

1 A bill to be entitled
2 An act relating to energy; providing legislative findings
3 and intent; creating s. 377.801, F.S.; creating the
4 "Florida Renewable Energy Technologies and Energy
5 Efficiency Act"; creating s. 377.802, F.S.; stating the
6 purpose of the act; creating s. 377.803, F.S.; providing
7 definitions; creating s. 377.804, F.S.; creating the
8 Renewable Energy Technologies Grants Program; providing
9 program requirements and procedures, including matching
10 funds; creating s. 377.805, F.S.; creating the Energy
11 Efficient Appliance Rebate Program; providing program
12 requirements, procedures, and limitations; creating s.
13 377.806, F.S.; creating the Solar Energy System Rebate
14 Program; providing program requirements, procedures, and
15 limitations; creating s. 377.901, F.S.; creating the
16 Florida Energy Council within the Department of
17 Environmental Protection; providing purpose and
18 composition; providing for appointment of members and
19 their terms; providing for reimbursement for travel and
20 per diem; requiring the department to provide certain
21 services to the council; providing rulemaking authority;
22 amending s. 212.08, F.S.; providing definitions for the
23 terms "biodiesel" and "ethanol"; providing tax exemptions
24 for the sale or use of certain energy efficient products;
25 providing eligibility requirements and tax credit limits;
26 directing the department to adopt rules; directing the
27 department to determine and publish certain information
28 relating to such exemptions; amending s. 213.053, F.S.;

29 | authorizing the Department of Revenue to share certain
30 | information with the Department of Environmental
31 | Protection for specified purposes; amending s. 220.02,
32 | F.S.; providing the order of application of the renewable
33 | energy technologies investment tax credit; creating s.
34 | 220.192, F.S.; establishing a corporate tax credit for
35 | certain costs related to renewable energy technologies;
36 | providing eligibility requirements and credit limits;
37 | providing certain authority to the Department of
38 | Environmental Protection and the Department of Revenue;
39 | directing the Department of Environmental Protection to
40 | determine and publish certain information; providing for
41 | repeal of the tax credit; amending s. 220.13, F.S.;
42 | providing an addition to the definition of "adjusted
43 | federal income"; amending s. 186.801, F.S.; revising the
44 | provisions of electric utility 10-year site plans to
45 | include the effect on fuel diversity; amending s. 366.04,
46 | F.S.; revising the safety standards for public utilities;
47 | amending s. 366.05, F.S.; authorizing the Public Service
48 | Commission to adopt certain construction standards and
49 | make certain determinations; directing the commission to
50 | conduct a study and provide a report by a certain date;
51 | amending s. 403.503, F.S.; revising and providing
52 | definitions applicable to the Florida Electrical Power
53 | Plant Siting Act; amending s. 403.504, F.S.; providing the
54 | Department of Environmental Protection with additional
55 | powers and duties relating to the Florida Electrical Power
56 | Plant Siting Act; amending s. 403.5055, F.S.; revising

57 provisions for certain permits associated with
58 applications for electrical power plant certification;
59 amending s. 403.506, F.S.; revising provisions relating to
60 applicability and certification of certain power plants;
61 amending s. 403.5064, F.S.; revising provisions for
62 distribution of applications and schedules relating to
63 certification; amending s. 403.5065, F.S.; revising
64 provisions relating to the appointment of administrative
65 law judges; amending s. 403.5066, F.S.; revising
66 provisions relating to the determination of completeness
67 for certain applications; creating s. 403.50663, F.S.;
68 authorizing certain local governments and regional
69 planning councils to hold an informational public meeting;
70 providing requirements and procedures therefor; creating
71 s. 403.50665, F.S.; requiring local governments to file
72 certain land use determinations; providing requirements
73 and procedures therefor; repealing s. 403.5067, F.S.;
74 relating to the determination of sufficiency for certain
75 applications; amending s. 403.507, F.S.; revising required
76 statement provisions for affected agencies; amending s.
77 403.508, F.S.; revising provisions related to land use and
78 certification proceedings; requiring certain notice;
79 amending s. 403.509, F.S.; revising provisions related to
80 the final disposition of certain applications; providing
81 requirements and provisions with respect thereto; amending
82 s. 403.511, F.S.; revising provisions related to the
83 effect of certification for the construction and operation
84 of proposed power plants; providing that issuance of

85 certification meets certain consistency requirements;
86 creating s. 403.5112, F.S.; requiring filing of notice for
87 certified corridor routes; providing requirements and
88 procedures with respect thereto; creating s. 403.5113,
89 F.S.; authorizing postcertification amendments for power
90 plant site certification applications; providing
91 requirements and procedures with respect thereto; amending
92 s. 403.5115, F.S.; requiring certain public notice for
93 activities related to power plant site application,
94 certification, and land use determination; providing
95 requirements and procedures with respect thereto;
96 directing the Department of Environmental Protection to
97 maintain certain lists and provide copies to of certain
98 publications; amending s. 403.513, F.S.; revising
99 provisions for judicial review of appeals related to power
100 plant site certification; amending s. 403.516, F.S.;
101 revising provisions relating to modification of
102 certification for power plant sites; amending s. 403.517,
103 F.S.; revising the provisions relating to supplemental
104 applications for certain power plant sites; amending s.
105 403.5175, F.S.; revising provisions relating to existing
106 power plant site certification; revising the procedure for
107 reviewing and processing applications; requiring
108 additional information to be included in certain
109 applications; amending s. 403.518, F.S.; revising the
110 allocation of proceeds from certain fees collected;
111 providing for reimbursement of certain expenses; directing
112 the Department of Environmental Protection to establish

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113 rules for determination of certain fees; eliminating
114 certain operational license fees; amending s. 403.519,
115 F.S.; directing the Public Service Commission to consider
116 fuel diversity and reliability in certain determinations;
117 providing an effective date.

118

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

120

121 Section 1. Legislative findings and intent.--The
122 Legislature finds that advancing the development of renewable
123 energy technologies and energy efficiency is important for the
124 state's future, its energy stability, and the protection of its
125 citizens' public health and its environment. The Legislature
126 finds that the development of renewable energy technologies and
127 energy efficiency in the state will help to reduce demand for
128 foreign fuels, promote energy diversity, enhance system
129 reliability, reduce pollution, educate the public on the promise
130 of renewable energy technologies, and promote economic growth.
131 The Legislature finds that there is a need to assist in the
132 development of market demand that will advance the
133 commercialization and widespread application of renewable energy
134 technologies. The Legislature further finds that the state is
135 ideally positioned to stimulate economic development through
136 such renewable energy technologies due to its ongoing and
137 successful research and development track record in these areas,
138 an abundance of natural and renewable energy sources, an ability
139 to attract significant federal research and development funds,

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140 and the need to find and secure renewable energy technologies
141 for the benefit of its citizens, visitors, and environment.

142 Section 2. Section 377.801, Florida Statutes, is created
143 to read:

144 377.801 Short title.--Sections 377.801-377.806 may be
145 cited as the "Florida Renewable Energy Technologies and Energy
146 Efficiency Act."

147 Section 3. Section 377.802, Florida Statutes, is created
148 to read:

149 377.802 Purpose.--This act is intended to provide matching
150 grants to stimulate capital investment in the state and to
151 enhance the market for and promote the statewide utilization of
152 renewable energy technologies. The targeted grants program is
153 designed to advance the already growing establishment of
154 renewable energy technologies in the state and encourage the use
155 of other incentives such as tax exemptions and regulatory
156 certainty to attract additional renewable energy technology
157 producers, developers, and users to the state. This act is also
158 intended to provide rebates for energy efficient appliances and
159 for solar energy equipment installations for residential and
160 commercial buildings.

161 Section 4. Section 377.803, Florida Statutes, is created
162 to read:

163 377.803 Definitions.--As used in this act, the term:

164 (1) "Act" means the Florida Renewable Energy Technologies
165 and Energy Efficiency Act.

166 (2) "Department" means the Department of Environmental
167 Protection.

168 (3) "Energy Star qualified appliance" means a
169 refrigerator, residential model clothes washer including a
170 residential style coin operated clothes washer, or dishwasher
171 that has been designated by the United States Environmental
172 Protection Agency and the United States Department of Energy as
173 meeting or exceeding the energy saving efficiency requirements
174 under each agency's Energy Star program.

175 (4) "Person" means an individual, partnership, joint
176 venture, private or public corporation, association, firm,
177 public service company, or any other public or private entity.

178 (5) "Renewable energy" means renewable energy as defined
179 in s. 366.91.

180 (6) "Renewable energy technology" means any technology
181 that generates or utilizes a renewable energy resource.

182 (7) "Solar energy system" means equipment that provides
183 for the collection and use of incident solar energy for water
184 heating, space heating or cooling, or other applications that
185 require a conventional source of energy such as petroleum
186 products, natural gas, or electricity and equipment that
187 performs primarily with solar energy. In other systems in which
188 solar energy is used in a supplemental way, only those
189 components which collect and transfer solar energy shall be
190 included in this definition. The term "solar energy system" does
191 not include a swimming pool heater.

192 (8) "Solar photovoltaic system" means a device that
193 converts incident sunlight into electrical current.

194 (9) "Solar thermal system" means a device that traps heat
195 from incident sunlight in order to heat water.

196 Section 5. Section 377.804, Florida Statutes, is created
 197 to read:

198 377.804 Renewable Energy Technologies Grants Program.--

199 (1) The Renewable Energy Technologies Grants Program is
 200 established within the department to provide renewable energy
 201 matching grants for demonstration, commercialization, research,
 202 and development projects relating to renewable energy
 203 technologies.

204 (2) Matching grants for renewable energy technology
 205 demonstration, commercialization, research, and development
 206 projects may be made to any of the following:

207 (a) Municipalities and county governments.

208 (b) Established for-profit companies licensed to do
 209 business in the state.

210 (c) Universities and colleges.

211 (d) Utilities located and operating within the state.

212 (e) Not-for-profit organizations.

213 (f) Other qualified persons, as determined by the
 214 department.

215 (3) The department may adopt rules pursuant to ss.
 216 120.536(1) and 120.54 to administer the awarding of grants under
 217 this program.

218 (4) Factors the department shall consider in awarding
 219 grants include, but are not limited to:

220 (a) The degree to which the project stimulates in-state
 221 capital investment and economic development in metropolitan and
 222 rural areas, including the creation of jobs and the future

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223 development of a commercial market for renewable energy
224 technologies.

225 (b) The extent to which the proposed project has been
226 demonstrated to be technically feasible based on pilot project
227 demonstrations, laboratory testing, scientific modeling, or
228 engineering or chemical theory which supports the proposal.

229 (c) The degree to which the project incorporates an
230 innovative new technology or an innovative application of an
231 existing technology.

232 (d) The degree to which a project generates thermal,
233 mechanical, or electrical energy by means of a renewable energy
234 resource that has substantial long-term production potential.

235 (e) The degree to which a project demonstrates efficient
236 use of energy and material resources.

237 (f) The degree to which the project fosters overall
238 understanding and appreciation of renewable energy technologies.

239 (g) The availability of matching funds from an applicant.

240 (h) Other in-kind contributions applied to the total
241 project.

242 (i) The ability to administer a complete project.

243 (j) Project duration and timeline for expenditures.

244 (k) The geographic area in which the project is to be
245 conducted in relation to other projects.

246 (l) The degree of public visibility and interaction.

247 Section 6. Section 377.805, Florida Statutes, is created
248 to read:

249 377.805 Energy Efficient Appliance Rebate Program.--

250 (1) The Energy Efficient Appliances Rebate Program is
251 established within the department to provide for financial
252 incentives for the purchase of Energy Star qualified appliances
253 as specified in this section.

254 (2) Any resident of the state who purchases a new Energy
255 Star qualified appliance from July 1, 2006, through June 30,
256 2010, from a retail store in the state is eligible for a rebate.

257 (3) The department shall adopt rules pursuant to ss.
258 120.536(1) and 120.54 to designate rebate amounts and administer
259 the issuance of rebates. The department's rules may include
260 separate incentives for low-income families to purchase Energy
261 Star qualified appliances.

262 (4) Application for a rebate must be made within 90 days
263 after the purchase of the Energy Star qualified appliance.

264 (5) Rebates are limited to one per type of appliance per
265 year.

266 (6) The total dollar amount of all rebates issued by the
267 department is subject to the total amount of appropriations in
268 any fiscal year for this program. If funds are insufficient
269 during the current fiscal year, any requests for rebates
270 received during that fiscal year may be processed during the
271 following fiscal year.

272 (7) The department shall determine and publish on a
273 regular basis the amount of rebate funds remaining in each
274 fiscal year.

