

1 A bill to be entitled

2 An act relating to natural resources; amending s. 376.121,
 3 F.S.; providing an alternative to the compensation
 4 schedule for calculating natural resources damages;
 5 revising procedures relating to damage assessment;
 6 removing a restriction on amount of compensation; amending
 7 s. 380.06, F.S.; revising factors for determining a
 8 substantial deviation in developments of regional impact;
 9 amending s. 380.23, F.S.; revising the federally licensed
 10 or permitted activities subject to consistency review
 11 under the coastal management program; requiring certain
 12 environmental impact reports to be data and information
 13 for the state's consistency reviews; providing an
 14 effective date.

15
 16 Be It Enacted by the Legislature of the State of Florida:

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 18 Section 1. Section 376.121, Florida Statutes, is amended
 19 to read:

20 376.121 Liability for damage to natural resources.--The
 21 Legislature finds that extensive damage to the state's natural
 22 resources is the likely result of a pollutant discharge and that
 23 it is essential that the state adequately assess and recover the
 24 cost of such damage from responsible parties. It is the state's
 25 goal to recover the costs of restoration from the responsible
 26 parties and to restore damaged natural resources to their
 27 pre-discharge condition. In many instances, however, restoration
 28 is not technically feasible. In such instances, the state has

29 the responsibility to its citizens to recover the cost of all
30 damage to natural resources. To ensure that the public does not
31 bear a substantial loss as a result of the destruction of
32 natural resources, the procedures set out in this section shall
33 be used to assess the cost of damage to such resources. Natural
34 resources include coastal waters, wetlands, estuaries, tidal
35 flats, beaches, lands adjoining the seacoasts of the state, and
36 all living things except human beings. The Legislature
37 recognizes the difficulty historically encountered in
38 calculating the value of damaged natural resources. The value of
39 certain qualities of the state's natural resources is not
40 readily quantifiable, yet the resources and their qualities have
41 an intrinsic value to the residents of the state, and any damage
42 to natural resources and their qualities should not be dismissed
43 as nonrecoverable merely because of the difficulty in
44 quantifying their value. In order to avoid unnecessary
45 speculation and expenditure of limited resources to determine
46 these values, the Legislature hereby establishes a schedule for
47 compensation for damage to the state's natural resources and the
48 quality of said resources. As an alternative to the compensation
49 schedule described in subsections (4), (5), (6), and (9), the
50 department, when no responsible party is identified, when a
51 responsible party opts out of the formula pursuant to paragraph
52 (10)(a), or when the department conducts a cooperative damage
53 assessment with federal agencies, may use methods of calculating
54 natural resources damages in accordance with federal rules
55 implementing the Oil Pollution Act of 1990, as amended.

56 (1) The department shall assess and recover from

57 responsible parties the compensation for the injury or
58 destruction of natural resources, including, but not limited to,
59 the death or injury of living things and damage to or
60 destruction of habitat, resulting from pollutant discharges
61 prohibited by s. 376.041. The amount of compensation and any
62 costs of assessing damage and recovering compensation received
63 by the department shall be deposited into the Florida Coastal
64 Protection Trust Fund pursuant to s. 376.12 and disbursed
65 according to subsection (11). Whoever violates, or causes to be
66 violated, s. 376.041 shall be liable to the state for damage to
67 natural resources.

68 (2) The compensation schedule for damage to natural
69 resources is based upon the cost of restoration and the loss of
70 ecological, consumptive, intrinsic, recreational, scientific,
71 economic, aesthetic, and educational values of such injured or
72 destroyed resources. The compensation schedule takes into
73 account:

74 (a) The volume of the discharge.

