

1                                   A bill to be entitled  
 2           An act relating to the Florida Coastal Management Program;  
 3           amending s. 380.23, F.S.; clarifying the list of federally  
 4           licensed and permitted activities reviewed for consistency  
 5           under the Florida Coastal Management Program; revising  
 6           provisions relating to the relicensing of certain power  
 7           plants; requiring the inclusion of National Environmental  
 8           Policy Act (NEPA) documents in consistency reviews for  
 9           certain activities; providing an effective date.

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11 Be It Enacted by the Legislature of the State of Florida:

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13           Section 1. Subsections (3) through (8) of section 380.23,  
 14 Florida Statutes, are amended to read:

15           380.23 Federal consistency.--

16           (3) Consistency review shall be limited to review of the  
 17 following activities, uses, and projects to ensure that such  
 18 activities and uses are conducted in accordance with the state's  
 19 coastal management program:

20           (a) Federal development projects and activities of federal  
 21 agencies which significantly affect coastal waters and the  
 22 adjacent shorelands of the state.

23           (b) Federal assistance projects which significantly affect  
 24 coastal waters and the adjacent shorelands of the state and  
 25 which are reviewed as part of the review process developed  
 26 pursuant to Presidential Executive Order 12372.

27           (c) Federally licensed or permitted activities that affect  
 28 the land, water, or natural resources of the state when, except

29 for activities subject to the permits and licenses listed in  
 30 subparagraph 6., affecting land or water uses when such  
 31 activities are in or seaward of the jurisdiction of local  
 32 governments required to develop a coastal zone protection  
 33 element as provided in s. 380.24 and when such activities  
 34 involve:

35 1. Permits and licenses required under the Rivers and  
 36 Harbors Act of 1899, 33 U.S.C. ss. 401 et seq., as amended.

37 2. Permits and licenses required under the Marine  
 38 Protection, Research and Sanctuaries Act of 1972, 33 U.S.C. ss.  
 39 1401-1445 and 16 U.S.C. ss. 1431-1445, as amended.

40 3. Permits and licenses required under the Federal Water  
 41 Pollution Control Act of 1972, 33 U.S.C. ss. 1251 et seq., as  
 42 amended, unless such permitting activities have been delegated  
 43 to the state pursuant to said act.

44 4. Permits and licenses relating to the transportation of  
 45 hazardous substance materials or transportation and dumping  
 46 which are issued pursuant to the Hazardous Materials  
 47 Transportation Act, 49 U.S.C. ss. 1501 et seq., as amended, or  
 48 33 U.S.C. s. 1321, as amended.

49 5. Permits and licenses required under 15 U.S.C. ss. 717-  
 50 717w, 3301-3432, 42 U.S.C. ss. 7101-7352, and 43 U.S.C. ss.  
 51 1331-1356 for construction and operation of interstate gas  
 52 pipelines and storage facilities.

53 6. Permits and licenses required under the Federal Power  
 54 Act, 16 U.S.C. ss. 791a et seq., as amended; the Public Utility  
 55 Regulatory Policies Act, 16 U.S.C. ss. 2601 et seq., as amended;  
 56 the Energy Policy Act, 42 U.S.C. ss. 13201 et seq., as amended;

57 and the Atomic Energy Act, 42 U.S.C. ss. 2100 et seq., as  
 58 amended, for the siting and construction of any new electrical  
 59 power plants and the relicensing of existing electrical power  
 60 plants under the laws listed in this subparagraph, but only if  
 61 the construction of such new power plants or continued operation  
 62 of such relicensed power plants would not require any state  
 63 license as defined in s. 403.503(12), as amended.

64 7. Permits and licenses required under the Mining Law of  
 65 1872, 30 U.S.C. ss. 21 et seq., as amended; the Mineral Lands  
 66 Leasing Act, 30 U.S.C. ss. 181 et seq., as amended; the Mineral  
 67 Leasing Act for Acquired Lands, 30 U.S.C. ss. 351 et seq., as  
 68 amended; the Federal Land Policy and Management Act, 43 U.S.C.  
 69 ss. 1701 et seq., as amended; the Mining in the Parks Act, 16  
 70 U.S.C. ss. 1901 et seq., as amended; and the OCS Lands Act, 43  
 71 U.S.C. ss. 1331 et seq., as amended, for drilling, and mining,  
 72 pipelines, geological and geophysical activities, or rights-of-  
 73 way on public lands and permits and licenses required under the  
 74 Indian Mineral Development Act, 25 U.S.C. ss. 2101 et seq., as  
 75 amended.