275 Section 7. Section 377.806, Florida Statutes, is created
276 to read:

277 377.806 Solar Energy System Rebate Program.--

278 (1) The Solar Energy System Rebate Program is established
 279 within the department to provide for financial incentives for
 280 the purchase of solar energy systems.

281 (2) Any person who purchases a new solar energy system
 282 from July 1, 2006, through June 30, 2010, of 2 kilowatts or
 283 larger for a solar photovoltaic system, or a solar energy system
 284 that provides at least 50 percent of a building's hot water
 285 consumption for a solar thermal system and has the system
 286 installed by a certified solar contractor, is eligible for a
 287 rebate.

288 (3) The department shall adopt rules pursuant to ss.
 289 120.536(1) and 120.54 to designate rebate amounts and administer
 290 the issuance of rebates.

291 (4) Application for a rebate must be made within 90 days
 292 after the purchase of the solar energy equipment.

293 (5) Rebates are limited to two per person.

294 (6) The total dollar amount of all rebates issued by the
 295 department is subject to the total amount of appropriations in
 296 any fiscal year for this program. If funds are insufficient
 297 during the current fiscal year, any requests for rebates
 298 received during that fiscal year may be processed during the
 299 following fiscal year.

300 (7) The department shall determine and publish on a
 301 regular basis the amount of rebate funds remaining in each
 302 fiscal year.

303 Section 8. Section 377.901, Florida Statutes, is created
 304 to read:

305 377.901 Florida Energy Council.--

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306 (1) The Florida Energy Council is created within the
307 Department of Environmental Protection to provide advice and
308 counsel to the Governor, the President of the Senate, and the
309 Speaker of the House of Representatives on the energy policy of
310 the state. The council should advise the state on current and
311 projected energy issues including, but not limited to,
312 generation, transmission, and fuel supply issues.

313 (2) (a) The council shall be comprised of utility
314 providers, researchers, fuel suppliers, technology
315 manufacturers, environmental interests, and others.

316 (b) The council shall consist of eight voting members as
317 follows:

318 1. The Secretary of the Department of Environmental
319 Protection shall serve as chair of the council.

320 2. The Chair of the Public Service Commission shall serve
321 as vice chair of the council.

322 3. Two members shall be appointed by the Governor.

323 4. Two members shall be appointed by the President of the
324 Senate.

325 5. Two members shall be appointed by the Speaker of the
326 House of Representatives.

327 (c) All initial members shall be appointed prior to
328 September 1, 2006. Appointments made by the Governor, the
329 President of the Senate, and the Speaker of the House of
330 Representatives shall be for terms of 2 years each. Members
331 shall serve until their successors are appointed. Vacancies
332 shall be filled in the manner of the original appointment for
333 the remainder of the term that is vacated.

334 (d) Members shall serve without compensation, but shall be
 335 entitled to travel reimbursement and per diem expenses related
 336 to council duties and responsibilities pursuant to s. 112.061.

337 (3) The Department of Environmental Protection shall
 338 provide primary staff support to the council and shall ensure
 339 that council meetings are electronically recorded. Such
 340 recording shall be preserved pursuant to chapters 119 and 257.

341 (4) The Department of Environmental Protection may adopt
 342 rules pursuant to ss. 120.536 and 120.54 to implement the
 343 provisions of this section.

344 Section 9. Paragraph (ccc) is added to subsection (7) of
 345 section 212.08, Florida Statutes, to read:

346 212.08 Sales, rental, use, consumption, distribution, and
 347 storage tax; specified exemptions.--The sale at retail, the
 348 rental, the use, the consumption, the distribution, and the
 349 storage to be used or consumed in this state of the following
 350 are hereby specifically exempt from the tax imposed by this
 351 chapter.

352 (7) MISCELLANEOUS EXEMPTIONS.--Exemptions provided to any
 353 entity by this chapter do not inure to any transaction that is
 354 otherwise taxable under this chapter when payment is made by a
 355 representative or employee of the entity by any means,
 356 including, but not limited to, cash, check, or credit card, even
 357 when that representative or employee is subsequently reimbursed
 358 by the entity. In addition, exemptions provided to any entity by
 359 this subsection do not inure to any transaction that is
 360 otherwise taxable under this chapter unless the entity has
 361 obtained a sales tax exemption certificate from the department

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362 or the entity obtains or provides other documentation as
363 required by the department. Eligible purchases or leases made
364 with such a certificate must be in strict compliance with this
365 subsection and departmental rules, and any person who makes an
366 exempt purchase with a certificate that is not in strict
367 compliance with this subsection and the rules is liable for and
368 shall pay the tax. The department may adopt rules to administer
369 this subsection.

370 (ccc) Equipment, machinery, and other materials for
371 renewable energy technologies.--

372 1. Definitions.--As used in this paragraph, the term:

373 a. "Biodiesel" means a fuel comprised of mono-alkyl esters
374 of long-chain fatty acids derived from vegetable oils or animal
375 fats meeting the requirements of American Society for Testing
376 and Materials (ASTM) standard D6751. Biodiesel may refer to a
377 blend of biodiesel fuel meeting the ASTM standard D6751 with
378 petroleum-based diesel fuel, designated BXX, where XX represents
379 the volume percentage of biodiesel fuel in the blend.

380 b. "Ethanol" means a high octane, liquid fuel produced by
381 the fermentation of plant sugars meeting the requirements of
382 ASTM standard D5798-99. Ethanol refers to a blend of ethanol
383 fuel meeting ASTM standard D5798-99 with petroleum-based
384 gasoline fuel, designated EXX, where XX represents the volume
385 percentage of ethanol fuel in the blend.

386 c. "Hydrogen fuel cells" means equipment using hydrogen or
387 a hydrogen rich fuel in an electrochemical process to generate
388 energy, electricity, or the transfer of heat.

389 2. The sale or use of the following is exempt from the tax
 390 imposed by this chapter:

391 a. Hydrogen-powered vehicles, materials incorporated into
 392 hydrogen-powered vehicles, and hydrogen-fueling stations, up to
 393 \$2 million each fiscal year.

394 b. Commercial stationary hydrogen fuel cells, up to \$1
 395 million each fiscal year.

396 c. Materials used in the distribution of biodiesel (B10-
 397 B100) and ethanol (E10-E85), including fueling infrastructure,
 398 transportation, and storage, up to \$1 million each fiscal year.

399 3. The Department of Environmental Protection shall
 400 provide to the department a list of items eligible for the
 401 exemption.

402 4.a. The exemption shall be available to a purchaser
 403 through a refund of previously paid taxes.

404 b. To be eligible to receive the exemption, a purchaser
 405 shall file an application with the Department of Environmental
 406 Protection. The application shall be developed by the Department
 407 of Environmental Protection, in consultation with the
 408 department, and shall require:

409 (I) The name and address of the person claiming the
 410 refund.

411 (II) A specific description of the purchase for which a
 412 refund is sought, including, when applicable, a serial number or
 413 other permanent identification number.

414 (III) The sales invoice or other proof of purchase showing
 415 the amount of sales tax paid, the date of purchase, and the name

416 and address of the sales tax dealer from whom the property was
417 purchased.

418 (IV) A sworn statement that the information provided is
419 accurate.

420 c. Within 30 days after receipt of an application, the
421 Department of Environmental Protection shall review the
422 application and shall notify the applicant of any deficiencies.
423 Upon receipt of a completed application, the Department of
424 Environmental Protection shall evaluate the application for
425 exemption and issue a written certification that the applicant
426 is eligible for a refund or issue a written denial of such
427 certification within 60 days. The Department of Environmental
428 Protection shall provide the department with a copy of each
429 certification issued upon approval of an application.

430 d. Each certified applicant shall be responsible for
431 forwarding a certified copy of the application and copies of all
432 required documentation to the department within 6 months after
433 certification by the Department of Environmental Protection.

434 e. The provisions of s. 212.095 do not apply to any refund
435 application made pursuant to this paragraph. A refund approved
436 pursuant to this paragraph shall be made within 30 days after
437 formal approval by the department.

438 f. The department shall adopt rules governing the manner
439 and form of refund applications and may establish guidelines as
440 to the requisites for an affirmative showing of qualification
441 for exemption under this paragraph.

442 g. The Department of Environmental Protection shall be
 443 responsible for ensuring that the exemptions do not exceed the
 444 limits provided in subparagraph 2.

445 5. The Department of Environmental Protection shall
 446 determine and publish on a regular basis the amount of sales tax
 447 funds remaining in each fiscal year.

448 6. This exemption is repealed July 1, 2010.

449 Section 10. Paragraph (y) is added to subsection (7) of
 450 section 213.053, Florida Statutes, to read:

451 213.053 Confidentiality and information sharing.--

452 (7) Notwithstanding any other provision of this section,
 453 the department may provide:

454 (y) Information relative to ss. 212.08(7)(ccc) and 220.192
 455 to the Department of Environmental Protection for use in the
 456 conduct of its official business.

457
 458 Disclosure of information under this subsection shall be
 459 pursuant to a written agreement between the executive director
 460 and the agency. Such agencies, governmental or nongovernmental,
 461 shall be bound by the same requirements of confidentiality as
 462 the Department of Revenue. Breach of confidentiality is a
 463 misdemeanor of the first degree, punishable as provided by s.
 464 775.082 or s. 775.083.

465 Section 11. Subsection (8) of section 220.02, Florida
 466 Statutes, is amended to read:

467 220.02 Legislative intent.--

468 (8) It is the intent of the Legislature that credits
 469 against either the corporate income tax or the franchise tax be

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470 applied in the following order: those enumerated in s. 631.828,
471 those enumerated in s. 220.191, those enumerated in s. 220.181,
472 those enumerated in s. 220.183, those enumerated in s. 220.182,
473 those enumerated in s. 220.1895, those enumerated in s. 221.02,
474 those enumerated in s. 220.184, those enumerated in s. 220.186,
475 those enumerated in s. 220.1845, those enumerated in s. 220.19,
476 those enumerated in s. 220.185, ~~and~~ those enumerated in s.
477 220.187, and those enumerated in s. 220.192.

478 Section 12. Section 220.192, Florida Statutes, is created
479 to read:

480 220.192 Renewable energy technologies investment tax
481 credit.--

482 (1) DEFINITIONS.--For purposes of this section, the term:

483 (a) "Biodiesel" means biodiesel as defined in s.
484 212.08 (7) (ccc).

485 (b) "Eligible costs" means:

486 1. Seventy-five percent of all capital costs, operational
487 and maintenance costs, and research and development costs
488 incurred between July 1, 2006, and June 30, 2010, up to \$3
489 million per fiscal year, in connection with an investment in
490 hydrogen powered vehicles and hydrogen vehicle fueling stations
491 including, but not limited to, the costs of constructing,
492 installing, and equipping such technologies in the state.

493 2. Seventy-five percent of all capital costs, operational
494 and maintenance costs, and research and development costs
495 incurred between July 1, 2006, and June 30, 2010, up to a limit
496 of \$1.5 million in connection with an investment in commercial
497 stationary hydrogen fuel cells including, but not limited to,

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498 the costs of constructing, installing, and equipping such
499 technologies in the state.

500 3. Seventy-five percent of all capital costs, operational
501 and maintenance costs, and research and development costs
502 incurred between July 1, 2006, and June 30, 2010, up to a limit
503 of \$6.5 million per fiscal year, in connection with an
504 investment in the production and distribution of biodiesel (B10-
505 B100) and ethanol (E10-E85) including, the costs of
506 constructing, installing, and equipping such technologies in the
507 state.

508 (c) "Ethanol" means ethanol as defined in s.
509 212.08(7)(ccc).

510 (d) "Hydrogen fuel cell" means hydrogen fuel cell as
511 defined in s. 212.08(7)(ccc).

512 (2) TAX CREDIT.--For tax years beginning on or after
513 January 1, 2007, a credit against the tax imposed by this
514 chapter shall be granted in an amount equal to the eligible
515 costs. Credits may be used beginning January 1, 2007, through
516 December 31, 2013, after which the credit shall expire. If the
517 credit is not fully used in any one tax year because of
518 insufficient tax liability on the part of the corporation, the
519 unused amount may be carried forward through December 31, 2012,
520 after which the credit carryover expires and may not be used. A
521 taxpayer that files a consolidated return in this state as a
522 member of an affiliated group under s. 220.131(1) may be allowed
523 the credit on a consolidated return basis up to the amount of
524 tax imposed upon the consolidated group. Any eligible cost for
525 which a credit is claimed and which is deducted or otherwise

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526 reduces federal taxable income shall be added back in computing
527 adjusted federal income under s. 220.13.