75 (b) The characteristics of the pollutant discharged. The
76 toxicity, dispersibility, solubility, and persistence
77 characteristics of a pollutant as affects the severity of the
78 effects on the receiving environment, living things, and
79 recreational and aesthetic resources. Pollutants have varying
80 propensities to injure natural resources based upon their
81 potential exposure and effects. Exposure to natural resources is
82 determined by the dispersibility and degradability of the
83 pollutant. Effects to natural resources result from mechanical
84 injury and toxicity and include physical contamination,

85 smothering, feeding prevention, immobilization, respiratory
86 distress, direct mortality, lost recruitment of larvae and
87 juveniles killed, changes in the food web, and chronic effects
88 of sublethal levels of contaminants in tissues or the
89 environment. For purposes of the compensation schedule,
90 pollutants have been ranked for their propensity to cause injury
91 to natural resources based upon a combination of their acute
92 toxicity, mechanical injury, degradability, and dispersibility
93 characteristics on a 1-to-3 relative scale with Category 1
94 containing the pollutants with the greatest propensity to cause
95 injury to natural resources. The following pollutants are
96 categorized:

97 1. Category 1: bunker and residual fuel.

98 2. Category 2: waste oils, crude oil, lubricating oil,
99 asphalt, and tars.

100 3. Category 3: hydraulic fluids, numbers 1 and 2 diesel
101 fuels, heating oil, jet aviation fuels, motor gasoline,
102 including aviation gasoline, kerosene, stationary turbine fuels,
103 ammonia and its derivatives, and chlorine and its derivatives.

104
105 The department shall adopt rules establishing the pollutant
106 category of pesticides and other pollutants as defined in s.
107 376.031 and not listed in this paragraph.

108 (c) The type and sensitivity of natural resources affected
109 by a discharge, determined by the following factors:

110 1. The location of a discharge. Inshore discharges are
111 discharges that occur within waters under the jurisdiction of
112 the department and within an area extending seaward from the

113 coastline of the state to a point 1 statute mile seaward of the
114 coastline. Nearshore discharges are discharges that occur more
115 than 1 statute mile, but within 3 statute miles, seaward of the
116 coastline. Offshore discharges are discharges that occur more
117 than 3 statute miles seaward of the coastline.

118 2. The location of the discharge with respect to special
119 management areas designated because of their unique habitats;
120 living resources; recreational use; aesthetic importance; and
121 other ecological, educational, consumptive, intrinsic,
122 scientific, and economic values of the natural resources located
123 therein. Special management areas are state parks; recreation
124 areas; national parks, seashores, estuarine research reserves,
125 marine sanctuaries, wildlife refuges, and national estuary
126 program water bodies; state aquatic preserves and reserves;
127 classified shellfish harvesting areas; areas of critical state
128 concern; federally designated critical habitat for endangered or
129 threatened species; and outstanding Florida waters.

130 3. The areal or linear extent of the natural resources
131 impacted.

132 (3) Compensation for damage to natural resources for any
133 discharge of less than 25 gallons of gasoline or diesel fuel
134 shall be \$50.

135 (4) Compensation schedule:

136 (a) The amount of compensation assessed under this
137 schedule is calculated by: multiplying \$1 per gallon or its
138 equivalent measurement of pollutant discharged, by the number of
139 gallons or its equivalent measurement, times the location of the
140 discharge factor, times the special management area factor.

141 (b) Added to the amount obtained in paragraph (a) is the
142 value of the observable natural resources damaged, which is
143 calculated by multiplying the areal or linear coverage of
144 impacted habitat by the corresponding habitat factor, times the
145 special management area factor.

146 (c) The sum of paragraphs (a) and (b) is then multiplied
147 by the pollutant category factor.

148 (d) The final damage assessment figure is the sum of the
149 amount calculated in paragraph (c) plus the compensation for
150 death of endangered or threatened species, plus the cost of
151 conducting the damage assessment as determined by the
152 department.

153 (5) (a) The factors used in calculating the damage
154 assessment are:

155 1. Location of discharge factor:

156 a. Discharges that originate inshore have a factor of
157 eight. Discharges that originate nearshore have a factor of
158 five. Discharges that originate offshore have a factor of one.

