of the Amended Petition filed by John N. Austin. Petitioner Austin filed no response to the Motion to Dismiss. Upon consideration, it is found:

1. By Order Granting Motion to Dismiss and Leave to Amend dated August 30, 1990, the undersigned dismissed the petition filed by Austin and granted leave to file an amended petition "stating allegations which adequately support the standing of Petitioner to bring this action."

2. The Amended Petition was timely filed on September 17, 1990. The Amended Petition incorporated the original petition in its entirely into the Amended Petition. It also set forth a number of general allegations regarding the potential adverse affects of the proposed project on the air and water quality and the natural environment of Duval County and other counties in Florida.

EXHIBIT 1

3. The Amended Petition then went on to argue extensively that Petitioner has standing to bring the action under Agrico Chemical Company v. Department of Environmental Regulation, 406 So.2d 478 (Fla. 2d DCA 1981) and its progeny.

4. The Amended Petition mentions sections of Chapter 403, Florida Statutes, but simply states that the interests alleged by Austin fall within the zone of interest of that chapter.

5. The Amended Petition is not filed pursuant to Chapter 403 and is not a verified petition.

6. The Amended Petition contains no allegations of fact to support Austin's standing which were not already contained in the original petition which was dismissed.

Based on the foregoing, it is concluded that the Motion to Dismiss the Amended Petition is well founded and should be granted. The Amended Petition contains insufficient allegations to show standing under Section 120.57(1), Florida Statutes. The Amended Petition is inadequate as a matter of law to establish standing to bring this action under Chapter 403 and is not verified.

For the foregoing reasons, it is

RECOMMENDED that the Department of Environmental Regulation enter a Final Order and therein DISMISS the Amended Petition filed by John N. Austin.

DONE and ORDERED this 9th day of October, 1990, at Tallahassee, Florida.

DIANE K. KIESLING, Hearing Officer
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-1550
(904) 488-9675

Filed with the Clerk of the Division of Administrative Hearings this 9th day of October, 1990.

Copies furnished to:

Henry L. Gray, Jr.
Attorney at Law
Post Office Box 23879
Gainesville, FL 32602

William H. Congdon
Assistant General Counsel
Department of Environmental Regulation
Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, FL 32399-2400

Leslie Goller Dillingham
Attorney at Law
2644 Hedrick Street
Jacksonville, FL 32205

Dale H. Twachtmann, Secretary
Department of Environmental Regulation
Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, FL 32399-2400

Case No. 90-5114

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

RECEIVED
OCT 30 1990
Dept. of Environmental Reg.
Office of General Counsel

JOHN N. AUSTIN,

Petitioner,

vs.

MOBILE RECLAIM, INC., and DEPARTMENT OF ENVIRONMENTAL REGULATION,

Respondents.

CASE NO. 90-5114

PETITIONER'S MOTION TO WITHDRAW HIS AMENDED PETITION FOR ADMINISTRATIVE PROCEEDING AND HIS MOTION REQUESTING RECOMMENDED ORDER OF DISMISSAL BE SET ASIDE

Petitioner, John N. Austin, by and through his undersigned attorney, hereby moves to withdraw his Amended Petition for Administrative Proceeding upon the issuance of an air pollution permit to Mobile Reclaim, Inc., and his Motion Requesting Recommended Order of Dismissal Be Set Aside. This motion is conditional on the addition of the Special Conditions enumerated in the Ancillary Agreement, attached to and marked as Exhibit A, to the construction and operating permits issued by the Department of Environmental Regulation to Mobile Reclaim, Inc., and the satisfaction by Mobile Reclaim, Inc. of all terms and conditions contained in the Ancillary Agreement.

EXHIBIT 2

Respectfully Submitted,

Leslie Goller Dillingham

LESLIE GOLLER DILLINGHAM
Florida Bar No. 393932
3644 Hedrick Street
Jacksonville, Florida 32205
(904) 388-8968
Attorney for Petitioners

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing was ished by U.S. Mail to Secretary Dale Twachtmann, Florida rtment of Environmental Regulation, Twin Towers Office ding, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400; y L. Gray, Jr., Esq., Chandler, Gray, Lang & Haswell, P.A., Office Box 23879, Gainesville, Florida 32602; William H. don, Esq., Assistant General Counsel, Department of ronmental Regulation, Twin Towers Office Building, 2600 Blair e Road, Tallahassee, Florida 32399-2400; Diane K. Kiesling, ing Officer, Division of Administrative Hearings, The DeSoto ding, 1230 Apalachee Parkway, Tallahassee, Florida 32399-1550, 2nd day of October, 1990.

Leslie Goller Dillingham
Attorney

EXHIBIT A

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

OCT 29 1990

Dept. of Environmental Reg.
Office of General Counsel

JOHN N. AUSTIN,

Petitioner,

vs.

Case No. 90-5114
(OGC Case No. 90-1130)

MOBILE RECLAIM, INC. and
STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL REGULATION,

Respondents.
_____/

ANCILLARY AGREEMENT BETWEEN JOHN N. AUSTIN
AND MOBILE RECLAIM, INC.

This Ancillary Agreement, made this 24th day of October, 1990, by and between JOHN N. AUSTIN, Petitioner ("AUSTIN"), and Respondent, MOBILE RECLAIM, INC. ("MOBILE"), in settlement of the issues raised by AUSTIN in his Amended Petition objecting to the issuance by the Co-Respondent, STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL REGULATION ("DER"), of a permit, with statewide application, pursuant to the application by Respondent, MOBILE, in such regard;

W I T N E S S E T H

WHEREAS, heretofore, AUSTIN instituted this proceeding by filing a hand-written petition, pro se, objecting to the issuance by the Co-Respondent, DER, of a permit with statewide application, pursuant to the application by Respondent, MOBILE, in such regard, and,

WHEREAS, MOBILE filed and served its Motion to Dismiss AUSTIN's Petition, and

WHEREAS, pursuant to such Motion to Dismiss, the Hearing

Officer rendered an order granting MOBILE's Motion to Dismiss with Leave to Amend on August 30, 1990, and

WHEREAS, AUSTIN, through counsel, then filed his Amended Petition objecting to the issuance of the Permit for which MOBILE has applied, and

WHEREAS, MOBILE thereupon responded thereto by filing its Motion to Dismiss such Amended Petition, and

WHEREAS, the Hearing Officer on October 9, 1990, rendered her Recommended Order of Dismissal of such Amended Petition, to which AUSTIN has now filed Exceptions, and

WHEREAS, on October 16, 1990, counsel for AUSTIN and MOBILE, together with representatives of the parties, met for the purpose of discussing (and in a joint effort to amicably resolve) all issues raised by AUSTIN's objections to DER's issuance to MOBILE of said Permit pursuant to MOBILE's application therefor, and

WHEREAS, pursuant to negotiations and discussions which have ensued between the Petitioner (AUSTIN) and the Respondent (MOBILE), they have reached this Ancillary Agreement incident to such objections and a resolution thereof as follows:

NOW, THEREFORE, it is agreed:

1. MOBILE's operation of its soil remediation unit in the State of Florida is conditioned upon the baghouse and the afterburner of the unit being fully operational, as demonstrated by continuous monitoring instrumentation upon the unit. This provision shall be included by DER as a special condition of the permit.

2. Within five days of placing the unit in commercial operation in Florida, MOBILE shall test samples of the unit's baghouse dust in order to ascertain contaminant levels. MOBILE shall collect dust samples at one-half hour intervals during the compliance testing. The incremental samples shall be composited and tested by TCLP methods for toxic metal contaminants. The samples of the mixed soil and baghouse dust shall also be composited and tested in the manner above-described. The above test results shall be provided to DER and AUSTIN within 5 days of receipt. If levels of TCLP contaminants exceed the levels listed in 40 CFR 261, the test materials shall be handled as required by law under RCRA, CERCLA, or other applicable programs. If either sample regime shall indicate levels of TCLP contaminants in excess of those listed in 40 CFR 261, then a panel of DER and MOBILE representatives shall discuss and determine appropriate operating procedures for the unit. AUSTIN shall be notified at least five days prior to the meeting of such panel. Recommendations and directives of the panel shall be added to MOBILE's permit as a special condition, as required by DER.

3. MOBILE shall perform its own maintenance upon the soil remediation unit and have quarterly inspections performed by a qualified representative of the manufacturer, complying with recommendations made by the manufacturer regarding any additional maintenance, if and when necessary. This provision shall be included by DER as a special condition of the Permit.

4. "Reasonable assurance" that the soil is contaminated with

only virgin and/or "on specification" petroleum products, and not classified as a hazardous waste pursuant to the federal regulations cited in Specific Condition No. 14 of the proposed Permit, may be obtained by the sampling of the soil, by certification from owners regarding the history of the site, or by any other documentation or submission approved by the DER in such regard; PROVIDED, however, that MOBILE's standard of performance shall not exceed any objective standard utilized by the DER in the State of Florida for providing "reasonable assurance." This provision shall be included by DER as a special condition of the Permit.

5. AUSTIN shall forthwith dismiss his Petition concerning issueance by the DER of a permit to MOBILE to construct (and subsequently operate) a 25 TPH soil remediation unit for operation throughout the State of Florida and withdraw forthwith his Motion Requesting Recommended Order of Dismissal (by the Hearing Officer) be set aside. Such dismissal shall be with prejudice as to all counties within the State of Florida except Duval County. Such dismissal shall be without prejudice as the same relates to his objection to the operation of such unit within Duval County, Florida. Attached hereto as Exhibit A to this Agreement is a true copy of a draft of such permit, reflecting Permit No. AC 01-179694, for statewide operation, and reflecting, on page 1, that "the unit may be used throughout the state (all counties) after receiving epartment authorization to operate at a new location. MOBILE's tilization of such unit in Duval County shall abide MOBILE's ulfillment of the obligations hereinafter set forth in paragraphs

2, 6, and 7 hereof.

6. MOBILE will provide AUSTIN and DER with New York test results documenting actual performance of a functionally identical unit within seven days of the test results becoming a public record in the State of New York.

7. MOBILE shall notify AUSTIN in writing at least seven days prior to placing MOBILE's unit in commercial operation in the State of Florida. AUSTIN's engineer is authorized to make an on-site inspection of the unit and monitor compliance testing thereof. Such on-site inspection of the unit shall be limited to observation and certification that the compliance testing is conducted in a manner which will provide valid data for examination by AUSTIN or his agents. Compliance testing will not be discontinued, nor interrupted, nor will the unit be measured nor disassembled for inspection. It may, however, be photographed.

8. The parties, and each of them, expressly waive the assessment of attorneys' fees or costs against the other ~~party~~, pursuant to statute, rule of court, or otherwise.

IN WITNESS WHEREOF, AUSTIN and MOBILE, through counsel, have agreed to the provisions hereof on October 24, 1990, and have executed this Agreement on the dates noted.

October 25, 1990

Leslie Collier Dillingham

Leslie Collier Dillingham, Esq.
Fla. Bar No. 393932
3644 Hedrick Street
Jacksonville, FL 32205
(904) 388-8968
Attorney for John N. Austin

CHANDLER, GRAY, LANG & HASWELL, P.A.

October 24, 1990

By: _____
Henry L. Gray, Jr., Esq.
Fla. Bar No. 0030969
211 N.E. 1st Street
PO Box 23879
Gainesville, FL 32601
(904) 376-5226
Attorney for Mobile Reclaim, Inc.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL REGULATION hereby consents and agrees to the above.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL REGULATION

October 24, 1990

By: _____
William H. Congdon, Esq.
Fla. Bar No. 283606
Assistant General Counsel
2600 Blair Stone Road
Tallahassee, FL 32399-2400
(904) 488-9730
Attorney for State of Florida Department of Environmental Regulation

MOBILE\AUSTIN\ANCAGREE

Florida Department of Environmental Regulatio
Twin Towers Office Bldg. • 2600 Blair Stone Road • Tallahassee, Florida 32399-24
Bob Martinez, Governor Dale Twachtmann, Secretary John Shearer, Assistant Secre

PERMITTEE:
Mobile Reclaim, Inc.
3120 NW 37th Street
Gainesville, Florida 32605

Permit Numbers: AC 01-179694
Expiration Date: July 31, 1991
County: Statewide Operation
Project: 25 TPH Portable Rotary Kiln/Afterburner Systems, Serial Number SRU-202

This permit is issued under the provisions of Chapter 403, Florid Statutes, and Florida Administrative Code Chapters 17-2 and 17-4 The above named permittee is hereby authorized to perform the wor or operate the facility shown on the application and approve drawing(s), plans, and other documents attached hereto or on fil with the Department and made a part hereof and specificall described as follows:

Authorization to construct a portable rotary kiln/afterburne system. The unit consists of a contaminated soil hopper and fee system, a 25 TPH rotary dryer with a No. 2 fuel oil burner, a 99 efficient baghouse, a 95% efficient No. 2 fuel oil fire afterburner (0.5 second retention time at 1400°F) and stack (3. ft. dia. by 20 ft. ht.) handling approximately 35,040 acfm (7,50 dscfm at 50% EA), and associated equipment, all of which i mounted on a truck.

The unit may be used throughout the state (all counties) afte receiving Department authorization to operate at a new location.

The source shall be constructed in accordance with the permi application, plans, documents, amendments and drawings, except a otherwise noted in the General and Specific Conditions.

Attachments are listed below:

1. Application received on April 26, 1990.
2. DER letter dated May 10, 1990
3. Air Consulting and Engineering, Inc. letter dated May 30, 1990
4. Chandler, Gray, Lang & Haswell letter dated July 24, 1990.
5. Summary of Hearing Request by Mr. John Austin
6. Air Consulting and Engineering letter dated July 5, 1990.
7. DERM letter dated June 28, 1990.
8. Final Order in OGC Case No. 90-1130.

Recycled Paper

GENERAL CONDITIONS:

6. The permittee shall properly operate and maintain the facility and systems of treatment and control (and related appurtenances) that are installed or used by the permittee to achieve compliance with the conditions of this permit, as required by Department rules. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to achieve compliance with the conditions of the permit and when required by Department rules.

7. The permittee, by accepting this permit, specifically agrees to allow authorized Department personnel, upon presentation of credentials or other documents as may be required by law and at a reasonable time, access to the premises, where the permitted activity is located or conducted to:

a. Have access to and copy any records that must be kept under the conditions of the permit;

b. Inspect the facility, equipment, practices, or operations regulated or required under this permit; and

c. Sample or monitor any substances or parameters at any location reasonably necessary to assure compliance with this permit or Department rules.

Reasonable time may depend on the nature of the concern being investigated.

8. If, for any reason, the permittee does not comply with or will be unable to comply with any condition or limitation specified in this permit, the permittee shall immediately provide the Department with the following information:

a. a description of and cause of non-compliance; and

b. the period of noncompliance, including dates and times; or, if not corrected, the anticipated time the non-compliance is expected to continue, and steps being taken to reduce, eliminate, and prevent recurrence of the non-compliance.

GENERAL CONDITIONS:

The permittee shall be responsible for any and all damages which may result and may be subject to enforcement action by the Department for penalties or for revocation of this permit.

9. In accepting this permit, the permittee understands and agrees that all records, notes, monitoring data and other information relating to the construction or operation of this permitted source which are submitted to the Department may be used by the Department as evidence in any enforcement case involving the permitted source arising under the Florida Statutes or Department rules, except where such use is prescribed by Sections 403.73 and 403.111, Florida Statutes. Such evidence shall only be used to the extent it is consistent with the Florida Rules of Civil Procedure and appropriate evidentiary rules.

10. The permittee agrees to comply with changes in Department rules and Florida Statutes after a reasonable time for compliance, provided, however, the permittee does not waive any other rights granted by Florida Statutes or Department rules.

11. This permit is transferable only upon Department approval in accordance with Florida Administrative Code Rules 17-4.120 and 17-30.300, F.A.C., as applicable. The permittee shall be liable for any non-compliance of the permitted activity until the transfer is approved by the Department.

12. This permit or a copy thereof shall be kept at the work site of the permitted activity.

13. The permittee shall comply with the following:

a. Upon request, the permittee shall furnish all records and plans required under Department rules. During enforcement actions, the retention period for all records will be extended automatically unless otherwise stipulated by the Department.

GENERAL CONDITIONS:

b. The permittee shall hold at the facility or other location designated by this permit records of all monitoring information (including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation) required by the permit, copies of all reports required by this permit, and records of all data used to complete the application for this permit. These materials shall be retained at least three years from the date of the sample, measurement, report, or application unless otherwise specified by Department rule.

c. Records of monitoring information shall include:

- the date, exact place, and time of sampling or measurements;
- the person responsible for performing the sampling or measurements;
- the dates analyses were performed;
- the person responsible for performing the analyses;
- the analytical techniques or methods used; and
- the results of such analyses.