528 (3) APPLICATION PROCESS.--Any corporation wishing to
529 obtain tax credits available under this section must submit to
530 the Department of Environmental Protection an application for
531 tax credit that includes a complete description of all eligible
532 costs for which the corporation is seeking a credit and a
533 description of the total amount of credits sought. The
534 Department of Environmental Protection shall make a
535 determination on the eligibility of the applicant for the
536 credits sought and certify the determination to the applicant
537 and the Department of Revenue. The corporation must attach the
538 Department of Environmental Protection's certification to the
539 tax return on which the credit is claimed. The Department of
540 Environmental Protection is authorized to adopt the necessary
541 rules, guidelines, and application materials for the application
542 process.

543 (4) ADMINISTRATION; AUDIT AUTHORITY; RECAPTURE OF
544 CREDITS.--

545 (a) In addition to its existing audit and investigation
546 authority, the Department of Revenue may perform any additional
547 financial and technical audits and investigations, including
548 examining the accounts, books, and records of the tax credit
549 applicant, that are necessary to verify the eligible costs
550 included in the tax credit return and to ensure compliance with
551 this section. The Department of Environmental Protection shall
552 provide technical assistance when requested by the Department of

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553 Revenue on any technical audits or examinations performed
554 pursuant to this section.

555 (b) It is grounds for forfeiture of previously claimed and
556 received tax credits if the Department of Revenue determines, as
557 a result of either an audit or examination or from information
558 received from the Department of Environmental Protection, that a
559 taxpayer received tax credits pursuant to this section to which
560 the taxpayer was not entitled. The taxpayer is responsible for
561 returning forfeited tax credits to the Department of Revenue,
562 and such funds shall be paid into the General Revenue Fund of
563 the state.

564 (c) The Department of Environmental Protection may revoke
565 or modify any written decision granting eligibility for tax
566 credits under this section if it is discovered that the tax
567 credit applicant submitted any false statement, representation,
568 or certification in any application, record, report, plan, or
569 other document filed in an attempt to receive tax credits under
570 this section. The Department of Environmental Protection shall
571 immediately notify the Department of Revenue of any revoked or
572 modified orders affecting previously granted tax credits.
573 Additionally, the taxpayer must notify the Department of Revenue
574 of any change in its tax credit claimed.

575 (d) The taxpayer shall file with the Department of Revenue
576 an amended return or such other report as the Department of
577 Revenue prescribes by rule and shall pay any required tax and
578 interest within 60 days after the taxpayer receives notification
579 from the Department of Environmental Protection that previously
580 approved tax credits have been revoked or modified. If the

581 revocation or modification order is contested, the taxpayer
 582 shall file as provided in this paragraph within 60 days after a
 583 final order is issued following proceedings.

584 (e) A notice of deficiency may be issued by the Department
 585 of Revenue at any time within 3 years after the taxpayer
 586 receives formal notification from the Department of
 587 Environmental Protection that previously approved tax credits
 588 have been revoked or modified. If a taxpayer fails to notify the
 589 Department of Revenue of any changes to its tax credit claimed,
 590 a notice of deficiency may be issued at any time.

591 (5) RULES.--The Department of Revenue shall have the
 592 authority to adopt rules relating to the forms required to claim
 593 a tax credit under this section, the requirements and basis for
 594 establishing an entitlement to a credit, and the examination and
 595 audit procedures required to administer this section.

596 (6) PUBLICATION.--The Department of Environmental
 597 Protection shall determine and publish on a regular basis the
 598 amount of available tax credits remaining in each fiscal year.

599 (7) REPEAL.--The provisions of this section, except the
 600 credit carryover provisions provided in subsection (2), are
 601 repealed on July 1, 2010.

602 Section 13. Paragraph (a) of subsection (1) of section
 603 220.13, Florida Statutes, is amended to read:

604 220.13 "Adjusted federal income" defined.--

605 (1) The term "adjusted federal income" means an amount
 606 equal to the taxpayer's taxable income as defined in subsection
 607 (2), or such taxable income of more than one taxpayer as

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608 provided in s. 220.131, for the taxable year, adjusted as
609 follows:

610 (a) Additions.--There shall be added to such taxable
611 income:

612 1. The amount of any tax upon or measured by income,
613 excluding taxes based on gross receipts or revenues, paid or
614 accrued as a liability to the District of Columbia or any state
615 of the United States which is deductible from gross income in
616 the computation of taxable income for the taxable year.

617 2. The amount of interest which is excluded from taxable
618 income under s. 103(a) of the Internal Revenue Code or any other
619 federal law, less the associated expenses disallowed in the
620 computation of taxable income under s. 265 of the Internal
621 Revenue Code or any other law, excluding 60 percent of any
622 amounts included in alternative minimum taxable income, as
623 defined in s. 55(b)(2) of the Internal Revenue Code, if the
624 taxpayer pays tax under s. 220.11(3).

625 3. In the case of a regulated investment company or real
626 estate investment trust, an amount equal to the excess of the
627 net long-term capital gain for the taxable year over the amount
628 of the capital gain dividends attributable to the taxable year.

629 4. That portion of the wages or salaries paid or incurred
630 for the taxable year which is equal to the amount of the credit
631 allowable for the taxable year under s. 220.181. The provisions
632 of this subparagraph shall expire and be void on June 30, 2005.

633 5. That portion of the ad valorem school taxes paid or
634 incurred for the taxable year which is equal to the amount of
635 the credit allowable for the taxable year under s. 220.182. The

636 provisions of this subparagraph shall expire and be void on June
 637 30, 2005.

638 6. The amount of emergency excise tax paid or accrued as a
 639 liability to this state under chapter 221 which tax is
 640 deductible from gross income in the computation of taxable
 641 income for the taxable year.

642 7. That portion of assessments to fund a guaranty
 643 association incurred for the taxable year which is equal to the
 644 amount of the credit allowable for the taxable year.

645 8. In the case of a nonprofit corporation which holds a
 646 pari-mutuel permit and which is exempt from federal income tax
 647 as a farmers' cooperative, an amount equal to the excess of the
 648 gross income attributable to the pari-mutuel operations over the
 649 attributable expenses for the taxable year.

650 9. The amount taken as a credit for the taxable year under
 651 s. 220.1895.

652 10. Up to nine percent of the eligible basis of any
 653 designated project which is equal to the credit allowable for
 654 the taxable year under s. 220.185.

655 11. The amount taken as a credit for the taxable year
 656 under s. 220.187.

657 12. The amount taken as a credit for the taxable year
 658 under s. 220.192.

659 Section 14. Subsection (2) of section 186.801, Florida
 660 Statutes, is amended to read:

661 186.801 Ten-year site plans.--

662 (2) Within 9 months after the receipt of the proposed
 663 plan, the commission shall make a preliminary study of such plan

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664 and classify it as "suitable" or "unsuitable." The commission
665 may suggest alternatives to the plan. All findings of the
666 commission shall be made available to the Department of
667 Environmental Protection for its consideration at any subsequent
668 electrical power plant site certification proceedings. It is
669 recognized that 10-year site plans submitted by an electric
670 utility are tentative information for planning purposes only and
671 may be amended at any time at the discretion of the utility upon
672 written notification to the commission. A complete application
673 for certification of an electrical power plant site under
674 chapter 403, when such site is not designated in the current 10-
675 year site plan of the applicant, shall constitute an amendment
676 to the 10-year site plan. In its preliminary study of each 10-
677 year site plan, the commission shall consider such plan as a
678 planning document and shall review:

679 (a) The need, including the need as determined by the
680 commission, for electrical power in the area to be served.

681 (b) The effect on fuel diversity within the state.

682 (c)~~(b)~~ The anticipated environmental impact of each
683 proposed electrical power plant site.

684 (d)~~(e)~~ Possible alternatives to the proposed plan.

685 (e)~~(d)~~ The views of appropriate local, state, and federal
686 agencies, including the views of the appropriate water
687 management district as to the availability of water and its
688 recommendation as to the use by the proposed plant of salt water
689 or fresh water for cooling purposes.

690 (f)~~(e)~~ The extent to which the plan is consistent with the
691 state comprehensive plan.

692 (g)~~(f)~~ The plan with respect to the information of the
 693 state on energy availability and consumption.

694 Section 15. Subsection (6) of section 366.04, Florida
 695 Statutes, is amended to read:

696 366.04 Jurisdiction of commission.--

697 (6) The commission shall further have exclusive
 698 jurisdiction to prescribe and enforce safety standards for
 699 transmission and distribution facilities of all public electric
 700 utilities, cooperatives organized under the Rural Electric
 701 Cooperative Law, and electric utilities owned and operated by
 702 municipalities. In adopting safety standards, the commission
 703 shall, at a minimum:

704 (a) Adopt the 1984 edition of the National Electrical
 705 Safety Code (ANSI C2) as initial standards; and

706 (b) Adopt, after review, any new edition of the National
 707 Electrical Safety Code (ANSI C2).

708

709 The standards prescribed by the current 1984 edition of the
 710 National Electrical Safety Code (ANSI C2) shall constitute
 711 acceptable and adequate requirements for the protection of the
 712 safety of the public, and compliance with the minimum
 713 requirements of that code shall constitute good engineering
 714 practice by the utilities. The administrative authority referred
 715 to in the 1984 edition of the National Electrical Safety Code is
 716 the commission. However, nothing herein shall be construed as
 717 superseding, repealing, or amending the provisions of s.

718 403.523(1) and (10).

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719 Section 16. Subsections (1) and (8) of section 366.05,
720 Florida Statutes, are amended to read:

721 366.05 Powers.--

722 (1) In the exercise of such jurisdiction, the commission
723 shall have power to prescribe fair and reasonable rates and
724 charges, classifications, standards of quality and measurements,
725 including the ability to adopt construction standards that
726 exceed the National Electrical Safety Code, for purposes of
727 ensuring the reliable provision of service and service rules and
728 regulations to be observed by each public utility; to require
729 repairs, improvements, additions, replacements, and extensions
730 to the plant and equipment of any public utility when reasonably
731 necessary to promote the convenience and welfare of the public
732 and secure adequate service or facilities for those reasonably
733 entitled thereto; to employ and fix the compensation for such
734 examiners and technical, legal, and clerical employees as it
735 deems necessary to carry out the provisions of this chapter; and
736 to adopt rules pursuant to ss. 120.536(1) and 120.54 to
737 implement and enforce the provisions of this chapter.

738 (8) If the commission determines that there is probable
739 cause to believe that inadequacies exist with respect to the
740 energy grids developed by the electric utility industry,
741 including inadequacies in fuel diversity or fuel supply
742 reliability, it shall have the power, after proceedings as
743 provided by law, and after a finding that mutual benefits will
744 accrue to the electric utilities involved, to require
745 installation or repair of necessary facilities, including
746 generating plants and transmission facilities, with the costs to

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747 be distributed in proportion to the benefits received, and to
748 take all necessary steps to ensure compliance. The electric
749 utilities involved in any action taken or orders issued pursuant
750 to this subsection shall have full power and authority,
751 notwithstanding any general or special laws to the contrary, to
752 jointly plan, finance, build, operate, or lease generating, ~~and~~
753 transmission, and distribution facilities and shall be further
754 authorized to exercise the powers granted to corporations in
755 chapter 361. This subsection shall not supersede or control any
756 provision of the Florida Electrical Power Plant Siting Act, ss.
757 403.501-403.518.

758 Section 17. The Florida Public Service Commission shall
759 conduct a study of the electric transmission grid in the state.
760 The study shall look at electric system reliability to examine
761 the efficiency and reliability of power transfer and emergency
762 contingency conditions. In addition, the study shall examine
763 subterranean placement of distribution lines and the hardening
764 of infrastructure to address issues arising from the 2004 and
765 2005 hurricane seasons. A report of the results of the study
766 shall be provided to the Governor, the President of the Senate,
767 and the Speaker of the House of Representatives by January 30,
768 2007.

769 Section 18. Subsections (5), (8), (9), (12), and (27) of
770 section 403.503, Florida Statutes, are amended, subsections (16)
771 through (28) are renumbered as (17) through (29), respectively,
772 and new subsection (16) is added to that section, to read:

773 403.503 Definitions relating to Florida Electrical Power
774 Plant Siting Act.--As used in this act:

775 (5) "Application" means the documents required by the
776 department to be filed to initiate a certification review and
777 evaluation, including the initial document filing, amendments,
778 and responses to requests from the department for additional
779 data and information ~~proceeding and shall include the documents~~
780 ~~necessary for the department to render a decision on any permit~~
781 ~~required pursuant to any federally delegated or approved permit~~
782 ~~program.~~

783 (8) "Completeness" means that the application has
784 addressed all applicable sections of the prescribed application
785 format, and ~~but does not mean~~ that those sections are sufficient
786 in comprehensiveness of data or in quality of information
787 provided to allow the department to determine whether the
788 application provides the reviewing agencies adequate information
789 to prepare the reports required by s. 403.507.