159 b. Compensation for damage to natural resources resulting
160 from discharges that originate outside of state waters but that
161 traverse the state's boundaries and therefore have an impact
162 upon the state's natural resources shall be calculated using a
163 location factor of one.

164 c. Compensation for damage to natural resources resulting
165 from discharges of less than 10,000 gallons of pollutants which
166 originate within 100 yards of an established terminal facility
167 or point of routine pollutant transfer in a designated port
168 authority as defined in s. 315.02 shall be assessed a location

169 factor of one.

170 2. Special management area factor: Discharges that
171 originate in special management areas described in subparagraph
172 (2)(c)2. have a factor of two. Discharges that originate outside
173 a special management area described in subparagraph (2)(c)2.
174 have a location factor of one. For discharges that originate
175 outside of a special management area but impact the natural
176 resources within a special management area, the value of the
177 natural resources damaged within the area shall be multiplied by
178 the special management area factor of two.

179 3. Pollutant category factor: Discharges of category 1
180 pollutants have a factor of eight. Discharges of category 2
181 pollutants have a factor of four. Discharges of category 3
182 pollutants have a factor of one.

183 4. Habitat factor: The amount of compensation for damage
184 to the natural resources of the state is established as follows:

- 185 a. \$10 per square foot of coral reef impacted.
186 b. \$1 per square foot of mangrove or seagrass impacted.
187 c. \$1 per linear foot of sandy beach impacted.
188 d. \$0.50 per square foot of live bottom, oyster reefs,
189 worm rock, perennial algae, saltmarsh, or freshwater tidal marsh
190 impacted.
191 e. \$0.05 per square foot of sand bottom or mud flats, or
192 combination thereof, impacted.

193 (b) The areal and linear coverage of habitat impacted
194 shall be determined by the department using a combination of
195 field measurements, aerial photogrammetry, and satellite
196 imagery. An area is impacted when the pollutant comes in contact

197 with the habitat.

198 (6) It is understood that a pollutant will, by its very
199 nature, result in damage to the flora and fauna of the waters of
200 the state and the adjoining land. Therefore, compensation for
201 such resources, which is difficult to calculate, is included in
202 the compensation schedule. Not included, however, in this base
203 figure is compensation for the death of endangered or threatened
204 species directly attributable to the pollutant discharged.
205 Compensation for the death of any animal designated by rule as
206 endangered by the Fish and Wildlife Conservation Commission is
207 \$10,000. Compensation for the death of any animal designated by
208 rule as threatened by the Fish and Wildlife Conservation
209 Commission is \$5,000. These amounts are not intended to reflect
210 the actual value of said endangered or threatened species, but
211 are included for the purposes of this section.

212 (7) The owner or operator of the vessel or facility
213 responsible for a discharge may designate a representative or
214 agent to work with the department in assessing the amount of
215 damage to natural resources resulting from the discharge.

216 (8) When assessing the amount of damages to natural
217 resources, the department shall be assisted, if requested by the
218 department, by representatives of other state agencies and local
219 governments that would enhance the department's damage
220 assessment. The Fish and Wildlife Conservation Commission shall
221 assist the department in the assessment of damages to wildlife
222 impacted by a pollutant discharge and shall assist the
223 department in recovering the costs of such damages.

224 (9) Compensation for damage resulting from the discharge

225 of two or more pollutants shall be calculated for the volume of
 226 each pollutant discharged. If the separate volume for each
 227 pollutant discharged cannot be determined, the highest
 228 multiplier for the pollutants discharged shall be applied to the
 229 entire volume of the spill. Compensation for commingled
 230 discharges that contact habitat shall be calculated on a
 231 proportional basis of discharged volumes. The highest multiplier
 232 for such commingled pollutants may only be applied if a
 233 reasonable proportionality of the commingled pollutants cannot
 234 be determined at the point of any contact with natural
 235 resources.