14. When requested by the Department, the permittee shall within a reasonable time furnish any information required by law which is needed to determine compliance with the permit. If the permittee becomes aware that relevant facts were not submitted or were incorrect in the permit application or in any report to the Department, such facts or information shall be corrected promptly.

SPECIFIC CONDITIONS:

Construction Requirements

1. The construction of this facility shall reasonably conform to the plans and schedule submitted in the application.

2. The stack sampling facilities must comply with F.A.C. Rule 17-2.700(4).

3. The afterburner shall be capable of operating above 1400°F with a 0.5 second retention time and have a minimum VOC destruction efficiency of 95%.

SPECIFIC CONDITIONS:

Emission Restrictions

4. Particulate matter emissions from this process shall neither exceed 0.08 grains/dscf corrected to 50% excess air nor 5.1 lbs/hr. Visible emissions from any part of the process shall not exceed 5% opacity.

5. Benzene emissions shall not exceed 6.0 lbs/hr. Total VOC emissions shall not exceed 20 lbs/hr. Compliance shall be determined from soil analysis, production rate, and the afterburner destruction efficiency.

6. The operation of this source shall not result in the emissions of air pollutants which cause or contribute to an objectionable odor pursuant to F.A.C. Rule 17-2.600(c)2.

Operation Requirements

7. The system shall be properly operated and maintained (F.A.C. Rule 17-2.210(2)). No person shall circumvent any pollution control device or allow the emissions of air pollutants without the applicable air pollution control device operating properly (F.A.C. Rule 17-2.240). Mobile shall perform its own maintenance upon the soil remediation unit and have quarterly inspections performed by a qualified representative of the manufacturer, complying with recommendations made by the manufacturer regarding any additional maintenance, if and when necessary.

8. Reasonable precautions shall be used to minimize unconfined emissions of particulate matter generated by this operation (F.A.C. Rule 17-2.610(3)). This includes hauling the soil in covered trucks and keeping the work areas wet where the soil is being removed and treated.

9. The unit shall not be operated at a location or in a manner that may create a nuisance.

10. Untreated soil removed from the ground shall be stored under waterproof covers and on an impermeable surface to minimize unconfined emissions.

11. This unit shall be allowed to operate continuously, 24 hours per day, 7 days per week, and 52 weeks per year. The permittee shall maintain a log that shows the location, time and dates the unit was operated.

SPECIFIC CONDITIONS:

12. Maximum soil charging rate to the unit shall not exceed 25 TPH. The permittee shall have means to determine the feed or production rate on site.

13. Only No. 2 fuel oil containing a maximum of 0.5% sulfur shall be used as fuel for this unit. Maximum permitted fuel consumption is 27.8 MMBtu/hr (201 GPH No. 2 fuel oil).

14. Only soils contaminated with virgin (non-recycled) petroleum products and "on-spec" used oil (see Specific Condition No. 15) shall be treated in this unit unless otherwise approved by the Bureau of Air Regulation (BAR). The portable rotary kiln/afterburner system shall neither be used to thermally process materials that are listed in 40 CFR 261.31, 261.32, 261.33 (revised as of July 1, 1988) nor materials that have the hazardous characteristics of corrosivity, reactivity, EP toxicity, and ignitability. Prior to the acceptance of contaminated materials for processing, the permittee shall provide the Department with reasonable assurance that the soil is contaminated with only virgin and/or "on specification" petroleum products. Reasonable assurance may be obtained by the sampling of the soil, by certification from owners regarding the history of the site, or by any other documentation or submission approved by the DER in such regard; provided, however, that Mobile's standard of performance shall not exceed any objective standard utilized by the DER in the State of Florida for providing "reasonable assurance."

15. Only soils contaminated with petroleum products (fuels and lubricants) shall be treated in this unit unless otherwise approved by the Bureau of Air Regulation.

Hazardous waste as defined in 40 CFR 261.3 shall not be processed by this unit.

Metals in the untreated soil shall not exceed the following:

	Maximum Concentration	
Metals	TCLP(mg/L)	Total(mg/Kg)
Arsenic	5.0	55
Barium	100.0	2750
Cadmium	1.0	55
Chromium	5.0	275
Lead	5.0	77
Mercury	0.2	17
Selenium	1.0	165
Silver	5.0	165

SPECIFIC CONDITIONS:

Total Volatile Organic Aromatics (VOA) constituent in the soil shall not exceed the concentrations that have the potential to exceed the acceptable ambient air concentration or the VOC emission limit for this unit (see Specific Conditions Nos. 5 and 17).

To show compliance with this condition, the permittee shall analyze a composite sample of the contaminated soil (see Specific Condition No. 16) by the EPA SW 846 Methods, Test Method for Evaluating Solid Waste Physical/Chemical, for VOA (EPA Method 5030/8020), TRPH (EPA draft Method 9073), and Metals (EPA Method 1311, 3050, 6010, 7040, 7041, 7060, 7061, 7080, 7130, 7131, 7190, 7191, 7420, 7421, 7471, and 7760).

The permittee may request, in writing, permission to treat "off-spec" material. The request shall include the history of the site to be treated, an analysis of the contaminants suspected to be in the soil, an estimate of the emissions from the unit while processing the soil, and calculations showing that the ambient air impact from the unit will not exceed the acceptable ambient air concentration for any toxic pollutant. The Department will approve or deny each request in writing on a case-by-case basis.

16. Sampling and analysis of the contaminated soil at each site, based on the procedures prescribed in SW-846, shall be conducted prior to remediation. Minimum number of composite samples for analysis at each site prior to remediation shall be as follows:

Soil Quantity ($yards^3$)	No. of Composite Samples
Less than 100	1
100 to 500	3
500 to 1000	5
Each additional 250 yds	1 additional sample

17. Unless the Department has determined other concentrations are required to protect public health and safety, predicted ambient air impact of any toxic pollutant, as determined by the PTPLU 6 model or other DARM approved models, shall not exceed the concentration calculated by the following formula:

SPECIFIC CONDITIONS:

$$AAC = \frac{40}{X} \cdot \frac{1}{\text{safety factor}} \cdot (OEL)$$

where,

AAC = acceptable ambient concentration

Safety Factor = 100 for category A substances and
50 for category B substances

X = 40 or the hours/week or actual hours of operation, whichever is larger

OEL - Occupational exposure level such as the TWA-TLV published by the ACGIH, OSHA, and NIOSH published standards for toxic materials.

TWA-TLV is the threshold limit value (8 hrs/day, 40 hrs/wk) maximum exposure concentration considered safe for workers by the ACGIH.

Data in the application shows that, for continuous operation, an emission of 1 gram/sec will have a maximum ambient impact of 9.4×10^{-3} mg/m^3 (8 hr. avg). If the stack parameters are different than the values listed in the application, the applicant must use the actual impact factor as determined by the EPA Approved Screen - 1.1 Model.

$$\text{Maximum Allowable Emissions (g/sec)} = \frac{AAC \quad mg/m^3}{9.4 \times 10^{-3}}$$

18. Pressure drop across the baghouse and temperature of the afterburner shall be recorded continuously during operations. The instruments used to obtain these measurements shall be properly calibrated, maintained, and in operation any time the unit is in service. The baghouse and the afterburner must be fully operational, as demonstrated by continuous monitoring instrumentation upon the unit, whenever the soil remediation unit is in service.

Compliance Requirements

19. This unit shall be tested at the maximum process weight rate at which the permittee intends to operate. All compliance tests shall meet the requirements listed in F.A.C. Rule 17-2.700. The unit shall not operate above the maximum permitted rate of 25 TPH.

SPECIFIC CONDITIONS:

20. When the Department, after investigation, has good reason (such as complaints, increased visible emissions, or questionable maintenance of control equipment) to believe that any applicable emission standard contained in Chapter 17-2, F.A.C., or in this permit is being violated, it may require the owner or operator of the source to conduct compliance tests which identify the nature and quantity of pollutant emissions from the source and to provide a report on the results of said tests to the Department.

21. The exhaust stack for this unit shall be tested concurrently for particulate matter and visible emissions by EPA Methods 5 and 9 pursuant to 40 CFR 60, Appendix A, revised as of July 1, 1988, within 5 days after placing the unit in commercial operation under this permit and annually thereafter. Operation at each subsequent site requires an EPA Method 9 test to be performed within 3 days of placing the unit in service.

22. The unit destruction efficiency, benzene, and VOC emissions shall be established by a material balance using process weight, soil analysis and Method 18, 25A (below 50 ppm) or 25 (at or above 50 ppm) test (40 CFR 60, Appendix A, revised as of July 1, 1988) or other methods as approved by the Department.

Administrative Requirements

23. The permittee shall furnish the available information listed in Specific Condition No. 24 prior to operating the portable rotary kiln/afterburner system at its initial site. This permit requires compliance with any applicable local (county) regulations. That can require obtaining a permit from the county prior to operating in the county.

24. This unit shall not be operated at any new site until the applicant has requested authorization for that site. Whenever it is feasible for the permittee, the request shall be at least 15 days prior to operation at the new site. The permittee shall notify the local government (city and county), district office, and the BAR by registered mail at least 3 days prior to the unit being relocated. The comfirmation shall provide the permit number of the unit, a copy of the last stack test report, the date of the proposed move, the new site for the unit, and the locations and contamination levels of the soils to be treated. The Department shall notify the permittee of any new conditions the unit must meet within 3 days of the receipt of the relocation notice. This may include requirements for county operation permits and additional restrictions on the operation of this unit.

SPECIFIC CONDITIONS:

25. The permittee shall maintain a log that shows the unit's operation time during the preceeding 12 months. All required records must be available for inspection at the job site for the unit within 3 working days of a request by the Department.

26. The BAR shall be notified by phone (confirm in writing) at least 15 days in advance of any compliance test to be conducted on this source.

27. Any analysis required by Specific Condition No. 16 which indicates a potential violation of any condition in this permit shall be reported as soon as feasible to the BAR. An average concentration of benzene above 2,400 ppm in the soil or total hydrocarbons above 8,000 ppm indicate a potential violation of this permit. The soil may be decontaminated by operating at less than the 25 TPH production rate, or other means with prior approval of the Department. The permittee shall propose the method of compliance with this permit.

28. Records shall be kept on the location, date, time, and number of samples taken for each composite sample. Soil analysis results shall be kept at the clean up site and available for Department inspection as long as the unit is at the site. All soil samples taken at the remediation site and from the soil exiting the dryer shall be stored in a sealed clean glass container immediately upon sampling.

29. Stack test results from PM and VOC shall be submitted to the Department (BAR) within 45 days of the test.

30. Within five days of placing the unit in commercial operation in Florida, Mobile shall test samples of the dust captured by the baghouse in order to ascertain contaminant levels. Mobile shall collect samples of the dust captured by the baghouse at one-half hour intervals during the compliance testing. The incremental samples shall be composited and tested by TCLP method for toxic metal contaminants. The samples of the mixed soil and dust captured by the baghouse shall also be composited and tested in the manner above-described. The above test results shall be provided to DER and Mr. John N. Austin, 6365 Sundown Drive, Jacksonville, Florida 32244, within 5 days of receipt. If levels of TCLP contaminants exceed the levels listed in 40 CFR 261, the test materials shall be handled as required by law under RCRA, CERCLA, or other applicable programs. If either sample regime

PERMITTEE:
Mobile Reclaim, Inc.

Permit Numbers: AC 01-179694
Expiration Date: July 31, 1991

SPECIFIC CONDITIONS:

shall indicate levels of TCLP contaminants in excess of those listed in 40 CFR 261, then a panel of DER and Mobile representatives shall discuss and determine appropriate operating procedures for the unit. Austin shall be notified at least five days prior to the meeting of such panel. Recommendations and directives of the panel shall be added to Mobile's permit as a special condition, as required by DER.

31. The permittee, for good cause, may request that this construction permit be extended. Such a request shall be submitted to the BAR prior to 60 days before the expiration of the permit (F.A.C. Rule 17-4.090).

32. An application for an operation permit must be submitted to the BAR at least 90 days prior to the expiration date of this construction permit or within 45 days after completion of compliance testing, whichever occurs first. To properly apply for an operation permit, the applicant shall submit the appropriate application form, fee, certification that construction was completed noting any deviations from the conditions in the construction permit, and compliance test reports as required by this permit (F.A.C. Rule 17-4.220).

Issued this 20th day
of December, 1990

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL REGULATION

for Dale Twachtmann, Secretary

Florida Department of Environmental Regulation
Twin Towers Office Bldg. • 2600 Blair Stone Road • Tallahassee, Florida 32399-2400
Bob Martinez, Governor Dale Twachtmann, Secretary John Shearer, Assistant Secretary

December 20, 1990

RECEIVED
DEC 28 1990
Dept. of Environmental Reg.
West Palm Beach

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. William A. Macdonald, President
On Site Thermal Soil Remediation, Inc.
3450 S.E. Dixie Highway
Stuart, Florida 34997

Dear Mr. Macdonald:

Re: File No. AC 43-189664, 25 TPH SRU

The Department has made a preliminary review of your application for permit to construct a mobile 25 TPH soil remediation unit for operation throughout Florida. Before this application can be processed, we need the following information:

1. What is the total allowable volatile organic compounds (VOC) emissions being requested for this facility? The calculations should be based on the maximum annual operation hours (365.25 days/year), soil feed rate, VOC content of the soil, afterburner destruction efficiency, and fuel consumption of the associated equipment (truck hauling unit, payloader handling soil, generator, etc.). If total VOC emissions exceed 100 TPY, you may be subject to new source review for nonattainment area regulations.

2. Please provide a brochure or engineer specification/drawings of the proposed unit that shows the dimensions of the dryer, the air/cloth ratio (number of bags and total area) of the dust collector, and the dimensions or calculations of the residence time for the gas in the afterburner.

3. What is the theorical flue gas flow rate in units of dscfm corrected 50% excess air?

4. How will fugitive dust from handling the treated soil be controlled?

5. Will the unit use fuels other than propane (LPG or natural gas)?

Recycled Paper

Applicants for permits to construct soil remediation units are required to publish a Notice of Application on submittal of a complete application for permit to construct. Your Notice of Application is enclosed. Your application will be considered substantially complete on responding satisfactorily to the questions in this letter. You must publish the Notice in a newspaper having circulation in each county you intend to operate in and provide this Department with proof of each publication. You will also be required to publish a Notice of Intent to Issue in the same newspapers should the Department approve your application. Any construction permit issued will limit you to operating in these counties. To operate in any other county, you will have to satisfy the public notice requirements for that county and have your permit amended to authorize operation in that county. The public will have an opportunity to comment or petition for an administrative hearing in response to any public notice for your unit.

We will resume processing your application after we receive the requested information. If you have any questions on this matter, please write to me or call Willard Hanks at 904-488-1344.

Sincerely,

C. H. Fancy, P.E.
Chief
Bureau of Air Regulation

CHF/WH/plm

c: District Air Program Administrators
County Air Program Administrators
Albert Ugelow, P.E.

Notice of Application

The Department of Environmental Regulation announces receipt of an application for permit from On Site Thermal Soil Remediation, Inc. to construct a mobile soil remediation unit that will evaporate and incinerate petroleum products (fuels and lubicants) from soils contaminated by leaking fuel tanks, spills, etc. This mobile unit may be operated in any county that this Notice appears in.

The application is being processed at the Department of Environmental Regulation, BAR, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400. The application is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m. - Monday through Friday, except legal holidays, at the Department of Environmental Regulation offices located at:

2600 Blair Stone Road, Tallahassee, FL 32399-2400
160 Governmental Center, Pensacola, FL 32501-5794
4520 Oak Fair Blvd., Tampa, FL 33610-7347
2269 Bay Street, Fort Myers, FL 33901-2896
7825 Baymeadows Way, Suite B200, Jacksonville, FL 32256-7577
1900 S. Congress Ave., Suite A, West Palm Beach, FL 33406

and County offices located at:

621 S. Andrew Ave., Ft. Lauderdale, FL 33301
801 S.W. 3rd Avenue, 2nd Floor, Miami, FL 33130
421 West Church St., Suite 412, Jacksonville, FL 32202-4111
1410 North 21st Street, Tampa, FL 33605
901 E. Evernia Street, West Palm Beach, FL 33402
315 Court Street, Clearwater, FL 34616
1301 Cattleman Road, Bldg. B, Sarasota, FL 43232-6299
2002 E. Michigan Avenue, Orlando, FL 32806

ON-SITE
THERMAL SOIL REMEDIATION, Inc.
3450 S.E. Dixie Hwy.
Stuart, FL 34997
407-220-3421

November 13, 1990

air Regulation
~~Remediation~~

1031

Mr. Willard Hanks
Florida Dept. of Environmental Reg.
Twin Towers Office Bldg.
2600 Blair Stone Rd.
Tallahassee, Fl. 32299-2400

Dear Mr. Hanks,

Enclosed is our application and permit fee of $1,000 to construct a Mobil Soil Remediation Unit for use throughout the State of Florida. The unit consists of a rotary drier, cyclones, baghouse and afterburner designed for a 25 ton/hr destruction rate of petroleum contamination in soils.