76 8. Permits and licenses for areas leased under the OCS  
 77 Lands Act, 43 U.S.C. ss. 1331 et seq., as amended, including  
 78 leases and approvals of exploration, development, and production  
 79 plans.

80 ~~9. Permits for pipeline rights of way for oil and gas~~  
 81 ~~transmissions.~~

82 ~~9.10.~~ Permits and licenses required for deepwater ports  
 83 under the Deepwater Port Act of 1974, 33 U.S.C. ss. 1501 et seq.  
 84 ~~s. 1503, as amended.~~

85 ~~10.11.~~ Permits required for the taking of marine mammals  
86 under the Marine Mammal Protection Act of 1972, as amended, 16  
87 U.S.C. s. 1374.

88 (d) Federal activities within the territorial limits of  
89 neighboring states when the Governor and the department  
90 determine that significant individual or cumulative impact to  
91 the land or water resources of the state would result from the  
92 activities.

93 (4) The department is authorized to adopt rules  
94 establishing procedures for conducting consistency reviews of  
95 activities, uses, and projects for which consistency review is  
96 required pursuant to subsections (1), (2), and (3). Such rules  
97 shall include procedures for the expeditious handling of  
98 emergency repairs to existing facilities for which consistency  
99 review is required. The department is also authorized to adopt  
100 rules prescribing the data and information necessary ~~needed~~ for  
101 state ~~the~~ review of consistency certifications and  
102 determinations. When National Environmental Policy Act (NEPA)  
103 documents are required for a specific activity, use, or project  
104 subject to review under this section, such documents shall be  
105 deemed necessary data and information for the consistency review  
106 of all OCS activities and other activities, uses, and projects  
107 deemed significant by the department. This requirement applies  
108 only to NEPA documents prepared for the specific activity, use,  
109 or project.

110 (5) In any coastal management program submitted to the  
111 appropriate federal agency for its approval pursuant to this  
112 act, the department shall specifically waive its right to

113 determine the consistency with the coastal management program of  
 114 all federally licensed or permitted activities not specifically  
 115 listed in subsection (3).

116 (5)~~(6)~~ Agencies authorized to review and comment on the  
 117 consistency of federal activities subject to state review under  
 118 the Florida Coastal Management Program are those agencies  
 119 charged with the implementation of the statutes and rules  
 120 included in the federally approved program. Each agency shall be  
 121 afforded an opportunity to provide the department or the state  
 122 licensing agency with its comments and determination regarding  
 123 the consistency of the federal activity with the statutes and  
 124 rules included in the federally approved program implemented by  
 125 the agency. An agency that submits a determination of  
 126 inconsistency to the department or a state licensing agency  
 127 shall be an indispensable party to any administrative or  
 128 judicial proceeding in which such determination is an issue,  
 129 shall be responsible for defending its determination in such  
 130 proceedings, and shall be liable for any damages, costs, and  
 131 attorney's fees awarded in the action as a consequence of such  
 132 determination.

133 (6)~~(7)~~ Agencies shall not review for federal consistency  
 134 purposes an application for a federally licensed or permitted  
 135 activity if the activity is vested, exempted, or excepted under  
 136 its own regulatory authority.

137 (7)~~(8)~~ The department shall review the items listed in  
 138 subsection (3) to determine if in certain circumstances such  
 139 items would constitute minor permit activities. If the  
 140 department determines that the list contains minor permit

HB 1623

2005

141 | activities, it may by rule establish a program of general  
142 | concurrence pursuant to federal regulation which shall allow  
143 | similar minor activities, in the same geographic area, to  
144 | proceed without prior department review for federal consistency.

145 |       Section 2. This act shall take effect upon becoming a law.