236 (10) For cases in which the department is authorized to
 237 use a method of natural resources damage assessment other than
 238 the compensation schedules described in subsections (4), (5),
 239 (6), and (9), the department may use the methods described in
 240 federal rules implementing the Oil Pollution Act of 1990, as
 241 amended discharges of more than 30,000 gallons, the department
 242 shall, in consultation with the Game and Fresh Water Fish
 243 Commission, adopt rules by July 1, 1994, to assess compensation
 244 for the damage to natural resources based upon the cost of
 245 restoring, rehabilitating, replacing, or acquiring the
 246 equivalent of the damaged natural resources; the diminution in
 247 the value of those resources pending restoration; and the
 248 reasonable cost of assessing those damages. The person
 249 responsible for a discharge shall be given an opportunity to
 250 consult with the department on the assessment design and
 251 restoration program.

252 (a) When a responsible party is identified and the

253 department is not conducting a cooperative damage assessment
254 with federal agencies ~~For discharges greater than 30,000~~
255 ~~gallons~~, the person responsible has the option to pay the amount
256 of compensation calculated pursuant to the compensation schedule
257 established in subsection (4) or pay the amount determined by a
258 damage assessment performed by the department. If the person
259 responsible for the discharge elects to have a damage assessment
260 performed, then such person shall notify the department in
261 writing of such decision within 30 ~~15~~ days after identification
262 ~~the discovery~~ of the discharge by the department. The decision
263 to have a damage assessment performed to determine compensation
264 for a discharge shall be final; the person responsible for a
265 discharge may not later elect to use the compensation schedule
266 for computing compensation. Failure to make such notice shall
267 result in the amount of compensation for the total damage to
268 natural resources being calculated based on the compensation
269 schedule. The compensation shall be paid within 90 days after
270 receipt of a written request from the department.

271 (b) In the event the person responsible for a discharge
272 ~~greater than 30,000 gallons~~ elects to have a damage assessment
273 performed, said person shall pay to the department an amount
274 equal to the compensation calculated pursuant to subsection (4)
275 for the discharge using the lesser of the volume of the
276 discharge or a volume of 30,000 gallons. The payment shall be
277 made within 90 days after receipt of a written request from the
278 department.

279 (c) After completion of the damage assessment, the
280 department shall advise the person responsible for the discharge

281 of the amount of compensation due to the state. A credit shall
 282 be given for the amount paid pursuant to paragraph (b). Payment
 283 shall be made within 90 days after receipt of a written request
 284 from the department. ~~In no event shall the total compensation~~
 285 ~~paid pursuant to this section be less than the dollar amount~~
 286 ~~calculated pursuant to paragraph (b).~~

287 (11) (a) Moneys recovered by the department as compensation
 288 for damage to natural resources shall be expended only for the
 289 following purposes:

290 1. To the maximum extent practicable, the restoration of
 291 natural resources damaged by the discharge for which
 292 compensation is paid.

293 2. Restoration of damaged resources.

294 3. Developing restoration and enhancement techniques for
 295 natural resources.

296 4. Investigating methods for improving and refining
 297 techniques for containment, abatement, and removal of pollutants
 298 from the environment, especially from mangrove forests, corals,
 299 seagrasses, benthic communities, rookeries, nurseries, and other
 300 habitats which are unique to Florida's coastal environment.

301 5. Developing and updating the "Sensitivity of Coastal
 302 Environments and Wildlife to Spilled Oil in Florida" atlas.

303 6. Investigating the long-term effects of pollutant
 304 discharges on natural resources, including pelagic organisms,
 305 critical habitats, and marine ecosystems.

306 7. Developing an adequate wildlife rescue and
 307 rehabilitation program.

308 8. Expanding and enhancing the state's pollution

309 prevention and control education program.