Please call me when any additional information is needed for your preliminary review.

Respectfully,

Bill Macdonald

Bill Macdonald
President

RECEIVED
DER - MAIL ROOM
1990 NOV 26 AM 9:31

RECEIVED
BUREL. RES. MGT.
NOV 27 1990

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL REGULATION

$1,000 pd.
11-26-90
Rcpt. #151215

AC 43-149664

TWIN TOWERS OFFICE BUILDING
2600 BLAIR STONE ROAD
TALLAHASSEE, FLORIDA 32399-2400

BOB MARTINEZ
GOVERNOR

DALE TWACHTMANN
SECRETARY

APPLICATION TO OPERATE/CONSTRUCT AIR POLLUTION SOURCES

SOURCE TYPE: _____ [X] New[1] [ ] Existing[1]

APPLICATION TYPE: [X] Construction [ ] Operation [ ] Modification

COMPANY NAME: ON SITE THERMAL SOIL REMEDIATION INC. COUNTY: MOBIL UNIT

Identify the specific emission point source(s) addressed in this application (i.e. Lime Kiln No. 4 with Venturi Scrubber; Peaking Unit No. 2, Gas Fired) ROTARY DRIER WITH BAGHOUSE & AFTERBURNER

SOURCE LOCATION: Street MOBIL UNIT City _____

UTM: East _____ North _____

Latitude ____° ____' ____"N Longitude ____° ____' ____"W

APPLICANT NAME AND TITLE: WILLIAM A.MACDONALD / PRESIDENT

APPLICANT ADDRESS: 3450 S.E. DIXIE HWY, STUART, FL 34997

SECTION I: STATEMENTS BY APPLICANT AND ENGINEER

A. APPLICANT

I am the undersigned owner or authorized representative* of ON SITE THERMAL SOIL REMEDIATION INC.

I certify that the statements made in this application for a MOBIL SOIL THERMAL REMEDIATION UNIT permit are true, correct and complete to the best of my knowledge and belief. Further I agree to maintain and operate the pollution control source and pollution control facilities in such a manner as to comply with the provision of Chapter 403, Florida Statutes, and all the rules and regulations of the department and revisions thereof. I also understand that a permit, if granted by the department, will be non-transferable and I will promptly notify the department upon sale or legal transfer of the permitted establishment.

*Attach letter of authorization

Signed: William A. Macdonald

William A. Macdonald - President
Name and Title (Please Type)

Date: 10-31-90 Telephone No. (407)220-3421

B. PROFESSIONAL ENGINEER REGISTERED IN FLORIDA (where required by Chapter 471, F.S.)

This is to certify that the engineering features of this pollution control project have been designed/examined by me and found to be in conformity with modern engineering principles applicable to the treatment and disposal of pollutants characterized in the permit application. There is reasonable assurance, in my professional judgment, that

[1] See Florida Administrative Code Rule 17-2.100(57) and (104)

the pollution control facilities, when properly maintained and operated, will discharge an effluent that complies with all applicable statutes of the State of Florida and the rules and regulations of the department. It is also agreed that the undersigned will furnish, if authorized by the owner, the applicant a set of instructions for the proper maintenance and operation of the pollution control facilities and, if applicable, pollution sources.

Signed Albert J Ugelow

ALBERT UGELOW, P.E.
Name (Please Type)

ON-SITE THERMAL SOIL REMEDIATION INC.
Company Name (Please Type)

c/o APPLICANT AT APPLICANTS ADDRESS
Mailing Address (Please Type)

Florida Registration No. 31840 Date: Nov 2, 1990 Telephone No. (407) 220-3421

SECTION II: GENERAL PROJECT INFORMATION

. Describe the nature and extent of the project. Refer to pollution control equipment, and expected improvements in source performance as a result of installation. State whether the project will result in full compliance. Attach additional sheet if necessary.

THIS UNIT HAS BEEN DESIGNED FOR THE THERMAL DECONTAMINATION OF PETROLEUM CONTAMINATED SOIL. EVAPORATION OF VOC'S WILL TAKE PLACE IN A ROTARY DRIER AT 400°-700°F. PARTICULATES IN THE DRIER EXIT GAS STREAM WILL BE CONTROLLED BY CYCLONES & A BAGHOUSE. VOC DESTRUCTION TAKES PLACE IN A AFTERBURNER AT 1600° FOR 1 SEC.

. Schedule of project covered in this application (Construction Permit Application Only)

Start of Construction JAN 30,1991 Completion of Construction JAN 30,1992

. Costs of pollution control system(s): (Note: Show breakdown of estimated costs only for individual components/units of the project serving pollution control purposes. Information on actual costs shall be furnished with the application for operation permit.)

CYCLONES 6,000.00

BAGHOUSE 130,000.00

AFTERBURNER 95,000.00

). Indicate any previous DER permits, orders and notices associated with the emission point, including permit issuance and expiration dates.

NONE

SECTION III: AIR POLLUTION SOURCES & CONTROL DEVICES (Other than Incinerators)

A. Raw Materials and Chemicals Used in your Process, if applicable:

Description	Contaminants		Utilization Rate - lbs/hr	Relate to Flow Diagram
	Type	% Wt		
PETROLEUM	PARTICULATE	100%	50,000	DWG.#1491
CONTAMINATED	VOC	VARIABLE		

B. Process Rate, if applicable: (See Section V, Item 1)

1. Total Process Input Rate (lbs/hr): 50,000 lbs/hr.

2. Product Weight (lbs/hr): 50,000 OR LESS (WET)

C. Airborne Contaminants Emitted: (Information in this table must be submitted for each emission point, use additional sheets as necessary)

Name of Contaminant	Emission[1]		Allowed[2] Emission Rate per Rule 17-2	Allowable[3] Emission lbs/hr	uncontrolled Potential[4] Emission		Relate to Flow Diagram
	Maximum lbs/hr	Actual T/yr			lbs/hr	T/yr	
PARTICULATE	6.051	26.43	.08GR/DSCF		142.87	624.06	
CO	1.945	8.50			1.33	5.81	
NOx	7.780	33.98			5.33	23.28	
SO2	10.01	43.72			10.01	43.72	
VOC	22.89	99.98			986.41	lbs/hr	

[1]See Section V, Item 2.

[2]Reference applicable emission standards and units (e.g. Rule 17-2.600(5)(b)2. Table II, E. (1) - 0.1 pounds per million BTU heat input)

[3]Calculated from operating rate and applicable standard.

[4]Emission, if source operated without control (See Section V, Item 3).

E. Requested permitted equipment operating time: hrs/day 24 ; days/wk 7 ; wks/yr 52 ;

if power plant, hrs/yr_____; if seasonal, describe:_____

F. If this is a new source or major modification, answer the following questions. (Yes or No)

1. Is this source in a non-attainment area for a particular pollutant? YES

   a. If yes, has "offset" been applied? NO

   b. If yes, has "Lowest Achievable Emission Rate" been applied? NO

   c. If yes, list non-attainment pollutants. SO2-OZONE-PARTICULATE

2. Does best available control technology (BACT) apply to this source? If yes, see Section VI. NO

3. Does the State "Prevention of Significant Deterioriation" (PSD) requirement apply to this source? If yes, see Sections VI and VII. NO

4. Do "Standards of Performance for New Stationary Sources" (NSPS) apply to this source? NO

5. Do "National Emission Standards for Hazardous Air Pollutants" (NESHAP) apply to this source? NO

H. Do "Reasonably Available Control Technology" (RACT) requirements apply to this source? YES

   a. If yes, for what pollutants? PARTICULATES

   b. If yes, in addition to the information required in this form, any information requested in Rule 17-2.650 must be submitted.

Attach all supportive information related to any answer of "Yes". Attach any justification for any answer of "No" that might be considered questionable.

THE STANDARD FOR PARTICULATES OF .08 GR/DSCF CORRECTED TO 50% EXCESS AIR WILL BE COMPLIED WITH.

SECTION III: AIR POLLUTION SOURCES & CONTROL DEVICES (Other than Incinerators)

A. Raw Materials and Chemicals Used in your Process, if applicable:

Description	Contaminants		Utilization Rate - lbs/hr	Relate to Flow Diagram
	Type	% Wt		
PETROLEUM	PARTICULATE	100%	50,000	DWG.#1491
CONTAMINATED	VOC	VARIABLE		

B. Process Rate, if applicable: (See Section V, Item 1)

1. Total Process Input Rate (lbs/hr): 50,000 lbs/hr.

2. Product Weight (lbs/hr): 50,000 OR LESS (WET)

C. Airborne Contaminants Emitted: (Information in this table must be submitted for each emission point, use additional sheets as necessary)

Name of Contaminant	Emission[1]		Allowed[2] Emission Rate per Rule 17-2	Allowable[3] Emission lbs/hr	uncontrolled Potential[4] Emission		Relate to Flow Diagram
	Maximum lbs/hr	Actual T/yr			lbs/hr	T/yr	
PARTICULATE	6.051	26.43	.08GR/DSCF		142.87	624.06	
CO	1.945	8.50			1.33	5.81	
NOx	7.780	33.98			5.33	23.28	
SO2	10.01	43.72			10.01	43.72	
VOC	22.89	99.98			986.41	lbs/hr	

[1]See Section V, Item 2.

[2]Reference applicable emission standards and units (e.g. Rule 17-2.600(5)(b)2. Table II, E. (1) - 0.1 pounds per million BTU heat input)

[3]Calculated from operating rate and applicable standard.

[4]Emission, if source operated without control (See Section V, Item 3).

D. Control Devices: (See Section V, Item 4)

Name and Type (Model & Serial No.)	Contaminant	Efficiency	Range of Particles Size Collected (in microns) (If applicable)	Basis for Efficiency (Section V Item 5)
ADM MODEL RS 15				
ADM CYCLONES	PARTICULATE	55%+	NA	MANUFACTURER
ADM BAGHOUSE	PARTICULATE	99.7%	0-1000 MICRONS	"
ADM AFTERBURNER	VOC	99%	NA	"

E. Fuels

Type (Be Specific)	Consumption* 15 TON avg/hr	Consumption* 25 TON max./hr	Maximum Heat Input (MMBTU/hr)
PROPANE (DRIER)	125.10 GAL/HR	208.50 GAL/HR	18.96 MMBTU/HR
PROPANE (AFTERBURNER)	118.50 GAL/HR	198.0 GAL/HR	17.9 MMBTU/HR

*Units: Natural Gas--MMCF/hr; Fuel Oils--gallons/hr; Coal, wood, refuse, other--lbs/hr.

Fuel Analysis:

Percent Sulfur: 0.2% Percent Ash: -0-

Density: _____ lbs/gal Typical Percent Nitrogen: _____

Heat Capacity: _____ BTU/lb 91,000 BTU/gal

Other Fuel Contaminants (which may cause air pollution): _____

F. If applicable, indicate the percent of fuel used for space heating.

Annual Average NA Maximum _____

G. Indicate liquid or solid wastes generated and method of disposal.

DUST FROM BAGHOUSE IS BLENDED WITH 700° DRIER SOIL DISCHARGE TO PROVIDE SECONDARY EVAPORATION OF VOC'S THAT MAY BE ENTRAINED IN PARTICULATES.

H. Emission Stack Geometry and Flow Characteristics (Provide data for each stack):

Stack Height: 22' ft. Stack Diameter: 3'DIAM ft.

Gas Flow Rate: 31,000 AVG AT 1600°F ACFM DSCFM Gas Exit Temperature: 1600 °F.

Water Vapor Content: VARIABLE % Velocity: 76.0 FPS

SECTION IV: INCINERATOR INFORMATION

NOT APPLICABLE

Type of Waste	Type 0 (Plastics)	Type I (Rubbish)	Type II (Refuse)	Type III (Garbage)	Type IV (Pathological)	Type V (Liq.& Gas By-prod.)	Type VI (Solid By-prod.)
Actual lb/hr Incinerated							
Uncontrolled (lbs/hr)							

Description of Waste _____

Total Weight Incinerated (lbs/hr) _____ Design Capacity (lbs/hr) _____

Approximate Number of Hours of Operation per day _____ day/wk _____ wks/yr. _____

Manufacturer _____

Date Constructed _____ Model No. _____

	Volume $(ft)^3$	Heat Release (BTU/hr)	Fuel		Temperature (°F)
			Type	BTU/hr	
Primary Chamber					
Secondary Chamber					

Stack Height: _____ ft. Stack Diamter: _____ Stack Temp. _____

Gas Flow Rate: _____ ACFM _____ DSCFM* Velocity: _____ FPS

*If 50 or more tons per day design capacity, submit the emissions rate in grains per standard cubic foot dry gas corrected to 50% excess air.

Type of pollution control device: [ ] Cyclone [ ] Wet Scrubber [ ] Afterburner

[ ] Other (specify) _____

Brief description of operating characteristics of control devices: _____

Ultimate disposal of any effluent other than that emitted from the stack (scrubber water, ash, etc.):

NOTE: Items 2, 3, 4, 6, 7, 8, and 10 in Section V must be included where applicable.

SECTION V: SUPPLEMENTAL REQUIREMENTS

Please provide the following supplements where required for this application.

1. Total process input rate and product weight -- show derivation [Rule 17-2.100(127)]

2. To a construction application, attach basis of emission estimate (e.g., design calculations, design drawings, pertinent manufacturer's test data, etc.) and attach proposed methods (e.g., FR Part 60 Methods 1, 2, 3, 4, 5) to show proof of compliance with applicable standards. To an operation application, attach test results or methods used to show proof of compliance. Information provided when applying for an operation permit from a construction permit shall be indicative of the time at which the test was made.

3. Attach basis of potential discharge (e.g., emission factor, that is, AP42 test).

4. With construction permit application, include design details for all air pollution control systems (e.g., for baghouse include cloth to air ratio; for scrubber include cross-section sketch, design pressure drop, etc.)

5. With construction permit application, attach derivation of control device(s) efficiency. Include test or design data. Items 2, 3 and 5 should be consistent: actual emissions = potential (1-efficiency).

6. An 8 1/2" x 11" flow diagram which will, without revealing trade secrets, identify the individual operations and/or processes. Indicate where raw materials enter, where solid and liquid waste exit, where gaseous emissions and/or airborne particles are evolved and where finished products are obtained.

7. An 8 1/2" x 11" plot plan showing the location of the establishment, and points of airborne emissions, in relation to the surrounding area, residences and other permanent structures and roadways (Example: Copy of relevant portion of USGS topographic map).

8. An 8 1/2" x 11" plot plan of facility showing the location of manufacturing processes and outlets for airborne emissions. Relate all flows to the flow diagram.

9. The appropriate application fee in accordance with Rule 17-4.05. The check should be made payable to the Department of Environmental Regulation.

10. With an application for operation permit, attach a Certificate of Completion of Construction indicating that the source was constructed as shown in the construction permit.

SECTION VI: BEST AVAILABLE CONTROL TECHNOLOGY NOT APPLICABLE

A. Are standards of performance for new stationary sources pursuant to 40 C.F.R. Part 60 applicable to the source?

[ ] Yes [ ] No

Contaminant	Rate or Concentration

B. Has EPA declared the best available control technology for this class of sources (If yes, attach copy)

[ ] Yes [ ] No

Contaminant	Rate or Concentration

C. What emission levels do you propose as best available control technology?

Contaminant	Rate or Concentration

D. Describe the existing control and treatment technology (if any).

1. Control Device/System:
2. Operating Principles:
3. Efficiency:*
4. Capital Costs:

*Explain method of determining

5. Useful Life:

6. Operating Costs:

7. Energy:

8. Maintenance Cost:

9. Emissions:

Contaminant	Rate or Concentration

10. Stack Parameters

a. Height: ft. b. Diameter: ft.

c. Flow Rate: ACFM d. Temperature: °F.

e. Velocity: FPS

E. Describe the control and treatment technology available (As many types as applicable, use additional pages if necessary).

