# 7. REGULATORY COMPLIANCE AND PERMIT REQUIREMENTS

This section lists federal, state, and local regulatory compliance and permit requirements for the proposed facilities.

## 7.1 FEDERAL REQUIREMENTS

### CLEAN AIR ACT

- Enacted by Public Law 90-148, Air Quality Act of 1967 (42 USC 7401 et seq.)
- Amended by Public Law 101-549, Clean Air Act Amendments of 1990
- Comprised of Titles I through VI
- Applicable titles

  — Title I—Air Pollution Prevention and Control. This Title is the basis for air quality and emission limitations, PSD permitting program, State Implementation Plans, New Source Performance Standards, and National Emissions Standards for Hazardous Air Pollutants.

  — Title IV—Acid Deposition Control. This Title establishes limitations on $SO_2$ and $NO_x$ emissions, permitting requirements, monitoring programs, reporting and record keeping requirements, and compliance plans for emission sources. This Title requires that emissions of $SO_2$ from utility sources be limited to the amounts of allowances held by the sources.

  — Title V—Permitting. This Title provides the basis for the Operating Permit Program and establishes permit conditions, including monitoring and analysis, inspections, certification, and reporting. Authority for implementation of the permitting program is delegated to authorized states, including Florida.
- On March 10, 2005, the EPA issued the final Clean Air Interstate Rule, also referred to as the Rule to Reduce the Interstate Transport of Fine Particulate Matter and Ozone (40 CFR Parts 51, 72, 73, 77, 78, and 96). The objective of the Rule is to assist states with PM-2.5 and 8-hour $O_3$ nonattainment areas to achieve attainment by reducing precursor emissions at sources located in 28 states (including Florida) situated upwind of these nonattainment areas. Based on regional dispersion modeling, EPA determined that these 28 upwind states significantly contribute to PM-2.5 and 8-hour $O_3$ nonattainment in downwind areas. To achieve these goals, the Rule provides for reductions in precursor emissions of $SO_2$ and $NO_x$.
- On March 15, 2005, the EPA issued the final Clean Air Mercury Rule (40 CFR Parts 60, 72, and 75). The purpose of the Rule is to reduce national coal-fired power plant emissions of mercury from the current level of 48 tons per year to 15 tons per year by means of a two-phase cap-and-trade program. The first phase national mercury cap (with a cap of 38 tons per year) becomes effective in 2010, while the second 15-tons-per-year cap becomes effective in 2018. The Rule establishes stack mercury emission standards applicable to new sources (i.e., those constructed,

modified, or reconstructed after January 30, 2004). For new IGCC units, stack mercury emissions must not exceed $20 \times 10^{-6}$ lb of mercury per megawatt-hour.

- The Risk Management Program requirements apply to owners and operators of stationary sources that have more than a threshold quantity of a regulated substance contained in a process (40 CFR Part 68). The proposed facilities would likely require an update or revision to the Stanton Energy Center's current Risk Management Program for storing ammonia and chlorine. To the extent necessary, the revision would (1) describe the planned ammonia and chlorine management systems for the new facilities, (2) present the results of a hazard assessment/offsite consequences analysis, (3) describe the updated Process Safety Management program, and (4) describe updated emergency response plans.
- Regulations implementing the Clean Air Act are found in 40 CFR Parts 50–95.

### CLEAN WATER ACT

- Enacted by Public Law 92-500, Federal Water Pollution Control Act Amendments of 1972 (33 USC 1251 et seq.)
- Amended by Public Law 95-217, Clean Water Act of 1977, and Public Law 100-4, Water Quality Act of 1987
- Comprised of Titles I through IV
- Applicable titles
    - — Title III—Standards and Enforcement.
        - Section 301, Effluent Limitations, is the basis for establishing a set of technology-based effluent standards for specific industries.
        - Section 302, Water Quality Related Effluent Limitations, addresses the development and application of effluent standards based on water quality goals for the waters receiving the effluent.
    - — Title IV—Permits and Licenses.
        - Section 402, National Pollutant Discharge Elimination System (NPDES), regulates the discharge of pollutants to surface waters. Regulations implementing the NPDES program are found in 40 CFR Part 122. Authority for implementation of the NPDES permit program is delegated to authorized states, including Florida.
        - Section 404, Permits for Dredged or Fill Material, regulates the discharge of dredged or fill material in the jurisdictional wetlands and waters of the United States. The U.S. Army Corps of Engineers has been delegated the responsibility for authorizing these actions.
- Regulations implementing the Clean Water Act are found in 40 CFR Parts 104–140. Regulations that affect the permitting of this project include

    — 40 CFR Part 112—Oil Pollution Prevention. This regulation requires the preparation of a Spill Prevention, Control, and Countermeasure Plan.