790 (9) "Corridor" means the proposed area within which an
791 associated linear facility right-of-way is to be located. The
792 width of the corridor proposed for certification as an
793 associated facility, at the option of the licensee ~~applicant,~~
794 may be the width of the right-of-way or a wider boundary, not to
795 exceed a width of 1 mile. The area within the corridor in which
796 a right-of-way may be located may be further restricted by a
797 condition of certification. After all property interests
798 required for the right-of-way have been acquired by the licensee
799 ~~applicant,~~ the boundaries of the area certified shall narrow to
800 only that land within the boundaries of the right-of-way.

801 (12) "Electrical power plant" means, for the purpose of
802 certification, any steam or solar electrical generating facility

803 using any process or fuel, including nuclear materials, except
 804 that this term does not include any steam or solar electric
 805 generating facility of less than 75 megawatts in capacity unless
 806 the applicant for such a facility elects to apply for
 807 certification under this act. This term ~~and~~ includes associated
 808 facilities which directly support the construction and operation
 809 of the electrical power plant such as fuel unloading facilities,
 810 pipelines necessary for transporting fuel for the operation of
 811 the facility or other fuel transportation facilities, water or
 812 wastewater transport pipelines, construction, maintenance and
 813 access roads, railway lines necessary for transport of
 814 construction equipment or fuel for the operation of the
 815 facility, and those associated transmission lines which connect
 816 the electrical power plant to an existing transmission network
 817 or rights-of-way to which the licensee ~~applicant~~ intends to
 818 connect, ~~except that this term does not include any steam or~~
 819 ~~solar electrical generating facility of less than 75 megawatts~~
 820 ~~in capacity unless the applicant for such a facility elects to~~
 821 ~~apply for certification under this act.~~ An associated
 822 transmission line may include, at the licensee's ~~applicant's~~
 823 option, any proposed terminal or intermediate substations or
 824 substation expansions connected to the associated transmission
 825 line.

826 (16) "Licensee" means an applicant that has obtained a
 827 certification order for the subject project.

828 (28) (27) "Ultimate site capacity" means the maximum
 829 generating capacity for a site as certified by the board.

830 ~~"Sufficiency" means that the application is not only complete~~

831 ~~but that all sections are sufficient in the comprehensiveness of~~
 832 ~~data or in the quality of information provided to allow the~~
 833 ~~department to determine whether the application provides the~~
 834 ~~reviewing agencies adequate information to prepare the reports~~
 835 ~~required by s. 403.507.~~

836 Section 19. Subsections (1), (7), (9), and (10) of section
 837 403.504, Florida Statutes, are amended, and new subsections (9),
 838 (10), (11), and (12) are added to that section, to read:

839 403.504 Department of Environmental Protection; powers and
 840 duties enumerated.--The department shall have the following
 841 powers and duties in relation to this act:

842 (1) To adopt rules pursuant to ss. 120.536(1) and 120.54
 843 to implement the provisions of this act, including rules setting
 844 forth environmental precautions to be followed in relation to
 845 the location, construction, and operation of electrical power
 846 plants.

847 (7) To conduct studies and prepare a project written
 848 analysis under s. 403.507.

849 (9) To issue final orders after receipt of the
 850 administrative law judge's order relinquishing jurisdiction
 851 pursuant to s. 403.508(6).

852 (10) To act as clerk for the siting board.

853 (11) To administer and manage the terms and conditions of
 854 the certification order and supporting documents and records for
 855 the life of the facility.

856 (12) To issue emergency orders on behalf of the board for
 857 facilities licensed under this act.

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858 ~~(9) To notify all affected agencies of the filing of a~~
 859 ~~notice of intent within 15 days after receipt of the notice.~~

860 ~~(10) To issue, with the electrical power plant~~
 861 ~~certification, any license required pursuant to any federally~~
 862 ~~delegated or approved permit program.~~

863 Section 20. Section 403.5055, Florida Statutes, is amended
 864 to read:

865 403.5055 Application for permits pursuant to s.
 866 403.0885.--In processing applications for permits pursuant to s.
 867 403.0885 that are associated with applications for electrical
 868 power plant certification:

869 (1) The procedural requirements set forth in 40 C.F.R. s.
 870 123.25, including public notice, public comments, and public
 871 hearings, shall be closely coordinated with the certification
 872 process established under this part. In the event of a conflict
 873 between the certification process and federally required
 874 procedures for NPDES permit issuance, the applicable federal
 875 requirements shall control.

876 ~~(2) The department's proposed action pursuant to 40 C.F.R.~~
 877 ~~s. 124.6, including any draft NPDES permit (containing the~~
 878 ~~information required under 40 C.F.R. s. 124.6(d)), shall within~~
 879 ~~130 days after the submittal of a complete application be~~
 880 ~~publicly noticed and transmitted to the United States~~
 881 ~~Environmental Protection Agency for its review pursuant to 33~~
 882 ~~U.S.C. s. 1342(d).~~

883 ~~(3) The department shall include in its written analysis~~
 884 ~~pursuant to s. 403.507(3) copies of the department's proposed~~
 885 ~~action pursuant to 40 C.F.R. s. 124.6 on any application for a~~

886 ~~NPDES permit, any corresponding comments received from the~~
 887 ~~United States Environmental Protection Agency, the applicant, or~~
 888 ~~the general public, and the department's response to those~~
 889 ~~comments.~~

890 (2)(4) The department shall not issue or deny the permit
 891 pursuant to s. 403.0885 in advance of the issuance of the
 892 electric power plant certification under this part unless
 893 required to do so by the provisions of federal law. When
 894 possible, any hearing on a permit issued pursuant to s.
 895 403.0885, shall be conducted in conjunction with the
 896 certification hearing held pursuant to this act. The
 897 department's actions on an NPDES permit shall be based on the
 898 record and recommended order of the certification hearing, if
 899 the hearing on the NPDES was conducted in conjunction with the
 900 certification hearing, and of any other proceeding held in
 901 connection with the application for an NPDES permit, timely
 902 public comments received with respect to the application, and
 903 the provisions of federal law. The department's action on an
 904 NPDES permit, if issued, shall differ from the actions taken by
 905 the siting board regarding the certification order if federal
 906 laws and regulations require different action to be taken to
 907 ensure compliance with the Clean Water Act, as amended, and
 908 implementing regulations. Nothing in this part shall be
 909 construed to displace the department's authority as the final
 910 permitting entity under the federally approved state NPDES
 911 program. Nothing in this part shall be construed to authorize
 912 the issuance of a state NPDES permit which does not conform to

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913 the requirements of the federally approved state NPDES program.

914 ~~The permit, if issued, shall be valid for no more than 5 years.~~

915 ~~(5) The department's action on an NPDES permit renewal, if~~

916 ~~issued, shall differ from the actions taken by the siting board~~

917 ~~regarding the certification order if federal laws and~~

918 ~~regulations require different action to be taken to ensure~~

919 ~~compliance with the Clean Water Act, as amended, and~~

920 ~~implementing regulations.~~

921 Section 21. Section 403.506, Florida Statutes, is amended
922 to read:

923 403.506 Applicability and certification.--

924 (1) The provisions of this act shall apply to any
925 electrical power plant as defined herein, except that the
926 provisions of this act shall not apply to any electrical power
927 plant or steam generating plant of less than 75 megawatts in
928 capacity or to any substation to be constructed as part of an
929 associated transmission line unless the applicant has elected to
930 apply for certification of such plant or substation under this
931 act. No construction of any new electrical power plant or
932 expansion in steam generating capacity as measured by an
933 increase in the maximum normal generator nameplate rating of any
934 existing electrical power plant may be undertaken after October
935 1, 1973, without first obtaining certification in the manner as
936 herein provided, except that this act shall not apply to any
937 such electrical power plant which is presently operating or
938 under construction or which has, upon the effective date of
939 chapter 73-33, Laws of Florida, applied for a permit or

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940 certification under requirements in force prior to the effective
941 date of such act.

942 (2) Except as provided in the certification, modification
943 of nonnuclear fuels, internal related hardware, including
944 increases in steam turbine efficiency, or operating conditions
945 not in conflict with certification which increase the electrical
946 output of a unit to no greater capacity than the maximum
947 operating capacity of the existing generator shall not
948 constitute an alteration or addition to generating capacity
949 which requires certification pursuant to this act.

950 ~~(3) The application for any related department license~~
951 ~~which is required pursuant to any federally delegated or~~
952 ~~approved permit program shall be processed within the time~~
953 ~~periods allowed by this act, in lieu of those specified in s.~~
954 ~~120.60. However, permits issued pursuant to s. 403.0885 shall be~~
955 ~~processed in accordance with 40 C.F.R. part 123.~~

956 Section 22. Section 403.5064, Florida Statutes, is amended
957 to read:

958 403.5064 Distribution of application; schedules.--

959 (1) The formal date of certification application filing
960 and commencement of the certification review process shall be
961 when the applicant submits:

962 (a) Copies of the certification application as prescribed
963 by rule to the department and other agencies identified in s.
964 403.507(2)(a).

965 (b) The application fee specified under s. 403.518 to the
966 department.

967 (2)~~(1)~~ Within 7 days after the filing of an application,
 968 the department shall provide to the applicant and the Division
 969 of Administrative Hearings the names and addresses of any
 970 additional ~~those affected or other~~ agencies or persons entitled
 971 to notice and copies of the application and any amendments.

972 (3) Any amendment to the application made prior to
 973 certification shall be disposed of as part of the original
 974 certification proceeding. Amendment of the application may be
 975 considered good cause for alteration of time limits pursuant to
 976 s. 403.5095.

977 (4)~~(2)~~ Within 15 7 days after the application filing
 978 ~~completeness has been determined~~, the department shall prepare a
 979 proposed schedule of dates for determination of completeness,
 980 submission of statements of issues, ~~determination of~~
 981 ~~sufficiency,~~ and submittal of final reports, ~~from affected and~~
 982 ~~other agencies~~ and other significant dates to be followed during
 983 the certification process, including dates for filing notices of
 984 appearance to be a party pursuant to s. 403.508 (3)~~(4)~~. This
 985 schedule shall be timely provided by the department to the
 986 applicant, the administrative law judge, all agencies identified
 987 pursuant to subsection (2) ~~(1)~~, and all parties. Within 7 days
 988 after the filing of this proposed schedule, the administrative
 989 law judge shall issue an order establishing a schedule for the
 990 matters addressed in the department's proposed schedule and
 991 other appropriate matters, if any.

992 (5)~~(3)~~ ~~Within 7 days after completeness has been~~
 993 ~~determined, the applicant shall distribute copies of the~~
 994 ~~application to all agencies identified by the department~~

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995 ~~pursuant to subsection (1)~~. Copies of changes and amendments to
 996 the application shall be timely distributed by the applicant to
 997 all ~~affected~~ agencies and parties who have received a copy of
 998 the application.

999 (6) Notice of the filing of the application shall be
 1000 published in accordance with the requirements of s. 403.5115.

1001 Section 23. Section 403.5065, Florida Statutes, is amended
 1002 to read:

1003 403.5065 Appointment of administrative law judge, powers
 1004 and duties.--

1005 (1) Within 7 days after receipt of an application, ~~whether~~
 1006 ~~complete or not~~, the department shall request the Division of
 1007 Administrative Hearings to designate an administrative law judge
 1008 to conduct the hearings required by this act. The division
 1009 director shall designate an administrative law judge within 7
 1010 days after receipt of the request from the department. In
 1011 designating an administrative law judge for this purpose, the
 1012 division director shall, whenever practicable, assign an
 1013 administrative law judge who has had prior experience or
 1014 training in electrical power plant site certification
 1015 proceedings. Upon being advised that an administrative law judge
 1016 has been appointed, the department shall immediately file a copy
 1017 of the application and all supporting documents with the
 1018 designated administrative law judge, who shall docket the
 1019 application.

1020 (2) The administrative law judge shall have all powers and
 1021 duties granted to administrative law judges by chapter 120 and
 1022 by the laws and rules of the department.

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1023 Section 24. Section 403.5066, Florida Statutes, is amended
 1024 to read:

1025 403.5066 Determination of completeness.--

1026 (1) (a) Within 30 days after filing of an application, the
 1027 affected agencies shall file a statement with the department
 1028 containing each agency's recommendations on the completeness of
 1029 the application.

1030 (b) Within 40 ~~15~~ days after the filing receipt of an
 1031 application, the department shall file a statement with the
 1032 Division of Administrative Hearings, and with the applicant, and
 1033 with all parties declaring its position with regard to the
 1034 completeness, not the sufficiency, of the application. The
 1035 department's statement shall be based upon consultation with the
 1036 affected agencies.