1.

a. Control Device:

b. Operating Principles:

c. Efficiency:[1]

d. Capital Cost:

e. Useful Life:

f. Operating Cost:

g. Energy:[2]

h. Maintenance Cost:

i. Availability of construction materials and process chemicals:

j. Applicability to manufacturing processes:

k. Ability to construct with control device, install in available space, and operate within proposed levels:

2.

a. Control Device:

b. Operating Principles:

c. Efficiency:[1]

d. Capital Cost:

e. Useful Life:

f. Operating Cost:

g. Energy:[2]

h. Maintenance Cost:

i. Availability of construction materials and process chemicals:

[1]Explain method of determining efficiency.
[2]Energy to be reported in units of electrical power - KWH design rate.

j. Applicability to manufacturing processes:

k. Ability to construct with control device, install in available space, and operate within proposed levels:

3.

a. Control Device:

b. Operating Principles:

c. Efficiency:[1]

d. Capital Cost:

e. Useful Life:

f. Operating Cost:

g. Energy:[2]

h. Maintenance Cost:

i. Availability of construction materials and process chemicals:

j. Applicability to manufacturing processes:

k. Ability to construct with control device, install in available space, and operate within proposed levels:

4.

a. Control Device:

b. Operating Principles:

c. Efficiency:[1]

d. Capital Costs:

e. Useful Life:

f. Operating Cost:

g. Energy:[2]

h. Maintenance Cost:

i. Availability of construction materials and process chemicals:

j. Applicability to manufacturing processes:

k. Ability to construct with control device, install in available space, and operate within proposed levels:

F. Describe the control technology selected:

1. Control Device:

2. Efficiency:[1]

3. Capital Cost:

4. Useful Life:

5. Operating Cost:

6. Energy:[2]

7. Maintenance Cost:

8. Manufacturer:

9. Other locations where employed on similar processes:

a. (1) Company:

(2) Mailing Address:

(3) City:

(4) State:

[1]Explain method of determining efficiency.
[2]Energy to be reported in units of electrical power - KWH design rate.

(5) Environmental Manager:

(6) Telephone No.:

(7) Emissions:[1]

Contaminant	Rate or Concentration

(8) Process Rate:[1]

b. (1) Company:

(2) Mailing Address:

(3) City:

(4) State:

(5) Environmental Manager:

(6) Telephone No.:

(7) Emissions:[1]

Contaminant	Rate or Concentration

(8) Process Rate:[1]

10. Reason for selection and description of systems:

[1]Applicant must provide this information when available. Should this information not be available, applicant must state the reason(s) why.

SECTION VII - PREVENTION OF SIGNIFICANT DETERIORATION

A. Company Monitored Data NOT APPLICABLE

1. _____ no. sites _____. TSP _____ ( ) SO^{2}* _____ Wind spd/dir

Period of Monitoring _____ / _____ / _____ to _____ / _____ / _____
month day year month day year

Other data recorded _____

Attach all data or statistical summaries to this application.

*Specify bubbler (B) or continuous (C).

2. Instrumentation, Field and Laboratory

a. Was instrumentation EPA referenced or its equivalent? [ ] Yes [ ] No

b. Was instrumentation calibrated in accordance with Department procedures?

[ ] Yes [ ] No [ ] Unknown

B. Meteorological Data Used for Air Quality Modeling

1. _____ Year(s) of data from ___/___/___ to ___/___/___
month day year month day year

2. Surface data obtained from (location)_____

3. Upper air (mixing height) data obtained from (location)_____

4. Stability wind rose (STAR) data obtained from (location)_____

C. Computer Models Used

1. _____ Modified? If yes, attach description.

2. _____ Modified? If yes, attach description.

3. _____ Modified? If yes, attach description.

4. _____ Modified? If yes, attach description.

Attach copies of all final model runs showing input data, receptor locations, and principle output tables.

D. Applicants Maximum Allowable Emission Data

Pollutant	Emission Rate
TSP	_____ grams/sec
SO^2	_____ grams/sec

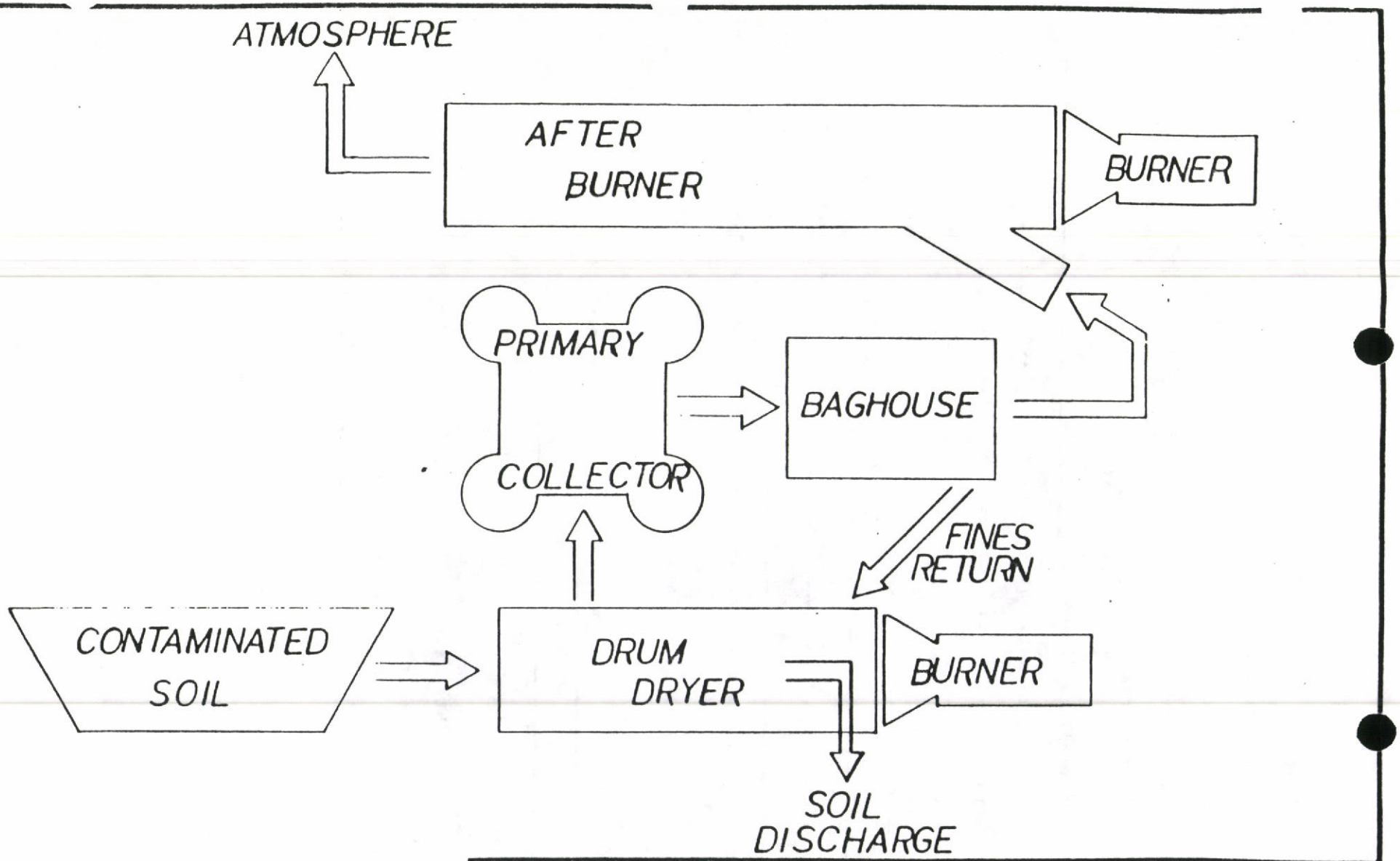
E. Emission Data Used in Modeling

Attach list of emission sources. Emission data required is source name, description of point source (on NEDS point number), UTM coordinates, stack data, allowable emissions, and normal operating time.

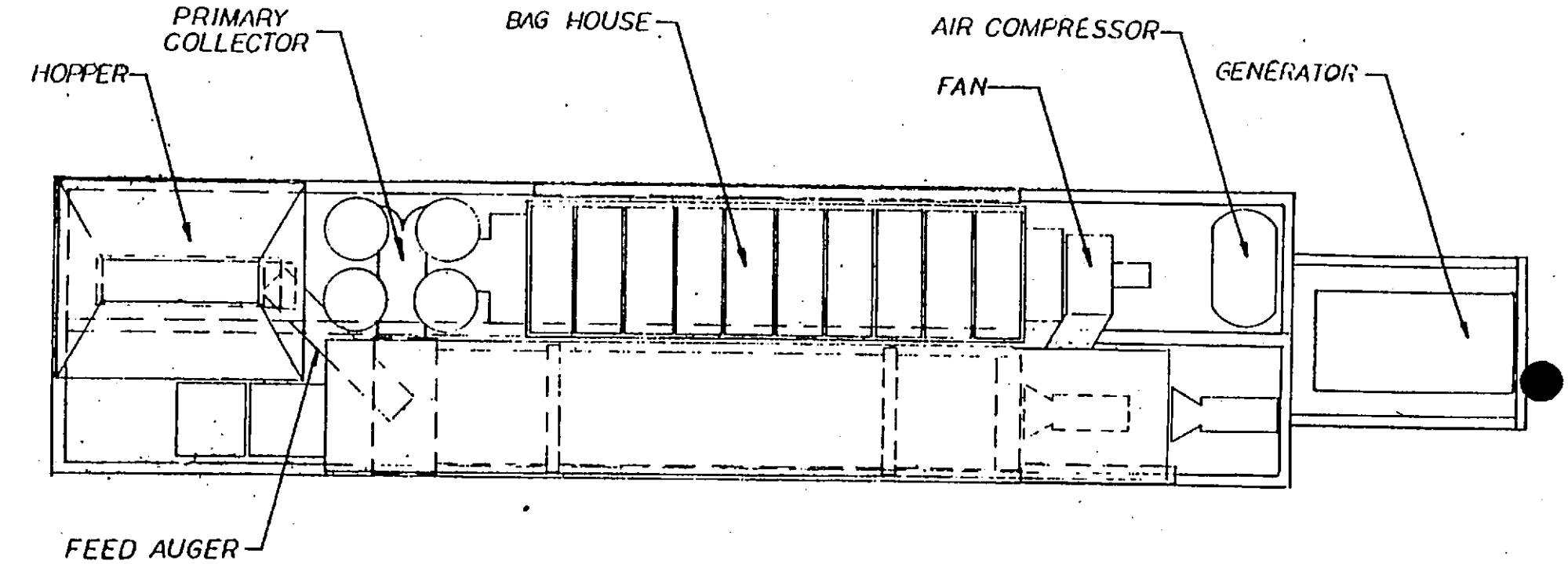
F. Attach all other information supportive to the PSD review.

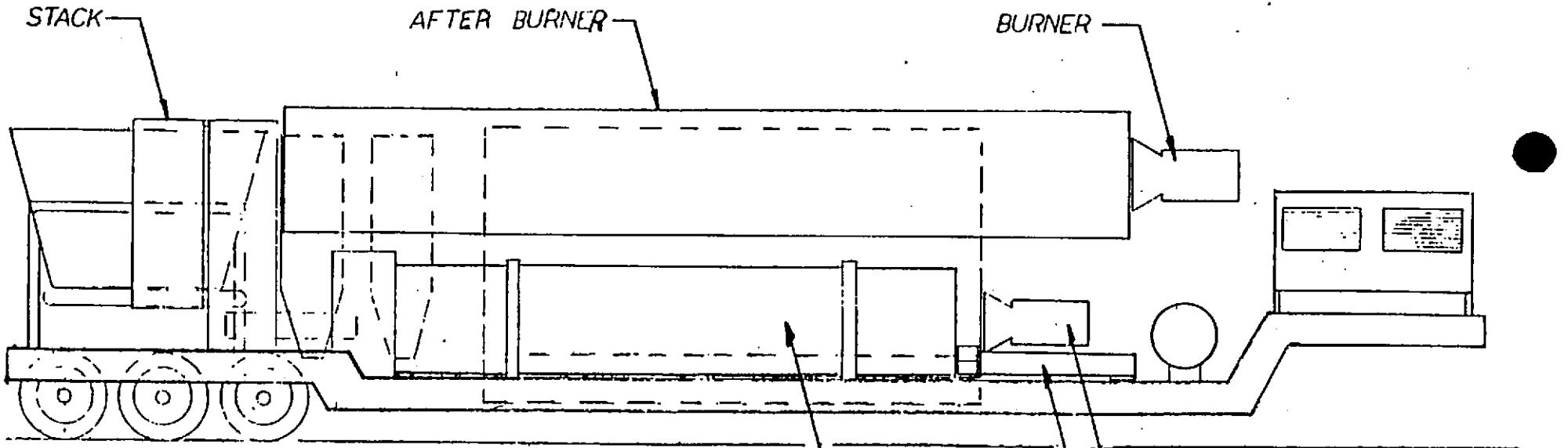
G. Discuss the social and economic impact of the selected technology versus other applicable technologies (i.e., jobs, payroll, production, taxes, energy, etc.). Include assessment of the environmental impact of the sources.

H. Attach scientific, engineering, and technical material, reports, publications, journals, and other competent relevant information describing the theory and application of the requested best available control technology.



TOLERANCES (EXCEPT AS NOTED)	REVISIONS			CONTAMINATED SOIL PLANT FLOW DIAGRAM		
DECIMAL ±	NO.	DATE	BY	ADM INC		
FRACTIONAL ±	1			DRAWN BY RJH	SCALE	MATERIAL
ANGULAR ±	2			CHK'D	DATE 7-13-90	DRAWING NO. 1491
	3			TRACED	APP'D	
	4					
	5					





ON-SITE THERMAL SOIL REMEDIATION
UNIT # 001-91

MOBILE RS15 UNIT

SCOPE:

The ADM MOBILE RS15 UNIT is targeted for remediating soils contaminated by volatile organic compounds (VOCs such as gasoline and oil), rather than trying to destroy hazardous constituents in materials that have low heating values (such as soils),the RS15 only evaporates the organic compounds. After the organic compounds are separated from the soil, then the VOCs are destroyed through combustion.

PROCESS DESCRIPTION:

Low temperature thermal treatment is achieved by destroying the contaminated portions of the soil that have a low heating value. In this process, material is loaded into a 20 ton bin then conveyed by a belt conveyor into the drier drum. The drier drum is a counter flow type that is capable of achieving 700 degrees fahrenheit soil temperature. The material is then conveyed for stockpiling. Off-gas from the drier is then conditioned thru a cyclone-particulate removal, a baghouse-particulate removal. an afterburner-voc combustion,

09-17-1990
JTD

HAUCK AGGREGATE DRYER HEAT BALANCE

Customer :MAC
Salesman :JTD

Aggregate	[tph]	:	25
Ambient Temperature	[F]	:	60
Plant Altitude [ft]		:	650
Aggregate moisture		:	0.100
Material Inlet Temp	[F]	:	60
Material Outlet Temp	[F]	:	700
Excess air rate		:	0.500
Leakage rate		:	0.100
Stack temperature	[F]	:	400
Drum loss		:	0.100

HEAT BALANCE

Aggregate	700 F	25.00 tph	6,400,000 Btu/Hr
Moisture [0.10]	400 F	2.78 tph	6,732,225 Btu/Hr
Products of Comb	400 F		3,099,188 Btu/Hr
Drum Loss [0.10]			1,896,802 Btu/Hr
Excess Air [0.50]	400 F		560,720 Btu/Hr
Leakage [0.10]	400 F		279,091 Btu/Hr
Total Heat Required		25.00 tph	18,968,020 Btu/Hr

AIR BALANCE

Products of Comb	400 F	5,487 acfm
Steam	400 F	3,294 acfm
Excess Air [0.50]	400 F	2,523 acfm
Leakage [0.10]	400 F	1,256 acfm
Total Exhaust Flow Required		12,560 acfm

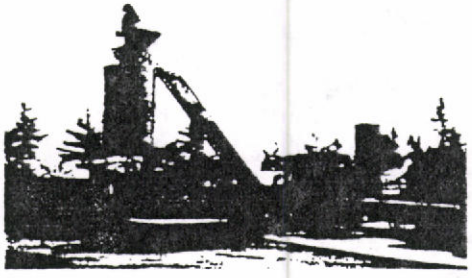
LP [Gross 91,000 Btu/gal] 8.34 gal/ton

"THE AFFORDABLE MANUFACTURER"

ASPHALT DRUM MIX PLANTS

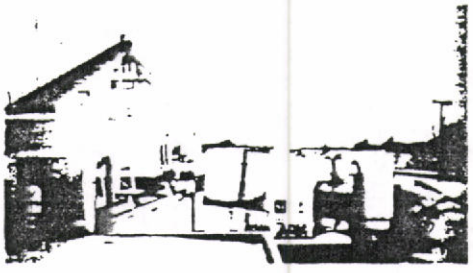
30-60-100-150-220 TONS PER HOUR

This equipment has a world-wide reputation for quality, cost effective products and services. ADM has manufactured over 200 plants in 15 years, following a basic approach of simplicity without sacrifice.