— 40 CFR Part 122—NPDES. This regulation requires the permitting and monitoring of any discharges to waters of the United States. Construction of the proposed facilities would require an NPDES General Permit for Storm Water Discharges Associated with Construction Activities.

## EXECUTIVE ORDERS 11988 AND 11990

Executive Order 11988, Floodplain Management, directs federal agencies to establish procedures to ensure that they consider potential effects of flood hazards and floodplain management for any action undertaken. Agencies are to avoid impacts to floodplains to the extent practical. Executive Order 11990, Protection of Wetlands, requires federal agencies to avoid short- and long-term impacts to wetlands if a practical alternative exists. DOE regulation 10 CFR Part 1022 establishes procedures for compliance with these Executive Orders. Where no practical alternatives exist to development in floodplain and wetlands, DOE is required to prepare a floodplain and wetlands assessment discussing the effects on the floodplain and wetlands, and consideration of alternatives. In addition, these regulations require DOE to design or modify its actions to minimize potential damage in floodplains or harm to wetlands. DOE is also required to provide opportunity for public review of any plans or proposals for actions in floodplains and new construction in wetlands.

The floodplain and wetlands effects anticipated from this proposed project are provided in the following sections of the EIS: Section 3.5.1 (Floodplains—Existing Environment), Section 3.5.2 (Wetlands—Existing Environment), Section 4.1.5.1 (Floodplains— Environmental Consequences), and Section 4.1.5.2 (Wetlands—Environmental Consequences).

## RESOURCE CONSERVATION AND RECOVERY ACT OF 1976

- Enacted by Public Law 94-580, Resource Conservation and Recovery Act of 1976 (42 USC 6901 et seq.)
- Amended by legislation including Public Law 98-616, Hazardous and Solid Waste Amendments of 1984, Public Law 99-499, Superfund Amendments and Reauthorization Act of 1986, and Public Law 104-119, Land Disposal Flexibility Act of 1996
- Applicable title

  — Title II—Solid Waste Disposal (known as the Solid Waste Disposal Act). This Title regulates the disposal of solid wastes. Title II, Subtitle C—Hazardous Waste Management, provides for a regulatory system to ensure the environmentally sound management of hazardous wastes from the point of origin to the point of final disposal. Florida has delegated authority to administer most elements of the RCRA Subtitle C program within the state. Title II, Subtitle D—State or Regional Solid Waste Plans, allows states to plan for managing and permitting the disposal of solid wastes and requires each state to develop and implement a regulatory program to ensure that municipal solid waste landfills and other facilities that receive household hazardous waste or conditionally exempt small quantity generator hazardous waste meet federal

minimum standards (40 CFR Part 258) for the location, design, operation, closure, and post-closure care of municipal solid waste landfills.

- Project participants would be required to identify any residues that require management as hazardous waste under RCRA (40 CFR Part 261). For some waste streams, this includes testing waste samples using the toxic characteristic leaching procedure or other procedures that measure hazardous waste characteristics.

### ENDANGERED SPECIES ACT OF 1973

- Enacted by Public Law 93-205, Endangered Species Act of 1973 (16 USC 1531 et seq.)
  — Section 7, "Interagency Cooperation," requires any federal agency authorizing, funding, or carrying out any action to ensure that the action is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of critical habitat of such species. Consequently, the U.S. Fish and Wildlife Service will conduct a consultation, in compliance with Subsection (a)(2) of Section 7 of the Act, with regard to the impacts of the proposed project on threatened and endangered species listed by the U.S. Fish and Wildlife Service and any critical habitat of such species in the vicinity of the proposed facilities.

Under Section 7 of the Act, DOE has consulted with the U.S. Fish and Wildlife Service (Appendix A).

### NATIONAL HISTORIC PRESERVATION ACT OF 1966

- Enacted by Public Law 89-665, National Historic Preservation Act of 1966 (16 USC 470 et seq.)
- Under Section 106, the head of any federal agency having direct or indirect jurisdiction over a proposed federal or federally assisted undertaking in any state and the head of any federal department or independent agency having authority to license any undertaking shall, prior to the approval of the expenditure of any federal funds on the undertaking or prior to the issuance of any license, as the case may be, take into account the effect of the undertaking on any district, site, building, structure, or object that is included in or eligible for inclusion in the National Register. The head of any such federal agency shall afford the Advisory Council on Historic Preservation established under Title II of the Act a reasonable opportunity to comment with regard to such undertaking.

Under Section 106 of the Act, DOE has consulted with Florida's State Historic Preservation Officer (Appendix B).

### OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

- OSHA General Industry Standards (29 CFR Part 1910). Authority: Sections 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order Numbers 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736), 1-90 (55 FR 9033), and 6-96 (62 FR 111), as applicable
- OSHA Construction Industry Standards (29 CFR Part 1926). Authority: 44 FR 8577, February 9, 1979; 44 FR 20940, April 6, 1979

### FEDERAL AVIATION ACT OF 1958

- Enacted by Public Law 85-726, Federal Aviation Act of 1958 (49 USC 1101 et seq., as amended)
- Regulations implementing this Act are found in 14 CFR Part 77 and are enforced by the U.S. Department of Transportation, Federal Aviation Administration.
- These regulations require submittal of a notice identifying any structures that, because of construction or alteration, may be a hazard to air transportation. A project located within 3.8 miles of a public airport and/or which contains elements with an elevation of 200 ft above the ground level must receive a clearance from the Federal Aviation Administration. Because the HRSG stack would be 205 ft in height, a Notice of Proposed Construction or Alteration would be filed with the Federal Aviation Administration. Because of existing, taller structures that surround the proposed project site, the Federal Aviation Administration likely would make a determination of no hazard to air navigation.

## 7.2 STATE REQUIREMENTS

- In Florida, the Florida Electrical Power Plant Siting Act (Chapter 403.501 through 403.518, Florida Statutes) provides for a centrally coordinated application, agency review, and certification process for steam-electric power plants that are 75 MW or greater in size. The Act's site certification process encompasses and fulfills all state, regional, and local regulatory requirements. Although the site certification process supercedes the need to obtain individual agency permits and approvals, the applicant must demonstrate that all applicable state, regional, and local regulations and standards will be fulfilled. These individual agency requirements are addressed by specific Conditions of Certification for the project construction and operation. Federally delegated permit programs, such as PSD, NPDES, and Section 404 dredge-and-fill permitting, do require the approval and issuance of a specific permit as part of the certification process. The certification also includes any of the power plant's directly associated facilities such as transmission lines, fuel and water pipelines, roads, and rail lines. Under the Act's procedures, a Site Certification Application is prepared and submitted by the applicant for joint review by all appropriate state, regional, and local agencies. Other individuals or groups may also request to become parties to the process and review and comment on the Site Certification Application and the proposed project. Under the Act, a supplemental Site Certification Application can be filed for

the construction and operation of an additional steam generation unit and associated facilities at a previously certified site, such as the Stanton Energy Center.

- In accordance with Part II of Chapter 373, Florida Statutes, the use of groundwater from the Floridan aquifer for the proposed facilities would require authorization from the St. Johns River Water Management District. Because the combined water requirements of the existing Stanton Energy Center facilities and the proposed facilities would be less than the withdrawal limits (2.0 million gal per day and 321.2 million gal per year) previously authorized by the water management district and specified in the current Stanton Energy Center conditions of certification (OUC 2003), no additional authorization would be required for the proposed facilities. One condition of the authorization is a requirement that the Stanton Energy Center use the lowest quality water source that is economically, environmentally, and technologically feasible; groundwater may be used only for purposes other than cooling water. To comply with this requirement, the proposed facilities would use ***reclaimed water*** (surface water runoff and treated wastewater effluent) for all purposes except potable water supply and process units requiring high-quality water. The Stanton Energy Center also must monitor pumping rates, groundwater levels, and groundwater quality and report the data to the water management district.
- Solid waste generated by construction or operation of the proposed facilities must be managed in accordance with regulations in Chapter 62-701, Florida Administrative Code, entitled "Solid Waste Management Facilities." Any landfills used for disposal of such waste must have an appropriate permit issued in accordance with those regulations by the Florida Department of Environmental Protection. Proposals for beneficial use of gasification ash or other solid wastes from the proposed facilities would require case-by-case review by the Florida Department of Environmental Protection to verify that the proposed use of these wastes would not pose an unacceptable human health risk or cause groundwater or surface water contamination in concentrations above Florida Department of Environmental Protection standards or criteria.

## 7.3 LOCAL REQUIREMENTS

- The proposed facilities would be required to obtain local construction permits.
- Any onsite burning of (1) cleared vegetation from preparation of the transmission line right-of-way and (2) debris from installation of the line would require an open burning permit from the Orange County Fire Rescue Department.
- The proposed facilities would be required to comply with the Orange County noise ordinance.
- The proposed facilities would be required to comply with the Orange County Local Government Comprehensive Planning Act of 1975 with Amendments.

Approvals from the Orange County Health Department and Florida Department of Environmental Protection would be required for construction of an onsite septic system.