310 9. Restoring natural resources previously impacted by
311 pollutant discharges, but never completely restored.

312 10. Funding alternative projects selected by the Board of
313 Trustees of the Internal Improvement Trust Fund. Any such
314 project shall be selected on the basis of its anticipated
315 benefits to the marine natural resources available to the
316 residents of this state who previously benefited from the
317 injured or destroyed nonrestorable natural resources.

318 (b) All interest earned from investment of moneys
319 recovered by the department for damage to natural resources
320 shall be expended only for the activities described in paragraph
321 (a).

322 (c) The person or parties responsible for a discharge for
323 which the department has requested compensation for damage
324 pursuant to this section shall pay the department, within 90
325 days after receipt of the request, the entire amount due to the
326 state. In the event that payment is not made within the 90 days,
327 the person or parties are liable for interest on the outstanding
328 balance, which interest shall be calculated at the rate
329 prescribed under s. 55.03.

330 (12) Any determination or assessment of damage to natural
331 resources for the purposes of this section by the department in
332 accordance with the compensation sections or in accordance with
333 the rules adopted under subsection (10) shall have the force and
334 effect of rebuttable presumption on behalf of the department in
335 any administrative or judicial proceeding.

336 (13) There shall be no double recovery under this law for

337 natural resource damage resulting from a discharge, including
 338 the costs of damage assessment or restoration, rehabilitation,
 339 replacement, or acquisition for the same incident and natural
 340 resource. The department shall meet with and develop memoranda
 341 of understanding with appropriate federal trustees as defined in
 342 Pub. L. No. 101-380 (Oil Pollution Act of 1990) to provide
 343 further assurances of no double recovery.

344 (14) The department must review the amount of compensation
 345 assessed pursuant to the damage assessment formula established
 346 in this section and report its findings to the 1995 Legislature.
 347 Thereafter, the department must conduct such a review and report
 348 its findings to the Legislature biennially.

349 (15) The department shall adopt rules necessary or
 350 convenient for carrying out the duties, obligations, powers, and
 351 responsibilities set forth in this section.

352 Section 2. Paragraph (b) of subsection (19) of section
 353 380.06, Florida Statutes, is amended to read:

354 380.06 Developments of regional impact.--

355 (19) SUBSTANTIAL DEVIATIONS.--

356 (b) Any proposed change to a previously approved
 357 development of regional impact or development order condition
 358 which, either individually or cumulatively with other changes,
 359 exceeds any of the following criteria shall constitute a
 360 substantial deviation and shall cause the development to be
 361 subject to further development-of-regional-impact review without
 362 the necessity for a finding of same by the local government:

363 1. An increase in the number of parking spaces at an
 364 attraction or recreational facility by 5 percent or 300 spaces,

365 whichever is greater, or an increase in the number of spectators
366 that may be accommodated at such a facility by 5 percent or
367 1,000 spectators, whichever is greater.

368 2. A new runway, a new terminal facility, a 25-percent
369 lengthening of an existing runway, or a 25-percent increase in
370 the number of gates of an existing terminal, but only if the
371 increase adds at least three additional gates. However, if an
372 airport is located in two counties, a 10-percent lengthening of
373 an existing runway or a 20-percent increase in the number of
374 gates of an existing terminal is the applicable criteria.

375 3. An increase in the number of hospital beds by 5
376 percent or 60 beds, whichever is greater.

377 4. An increase in industrial development area by 5
378 percent or 32 acres, whichever is greater.

379 5. An increase in the average annual acreage mined by 5
380 percent or 10 acres, whichever is greater, or an increase in the
381 average daily water consumption by a mining operation by 5
382 percent or 300,000 gallons, whichever is greater. An increase in
383 the size of the mine by 5 percent or 750 acres, whichever is
384 less. An increase in the size of a heavy mineral mine as defined
385 in s. 378.403(7) will only constitute a substantial deviation if
386 the average annual acreage mined is more than 500 acres and
387 consumes more than 3 million gallons of water per day.