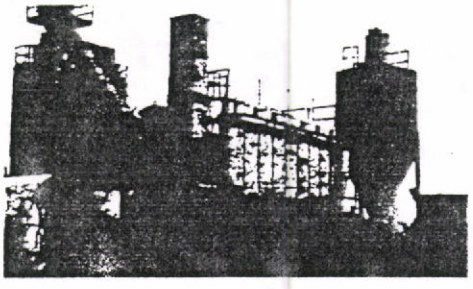
SAND HEATERS

Sand heaters have enabled redi-mix producers to deliver concrete to customers throughout the winter. Heating the sand and the water, produces a more consistent product at a substantial cost savings.



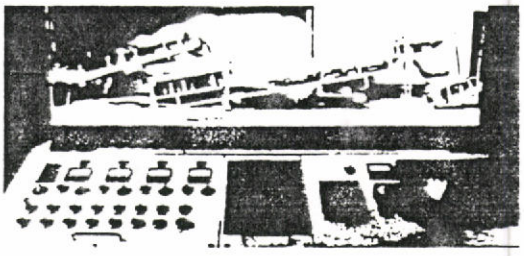
POLLUTION CONTROL

ADM control equipment has proven results and reliable back-up. Our products with capabilities up to 40,000 CFM include cyclones, baghouses, venturi-scrubbers and afterburners.



DRIERS/RELATED PRODUCTS

Our leadership in small drum mix plants has given us the opportunity to manufacture driers and other rotary driven equipment for many applications. We also build many types of storage silos, heating tanks, hoppers, conveyors, and control systems.



ADM ASPHALT DRUM MIXERS, INC.

ADM PARK WAY — HUNTERTOWN, INDIANA, USA 46748
PH 219-637-5729 FAX 219-637-3164

AFTERBURNER

AIR AT ACTUAL CONDITIONS	12,560 ACFM
TEMPERATURE F.	400 DEG. F.
PROCESS TONNAGE	25 TPH
OUTLET AIR TEMPERATURE:	
TEMPERATURE F.	1,600 DEG. F.

AIR BALANCE

INLET AIR STD. CONDITIONS	7,740 SCFM
BURNER AIR REQD.	2,941 SCFM
TOTAL AIR STD. CONDITIONS	10,682 SCFM
EXHAUST FLOW AT ACTUAL CONDITIONS	41,518 ACFM

HEAT BALANCE

BTU REQD. FOR PROCESS AIR	13,027,203 Btu/Hr
BTU REQD. FOR BURNER AIR	4,950,337 Btu/Hr
TOTAL BTU REQD.	17,977,540 Btu/Hr

FUEL USAGE

LP(GROSS 91,000 Btu/gal)	198 Gal/Hr
LP USAGE PER PROCESS RATE	7.9 Gal/Ton
NATURAL GAS(GROSS 1000 Btu/Cf)	17,978 Cf/Hr
NATURAL GAS USAGE PER PROCESS RATE	719 Cf/Ton

SOIL UNIT EMMISSION DATA

PROCESS CONDITIONS	
RATE	25.000 TPH
MOISTURE	10.000 %
SOIL HYDROCARBON CONTENT	2.000 %
DRIER FUEL CONSUMPTION	208.500 LP GAL/HR
AFTERBURNER FUEL CONSUMPTION	198.000 LP GAL/HR
OPERATING DATA	
HOURS	24 HRS.
DAYS	7 DAYS
WEEKS	52 WEEKS
YEAR	8,736 HRS/YR
EMMISSION REQUIREMENTS	
MAXIMUM PARTICULATE(REF. AP-42)	6.051 LB/HR
VOC EFFLUENT	100 TON/YR
DRIER EMMISSION FACTOR	
PARTICULATE EMMISSION FROM DRIER (REF. AP-42)	142.5 LB/HR
VOC EMMISSIONS FROM SOIL	1,000.000 LB/HR
CONVERSION FROM LB. TO GAL.	136.986 GAL/HR
PARTICULATE	0.274 LB/HR
SULPHUR DIOXIDE	10.000 LB/HR
NITROGEN OXIDE	2.740 LB/HR
CARBON MONOXIDE	0.685 LB/HR
HYDROCARBONS(VOC)	986.301 LB/HR
BURNER EMMISSIONS	
PARTICULATE	0.092 LB/HR
SULPHUR DIOXIDE	0.008 LB/HR
NITROGEN OXIDE	2.585 LB/HR
CARBON MONOXIDE	0.646 LB/HR
HYDROCARBONS(VOC)	0.108 LB/HR
UNCONTROLLED EMMISSIONS	
TOTAL PARTICULATE	142.87 LB/HR
TOTAL NON-PARTICULATE	
SULPHUR DIOXIDE	10.01 LB/HR
NITROGEN OXIDE	5.33 LB/HR
CARBON MONOXIDE	1.33 LB/HR
HYDROCARBONS(VOC)	986.41 LB/HR
CONTROL UNIT	
BURNER EMMISSIONS	
PARTICULATE	0.087 LB/HR
SULPHUR DIOXIDE	0.007 LB/HR
NITROGEN OXIDE	2.455 LB/HR

SOIL UNIT EMMISSION DATA

CARBON MONOXIDE		0.614 LB/HR
HYDROCARBONS(VOC)		0.103 LB/HR

PARTICULATE EMMISSION CONTROLLED

PERMISSABLE PARTICULATE		6.051 LB/HR
PARTICULATE FROM BAGHOUSE		5.963 LB/HR
PARTICULATE FROM AFTERBURNER		0.087 LB/HR
TOTAL PARTICULATE		6.051 LB/HR
BAGHOUSE EFFICIENCY REQ.		95.83%

VOC EMMISSION CONTROLLED

PERMISSABLE VOC		22.894 LB/HR
VOC EMMITTED		22.894 LB/HR
AFTERBURNER EFFICIENCY REQ.		97.68%

OTHER EMMISSIONS CONTROLLED

SULPHUR DIOXIDE	LESS THEN	10.015 LB/HR
NITROGEN OXIDE	LESS THEN	7.780 LB/HR
CARBON MONOXIDE	LESS THEN	1.945 LB/HR

ADM ASPHALT DRUM MIXERS, INC.

BAGHOUSE

GENERAL DESCRIPTION

The ADM baghouse is an automatic continuous dust collector utilizing a Venturi type orifice for compressed air cleaning of collected particulates from the fabric filter. The ADM baghouse is capable of collecting dust particles from the air streams at virtually 100% efficiency, and at temperatures up to 550°F.

STATIONARY UNITS

Stationary dust collection units are shipped in two pieces: housing and clean air plenum with filter bags installed; and hopper and legs shipped as an all welded single assembly with screw conveyor installed. All valve, tubing and pneumatic lines are installed and shipped attached, but when that is not feasible all components are carefully banded and placed with the carrier separately. If a ladder and handrail are required, they are shipped loose with the hopper. They have been preassembled and fitted with plenum but are now disassembled for packing.

PORTABLE UNITS

Portable collection units are supplied ready to operate - with fan, damper, hinged stack, compresson, return fines system, screw conveyors, motors and control panel - all installed and ready to roll on the highway, with all necessary trailer running gear. The unique hinged inlet provides entry into the collection chamber. This chamber reduces the velocity of dust-laden particles, decreasing the possibility of bag abrasion and acts as a classifier often eliminating the need for a cyclone.

OPERATION

FILTERING

Dust laden air is drawn or pushed into the hopper by a fan or blower. Air is pulled through the filter bags, which trap and collect the dust. Clean air is vented from the plenum of the unit and exhausted.

1 ADM PARKWAY — HUNTERTOWN, INDIANA 46748 — PH. 219-637-5729 — FAX 219-637-3164

BACKWASH SYSTEM

As dust collects on the filter bags, they become more and more dense, and less and less permeable. Dust is removed from the bags by injecting a short burst of high pressure compressed air into the top of the bag which overcomes pressure drop across the bags and blows the dust loose. This can be said to be aero-dynamic valving and cleaning of the bags. This is done automatically by a self-contained solid state timer. The timer controls both the frequency and duration of the cleaning pulses.

PRESSURE DROP

The pressure drop across the bags is measured as the difference between the static pressure on the dirty air side and the clean air side. All ADM units are shipped with gauges so that pressure drop can be continually monitered. As static pressure drop increases, the bags are becoming coated. Since the cycling operation of the backwash sytem alternates with groups of bags, instead of all the bags cleaned at once, pressure drop should be relatively constant. Our dust collectors work best at low pressure drops since the least amount of fan power is required at that level. As a reference, up to 3" W.G. may be considered low pressure. A unit operating at 7" W.G. or more is operating at a high pressure drop and may be reason enough for alarm. Factors which may have an effect on the pressure drop are: filter rate, grain loading, pulsing (cleaning) frequency, backwash air pressure and dust type. The collector pressure drop can be influenced by changing any and all of the above.

PARTICULATE REMOVEL

Our collectors incorporate a screw conveyor to bring the particulate to a central location for removal. In portable units two or three hopper screws are used along the length of the unit to bring dust to an internal crossing screw conveyor, which transports it to an external pick-up point.

RETURN FINES SYSTEM

The collector includes a screw conveyor(s) to collect the dust to a single exit point. Dust is discharged through a properly sized air lock. Dust passing through the rotary valve is delivered into an adaptor to the pneumatic conveyor, the blower system, or optional screw conveyor, then removes it into the point of discharge.

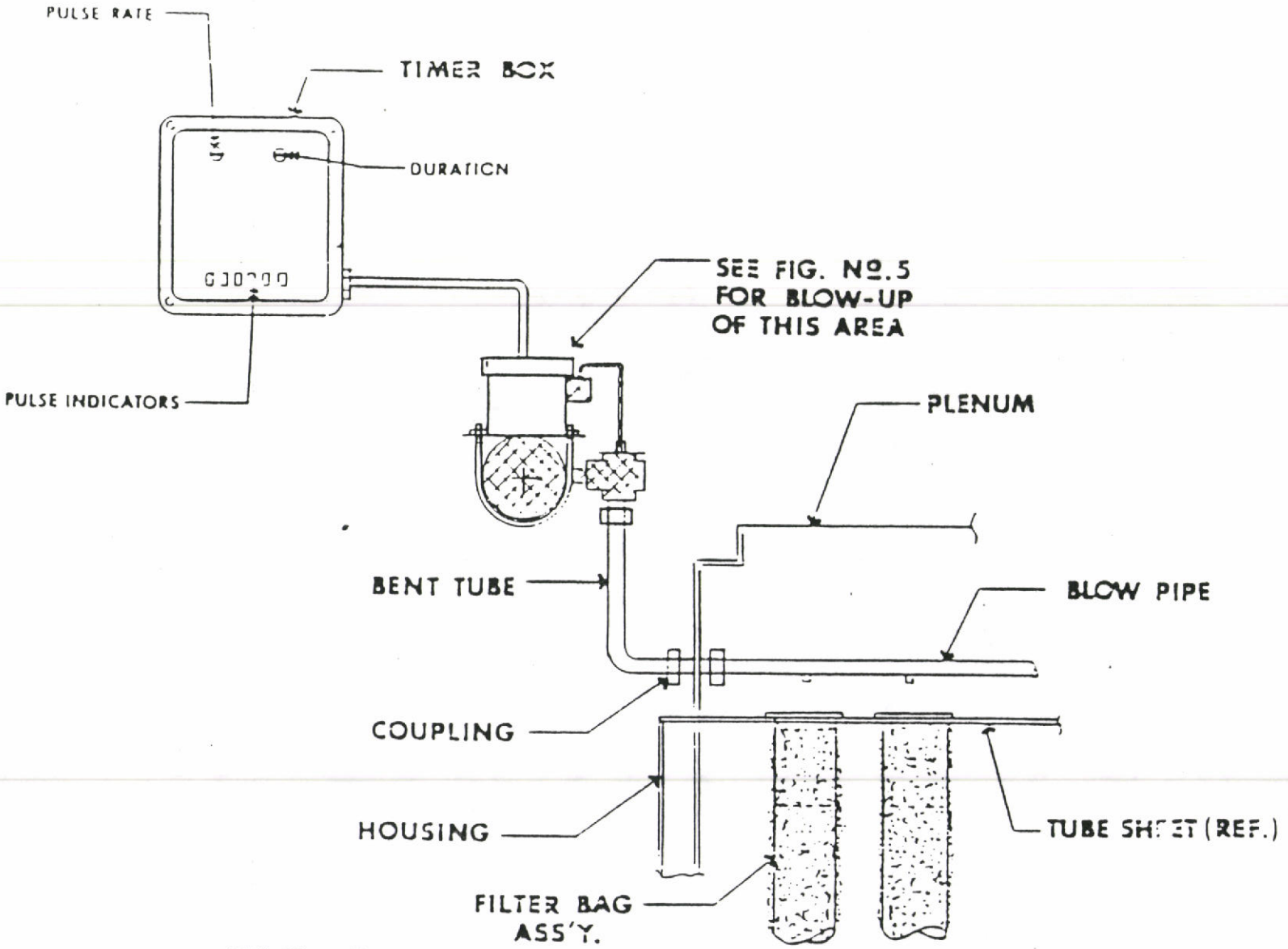
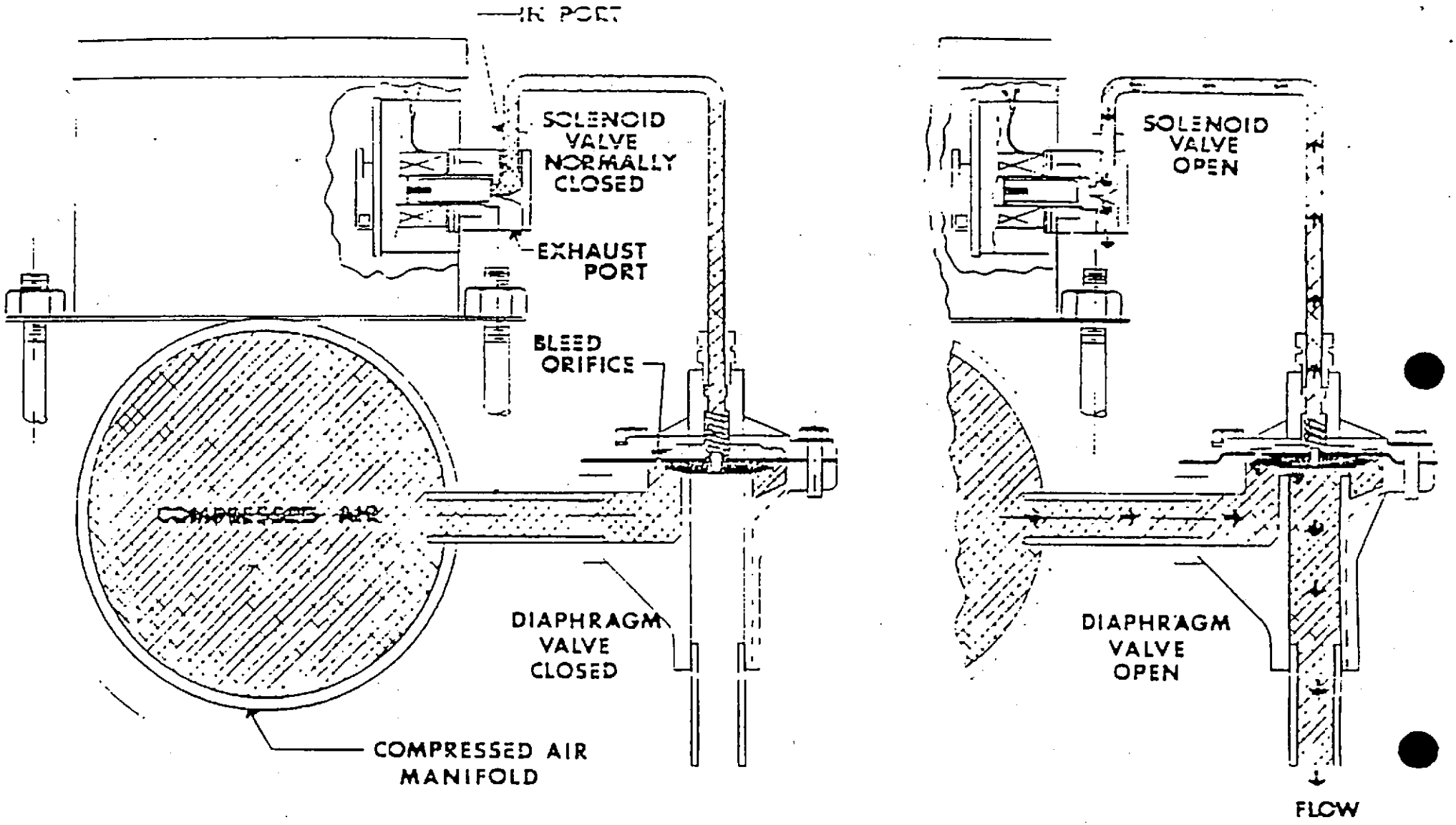


FIG-3

GENERAL ARRANGEMENT

BACKWASH SYSTEM DE-ENERGIZED



SOLENOID DE-ENERGIZED

SOLENOID ENERGIZED

FIG-5

OPERATION OF BACKWASHING VALVES

ADM ASPHALT DRUM MIXERS, INC.