1037 (2) ~~(1)~~ If the department declares the application to be
 1038 incomplete, the applicant, within 15 days after the filing of
 1039 the statement by the department, shall file with the Division of
 1040 Administrative Hearings, and with the department, and all
 1041 parties a statement:

1042 (a) A withdrawal of Agreeing with the statement of the
 1043 department and withdrawing the application;

1044 (b) Additional information necessary to make the
 1045 application complete. If the department first determined that
 1046 the application is incomplete, the time schedules under this act
 1047 shall not be tolled if the applicant makes the application
 1048 complete within the 15-day time period. A subsequent finding by
 1049 the department that the application remains incomplete tolls the
 1050 time schedules under this act until the application is

1051 determined complete; ~~Agreeing with the statement of the~~
 1052 ~~department and agreeing to amend the application without~~
 1053 ~~withdrawing it. The time schedules referencing a complete~~
 1054 ~~application under this act shall not commence until the~~
 1055 ~~application is determined complete; or~~

1056 (c) A statement contesting the department's determination
 1057 of incompleteness; or ~~contesting the statement of the~~
 1058 ~~department.~~

1059 (d) A statement agreeing with the department and
 1060 requesting additional time to provide the information necessary
 1061 to make the application complete. If the applicant exercises
 1062 this option, the time schedules under this act are tolled until
 1063 the application is determined complete.

1064 (3) (a) ~~(2)~~ If the applicant contests the determination by
 1065 the department that an application is incomplete, the
 1066 administrative law judge shall schedule a hearing on the
 1067 statement of completeness. The hearing shall be held as
 1068 expeditiously as possible, but not later than 21 ~~30~~ days after
 1069 the filing of the statement by the department. The
 1070 administrative law judge shall render a decision within 7 ~~10~~
 1071 days after the hearing.

1072 (b) Parties to a hearing on the issue of completeness
 1073 shall include the applicant, the department, and any agency that
 1074 has jurisdiction over the matter in dispute. Any substantially
 1075 affected person who wishes to become a party to the completeness
 1076 hearing must file a motion to intervene no later than 10 days
 1077 prior to the date of the hearing.

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1078 (c)~~(a)~~ If the administrative law judge determines that the
 1079 application was not complete ~~as filed~~, the applicant shall
 1080 withdraw the application or make such additional submittals as
 1081 necessary to complete it. The time schedules referencing a
 1082 complete application under this act shall not commence until the
 1083 application is determined complete.

1084 (d)~~(b)~~ If the administrative law judge determines that the
 1085 application was complete at the time it was declared incomplete
 1086 ~~filed~~, the time schedules referencing a complete application
 1087 under this act shall commence upon such determination.

1088 (4) If the applicant provides additional information to
 1089 address the issues identified in the determination of
 1090 incompleteness, each affected agency may submit to the
 1091 department, no later than 15 days after the applicant files the
 1092 additional information, a recommendation on whether the agency
 1093 believes the application is complete. Within 22 days after
 1094 receipt of the additional information from the applicant
 1095 submitted under paragraph (2)(b), paragraph (2)(d), or paragraph
 1096 (3)(c), the department shall determine whether the additional
 1097 information supplied by an applicant makes the application
 1098 complete. If the department finds that the application is still
 1099 incomplete, the applicant may exercise any of the options
 1100 specified in subsection (2) as often as is necessary to resolve
 1101 the dispute.

1102 Section 25. Section 403.50663, Florida Statutes, is
 1103 created to read:

1104 403.50663 Informational public meetings.--

1105 (1) Each local government or regional planning council, in

1106 the jurisdiction of which the power plant is proposed to be
 1107 sited, may hold one informational public meeting in addition to
 1108 the hearings specifically authorized by this act on any matter
 1109 associated with the electric power plant proceeding. Such
 1110 informational public meetings shall be held no later than 70
 1111 days after the application is filed. The purpose of an
 1112 informational public meeting is for the local government or
 1113 regional planning council to further inform the public about the
 1114 proposed electric power plant or associated facilities, obtain
 1115 comments from the public, and formulate its recommendation with
 1116 respect to the proposed electric power plant.

1117 (2) Informational public meetings shall be held solely at
 1118 the option of each local government or regional planning
 1119 council. It is the legislative intent that local governments or
 1120 regional planning councils attempt to hold such public meetings.
 1121 Parties to the proceedings under this act shall be encouraged to
 1122 attend; however, no party other than the applicant and the
 1123 department shall be required to attend such informational public
 1124 meetings.

1125 (3) A local government or regional planning council that
 1126 intends to conduct an informational public meeting must provide
 1127 notice of the meeting to all parties not less than 5 days prior
 1128 to the meeting.

1129 (4) The failure to hold an informational public meeting or
 1130 the procedure used for the informational public meeting are not
 1131 for the alteration of any time limitation in this act under s.
 1132 403.5095 or grounds to deny or condition certification.

1133 Section 26. Section 403.50665, Florida Statutes, is
 1134 created to read:

1135 403.50665 Land use consistency determination.--

1136 (1) Within 80 days after the application is filed, each
 1137 local government shall file a determination with the department
 1138 and the applicant on the consistency of the site or any directly
 1139 associated facilities within their jurisdiction with existing
 1140 land use plans and zoning ordinances which were in effect on the
 1141 date the application was filed. The applicant shall publish
 1142 notice of the determination in accordance with the requirements
 1143 of s. 403.5115. These dates may be altered upon agreement
 1144 between the applicant, the local government, and the department
 1145 pursuant to s. 403.5095.

1146 (2) If any substantially affected person wishes to dispute
 1147 the local government's determination, he or she shall file a
 1148 petition with the department within 15 days of the publication
 1149 of notice of the local government's determination. If a hearing
 1150 is requested, the provisions of s. 403.508(1) shall apply.

1151 (3) If it is determined by the local government that the
 1152 proposed site or directly associated facility does conform with
 1153 existing land use plans and zoning ordinances in effect as of
 1154 the date of the application and no petition has been filed, the
 1155 responsible zoning or planning authority shall not thereafter
 1156 change such land use plans or zoning ordinances so as to
 1157 foreclose construction and operation of the proposed site or
 1158 directly associated facilities unless certification is
 1159 subsequently denied or withdrawn.

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1160 Section 27. Section 403.5067, Florida Statutes, is
 1161 repealed.

1162 Section 28. Section 403.507, Florida Statutes, is amended
 1163 to read:

1164 403.507 Preliminary statements of issues, reports, project
 1165 analyses, and studies.--

1166 (1) Each affected agency identified in paragraph (2)(a)
 1167 shall submit a preliminary statement of issues to the
 1168 department, ~~and the applicant, and all parties~~ no later than 40
 1169 ~~60~~ days after the certification application has been determined
 1170 ~~distribution of the complete application.~~ The failure to raise
 1171 an issue in this statement shall not preclude the issue from
 1172 being raised in the agency's report.

1173 (2)(a) No later than 100 days after the certification
 1174 application has been determined complete, the following reports
 1175 shall be submitted to the department and the applicant ~~The~~
 1176 ~~following agencies shall prepare reports as provided below and~~
 1177 ~~shall submit them to the department and the applicant within 150~~
 1178 ~~days after distribution of the complete application:~~

1179 1. The Department of Community Affairs shall prepare a
 1180 report containing recommendations which address the impact upon
 1181 the public of the proposed electrical power plant, based on the
 1182 degree to which the electrical power plant is consistent with
 1183 the applicable portions of the state comprehensive plan,
 1184 emergency management, and other such matters within its
 1185 jurisdiction. The Department of Community Affairs may also
 1186 comment on the consistency of the proposed electrical power

1187 plant with applicable strategic regional policy plans or local
 1188 comprehensive plans and land development regulations.

1189 ~~2.~~ ~~The Public Service Commission shall prepare a report as~~
 1190 ~~to the present and future need for the electrical generating~~
 1191 ~~capacity to be supplied by the proposed electrical power plant.~~
 1192 ~~The report shall include the commission's determination pursuant~~
 1193 ~~to s. 403.519 and may include the commission's comments with~~
 1194 ~~respect to any other matters within its jurisdiction.~~

1195 2.3. The water management district shall prepare a report
 1196 as to matters within its jurisdiction, including but not limited
 1197 to, impact on water resources, impact on regional water supply
 1198 planning, and impact on district-owned lands and works.

1199 3.4. Each local government in whose jurisdiction the
 1200 proposed electrical power plant is to be located shall prepare a
 1201 report as to the consistency of the proposed electrical power
 1202 plant with all applicable local ordinances, regulations,
 1203 standards, or criteria that apply to the proposed electrical
 1204 power plant, ~~including adopted local comprehensive plans, land~~
 1205 ~~development regulations, and any applicable local environmental~~
 1206 regulations adopted pursuant to s. 403.182 or by other means.

1207 4.5. The Fish and Wildlife Conservation Commission shall
 1208 prepare a report as to matters within its jurisdiction.

1209 5.6. Each ~~The~~ regional planning council shall prepare a
 1210 report containing recommendations that address the impact upon
 1211 the public of the proposed electrical power plant, based on the
 1212 degree to which the electrical power plant is consistent with
 1213 the applicable provisions of the strategic regional policy plan

1214 adopted pursuant to chapter 186 and other matters within its
 1215 jurisdiction.

1216 6. The Department of Transportation shall address the
 1217 impact of the proposed transmission line or corridor on roads,
 1218 railroads, airports, aeronautics, seaports, and other matters
 1219 within its jurisdiction.

1220 (b)7- Any other agency, if requested by the department,
 1221 shall also perform studies or prepare reports as to matters
 1222 within that agency's jurisdiction which may potentially be
 1223 affected by the proposed electrical power plant.

1224 ~~(b) As needed to verify or supplement the studies made by~~
 1225 ~~the applicant in support of the application, it shall be the~~
 1226 ~~duty of the department to conduct, or contract for, studies of~~
 1227 ~~the proposed electrical power plant and site, including, but not~~
 1228 ~~limited to, the following, which shall be completed no later~~
 1229 ~~than 210 days after the complete application is filed with the~~
 1230 ~~department:~~

- 1231 ~~1. Cooling system requirements.~~
- 1232 ~~2. Construction and operational safeguards.~~
- 1233 ~~3. Proximity to transportation systems.~~
- 1234 ~~4. Soil and foundation conditions.~~
- 1235 ~~5. Impact on suitable present and projected water supplies~~
 1236 ~~for this and other competing uses.~~
- 1237 ~~6. Impact on surrounding land uses.~~
- 1238 ~~7. Accessibility to transmission corridors.~~
- 1239 ~~8. Environmental impacts.~~
- 1240 ~~9. Requirements applicable under any federally delegated~~
 1241 ~~or approved permit program.~~

1242 (3)~~(e)~~ Each report described in subsection (2) ~~paragraphs~~
 1243 ~~(a) and (b)~~ shall contain:

1244 (a) A notice of any nonprocedural requirements not
 1245 specifically listed in the application from which a variance,
 1246 exemption, exception, all information on variances, exemptions,
 1247 exceptions, or other relief is necessary in order for the
 1248 proposed electric power plant to be certified. Failure of such
 1249 notification by an agency shall be treated as a waiver from
 1250 nonprocedural requirements of that agency. However, no variance
 1251 shall be granted from standards or regulations of the department
 1252 applicable under any federally delegated or approved permit
 1253 program, except as expressly allowed in such program. ~~which may~~
 1254 ~~be required by s. 403.511(2) and~~

1255 (b) A recommendation for approval or denial of the
 1256 application.

1257 (c) Any proposed conditions of certification on matters
 1258 within the jurisdiction of such agency. For each condition
 1259 proposed by an agency in its report, the agency shall list the
 1260 specific statute, rule, or ordinance which authorizes the
 1261 proposed condition.

1262 (d) The agencies shall initiate the activities required by
 1263 this section no later than 30 days after the complete
 1264 application is distributed. The agencies shall keep the
 1265 applicant and the department informed as to the progress of the
 1266 studies and any issues raised thereby.

1267 ~~(3) No later than 60 days after the application for a~~
 1268 ~~federally required new source review or prevention of~~
 1269 ~~significant deterioration permit for the electrical power plant~~

1270 ~~is complete and sufficient, the department shall issue its~~
 1271 ~~preliminary determination on such permit. Notice of such~~
 1272 ~~determination shall be published as required by the department's~~
 1273 ~~rules for notices of such permits. The department shall receive~~
 1274 ~~public comments and comments from the United States~~
 1275 ~~Environmental Protection Agency and other affected agencies on~~
 1276 ~~the preliminary determination as provided for in the federally~~
 1277 ~~approved state implementation plan. The department shall~~
 1278 ~~maintain a record of all comments received and considered in~~
 1279 ~~taking action on such permits. If a petition for an~~
 1280 ~~administrative hearing on the department's preliminary~~
 1281 ~~determination is filed by a substantially affected person, that~~
 1282 ~~hearing shall be consolidated with the certification hearing.~~

1283 (4) (a) No later than 150 days after the application is
 1284 filed, the Public Service Commission shall prepare a report as
 1285 to the present and future need for electric generating capacity
 1286 to be supplied by the proposed electrical power plant. The
 1287 report shall include the commission's determination pursuant to
 1288 s. 403.519 and may include the commission's comments with
 1289 respect to any other matters within its jurisdiction.