388 6. An increase in land area for office development by 5
389 percent or an increase of gross floor area of office development
390 by 5 percent or 60,000 gross square feet, whichever is greater.

391 7. An increase in the storage capacity for chemical or
392 petroleum storage facilities by 5 percent, 20,000 barrels, or 7
393 million pounds, whichever is greater.

394 8. An increase of development at a waterport of wet
395 storage for 20 watercraft, dry storage for 30 watercraft, or
396 wet/dry storage for 60 watercraft in an area identified in the
397 state marina siting plan as an appropriate site for additional
398 waterport development or a 5-percent increase in watercraft
399 storage capacity, whichever is greater.

400 9. An increase in the number of dwelling units by 5
401 percent or 50 dwelling units, whichever is greater.

402 10. An increase in commercial development by 50,000
403 square feet of gross floor area or of parking spaces provided
404 for customers for 300 cars or a 5-percent increase of either of
405 these, whichever is greater.

406 11. An increase in hotel or motel facility units by 5
407 percent or 75 units, whichever is greater.

408 12. An increase in a recreational vehicle park area by 5
409 percent or 100 vehicle spaces, whichever is less.

410 13. A decrease in the area set aside for open space of 5
411 percent or 20 acres, whichever is less.

412 14. A proposed increase to an approved multiuse
413 development of regional impact where the sum of the increases of
414 each land use as a percentage of the applicable substantial
415 deviation criteria is equal to or exceeds 100 percent. The
416 percentage of any decrease in the amount of open space shall be
417 treated as an increase for purposes of determining when 100
418 percent has been reached or exceeded.

419 15. A 15-percent increase in the number of external
420 vehicle trips generated by the development above that which was
421 projected during the original development-of-regional-impact
422 review.

423 16. Any change which would result in development of any
424 area which was specifically set aside in the application for
425 development approval or in the development order for
426 preservation or special protection of endangered or threatened
427 plants or animals designated as endangered, threatened, or
428 species of special concern and their habitat, primary dunes, or
429 archaeological and historical sites designated as significant by
430 the Division of Historical Resources of the Department of State.
431 The further refinement of such areas by survey shall be
432 considered under sub-subparagraph (e)5.b.

433
434 The substantial deviation numerical standards in subparagraphs
435 4., 6., 10., 14., excluding residential uses, and 15., are
436 increased by 100 percent for a project certified under s.
437 403.973 which creates jobs and meets criteria established by the
438 Office of Tourism, Trade, and Economic Development as to its
439 impact on an area's economy, employment, and prevailing wage and
440 skill levels. The substantial deviation numerical standards in
441 subparagraphs 4., 6., 9., 10., 11., and 14. are increased by 50
442 percent for a project located wholly within an urban infill and
443 redevelopment area designated on the applicable adopted local
444 comprehensive plan future land use map and not located within
445 the coastal high hazard area.

446 Section 3. Subsections (3) and (4) of section 380.23,
 447 Florida Statutes, are amended to read:

448 380.23 Federal consistency.--

449 (3) Consistency review shall be limited to review of the
 450 following activities, uses, and projects to ensure that such
 451 activities, ~~and uses, and projects~~ are conducted in accordance
 452 with the state's coastal management program:

453 (a) Federal development projects and activities of
 454 federal agencies which significantly affect coastal waters and
 455 the adjacent shorelands of the state.

456 (b) Federal assistance projects that ~~which~~ significantly
 457 affect coastal waters and the adjacent shorelands of the state
 458 and that ~~which~~ are reviewed as part of the review process
 459 developed pursuant to Presidential Executive Order 12372.