BENEFITS OF THE ADM DUST COLLECTOR

ADM manufactures a complete line of reverse pulse baghouse collectors. We offer more **user** benefits than other designs available. Some of our features/benefits are:

1. Reverse pulse cleaning of the bags offers the most efficient method of cleaning. Thus, pressure drop across the bags is less on the reverse pulse design which requires less horsepower and saves considerable money.

2. Felted bags are exclusively used because they clean better and require a buildup of a "dust cake." Thus, felted bags have a lower pressure drop in pulse jet dust collectors which saves horsepower and money.

3. We use 4½" diameter bags. 4½" diameter bags clean better and require less compressed air for cleaning than 5" or 6" bags. The bags clean better because the reverse pulse causes a greater amount of flexing and does not decrease bag life, but it does clean the bags better.

4. Less compressed air is used. A 4½" diameter bag has almost one half the volume of the same length 6" diameter bag. Although more 4½" diameter bags are required for the same air-to-cloth ratio, the compressed air requirements are less because the total volume of the bags (and hence the compressed air requirements) are less - about one third less. Compressed air is expensive, so the savings are significant.

5. We offer a true top bag removal design. This allows the worker to change the bags in a clean atmosphere and at the same time allows him a convenient spot to find any potential leaks. Large leaks are clearly visible and small leaks can be found by the use of illuminous powder and a black light.

6. The bag diameter is 4½" and the hole through which it is placed is five inches. When there is a hole in the bag, the bag expands - it does **not** become larger than the hole. Therefore it can still be removed from the top making our unit a true top bag removal type unit.

1 ADM PARKWAY — HUNTERTOWN, INDIANA 46748 — PH. 219-637-5729 — FAX 219-637-3164

7. Our bags are installed with a "twist lock" feature. There are no nuts and bolts that can rust or seize or break.

8. Our bags are clamped to the cage and venturi. The groove in the cage and venturi ensures solid attachment of the cage, bag and venturi, even with a light clamping force. "Snap lock" bags can too easily be dropped into the house and snagged by the airlock or screw conveyor.

9. Our venturi is sealed to the tubesheet with a special molded gasket, to avoid any leakage at this point. Our molded design ensures far better sealing than flat gaskets.

10. Our blowpipes are extremely easy to remove by sliding a pin out, undoing the coupling at the other end and sliding the blowpipe out.

11. Our diaphragm valves are piped to the top of the unit, so no external catwalk is required - the valves can be worked on from the top of the unit.

12. Our solenoid valves are premounted in a "Manifold" that has a bolted and gasketed cover, to keep them out of the weather. These solenoids are prewired to a terminal strip at either end of the "manifold." The solenoids have been prepiped to the diaphragm valves, and the assembly has been pretested before it leaves the factory. This saves you the time and considerable expense of mounting the diaphragm valves and solenoid valves and hooking them together.

13. All units are shipped with **bags, cages, venturis and blowpipes installed.** Others may claim that they ship their units with bags installed; however, very few ship the units as completely assembled as we do. This saves you **many, many** hours of installation labor.

14. Our tubesheet is of all welded construction. There are no bolted or caulked seams in our tubesheet. The tubesheet is continuously welded to the plenum, so there is no chance of dust leakage through a bolted or caulked seam.

15. On larger units, we use all welded construction on the dirty air side except where the hopper bolts to the house. Thus, there are no bolted or caulked seams that can leak or work open.

16. Top covers are easy to remove for bag inspection or replacement - each cover is held in place with four bolts. Covers are gasketed to ensure sealing.

17. We use a solid state timer that is extremely reliable and provides adjustable pulse rate and pulse duration, for the most efficient and economical cleaning cycle. For coal fired boilers and FGD systems, we offer a micor-processor based programmable computer control system to provide complete process control and fail safe protection in these high temperature applications.

CYCLONES

COLLECTION MECHANISM

Cyclones are structures without moving parts that separate particulate matter from a gas stream by transforming the inlet gas stream into a confined vortex. The mechanism involved in cyclones is the continuous use of inertia to produce a tangential motion on the particles towards the collector wall. When the particles enter the boundary layer close to the cyclone wall, they lose kinetic energy by viscous shear and mechanical friction. Two opposing forces are involved: an outward centrifugal force imparted by the rotation of the gas stream and an inward drag force which is a function of the density, the diameter, the shape, etc., of the particles themselves. Any particles for which the centrifugal forces is greater than the drag force will reach the wall and can be ultimately collected.

A vortex arrester, which is nothing more than a hopper, is built at the bottom of every cyclone. As the gas is spinning, observe that the gas stream will still reverse its direction and start spiraling up the center at the natural length of the cyclone, which depends on the physical dimensions of the unit. If the cyclone is properly designed, the vortex changes direction right at the bottom of the conical section. The sudden absence of the confining wall allows the particles falling down the wall to be thrown into the vortex arrester (collection hopper). That hopper must be deep enough, or emptied frequently (if not continually), to keep the dust level low enough so there will essentially be only laminar motion in the gas above it in order to prevent reentrainment of the collect dust.

CONSTRUCTION

Cyclones are relatively inexpensive. They can be constructed of any material which will meet the temperature and pressure requirements and the corrosion potential of the carrier gas stream. Cyclones can be designed to handle any required gas volume and dust loading. For high dust loadings, a high efficiency cyclone, i.e., one with a smaller body diameter and a longer taper is normally selected. A multiple set of cyclones operating in parallel may be needed to handle large gas rates. Such units are much more efficient than one monstrous cyclone because the efficiency of collection of the smaller particles decreases as the body diameter increases or as the body length becomes shorter. To promote increased efficiency, especially for the collection of the smaller sized particles, a small diameter, long taper cyclone should be used.

LIMITATIONS

Cyclones are normally used as a primary collector in addition to a more sophisticated type of pollution device. Although the simplest type of control and widely used, it is very seldom used as the only device.

AFTERBURNER

GENERAL

Afterburners are devices in which the contaminant-laden air stream is passed over or through a burner flame into a residence chamber where the contaminants are oxidized, predominantly to carbon dioxide and water. It is a feature of these devices that the combustible material is raised above its autoignition temperature and held there long enough for complete oxidation to occur.

Thermal oxidation has many advantages. Such equipment will usually not become obsolete when changes in air pollution regulations require increases in efficiency. The performance of afterburners can be relied upon to remain uniform throughout the life of the equipment provided that satisfactory maintenance schedules are followed. Afterburners are relatively simple and economic to install and operate. Incorporation of thermal incinerators into process equipment quite often is possible because of the simple design of the afterburner. This is especially true whenever the process emissions are produced at a single point in a relatively concentrated stream and when some nearby source is available which can receive the high energy level of available heat in the combustion gas.

The disadvantages of an afterburner revolve about the necessity for high temperature operation (up to 1800°F) and the requirement for relatively large amounts of supplementary fuel unless heat recovery is utilized.

The temperature in the combustor varies due to changes in the mixing efficiency, residence time, concentration and type of pollutants (especially at lower temperatures), type of burner and response of the temperature-measuring device. The instrumentation uses quick response thermal sensors. At 1100-1250°F, thermal oxidation efficiencies of 75-85% may be expected. At 1150-1250°F, the combustion efficiency can approach 90%. Between 1200-1400°F the efficiency of combustion usually ranges from 90 to greater than 99%.

SYSTEM CONFIGURATION

The base systems proposed have not heat recovery. A Hauck Baffle burner is used to provide the necessary fuel to raise the off gas temperature to 1400-1600°F. Upon establishing stable combustion in the burner, secondary inlet ports provide for off gas entry.

The design provides good mixing of the products of combustion with dryer off gases. After the mixing section, the POC - off gas mixture enters the residence chamber, which is appropriately sized to provide the desired residence time.

The temperature within the incineration chamber is maintained via a temperature controller which modulates the fuel supply valve.

SCOPE OF SUPPLY

The system proposed is intended to be a complete operation afterburner system. Our scope of supply includes:

1. Carbon steel residence chamber lined with 4" thick ceramic, 8# density fiber insulation. The ceramic fiber will have a nominal rating of 2300°F.
2. Carbon steel combustion chamber lined with castable and refractories.
3. Burner for oil firing and all safety controls including flame failure system.
4. Heavy wide flange beam frame.
5. Temperature readouts with multiple sensors.
6. Stainless steel stack with test ports.

OPTIONS

1. Portability package.
2. Natural gas and propane burner options. ✳
3. Carbon monoxide monitoring device.

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL REGULATION
ENFORCEMENT TELEPHONE LOG

FROM: PAUL WIERZBICKI 10/16/90 DATE RETURN TO PAUL? (2) YES

NAME	INITIAL	DATE
COOKE, TERESA	TC	10/15/90
GRAY, TIMOTHY	TG	2/4
HURLEY, GINNY	GH	10-22
MOTAMEDI, SAADI	SM	11-8
NEWMYER, WILLIAM		
SMITH, JEFF		
TOBERGTE, JEFF		
VALCARENGHI, LOUIS	LV	10/18
WILLIS, JANE	JW	10-30
T. Hellard	TH	11-1

COMMENTS:

PETRO, CHER CP 2-1

State of Florida
DEPARTMENT OF ENVIRONMENTAL REGULATION

For Routing To Other Than The Addressee

To: _____ Location: _____
To: _____ Location: _____
To: _____ Location: _____
From: _____ Date: _____

Interoffice Memorandum

TO: Deputy Assistant Secretaries
District Air Program Administrators
District Waste Management Program Administrators
Rick Wilkins
John Gentry
John Ruddell
Clair Fancy
Larry George

RECEIVED
OCT 10 1990
Dept. of Environmental Reg.
West Palm Beach

FROM: Steve Smallwood, P.E., Director
Division of Air Resources Management

DATE: October 5, 1990

SUBJ: SOIL DECONTAMINATION BY ASPHALT AND SIMILAR PLANTS; POLICY REVISION

In a memorandum dated July 19, 1990, the Division of Air Resources Management stated its revised policy requiring afterburners or equivalent control devices for the decontamination of soil containing petroleum or "on-spec" used oil. Pursuant to that memorandum, the districts mailed letters notifying the industry of the need to comply with the new policy.

Since a couple of petitions for hearing have been filed, it has come to our attention that new letters must be sent to the industry, superseding the previous letters, to clarify that the Department is modifying (not revoking) their permits. Further, the letters provide a time period for petitioning for hearing in order to prevent multiple lawsuits from being filed over an indefinite period of time. Even if a permittee has indicated it is not interested in continuing to decontaminate soil, its permit must be amended by the letter to prevent a later challenge by the permittee. The letters need to be mailed by Friday, October 12, and copies must be attached to the permits to make the amendments effective.

SS/Attachment

State of Florida
DEPARTMENT OF ENVIRONMENTAL REGULATION

For Routing To Other Than The Addressee

To: _____ Location: _____
To: _____ Location: _____
To: _____ Location: _____
From: _____ Date: _____

Interoffice Memorandum

October 12, 1990

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Dear Sir:

Permit [No.] allowing your plant to decontaminate soil is hereby modified, under the authority of Rule 17-4.080, F.A.C., to require an afterburner or equivalent control equipment while decontaminating soil. This amendment supersedes the Department's letter of August 1, 1990.

The Department has concluded that the decontamination of soil in asphalt or similar plants has an unacceptable impact on the environment unless volatile organic compound (VOC) pollutants are controlled. Our records show that the permit for your plant allows it to decontaminate soil.

Under the authority of Rule 17-4.080, F.A.C., your permit allowing soil decontamination at this plant is hereby modified to include the following additional conditions:

1. The permittee must notify the [district] District Office in writing by November 1, 1990, as to whether or not it intends to decontaminate soil after November 15, 1990.

2. If the permittee determines that it does not intend to continue to decontaminate soil, then it must cease all soil decontamination activities by November 15, 1990.

3. If the permittee intends to continue to decontaminate soil after November 15, 1990, it shall submit an application by November 15, 1990. The permit application shall be for a permit to construct and install an afterburner or equivalent control equipment capable of destroying VOCs with at least 95 percent efficiency. The permittee may continue to decontaminate soil under the current permit during the review of this permit application. The Department reserves any and all authority it may have to deny the application and take action to revoke or further modify the current permit if the permittee does not respond to completeness requests concerning the required application in a timely manner or otherwise fails to complete the application process.

A person whose substantial interests are affected by the Department's permitting decision may petition for an administrative proceeding (hearing) in accordance with Section 120.57, F.S. The petition must contain the information set forth below and must be filed (received) in the Office of General Counsel of the Department at 2600 Blair Stone Road, Tallahassee, Florida 32399-2400. Petitions filed by the permit applicant must be filed within 14 days of receipt of the permit amendment. Failure to file a petition within this time period shall constitute a waiver of any right such person may have to request an administrative determination (hearing) under Section 120.57, Florida Statutes.

The petition shall contain the following information; (a) The name, address, and telephone number of each petitioner, the applicant's name and address, the Department Permit File Number and the county in which the project is located; (b) A statement of how and when the petitioner received notice of the Department's action; (c) A statement of how the petitioner's substantial interests are affected by the Department's action; (d) A statement of the material facts disputed by the petitioner, if any; (e) A statement of facts which the petitioner contends warrant reversal or modification of the Department's action; (f) A statement of which rules or statutes the petitioner contends require reversal or modification of the Department's action; and (g) A statement of the relief sought, stating precisely the action the petitioner wants the Department to take with respect to the Department's action.

This permit amendment is final and effective on the date filed with the Clerk of the Department unless a petition is filed in accordance with the above paragraphs or unless a request for extension of time in which to file a petition is

filed within the time specified for filing a petition and conforms to Rule 17-103.070, F.A.C. Upon timely filing of a petition or a request for an extension of time this permit amendment will not be effective until further Order of the Department.

When the Order (permit amendment) is final, any party to the Order has the right to seek judicial review of the Order pursuant to Section 120.68, F.S., by filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the Clerk of the Department in the Office of General Counsel at the above address; and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 days from the date the Final Order is filed with the Clerk of the Department.

Executed in [location - city in which signed], Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL REGULATION

_____

Deputy Assistant Secretary

CERTIFICATE OF SERVICE

This is to certify that this PERMIT AMENDMENT and all copies were mailed by certified mail before the close of business on _____ to the listed persons.

Clerk Stamp
FILING AND ACKNOWLEDGEMENT FILED, on this date, pursuant to §120.52(9), Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

_____ _____
Clerk Date

Copies furnished to:

Chapter 17-775

SOIL THERMAL TREATMENT FACILITIES

PART I

INTENT, DEFINITIONS AND GENERAL PROVISIONS

17-775.100 Intent.

17-775.200 Definitions

17-775.210 Reference Standards

17-775.300 General Permits

17-775.400 Criteria for Clean Soil

17-775.410 Soil Sampling and Analysis

17-775.500 Approval of Alternate Procedures

PART II

SPECIFIC CONDITIONS FOR STATIONARY FACILITIES

17-775.600 Security

17-775.610 Ground Water Monitoring

17-775.620 Receiving, Handling, and Stockpiling

PART III

SPECIFIC CONDITIONS FOR MOBILE FACILITIES

17-775.700 Notices and Security

17-775.710 Excavating, Handling, and Stockpiling

PART IV

SOIL THERMAL TREATMENT FACILITY FORMS

17-775.900 Forms

PART I

INTENT, DEFINITIONS AND GENERAL PROVISIONS

17-775.100 Intent

(1) Rule 17-770, F.A.C., establishes petroleum or petroleum product contamination cleanup criteria and a cleanup process which must be undertaken at all petroleum contamination sites. As a result of this cleanup effort, contaminated soils may be removed for thermal treatment.

(2) The State of Florida Department of Environmental Regulation promulgates this rule in order to provide assurances that contaminated soils as defined in Rule 17-770.200, F.A.C., which are removed for thermal treatment, are properly handled and treated to levels that will prevent future contamination of other soils, ground water, and surface water.