1290 (b) Receipt of an affirmative determination of need by the
 1291 submittal deadline under paragraph (a) and shall be required for
 1292 further processing of the application.

1293 (5) (4) The department shall prepare a project written
 1294 analysis, which shall be filed with the designated
 1295 administrative law judge and served on all parties no later than
 1296 130 240 days after the complete application is determined

1297 ~~complete filed with the department, but no later than 60 days~~
 1298 ~~prior to the hearing,~~ and which shall include:

1299 (a) A statement indicating whether the proposed electrical
 1300 power plant and proposed ultimate site capacity will be in
 1301 compliance and consistent with matters within the department's
 1302 standard jurisdiction, including with the rules of the
 1303 department, as well as whether the proposed electrical power
 1304 plant and proposed ultimate site capacity will be in compliance
 1305 with the rules of the affected agencies.

1306 (b) Copies of the studies and reports required by this
 1307 section ~~and s. 403.519.~~

1308 (c) The comments received by the department from any other
 1309 agency or person.

1310 (d) The recommendation of the department as to the
 1311 disposition of the application, of variances, exemptions,
 1312 exceptions, or other relief identified by any party, and of any
 1313 proposed conditions of certification which the department
 1314 believes should be imposed.

1315 (e) If available, the recommendation of the department
 1316 regarding the issuance of any license required pursuant to a
 1317 federally delegated or approved permit program.

1318 ~~(f) Copies of the department's draft of the operation~~
 1319 ~~permit for a major source of air pollution, which must also be~~
 1320 ~~provided to the United States Environmental Protection Agency~~
 1321 ~~for review within 5 days after issuance of the written analysis.~~

1322 ~~(6)(5)~~ Except when good cause is shown, the failure of any
 1323 agency to submit a preliminary statement of issues or a report,
 1324 or to submit its preliminary statement of issues or report

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1325 within the allowed time, shall not be grounds for the alteration
 1326 of any time limitation in this act. Neither the failure to
 1327 submit a preliminary statement of issues or a report nor the
 1328 inadequacy of the preliminary statement of issues or report are
 1329 ~~shall be~~ grounds to deny or condition certification.

1330 Section 29. Section 403.508, Florida Statutes, is amended
 1331 to read:

1332 403.508 Land use and certification hearings ~~proceedings~~,
 1333 parties, participants.--

1334 (1) (a) If a petition for a hearing on land use has been
 1335 filed pursuant to s. 403.50665, the designated administrative
 1336 law judge shall conduct a land use hearing in the county of the
 1337 proposed site or directly associated facility, as applicable,
 1338 within 30 ~~90~~ days after the department's receipt of the petition
 1339 ~~a complete application for electrical power plant site~~
 1340 ~~certification by the department~~. The place of such hearing shall
 1341 be as close as possible to the proposed site or directly
 1342 associated facility.

1343 (b) Notice of the land use hearing shall be published in
 1344 accordance with the requirements of s. 403.5115.

1345 (c) ~~(2)~~ The sole issue for determination at the land use
 1346 hearing shall be whether or not the proposed site is consistent
 1347 and in compliance with existing land use plans and zoning
 1348 ordinances.

1349 (d) The designated administrative law judge's recommended
 1350 order shall be issued within 30 days after completion of the
 1351 hearing and shall be reviewed by the board within 60 ~~45~~ days
 1352 after receipt of the recommended order by the board.

1353 (e) If it is determined by the board that the proposed
 1354 site does conform with existing land use plans and zoning
 1355 ordinances in effect as of the date of the application, the
 1356 responsible zoning or planning authority shall not thereafter
 1357 change such land use plans or zoning ordinances so as to
 1358 foreclose construction and operation of ~~affect~~ the proposed site
 1359 or directly associated facilities unless certification is
 1360 subsequently denied or withdrawn.

1361 (f) If it is determined by the board that the proposed
 1362 site does not conform, ~~it shall be the responsibility of the~~
 1363 ~~applicant to make the necessary application for rezoning. Should~~
 1364 ~~the application for rezoning be denied, the applicant may appeal~~
 1365 ~~this decision to the board, which may,~~ if it determines after
 1366 notice and hearing that it is in the public interest to
 1367 authorize the use of the land as a site for an electrical power
 1368 plant, authorize a variance to the adopted land use plan and
 1369 zoning ordinances. In the event a variance is denied, it shall
 1370 be the responsibility of the applicant to make the necessary
 1371 application for rezoning. No further action may be taken on the
 1372 complete application ~~by the department~~ until the proposed site
 1373 conforms to the adopted land use plan or zoning ordinances or
 1374 the board grants a variance.

1375 (2) (a) ~~(3)~~ A certification hearing shall be held by the
 1376 designated administrative law judge no later than 250 ~~300~~ days
 1377 after the ~~complete~~ application is filed with the department,
 1378 ~~however, an affirmative determination of need by the Public~~
 1379 ~~Service Commission pursuant to s. 403.519 shall be a condition~~
 1380 ~~precedent to the conduct of the certification hearing.~~ The

1381 certification hearing shall be held at a location in proximity
 1382 to the proposed site. ~~The certification hearing shall also~~
 1383 ~~constitute the sole hearing allowed by chapter 120 to determine~~
 1384 ~~the substantial interest of a party regarding any required~~
 1385 ~~agency license or any related permit required pursuant to any~~
 1386 ~~federally delegated or approved permit program. At the~~
 1387 ~~conclusion of the certification hearing, the designated~~
 1388 ~~administrative law judge shall, after consideration of all~~
 1389 ~~evidence of record, submit to the board a recommended order no~~
 1390 ~~later than 60 days after the filing of the hearing transcript.~~
 1391 ~~In the event the administrative law judge fails to issue a~~
 1392 ~~recommended order within 60 days after the filing of the hearing~~
 1393 ~~transcript, the administrative law judge shall submit a report~~
 1394 ~~to the board with a copy to all parties within 60 days after the~~
 1395 ~~filing of the hearing transcript to advise the board of the~~
 1396 ~~reason for the delay in the issuance of the recommended order~~
 1397 ~~and of the date by which the recommended order will be issued.~~

1398 (b)(4)(a) Parties to the proceeding shall include:

- 1399 1. The applicant.
- 1400 2. The Public Service Commission.
- 1401 3. The Department of Community Affairs.
- 1402 4. The Fish and Wildlife Conservation Commission.
- 1403 5. The water management district.
- 1404 6. The department.
- 1405 7. The regional planning council.
- 1406 8. The local government.
- 1407 9. The Department of Transportation.

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1408 (c)~~(b)~~ Any party listed in paragraph (b)~~(a)~~ other than the
1409 department or the applicant may waive its right to participate
1410 in these proceedings. If such listed party fails to file a
1411 notice of its intent to be a party on or before the 90th day
1412 prior to the certification hearing, such party shall be deemed
1413 to have waived its right to be a party.

1414 (d)~~(e)~~ Notwithstanding the provisions of chapter 120 to
1415 the contrary, upon the filing with the administrative law judge
1416 of a notice of intent to be a party no later than 30 ~~at least 15~~
1417 days prior to the date of the certification ~~land use~~ hearing,
1418 the following shall also be parties to the proceeding:

1419 1. Any agency not listed in paragraph (b)~~(a)~~ as to matters
1420 within its jurisdiction.

1421 2. Any domestic nonprofit corporation or association
1422 formed, in whole or in part, to promote conservation or natural
1423 beauty; to protect the environment, personal health, or other
1424 biological values; to preserve historical sites; to promote
1425 consumer interests; to represent labor, commercial, or
1426 industrial groups; or to promote comprehensive planning or
1427 orderly development of the area in which the proposed electrical
1428 power plant is to be located.

1429 (e)~~(d)~~ Notwithstanding paragraph (f)~~(e)~~, failure of an
1430 agency described in subparagraph (d)1.~~(e)1.~~ to file a notice of
1431 intent to be a party within the time provided herein shall
1432 constitute a waiver of the right of that agency to participate
1433 as a party in the proceeding.

1434 (f)~~(e)~~ Other parties may include any person, including
1435 those persons enumerated in paragraph (d)~~(e)~~ who have failed to

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1436 | timely file a notice of intent to be a party, whose substantial
 1437 | interests are affected and being determined by the proceeding
 1438 | and who timely file a motion to intervene pursuant to chapter
 1439 | 120 and applicable rules. Intervention pursuant to this
 1440 | paragraph may be granted at the discretion of the designated
 1441 | administrative law judge and upon such conditions as he or she
 1442 | may prescribe any time prior to 30 days before the commencement
 1443 | of the certification hearing.

1444 | ~~(g)(f)~~ Any agency, including those whose properties or
 1445 | works are being affected pursuant to s. 403.509(4), shall be
 1446 | made a party upon the request of the department or the
 1447 | applicant.

1448 | (3)(a) The order of presentation at the certification
 1449 | hearing, unless otherwise changed by the administrative law
 1450 | judge to ensure the orderly presentation of witnesses and
 1451 | evidence, shall be:

- 1452 | 1. The applicant.
- 1453 | 2. The department.
- 1454 | 3. State agencies.
- 1455 | 4. Regional agencies, including regional planning councils
 1456 | and water management districts.
- 1457 | 5. Local governments.
- 1458 | 6. Other parties.

1459 | ~~(b)(5)~~ When appropriate, any person may be given an
 1460 | opportunity to present oral or written communications to the
 1461 | designated administrative law judge. If the designated
 1462 | administrative law judge proposes to consider such
 1463 | communications, then all parties shall be given an opportunity

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1464 to cross-examine or challenge or rebut such communications.

1465 (4) At the conclusion of the certification hearing, the
1466 designated administrative law judge shall, after consideration
1467 of all evidence of record, submit to the board a recommended
1468 order no later than 45 days after the filing of the hearing
1469 transcript.

1470 (5) (a) No later than 25 days prior to the conduct of the
1471 certification hearing, the department or the applicant may
1472 request that the administrative law judge cancel the
1473 certification hearing and relinquish jurisdiction to the
1474 department if all parties to the proceeding stipulate that there
1475 are no disputed issues of fact to be raised at the certification
1476 hearing.

1477 (b) The administrative law judge shall issue an order
1478 granting or denying the request within 5 days.

1479 (c) If the administrative law judge grants the request,
1480 the department and the applicant shall publish notices of the
1481 cancellation of the certification hearing, in accordance with s.
1482 403.5115.

1483 (d)1. If the administrative law judge grants the request,
1484 the department shall prepare and issue a final order in
1485 accordance with s. 403.509(1)(a).

1486 2. Parties may submit proposed recommended orders to the
1487 department no later than 10 days after the administrative law
1488 judge issues an order relinquishing jurisdiction.