460 (c) Federally licensed or permitted activities affecting
 461 land or water uses when such activities are in or seaward of the
 462 jurisdiction of local governments required to develop a coastal
 463 zone protection element as provided in s. 380.24 and when such
 464 activities involve:

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

467 2. Permits and licenses required under the Marine
 468 Protection, Research and Sanctuaries Act of 1972, 33 U.S.C. ss.
 469 1401-1445 and 16 U.S.C. ss. 1431-1445, as amended.

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

474 4. Permits and licenses relating to the transportation of
 475 hazardous substance materials or transportation and dumping
 476 which are issued pursuant to the Hazardous Materials
 477 Transportation Act, 49 U.S.C. ss. 1501 et seq., as amended, or
 478 33 U.S.C. s. 1321, as amended.

479 5. Permits and licenses required under 15 U.S.C. ss. 717-
 480 717w, 3301-3432, 42 U.S.C. ss. 7101-7352, and 43 U.S.C. ss.
 481 1331-1356 for construction and operation of interstate gas
 482 pipelines and storage facilities.

483 6. Permits and licenses required for the siting and
 484 construction of any new electrical power plants as defined in s.
 485 403.503(12), as amended, and the licensing and relicensing of
 486 hydroelectric power plants under the Federal Power Act, 16
 487 U.S.C. ss. 791a et seq., as amended.

488 7. Permits and licenses required under the Mining Law of
 489 1872, 30 U.S.C. ss. 21 et seq., as amended; the Mineral Lands
 490 Leasing Act, 30 U.S.C. ss. 181 et seq., as amended; the Mineral
 491 Leasing Act for Acquired Lands, 30 U.S.C. ss. 351 et seq., as
 492 amended; the Federal Land Policy and Management Act, 43 U.S.C.
 493 ss. 1701 et seq., as amended; the Mining in the Parks Act, 16
 494 U.S.C. ss. 1901 et seq., as amended; and the OCS Lands Act, 43
 495 U.S.C. ss. 1331 et seq., as amended, for drilling, mining,
 496 pipelines, geological and geophysical activities, or rights-of-
 497 way on public lands and permits and licenses required under the
 498 Indian Mineral Development Act, 25 U.S.C. ss. 2101 et seq., as
 499 amended ~~for drilling and mining on public lands.~~

500 8. Permits and licenses for areas leased under the OCS
 501 Lands Act, 43 U.S.C. ss. 1331 et seq., as amended, including

502 leases and approvals of exploration, development, and production
 503 plans.

504 ~~9. Permits for pipeline rights of way for oil and gas~~
 505 ~~transmissions.~~

506 9.10. Permits and licenses required under the ~~for~~
 507 Deepwater Port Act of 1974, ~~ports under~~ 33 U.S.C. ss. 1501 et
 508 seq. s. 1503, as amended.

509 ~~10.11.~~ Permits required for the taking of marine mammals
 510 under the Marine Mammal Protection Act of 1972, as amended, 16
 511 U.S.C. s. 1374.

512 (d) Federal activities within the territorial limits of
 513 neighboring states when the Governor and the department
 514 determine that significant individual or cumulative impact to
 515 the land or water resources of the state would result from the
 516 activities.

517 (4) The department may ~~is authorized to~~ adopt rules
 518 establishing procedures for conducting consistency reviews of
 519 activities, uses, and projects for which consistency review is
 520 required pursuant to subsections (1), (2), and (3). Such rules
 521 shall include procedures for the expeditious handling of
 522 emergency repairs to existing facilities for which consistency
 523 review is required. The department may ~~is also authorized to~~
 524 adopt rules prescribing the data and information needed for the
 525 review of consistency certifications and determinations. When an
 526 environmental impact statement or environmental assessment
 527 required by the National Environmental Policy Act has been
 528 prepared for a specific activity, use, or project subject to
 529 federal consistency review under this section, the environmental

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530 impact statement or environmental assessment shall be data and
531 information necessary for the state's consistency review of that
532 federal activity, use, or project under this section.

533 Section 4. This act shall take effect upon becoming a law.