(3) The Department recognizes that thermal treatment of contaminated soils in asphalt plants, cement kilns, rotary kilns, or their equivalents, is a viable method of remediating soils.

(4) The Department intends for this rule to apply only to thermal treatment facilities and the contaminated soils which will be treated therein.

Specific Authority: 376.303, 376.3071, 403.061, F.S.

Law Implemented: 376.3071, F.S.

History: New

17-775.200 Definitions

All words and phrases defined in Section 376.301, F.S., shall have the same meaning when used in this Chapter unless the context clearly indicates otherwise. The following words and phrases when used in this Chapter shall, unless the context clearly indicates otherwise, have the following meanings:

(1) "Contamination" or "contaminated" means a discharge of petroleum or petroleum products into the surface waters, ground waters or upon the land, in quantities which may result in a violation of water quality standards set forth in Chapters 17-3 and 17-302, F.A.C.

(2) "Department" means the State of Florida Department of Environmental Regulation.

(3) "Environmental Protection Agency" or "EPA" means The United States Environmental Protection Agency.

(4) "Existing facility" shall mean a soil thermal treatment facility which is in operation prior to the effective date of this Chapter.

(5) "Hazardous waste" means a solid waste identified as a hazardous waste in 40 CFR 261.3.

(6) "Leachate" means liquid which percolates through or emerges from stockpiled soil and contains soluble, suspended or miscible materials.

(7) "Mobile facility" means a thermal treatment system which is transported to a soil contamination site and only treats soil from that specific site.

(8) "Stationary facility" means a thermal treatment system which thermally treats contaminated soil transported to the facility.

(9) "Thermal treatment" means to apply heat to increase soil temperatures sufficiently to volatilize or burn contaminants within the soil.

(10) "Thermal treatment facility" means either a stationary or mobile system designed, constructed, and permitted by the Department to handle, store, and thermally treat contaminated soils. "Thermal treatment facility" does not include electrical power plants in which thermal treatment of contaminated soils from their own property results in ash which is disposed of in accordance with Chapters 17-701 or 17-702, F.A.C.

(11) "Total Volatile Organic Aromatics" or "total VOA" means the sum of concentrations of benzene, toluene, total xylenes, and ethylbenzene as determined by EPA Method 602, 5030/8020, or 5030/8021.

(12) "Used oil" means any lubricant which has been refined from crude oil and, as a result of use, storage or handling, has become unsuitable for its original purpose due to the presence of impurities or loss of properties, but which may be suitable for further use as a fuel or may be economically recycled for use as a fuel. "Used oil" shall not include any oil which has been mixed with any material which is a hazardous waste, unless the material is a hazardous waste solely due to the characteristic of

ignitability as defined in 40 CFR Section 261, Subpart C. Oil containing more than 1000 parts per million of total halogens is presumed to be mixed with a hazardous waste as defined in 40 CFR Section 261, Subpart D, unless a demonstration is made that the used oil does not contain a hazardous waste.

Specific Authority: 376.303, 376.3071, 403.061, F.S.

Law Implemented: 376.3071, 403.021, 403.031, 403.061, 403.062, F.S.

History: New

17-775.210 Reference Standards

(1) Reference standards are available for inspection at the Department's district and central offices.

(2) Specific references to documents or parts thereof are adopted and incorporated as standards only to the extent that the documents are specifically referenced in this Chapter.

(a) DER Guidelines for Preparing Quality Assurance Plans (DER-QA-001/90), Florida Department of Environmental Regulation, Quality Assurance Section.

(b) Test Methods for Evaluating Solid Waste Physical/Chemical, EPA SW 846 Methods, Third Edition, Document No. 955-001-00000-1, as amended by update Package I (December, 1987).

(c) EPA Draft Method 9073 for Total Recoverable Petroleum Hydrocarbons.

(d) Federal Register; Volume 55, No. 61, pages 11798 to 11877; dated Thursday, March 29, 1990; on Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Toxicity Characteristics Revisions; Final Rule.

Specific Authority: 376.303, 376.3071, 403.061, F.S.

Law Implemented: 376.3071, 403.061, 403.062, F.S.

History: New

17-775.300 General Permits

(1) Soil thermal treatment facilities shall operate pursuant to a general permit, and shall meet the applicable general permit requirements in Rules 17-4.510 through 17-4.540, F.A.C., and the requirements of this Rule.

(2) Prior to operating under a general permit, the owners of a soil thermal treatment facility shall notify the Department on Form 17-775.900(1). For an existing soil thermal treatment facility, the notification must be submitted within 90 days after the effective date of this Rule. For a new soil thermal treatment facility or for renewal of a general permit, the notification must be submitted 30 days before the operation begins or the existing permit expires.

(3) The notice of intent to use the general permit to treat contaminated soils at a thermal treatment facility shall bear the signature, date and seal of a professional engineer licensed in the State of Florida.

(4) Soil thermal treatment facilities also must be permitted under Rule 17-2, F.A.C., prior to thermally treating contaminated soil.

(5) Soil thermal treatment facilities shall treat soils to the extent necessary to meet the criteria for clean soil in accordance with Rule 17-775.400, F.A.C. Soil sampling and analysis shall be in accordance with Rule 17-775.410, F.A.C.

(6) For stationary soil thermal treatment facilities, the specific conditions in Rules 17-775.600 through 17-775.620, F.A.C., shall apply. For mobile soil thermal treatment facilities, the specific conditions in Rule 17-775.700 and 17-775.710, F.A.C., shall apply.

(7) All soil thermal treatment facilities operating under a general permit shall maintain accurate records of operations. Operating report logs shall be maintained on a normal work day basis on Forms 17-775.900(2) and (3), F.A.C., and shall be maintained for a period of three years at the facility for a stationary facility, or, at an approved location for mobile facility. The Department shall have complete access to all records, field and laboratory chain-of-custody records, quality control records, raw data records, calibration records, and laboratory analyses.

(8) When treating contaminated soil, soil thermal treatment facilities shall have a minimum operating

temperature and a maximum soil charging rate which provides treatment to meet the criteria in Rule 17-775.400, F.A.C.

(9) Soil must be screened, or otherwise processed in order to prevent soil particles greater than two inch mesh (diameter) from entering the thermal treatment unit. Soil thermal treatment facilities are allowed to treat debris, other than soil, such as concrete, rocks, and wood.

(10) Prior to conducting any sampling or analysis, a Comprehensive Quality Assurance Project Plan (formerly called a Generic Quality Assurance Plan) must be approved by the Department. For those persons who have an approved Comprehensive Quality Assurance Project Plan, a Short Form (site specific) Quality Assurance Project Plan or other appropriate quality assurance document approved by the Department will satisfy this requirement. The Short Form Quality Assurance Project Plan shall be prepared in accordance with the requirements of the Department's Guidelines for Preparing Quality Assurance Plans. If there is reasonable doubt as to the quality of data or methods used, the Department reserves the right to reject any or all data submitted prior to approval of the Short Form Quality Assurance Project Plan.

Specific Authority: 376.303, 376.3071, 403.087, 403.0876, F.S.

Law Implemented: 376.3071, 403.087, 403.0876, F.S.

History: New

17-775.400 Criteria for Clean Soil

Soil which has been treated by a soil thermal treatment facility must meet the following cleanup levels to be classified as clean soil. Mixing of treated soils to achieve these standards is prohibited; however, if metal levels are exceeded without exceeding Toxicity Characteristic Leachate Procedure (TCLP) metals standards, blending of soil is allowed.

(1) Total Volatile Organic Aromatics shall not exceed 100 ug/kg (100 ppb) using the analysis identified in Rule 17-775.410(1)(a), F.A.C., and

(2) Total Recoverable Petroleum Hydrocarbons (TRPH) shall not exceed 10 mg/kg (10 ppm) using the analysis identified in Rule 17-775.410(1)(b), F.A.C., or

(3) Total Recoverable Petroleum Hydrocarbons (TRPH) shall not exceed 50 mg/kg (50 ppm) using the analysis identified in Rule 17-775.410(1)(b), F.A.C., provided the total of the Polynuclear Aromatic Hydrocarbons (PAH) does not exceed 6 mg/kg (6 ppm) using the analysis identified in Rule 17-775.410(1)(c), F.A.C., and the total of the Volatile Organic Halocarbons (VOH) does not exceed 50 ug/kg (50 ppb) using the analysis identified in Rule 17-775.410(1)(d), F.A.C., and

(4) Metals shall not exceed the following concentrations in Table I using the analyses identified in Rule 17-775.410(1)(e), F.A.C. Both preparation methods identified in Rule 17-775.410(2), F.A.C., shall be used prior to metal analysis.

TABLE I

	Maximum Concentration	
	TCLP	Total
Metals	(mg/l)	(mg/kg)
Arsenic	5.0	55
Barium	100.0	2750
Cadmium	1.0	55
Chromium	5.0	275
Lead	5.0	77
Mercury	0.2	17
Selenium	1.0	165
Silver	5.0	165

Specific Authority: 376.303, 376.3071, 403.087, 403.0876, F.S.

Law Implemented: 376.3071, 403.087, 403.0876, F.S.

History: New

17-775.410 Soil Sampling and Analysis

(1) Soil samples shall be analyzed for the following parameters using the test methods indicated:

(a) Total Volatile Organic Aromatics (VOA) — EPA Method 5030/8020

(b) Total Recoverable Petroleum Hydrocarbons — EPA Draft Method 9073

(c)	Polynuclear Aromatic Hydrocarbons (PAH)	EPA Method 3540/8100, 3550/8100, 3540/8250, 3540/8270, 3550/8250, 3550/8270, 3540/8310 or 3550/8310
(d)	Volatile Organic Halocarbons (VOH)	EPA Method 5030/8010
(e)	Metals	
	Arsenic	EPA Method 7060, 7061 or 6010
	Barium	EPA Method 7080 or 6010
	Cadmium	EPA Method 7130, 7131 or 6010
	Chromium	EPA Method 7190, 7191 or 6010
	Lead	EPA Method 7420, 7421 or 6010
	Mercury	EPA Method 7471
	Selenium	EPA Method 7040, 7041 or 6010
	Silver	EPA Method 7760 or 6010

(2) The acid digestion procedure by EPA Method 3050 shall be used to prepare soil samples for total metal analyses, and the extraction procedure by EPA Method 1311 Toxicity Characteristic Leaching Procedure (TCLP) shall be used to determine leachability characteristic of metals.

(3) Pretreatment soil shall be analyzed for Volatile Organic Aromatics, Total Recoverable Petroleum Hydrocarbons, and total metals. From each contamination site, composite soil sampling frequency shall be in accordance with Table II. Each composite soil sample shall consist of soil samples taken from at least four locations. Each sample shall be collected from locations equally distributed throughout the soil surface area and from a depth of at least six inches below the surface.

TABLE II

Amount of Soil		Quantity of
by Volume (cubic yards)	by Weight (tons)	Composite Samples
Less than 100	Less than 140	1
100 to 500	140 to 700	3
500 to 1000	700 to 1400	5
For each additional 500	For each additional 700	1

(4) The soil must not be thermally treated pursuant to this Chapter if classified as a hazardous waste. If any soil is suspected of containing a hazardous waste, then screening analyses for other contaminants may include, but are not limited to the following: volatile organic halogens; corrosivity; reactivity; toxicity characteristic constituents by the Toxicity Characteristic Leachate Procedure (TCLP), which includes metals,

pesticides and additional organics; and polychlorinated biphenyls (PCB).

(5) Following thermal treatment, a soil sample shall be collected at a sampling port at least hourly and composited over an eight hour maximum time interval or at least once every 400 tons, whichever is less. Each composite sample shall be analyzed for the parameters identified in Rule 17-775.400(1),(2), and (4), F.A.C. If the clean soil criterion in Rule 17-775.400(2), F.A.C., is exceeded, the soil may be analyzed for PAH and VOH parameters identified in Rule 17-775.400(3), F.A.C.

Specific Authority: 376.303, 376.3071, 403.061, 403.0877, F.S.

Law Implemented: 376.3071, 403.061, 403.062, F.S.

History: New

17-775.500 Approval of Alternate Procedures

(1) The owner or operator of a facility subject to the provisions of this Chapter may request in writing a determination from the Department that any requirement of this Chapter should not apply to such facility, and shall request approval of alternate procedures.

(2) The request shall set forth at a minimum the following information:

(a) The facility for which an exception is sought;

(b) The specific provision of Rule 17-775, F.A.C., from which an exception is sought;

(c) The basis for the exception;

(d) The alternate procedure or requirement for which approval is sought and a demonstration that the alternate procedure or requirement provides a substantially equivalent degree of protection for the lands, surface waters, or ground waters of the state as the established requirement; and

(e) A demonstration that the alternate procedure or requirement is at least as effective as the established procedure or requirement.

(3) The Secretary or his designee shall approve or deny each alternate procedure using the criteria in subsection (2) and shall provide written notice of such action.

Specific Authority: 376.303, 376.3071, F.S.

Law Implemented: 376.303, 376.3071, F.S.

History: New

PART II

SPECIFIC CONDITIONS FOR STATIONARY FACILITIES

17-775.600 Security

(1) All stationary thermal treatment facilities shall take appropriate measures to assure protection of the general public.

Specific Authority: 376.303, 376.3071, 403.061, F.S.

Law Implemented: 376.303, 376.3071, F.S.

History: New

17-775.610 Ground Water Monitoring

(1) A ground water monitoring program shall be developed for each facility which shall provide assurances that ground water quality is maintained.

(2) A ground water monitoring plan shall be provided to the Department as an attachment to the general permit application. As required and authorized by Chapter 492, F.S., the ground water monitoring plan shall be signed, sealed, and dated by a professional geologist. The monitoring plan shall contain the following information:

(a) Location(s) of the proposed unaffected natural background and downgradient monitoring well(s) and construction details of the monitoring well(s).

(b) Hydrogeological, physical, and chemical data for the site, including:

1. Direction and rate of ground water flow:

2. Background ground water quality;

3. Porosity, horizontal and vertical permeability for the aquifer(s), and the depth to, and lithology of the first confining bed(s);

4. Vertical permeability, thickness, and extent of any confining beds;

5. Topography, soil information, and surface water drainage systems surrounding the site; and

6. Inventory depth, construction details (well drilling logs), and cones of depression of water supply wells located within a one mile radius of the site.

(3) Monitoring wells shall be constructed in accordance with the provisions of Rule 17-532 except as follows:

(a) The minimum inside diameter shall be two inches.

(b) Flush threaded couplings shall be used to join polyvinyl chloride (PVC) pipe.

(4) The ground water monitoring wells shall be sampled and analyzed on a quarterly basis for the following parameters using the designated test methods:

(a)	Volatile Organic Aromatics	
1.	Benzene	EPA Method 602
2.	Toluene	EPA Method 602
3.	Ethylbenzene	EPA Method 602
4.	Total Xylenes	EPA Method 602
(b)	Methyl Tert-Butyl Ether (MTBE)	EPA Method 602

(c)	Polynuclear Aromatic Hydrocarbons	EPA Method 610 or 625
(d)	Metals	
1.	Arsenic	EPA Method 206.2, 206.3, 3010/7060 or 3020/7061
2.	Barium	EPA Method 208.1, 208.2, 3010/7080 or 3020/7081
3.	Cadmium	EPA Method 213.1, 213.2, 3010/7130 or 3020/7131
4.	Chromium	EPA Method 200.7, 218.2 or 3020/7191
5.	Lead	EPA Method 239.2 or 3020/7421
6.	Mercury	EPA Method 245.1 or 3010/7470 or 3020/7471
7.	Selenium	EPA Method 270.2, 270.3, 3010/7740 or 3020/7741
8.	Silver	EPA Method 271.1, 271.2, 3010/7760 or 3020/7761

(5) If sampling analyses indicate any levels of the above parameters exceeding the unaffected natural background levels, the permittee shall notify the Department in writing within seven days of receiving analytical results.

Specific Authority: 376.303, 376.3071, 403.061, 403.062, F.S.

Law Implemented: 376.303, 376.3071, F.S.

History: New

17-775.620 Receiving, Handling, and Stockpiling

(1) Each batch of contaminated soil shall be clearly identified by source and stockpiled separately until all sampling and analyses in accordance with Rule 17-775.410, F.A.C, are complete. Once the contaminated soil is determined to be acceptable for treatment, soil batches may be mixed with other soil batches found acceptable for thermal treatment. All contaminated soils shall be stored separately and apart from all treated soils.

(2) Contaminated soil shall be stored pursuant to this Chapter in such a manner to prevent contact with rainfall or release of leachate to ground water or surface water. The following pre-treatment storage measures shall be provided at each facility:

(a) All soil shall be stored under a permanent cover structure designed and constructed to prevent rainfall to either directly or indirectly come into contact with the stockpiled soil.