1489 (6) The applicant shall pay those expenses and costs
1490 associated with the conduct of the hearings and the recording
1491 and transcription of the proceedings. ~~The designated~~

1492 ~~administrative law judge shall have all powers and duties~~
 1493 ~~granted to administrative law judges by chapter 120 and this~~
 1494 ~~chapter and by the rules of the department and the~~
 1495 ~~Administration Commission, including the authority to resolve~~
 1496 ~~disputes over the completeness and sufficiency of an application~~
 1497 ~~for certification.~~

1498 ~~(7) The order of presentation at the certification~~
 1499 ~~hearing, unless otherwise changed by the administrative law~~
 1500 ~~judge to ensure the orderly presentation of witnesses and~~
 1501 ~~evidence, shall be:~~

1502 ~~(a) The applicant.~~

1503 ~~(b) The department.~~

1504 ~~(c) State agencies.~~

1505 ~~(d) Regional agencies, including regional planning~~
 1506 ~~councils and water management districts.~~

1507 ~~(e) Local governments.~~

1508 ~~(f) Other parties.~~

1509 (7)(8) In issuing permits under the federally approved new
 1510 source review or prevention of significant deterioration permit
 1511 program, the department shall observe the procedures specified
 1512 under the federally approved state implementation plan,
 1513 including public notice, public comment, public hearing, and
 1514 notice of applications and amendments to federal, state, and
 1515 local agencies, to assure that all such permits issued in
 1516 coordination with the certification of a power plant under this
 1517 act are federally enforceable and are issued after opportunity
 1518 for informed public participation regarding the terms and
 1519 conditions thereof. When possible, any hearing on a federally

1520 approved or delegated program permit such as new source review,
 1521 prevention of significant deterioration permit, or NPDES permit
 1522 shall be conducted in conjunction with the certification hearing
 1523 held under this act. ~~The department shall accept written comment~~
 1524 ~~with respect to an application for, or the department's~~
 1525 ~~preliminary determination on, a new source review or prevention~~
 1526 ~~of significant deterioration permit for a period of no less than~~
 1527 ~~30 days from the date notice of such action is published. Upon~~
 1528 ~~request submitted within 30 days after published notice, the~~
 1529 ~~department shall hold a public meeting, in the area affected,~~
 1530 ~~for the purpose of receiving public comment on issues related to~~
 1531 ~~the new source review or prevention of significant deterioration~~
 1532 ~~permit. If requested following notice of the department's~~
 1533 ~~preliminary determination, the public meeting to receive public~~
 1534 ~~comment shall be held prior to the scheduled certification~~
 1535 ~~hearing. The department shall also solicit comments from the~~
 1536 ~~United States Environmental Protection Agency and other affected~~
 1537 ~~federal agencies regarding the department's preliminary~~
 1538 ~~determination for any federally required new source review or~~
 1539 ~~prevention of significant deterioration permit. It is the intent~~
 1540 ~~of the Legislature that the issuance of such permits be closely~~
 1541 ~~coordinated with the certification process established under~~
 1542 ~~this part. In the event of a conflict between the certification~~
 1543 ~~process and federally required procedures contained in the state~~
 1544 ~~implementation plan, the applicable federal requirements of the~~
 1545 ~~implementation plan shall control.~~

1546 Section 30. Section 403.509, Florida Statutes, is amended
 1547 to read:

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1548 403.509 Final disposition of application.--

1549 (1) (a) If the administrative law judge has granted a

1550 request to cancel the certification hearing and has relinquished

1551 jurisdiction to the department under the provisions of s.

1552 403.508(6), within 40 days thereafter, the secretary of the

1553 department shall act upon the application by written order in

1554 accordance with the terms of this act, and state the reasons for

1555 issuance or denial.

1556 (b) If the administrative law judge has not granted a

1557 request to cancel the certification hearing under the provisions

1558 of s. 403.508(6), within 60 days after receipt of the designated

1559 administrative law judge's recommended order, the board shall

1560 act upon the application by written order, approving

1561 ~~certification~~ or denying certification ~~the issuance of a~~

1562 ~~certificate~~, in accordance with the terms of this act, and

1563 stating the reasons for issuance or denial. If certification ~~the~~

1564 ~~certificate~~ is denied, the board shall set forth in writing the

1565 action the applicant would have to take to secure the board's

1566 approval of the application.

1567 (2) The issues that may be raised in any hearing before

1568 the board shall be limited to those matters raised in the

1569 certification proceeding before the administrative law judge or

1570 raised in the recommended order. All parties, or their

1571 representatives, or persons who appear before the board shall be

1572 subject to the provisions of s. 120.66.

1573 (3) In determining whether an application should be

1574 approved in whole, approved with modifications or conditions, or

1575 denied, the board, or secretary when applicable, shall consider

1576 whether, and the extent to which, the location of electric power
 1577 plant and directly associated facilities and their construction
 1578 and operation will:

1579 (a) Provide reasonable assurance that operational
 1580 safeguards are technically sufficient for the public welfare and
 1581 protection.

1582 (b) Comply with applicable nonprocedural requirements of
 1583 agencies.

1584 (c) Be consistent with applicable local government
 1585 comprehensive plans and land development regulations.

1586 (d) Meet the electrical energy needs of the state in an
 1587 orderly and timely fashion.

1588 (e) Provide a reasonable balance between the need for the
 1589 facility as established pursuant to s. 403.519, and the impacts
 1590 upon air and water quality, fish and wildlife, water resources,
 1591 and other natural resources as a result of the construction and
 1592 operation of the facility.

1593 ~~(3) Within 30 days after issuance of the certification,~~
 1594 ~~the department shall issue and forward to the United States~~
 1595 ~~Environmental Protection Agency a proposed operation permit for~~
 1596 ~~a major source of air pollution and must issue or deny any other~~
 1597 ~~license required pursuant to any federally delegated or approved~~
 1598 ~~permit program. The department's action on the license and its~~
 1599 ~~action on the proposed operation permit for a major source of~~
 1600 ~~air pollution shall be based upon the record and recommended~~
 1601 ~~order of the certification hearing. The department's actions on~~
 1602 ~~a federally required new source review or prevention of~~
 1603 ~~significant deterioration permit shall be based on the record~~

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1604 ~~and recommended order of the certification hearing and of any~~
1605 ~~other proceeding held in connection with the application for a~~
1606 ~~new source review or prevention of significant deterioration~~
1607 ~~permit, on timely public comments received with respect to the~~
1608 ~~application or preliminary determination for such permit, and on~~
1609 ~~the provisions of the state implementation plan. The~~
1610 ~~department's action on a federally required new source review or~~
1611 ~~prevention of significant deterioration permit shall differ from~~
1612 ~~the actions taken by the siting board regarding the~~
1613 ~~certification if the federally approved state implementation~~
1614 ~~plan requires such a different action to be taken by the~~
1615 ~~department. Nothing in this part shall be construed to displace~~
1616 ~~the department's authority as the final permitting entity under~~
1617 ~~the federally approved permit program. Nothing in this part~~
1618 ~~shall be construed to authorize the issuance of a new source~~
1619 ~~review or prevention of significant deterioration permit which~~
1620 ~~does not conform to the requirements of the federally approved~~
1621 ~~state implementation plan. Any final operation permit for a~~
1622 ~~major source of air pollution must be issued in accordance with~~
1623 ~~the provisions of s. 403.0872. Unless the federally delegated or~~
1624 ~~approved permit program provides otherwise, licenses issued by~~
1625 ~~the department under this subsection shall be effective for the~~
1626 ~~term of the certification issued by the board. If renewal of any~~
1627 ~~license issued by the department pursuant to a federally~~
1628 ~~delegated or approved permit program is required, such renewal~~
1629 ~~shall not affect the certification issued by the board, except~~
1630 ~~as necessary to resolve inconsistencies pursuant to s.~~
1631 ~~403.516(1)(a).~~

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1632 (4) In regard to the properties and works of any agency
1633 which is a party to the certification hearing, the board shall
1634 have the authority to decide issues relating to the use, the
1635 connection thereto, or the crossing thereof, for the electrical
1636 power plant and its directly associated facilities site and to
1637 direct any such agency to execute, within 30 days after the
1638 entry of certification, the necessary license or easement for
1639 such use, connection, or crossing, subject only to the
1640 conditions set forth in such certification.

1641 ~~(5) Except for the issuance of any operation permit for a~~
1642 ~~major source of air pollution pursuant to s. 403.0872, the~~
1643 ~~issuance or denial of the certification by the board and the~~
1644 ~~issuance or denial of any related department license required~~
1645 ~~pursuant to any federally delegated or approved permit program~~
1646 ~~shall be the final administrative action required as to that~~
1647 ~~application.~~

1648 ~~(6) All certified electrical power plants must apply for~~
1649 ~~and obtain a major source air operation permit pursuant to s.~~
1650 ~~403.0872. Major source air operation permit applications for~~
1651 ~~certified electrical power plants must be submitted pursuant to~~
1652 ~~a schedule developed by the department. To the extent that any~~
1653 ~~conflicting provision, limitation, or restriction under any~~
1654 ~~rule, regulation, or ordinance imposed by any political~~
1655 ~~subdivision of the state, or by any local pollution control~~
1656 ~~program, was superseded during the certification process~~
1657 ~~pursuant to s. 403.510(1), such rule, regulation, or ordinance~~
1658 ~~shall continue to be superseded for purposes of the major source~~
1659 ~~air operation permit program under s. 403.0872.~~

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1660 Section 31. Section 403.511, Florida Statutes, is amended
 1661 to read:

1662 403.511 Effect of certification.--

1663 (1) Subject to the conditions set forth therein, any
 1664 certification ~~signed by the Governor~~ shall constitute the sole
 1665 license of the state and any agency as to the approval of the
 1666 site and the construction and operation of the proposed
 1667 electrical power plant, except for the issuance of department
 1668 licenses required under any federally delegated or approved
 1669 permit program and except as otherwise provided in subsection
 1670 (4).

1671 (2)(a) The certification shall authorize the licensee
 1672 ~~applicant~~ named therein to construct and operate the proposed
 1673 electrical power plant, subject only to the conditions of
 1674 certification set forth in such certification, and except for
 1675 the issuance of department licenses or permits required under
 1676 any federally delegated or approved permit program.

1677 (b)1. Except as provided in subsection (4), the
 1678 certification may include conditions which constitute variances,
 1679 exemptions, or exceptions from nonprocedural requirements of the
 1680 department or any agency which were expressly considered during
 1681 the proceeding unless waived by the agency as provided below and
 1682 which otherwise would be applicable to the construction and
 1683 operation of the proposed electrical power plant.

1684 2. No variance, exemption, exception, or other relief
 1685 shall be granted from a state statute or rule for the protection
 1686 of endangered or threatened species, aquatic preserves,
 1687 Outstanding National Resource Waters, or Outstanding Florida

1688 Waters or for the disposal of hazardous waste, except to the
 1689 extent authorized by the applicable statute or rule or except
 1690 upon a finding in the certification order ~~by the siting board~~
 1691 that the public interests set forth in s. 403.509(3) ~~403.502~~ in
 1692 certifying the electrical power plant at the site proposed by
 1693 the applicant overrides the public interest protected by the
 1694 statute or rule from which relief is sought. ~~Each party shall~~
 1695 ~~notify the applicant and other parties at least 60 days prior to~~
 1696 ~~the certification hearing of any nonprocedural requirements not~~
 1697 ~~specifically listed in the application from which a variance,~~
 1698 ~~exemption, exception, or other relief is necessary in order for~~
 1699 ~~the board to certify any electrical power plant proposed for~~
 1700 ~~certification. Failure of such notification by an agency shall~~
 1701 ~~be treated as a waiver from nonprocedural requirements of the~~
 1702 ~~department or any other agency. However, no variance shall be~~
 1703 ~~granted from standards or regulations of the department~~
 1704 ~~applicable under any federally delegated or approved permit~~
 1705 ~~program, except as expressly allowed in such program.~~

1706 (3) The certification shall be in lieu of any license,
 1707 permit, certificate, or similar document required by any state,
 1708 regional, or local agency pursuant to, but not limited to,
 1709 chapter 125, chapter 161, chapter 163, chapter 166, chapter 186,
 1710 chapter 253, chapter 298, chapter 370, chapter 373, chapter 376,
 1711 chapter 380, chapter 381, chapter 387, chapter 403, except for
 1712 permits issued pursuant to any federally delegated or approved
 1713 permit program ~~s. 403.0885~~ and except as provided in ~~s.~~
 1714 ~~403.509(3) and (6),~~ chapter 404, or the Florida Transportation
 1715 Code, ~~or 33 U.S.C. s. 1341.~~

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1716 (4) This act shall not affect in any way the ratemaking
1717 powers of the Public Service Commission under chapter 366; nor
1718 shall this act in any way affect the right of any local
1719 government to charge appropriate fees or require that
1720 construction be in compliance with applicable building
1721 construction codes.

1722 (5) (a) An electrical power plant certified pursuant to
1723 this act shall comply with rules adopted by the department
1724 subsequent to the issuance of the certification which prescribe
1725 new or stricter criteria, to the extent that the rules are
1726 applicable to electrical power plants. Except when express
1727 variances, exceptions, exemptions, or other relief have been
1728 granted, subsequently adopted rules which prescribe new or
1729 stricter criteria shall operate as automatic modifications to
1730 certifications.

1731 (b) Upon written notification to the department, any
1732 holder of a certification issued pursuant to this act may choose
1733 to operate the certified electrical power plant in compliance
1734 with any rule subsequently adopted by the department which
1735 prescribes criteria more lenient than the criteria required by
1736 the terms and conditions in the certification which are not
1737 site-specific.

1738 (c) No term or condition of certification shall be
1739 interpreted to preclude the postcertification exercise by any
1740 party of whatever procedural rights it may have under chapter
1741 120, including those related to rulemaking proceedings. This
1742 subsection shall apply to previously issued certifications.

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1743 (6) No term or condition of a site certification shall be
 1744 interpreted to supersede or control the provisions of a final
 1745 operation permit for a major source of air pollution issued by
 1746 the department pursuant to s. 403.0872 to such facility
 1747 certified under this part.