(b) The soil shall be stored on a permanent floor designed and constructed to prevent seepage, which will maintain a maximum hydraulic conductivity of no more than 10^{-7}cm/sec through a minimum of four inches.

1. Plastic or synthetic liners as flooring shall not be considered as suitable alternates.

2. The floor structure shall be designed and constructed for leachate collection and control.

(3) No leachate shall be discharged to soils, ground water, or surface water prior to treatment. Prior to discharge, treated leachate shall meet the standards established in Rule 17-3, F.A.C. Applicable permits for discharges to either surface water or ground water must be obtained prior to any discharge.

(4) Leachate may be treated in the thermal treatment facility.

(5) Until soil analyses have verified that the soil meets the clean soil criteria identified in Rule 17-775.400, F.A.C., treated soil shall be stockpiled on a permanent floor structure, which meets the criteria in Rule 17-775.620(2)(b).

Specific Authority: 376.303, 376.3071, 403.061, F.S.

Law Implemented: 376.303, 376.3071, F.S.

History: New

PART III

SPECIFIC CONDITIONS FOR MOBILE FACILITIES

17-775.700 Notices and Security

(1) Any mobile thermal treatment facility which intends to treat contaminated soil, shall notify the following entities by registered mail at least three days prior to initiating operation at a contaminant site:

(a) The local City and County governments and local environmental agency, and

(b) The appropriate District Office of the Department.

(2) Any permitted mobile thermal treatment facility shall take appropriate measures to assure protection of the general public including the following:

(a) A security fence shall surround all areas where contaminated soil is being processed, including stockpiling, handling and burning areas. The fence shall extend at least six feet above ground surface. In lieu of a security fence, surveillance personnel on site at all times is an acceptable alternative.

(b) Gate accesses shall be locked when no attendant is present.

(c) Appropriate warning notices shall be clearly posted.

Specific Authority: 376.303, 376.3071, 403.061, F.S.

Law Implemented: 376.303, 376.3071, F.S.

History: New

17-775.710 Excavating, Handling, and Stockpiling

(1) Mobile facilities shall operate only at sites with confirmed contaminated soils and may treat only soil native to the site.

(2) Soil which is excavated shall remain on-site and within the area of suspected ground water contamination until soil has been treated, and cleanup levels identified in Rule 17-775.400, F.A.C., have been confirmed.

(3) Excavated soil shall be stockpiled on an impermeable surface or liner. The stockpile shall be covered by a secured plastic cover until treatment in the thermal treatment unit commences.

(4) To the greatest extent possible, soil treated by mobile facilities shall be returned to the original excavation pit.

(5) The stockpile area for untreated soil shall be graded to direct leachate flow to return to the original excavation pit.

Specific Authority: 376.303, 376.3071, 403.061, 403.0877, F.S.

Law Implemented: 376.303, 376.3071, F.S.

History: New

PART IV

SOIL THERMAL TREATMENT FACILITY FORMS

17-775.900 Forms

The forms and instructions used by the Department in the general permitting of soil thermal treatment facilities are adopted and incorporated by reference in this section. The forms are 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 Director, Division of Waste Management, Department of Environmental Regulation, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

(1) Notice of Intent to Use the General Permit to Construct/Operate a Soil Thermal Treatment Facility, 1990.

(2) Untreated Soil Reporting Form, 1990.

(3) Treated Soil Reporting Form, 1990.

Specific Authority: 376.303, 376.3071, 403.061, 403.087, 403.0876, F.S.

Law Implemented: 376.303, 376.3071, F.S.

History: New

Florida Department of Environmental Regulation

Twin Towers Office Bldg. • 2600 Blair Stone Road • Tallahassee, Florida 32399-2400

Bob Martinez, Governor Dale Twachtmann, Secretary John Shearer, Assistant Secretary

NOTICE OF INTENT TO USE THE GENERAL PERMIT TO CONSTRUCT/OPERATE A SOIL THERMAL TREATMENT FACILITY

INSTRUCTIONS: Please provide all information as requested below. For stationary facilities submit the original and four (copies) of this notice of intent application along with site location map, process flow chart drawings of the treatment facility, and groundwater monitoring plan to the appropriate district office. For mobile units submit applicable information to the Bureau of Waste Cleanup, Florida Department of Environmental Regulation, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

Type: Stationary ___ Mobile ___ General Permit No.: _____

Name of Facility: _____ County: _____

Facility Address: _____

Latitude ___° ___' ___"N Longitude ___° ___' ___"W

Telephone Number: _____

Name of Owner(s): _____

Owner(s) Address if different from above: _____

_____

Department of Environmental Regulation Air Permit Number: _____

Expiration Date: _____

Length of primary chamber (ft): _____

Heat generation capability (BTU/hr): _____

Capacity of facility at a _____ minute retention time
(yd^3/hr): _____ or (tons/hr): _____

Operating temperature of primary chamber (^oF): _____

Estimated average volume of soil to be processed (yd^3/mth): _____

Covered storage area (ft^2): _____ Height of cover (ft): _____

Floor construction (cement, asphalt, etc.): _____

Statement by Applicant:

I hereby attest as the owner or authorized representative of _____ (attach letter of authorization) the preceding information is accurate and that I will operate this facility in accordance with the requirements of Chapter 17-775 entitled "Soil Thermal Treatment Facilities." I understand that failure to operate this facility as required will constitute grounds for revocation of this permit.

_____
Signature of Owner or Authorized Representative

_____
Name and Title

_____
Date

Statement by Florida Registered Professional Engineer:

I hereby certify that the above information pertinent to the construction an operation of this facility is correct and that this facility is capable of operating to achieve the requirements and standards as set forth in Chapter 17-775, of the Florida Administrative Code.

_____
Signature of Engineer
(affix seal)

_____
Engineer's Name (Please Type)

_____
Florida Registration Number

_____
Company Name

_____
Address Street City

_____
Date Telephone Number

Florida Department of Environmental Regulation
Soil Thermal Treatment Facility
Untreated Soil Reporting Form

Name of Facility: _____
Air Permit No.: _____
Soil Treatment Permit No.: _____
Stationary ____ or Mobile Facility: _____

Month: _____ Year: _____

1	2	3	4	5								6	7	8		
Day of Mo.	Soil Batch ID#	Sample Number	Amount, Volume or Weight cy/tn	Analytical Results												
				Metals								Totals		Indicate Other Analyses		
				As	Ba	Cd	Cr	Pb	Hg	Se	Ag	VOA	RPH	Attach Lab Results Only		

DER Form 17-775.900(2)

See reverse side for instructions

Instructions for Completing Untreated Soil Reporting Form

Samples from both untreated and treated soil must be collected and analyzed. Pretreatment sampling is based on the volume of soil from each source, and post treatment sampling is determined by the hours of operation. Each composite sample must be made up of several representative samples. For all analytical results showing below detection limits, BDL should be shown in the proper space. When results indicate contaminants above detectable limits, the concentrations should be shown. Copies of lab reports must be attached to form.

Column

1. Date soil received.

2. Identification number of specific batch of soil.

3. Sample number. The required number of samples is based upon the volume of soil before treatment and is based upon hours of operation after treatment.

4. Total volume of soil being processed through heat treatment facility, yd^3 or tons.

5. Metals concentrations of Arsenic, Barium, Cadmium, Chromium, Lead, Mercury, Selenium and Silver in the untreated soil in ppm (mg/kg) by extraction procedure EPA Method 3050.

6. Total benzene, toluene, ethylbenzene and xylene concentration in untreated soils in ppb (ug/kg). EPA Method 5030/8020. There are no maximum allowable concentrations.

7. Total recoverable petroleum hydrocarbons in untreated soils. EPA Draft Method 9073.

8. Other parameters that are monitored by the facility should be indicated but not quantified. Attach lab results only.

Florida Department of Environmental Regulation
Soil Thermal Treatment Facility
Treated Soil Reporting Form

Name of Facility: _____
Air Permit No.: _____
Soil Treatment Permit No.: _____
Stationary:_____ or Mobile Facility: _____

Month: _____ Year: ____

1	2	3	4	5	6								7								8	9	10	11
Day of Mo.	Soil Batch ID#	Sample Number	Length of Run, Hours	Amount, Volume or Weight cy/tn	Analytical Results																			
					Total Metals								TCLP Metals								Totals			
					As	Ba	Cd	Cr	Pb	Hg	Se	Ag	As	Ba	Cd	Cr	Pb	Hg	Se	Ag	VOA	RPH	PAH	VOH

DER Form 17-775.900(3)

See reverse side for instructions

Instructions for Completing
reated Soil Reporting Fo

Samples must be collected and analyzed at least once each day that the thermal treatment facility is processing contaminated soil. Samples from both untreated and treated soil must be collected and analyzed. Pretreatment sampling is based on the volume of soil from each source, and post treatment sampling is determined by the hours of operation. Each composite sample must be made up of several representative samples. For all analytical results showing below detection limits, BDL should be shown in the proper space. When results indicate contaminants above detectable limits, the concentrations should be shown. Copies of lab reports must be attached to form.

Column

1. Date soil processed.

2. Identification number of specific batch of soil.

3. Sample number. The required number of samples is based upon the volume of soil before treatment and is based upon hours of operation during treatment.

4. Number of hours required of treat specific batch of soil.

5. Amount of soil that was processed through thermal treatment facility, yd^3 or tons.

6. Total metals concentrations of Arsenic, Barium, Cadmium, Chromium, Lead, Mercury, Selenium and Silver in the treated soil in ppm (mg/kg) by digestion procedure EPA Method 3050.

7. TCLP metals concentrations of Arsenic, Barium, Cadmium, Chromium, Lead, Mercury, Selenium and Silver in the treated soil in ppm (mg/l) by extraction procedure EPA Method 1311.

8. Total benzene, toluene, ethylbenzene and xylene in treated soil in ppb. (Maximum allowable to dispose of as clean fill-100 ppb).

9. Total recoverable petroleum hydrocarbons in treated soil in ppm. Maximum allowable to dispose of as clean fill-10 ppm, or 50 ppm if PAHs less than 6 ppm and VOH less than 50 ppb. EPA Draft Method 9073.

10. PAH concentrations in the treated soil consisting of (Benzo(a)pyrene, Benzo(a)antracene, Benzo(b)fluoranthene, Benzo(k)fluoranthene, Benzo(g,h,i)perylene, Chrysene, Dibenzo(a,h)anthracene, Ideno(1,2,3-c,d)pyrene), in ppm (mg/kg) by EPA Methods 3510/8250, 3510/8270, 3540/8250, 3540/8270, 3550/8250, 3550/8270, 3540/8310 or 3550/8310.

11. Total volatile organic halogen concentrations in treated soils in ppb by EPA Method 5030/8010.

DEPARTMENT OF ENVIRONMENTAL REGULATION

ROUTING AND TRANSMITTAL SLIP

ACTION NO

ACTION DUE DATE

1. TO: (NAME, OFFICE, LOCATION)	Initial / Date
Stephanie.	
2.	Initial / Date
3.	Initial / Date
4.	Initial / Date

REMARKS:

Is this sufficient for dW dir permit to accept petroleum contaminated soils?

Yup. Sorry about that. Steph

INFORMATION	
	Review & Return
	Review & File
	Initial & Forward

DISPOSITION	
	Review & Respond
	Prepare Response
	For My Signature
	For Your Signature
	Let's Discuss
	Set Up Meeting
	Investigate & Report
	Initial & Forward
	Distribute
	Concurrence
	For Processing
	Initial & Return

FROM: Paul W.

DATE 12/15

PHONE

State of Florida
DEPARTMENT OF ENVIRONMENTAL REGULATION

For Routing To Other Than The Addressee
To: Location:
To: Location:
To: Location:
From: Date:

RECEIVED
DEC 15 1989
Dept. of Environmental Reg.
West Palm Beach

Interoffice Memorandum

TO: District Air Permitting Engineers

THROUGH: Cortland S. Hill, CSH Bureau of Waste Cleanup

FROM: Patricia Quets, PQ Bureau of Waste Cleanup

DATE: December 5, 1989

SUBJECT: Permitted Heat Treatment Facilities Accepting Petroleum Contaminated Soils in Florida

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A revised list of the subject facilities is attached. This list replaces the September 1, 1989 list and includes the addition of one stationary facility in the Northeast District. If additional changes are necessary please contact me at SC 277-3299.

cc: District Tanks Supervisors

DRAFT

PERMITTED HEAT TREATMENT FACILITIES ACCEPTING PETROLEUM CONTAMINATED SOILS IN FLORIDA AS OF DECEMBER 1, 1989

I. Southeast District Stationary Units (305) 964-9668 SC 221-5005

1. Brewer Company of Florida - Medley Facility
   Contact Person: Walter Brewer
   Phone: (305) 885-2463
   9501 NW 106th Street
   Miami, FL 33178

2. Hardrives Asphalt
   Contact Person: Gary Gregg
   Phone: (305) 428-6144
   5700 Powerline Road
   Delray Beach, FL 33445

3. Rinker
   Contact Person: Bill Voshell
   Phone: (407) 833-5555
   P.O. Box 24635
   West Palm Beach, FL 33416

4. South Florida Materials
   Contact Person: J. Chellgrene
   Phone: (305) 421-6248
   2501 NW 48th Street
   Pompano Beach, FL

5. Tarmac Florida
   Contact Person: Scott Quaas
   Phone: (305) 823-8800
   P.O. Box 122035
   Hialeah, FL 33012

II. Central District Stationary Units (407) 894-7555 SC 325-1011

1. Alad Construction Company, Inc.
   Soil Treatment Services, Inc.
   Contact Person: Christopher Hill
   Phone: (407) 656-8682
   270 Highway 50, Suite 230
   Winter Garden, FL 32787

DRAFT

2. Mid-Florida Mining Company
Contact Person: James P. Nettles
Phone: (904) 854-0070
3300 SW 34th Avenue, Suite 152
Ocala, FL 32674

3. Southern Soil Services, Inc.
Contact Person: Christopher Hill
Phone: (407) 933-8414
3505 Pugmill Road
Kissimmee, FL 34741-6462

III. South Florida District Stationary Units (813) 332-2667
SC 721-7900

1. Gulf Paving Company
Contact Person: Tim Lause, P.E.
Phone: (813) 334-3652
3540 Hardee Street
Fort Myers, FL 33901

IV. Southwest District Stationary Unit (813) 623-5561
SC 552-7612

1. Resource Recovery of America
Contact Person: David S. Dye or Janice J. Stewart
Phone: (813) 425-1084 or 1-800-752-3242
2300 Highway 60 West
Mulberry, FL 33860

2. Asphalt Pavers, Inc.
Contact Person: Tony Tripi
Phone: (904) 471-8628
4101 N.E. 35th Street
Ocala, FL 32650

Issued construction permit for facility located at 15100 Brittle Road, Brooksville

V. Northeast District Stationary Units (904) 798-4200
SC 821-5295

1. Columbia-Anderson Asphalt Plant #7, Clay County
Contact Person: Mike McRae
Phone: (904) 752-7585
P.O. Box 1386
Lake City, FL 32056-1386

VI. Northwest District Stationary Units (904) 436-8300
SC 695-8300

No permitted facilities have been reported by the District office.

DRAFT

VII. Mobile Units

1. Environmental Technology Southeast
   Contact Person: Carlton J. Dixon
   Phone: (904) 355-2157
   1819 Albert Street
   Jacksonville, FL 32202

2. Denard & Moore Construction Company
   Contact Person: Dan Moxley
   Phone: (813) 646-0366
   P.O. Box 5170
   Lakeland, FL 33807

3. Industrial Waste, Inc.
   Contact Person: Richard A Singer
   Phone: (904) 479-1788
   Ellyson Industrial Park, Box 34
   Pensacola, FL 32514

   IWI is permitted to operate in the sixteen counties of FDER's Northwest District.

4. O.H. Materials Company
   Contact Person: Al Tobin or David Urann
   Phone: (904) 394-8601 or 1-800-552-2038
   Route 2
   P.O. Box 60-A
   Clermont, FL 32711

5. Protex, Inc.
   Contact Person: James K. Poucher
   Phone: (612) 557-1292
   14120 23rd Avenue North
   Minneapolis, MN 55447

6. Site Reclamation Systems
   Contact Person: Larry Wood
   Phone: (904) 324-3651
   P.O. Box 11
   Howey-in-the-Hills, FL 32737

   SRS has applied for a Statewide Construction Permit to operate two mobile incineration units. Status is pending; Department awaiting public notice.

7. Thermal Process Systems Technologies, Inc.
   Contact Person: Ken Wood
   Phone: (407) 886-2000
   2070 South Orange Blossom Trail
   Apopka, FL 32703