1748 (7) No term or condition of a site certification shall be
 1749 interpreted to supersede or control the provisions of a final
 1750 operation permit for a major source of air pollution issued by
 1751 the department pursuant to s. 403.0872, to a facility certified
 1752 under this part.

1753 (8) Pursuant to s. 380.23, electrical power plants are
 1754 subject to the federal coastal consistency review program.
 1755 Issuance of certification shall constitute the state's
 1756 certification of coastal zone consistency.

1757 Section 32. Section 403.5112, Florida Statutes, is created
 1758 to read:

1759 403.5112 Filing of notice of certified corridor route.--

1760 (1) Within 60 days after certification of a directly
 1761 associated linear facility pursuant to this act, the applicant
 1762 shall file, in accordance with s. 28.222, with the department
 1763 and the clerk of the circuit court for each county through which
 1764 the corridor will pass, a notice of the certified route.

1765 (2) The notice shall consist of maps or aerial photographs
 1766 in the scale of 1:24,000 which clearly show the location of the
 1767 certified route and shall state that the certification of the
 1768 corridor will result in the acquisition of rights-of-way within
 1769 the corridor. Each clerk shall record the filing in the official
 1770 record of the county for the duration of the certification or

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1771 until such time as the applicant certifies to the department and
 1772 the clerk that all lands required for the transmission line
 1773 rights-of-way within the corridor have been acquired within such
 1774 county, whichever is sooner.

1775 Section 33. Section 403.5113, Florida Statutes, is created
 1776 to read:

1777 403.5113 Postcertification amendments.--

1778 (1) If a licensee proposes any material change to the
 1779 application after certification, the licensee shall submit a
 1780 written request for amendment and a description of the proposed
 1781 change to the application to the department. Within 30 days
 1782 after the receipt of the request for the amendment, the
 1783 department shall determine whether the proposed change to the
 1784 application requires a modification of the conditions of
 1785 certification.

1786 (2) If the department concludes that the change would not
 1787 require a modification of the conditions of certification, the
 1788 department shall provide written notification of the approval of
 1789 the proposed amendment to the licensee, all agencies, and all
 1790 other interested parties.

1791 (3) If the department concludes that the change would
 1792 require a modification of the conditions of certification, the
 1793 department shall provide written notification to the licensee
 1794 that the proposed change to the application requires a request
 1795 for modification pursuant to s. 403.516.

1796 Section 34. Section 403.5115, Florida Statutes, is amended
 1797 to read:

1798 403.5115 Public notice; costs of proceeding.--

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1799 (1) The following notices are to be published by the
 1800 applicant:

1801 (a) Notice ~~A notice~~ of the filing of a notice of intent
 1802 under s. 403.5063, which shall be published within 21 days after
 1803 the filing of the notice. The notice shall be published as
 1804 specified by subsection (2), except that the newspaper notice
 1805 shall be one-fourth page in size in a standard size newspaper or
 1806 one-half page in size in a tabloid size newspaper.

1807 (b) Notice ~~A notice~~ of filing of the application, which
 1808 shall include a description of the proceedings required by this
 1809 act, within 21 days after the date of the application filing be
 1810 published as specified in subsection (2), within 15 days after
 1811 the application has been determined complete. Such notice shall
 1812 give notice of the provisions of s. 403.511(1) and (2) ~~and that~~
 1813 ~~the application constitutes a request for a federally required~~
 1814 ~~new source review or prevention of significant deterioration~~
 1815 ~~permit.~~

1816 (c) Notice of the land use determination made pursuant to
 1817 s. 403.50665(1) within 15 days after the determination is filed.

1818 (d) Notice of the land use hearing, which shall be
 1819 published as specified in subsection (2), no later than 15 ~~45~~
 1820 days before the hearing.

1821 (e) ~~(d)~~ Notice of the certification hearing and notice of
 1822 the deadline for filing notice of intent to be a party, which
 1823 shall be published as specified in subsection (2), at least 65
 1824 days before the date set for the certification ~~no later than 45~~
 1825 ~~days before the hearing.~~

1826 (f) Notice of the cancellation of the certification
 1827 hearing, if applicable, no later than 7 days before the date of
 1828 the originally scheduled certification hearing.

1829 ~~(g)(e)~~ Notice of modification when required by the
 1830 department, based on whether the requested modification of
 1831 certification will significantly increase impacts to the
 1832 environment or the public. Such notice shall be published as
 1833 specified under subsection (2):

1834 1. Within 21 days after receipt of a request for
 1835 modification, ~~except that~~ The newspaper notice shall be of a
 1836 size as directed by the department commensurate with the scope
 1837 of the modification.

1838 2. If a hearing is to be conducted in response to the
 1839 request for modification, then notice shall be published no
 1840 later than 30 days before the hearing ~~provided as specified in~~
 1841 ~~paragraph (d).~~

1842 ~~(h)(f)~~ Notice of a supplemental application, which shall
 1843 be published as specified in paragraph (1)(b) and subsection
 1844 (2) follows:

1845 ~~1. Notice of receipt of the supplemental application shall~~
 1846 ~~be published as specified in paragraph (b).~~

1847 ~~2. Notice of the certification hearing shall be published~~
 1848 ~~as specified in paragraph (d).~~

1849 (i) Notice of existing site certification pursuant to s.
 1850 403.5175. Notices shall be published as specified in paragraph
 1851 (1)(b) and subsection (2).

1852 (2) Notices provided by the applicant shall be published
 1853 in newspapers of general circulation within the county or

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1854 counties in which the proposed electrical power plant will be
 1855 located. The newspaper notices shall be at least one-half page
 1856 in size in a standard size newspaper or a full page in a tabloid
 1857 size newspaper ~~and published in a section of the newspaper other~~
 1858 ~~than the legal notices section~~. These notices shall include a
 1859 map generally depicting the project and all associated
 1860 facilities corridors. A newspaper of general circulation shall
 1861 be the newspaper which has the largest daily circulation in that
 1862 county and has its principal office in that county. If the
 1863 newspaper with the largest daily circulation has its principal
 1864 office outside the county, the notices shall appear in both the
 1865 newspaper having the largest circulation in that county and in a
 1866 newspaper authorized to publish legal notices in that county.

1867 (3) All notices published by the applicant shall be paid
 1868 for by the applicant and shall be in addition to the application
 1869 fee.

1870 (4) The department shall arrange for publication of the
 1871 following notices in the manner specified by chapter 120 and
 1872 provide copies of those notices to any persons who have
 1873 requested to be placed on the departmental mailing list for this
 1874 purpose:

1875 (a) Notice ~~Publish in the Florida Administrative Weekly~~
 1876 ~~notices~~ of the filing of the notice of intent within 15 days
 1877 after receipt of the notice.↵

1878 (b) Notice of the filing of the application, no later than
 1879 21 days after the application filing.↵

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1880 (c) Notice of the land use hearing before the
 1881 administrative law judge, if applicable, no later than 15 days
 1882 before the hearing.†

1883 (d) Notice of the land use hearing before the board, if
 1884 applicable.

1885 (e) Notice of the certification hearing at least 65 days
 1886 before the date set for the certification hearing.†

1887 (f) Notice of the hearing before the board, if
 1888 applicable.†

1889 (h) Notice and of stipulations, proposed agency action, or
 1890 petitions for modification.† ~~and~~

1891 ~~(b) Provide copies of those notices to any persons who~~
 1892 ~~have requested to be placed on the departmental mailing list for~~
 1893 ~~this purpose.~~

1894 ~~(5) The applicant shall pay those expenses and costs~~
 1895 ~~associated with the conduct of the hearings and the recording~~
 1896 ~~and transcription of the proceedings.~~

1897 Section 35. Section 403.513, Florida Statutes, is amended
 1898 to read:

1899 403.513 Review.--Proceedings under this act shall be
 1900 subject to judicial review as provided in chapter 120. When
 1901 possible, separate appeals of the certification order issued by
 1902 the board and of any department permit issued pursuant to a
 1903 federally delegated or approved permit program may ~~shall~~ be
 1904 consolidated for purposes of judicial review.

1905 Section 36. Section 403.516, Florida Statutes, is amended
 1906 to read:

1907 403.516 Modification of certification.--

1908 (1) A certification may be modified after issuance in any
 1909 one of the following ways:

1910 (a) The board may delegate to the department the authority
 1911 to modify specific conditions in the certification.

1912 (b)1. The department may modify specific conditions of a
 1913 site certification which are inconsistent with the terms of any
 1914 federally delegated or approved final air pollution operation
 1915 permit for the certified electrical power plant issued by the
 1916 United States Environmental Protection Agency under the terms of
 1917 42 U.S.C. s. 7661d.

1918 2. Such modification may be made without further notice if
 1919 the matter has been previously noticed under the requirements
 1920 for any federally delegated or approved permit program.

1921 (c) The licensee may file a petition for modification with
 1922 the department or the department may initiate the modification
 1923 upon its own initiative.

1924 1. A petition for modification must set forth:

1925 a. The proposed modification.

1926 b. The factual reasons asserted for the modification.

1927 c. The anticipated environmental effects of the proposed
 1928 modification.

1929 (d)~~(b)~~ The department may modify the terms and conditions
 1930 of the certification if no party to the certification hearing
 1931 objects in writing to such modification within 45 days after
 1932 notice by mail to such party's last address of record, and if no
 1933 other person whose substantial interests will be affected by the
 1934 modification objects in writing within 30 days after issuance of
 1935 public notice.

1936 (e) If objections are raised or the department denies the
 1937 request, the applicant or department may file a request petition
 1938 for a hearing on the modification with the department. Such
 1939 request shall be handled pursuant to chapter 120 paragraph (e).

1940 ~~(c) A petition for modification may be filed by the~~
 1941 ~~applicant or the department setting forth:~~
 1942 ~~1. The proposed modification,~~
 1943 ~~2. The factual reasons asserted for the modification, and~~
 1944 ~~3. The anticipated effects of the proposed modification on~~
 1945 ~~the applicant, the public, and the environment.~~

1946
 1947 ~~The petition for modification shall be filed with the department~~
 1948 ~~and the Division of Administrative Hearings.~~

1949 (f) Requests referred to the Division of Administrative
 1950 Hearings shall be disposed of in the same manner as an
 1951 application, but with time periods established by the
 1952 administrative law judge commensurate with the significance of
 1953 the modification requested.

1954 ~~(g)(d)~~ As required by s. 403.511(5).

1955 ~~(2) Petitions filed pursuant to paragraph (1)(c) shall be~~
 1956 ~~disposed of in the same manner as an application, but with time~~
 1957 ~~periods established by the administrative law judge commensurate~~
 1958 ~~with the significance of the modification requested.~~

1959 (2)(3) Any agreement or modification under this section
 1960 must be in accordance with the terms of this act. No
 1961 modification to a certification shall be granted that
 1962 constitutes a variance from standards or regulations of the

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1963 department applicable under any federally delegated or approved
 1964 permit program, except as expressly allowed in such program.

1965 Section 37. Section 403.517, Florida Statutes, is amended
 1966 to read:

1967 403.517 Supplemental applications for sites certified for
 1968 ultimate site capacity.--

1969 (1) (a) Supplemental ~~The department shall adopt rules~~
 1970 ~~governing the processing of supplemental~~ applications may be
 1971 submitted for certification of the construction and operation of
 1972 electrical power plants to be located at sites which have been
 1973 previously certified for an ultimate site capacity pursuant to
 1974 this act. Supplemental applications shall be limited to
 1975 electrical power plants using the fuel type previously certified
 1976 for that site. Such applications shall include all new directly
 1977 associated facilities that support the construction and
 1978 operation of the electric power plant. ~~The rules adopted~~
 1979 ~~pursuant to this section shall include provisions for:~~

1980 1. ~~Prompt appointment of a designated administrative law~~
 1981 ~~judge.~~

1982 2. ~~The contents of the supplemental application.~~

1983 3. ~~Resolution of disputes as to the completeness and~~
 1984 ~~sufficiency of supplemental applications by the designated~~
 1985 ~~administrative law judge.~~

1986 4. ~~Public notice of the filing of the supplemental~~
 1987 ~~applications.~~

1988 5. ~~Time limits for prompt processing of supplemental~~
 1989 ~~applications.~~

1990 ~~6. Final disposition by the board within 215 days of the~~
 1991 ~~filing of a complete supplemental application.~~

1992 (b) The time limits for processing of a complete
 1993 supplemental application shall be designated by the department
 1994 commensurate with the scope of the supplemental application, but
 1995 shall not exceed any time limitation governing the review of
 1996 initial applications for site certification pursuant to this
 1997 act, it being the legislative intent to provide shorter time
 1998 limitations for the processing of supplemental applications for
 1999 electrical power plants to be constructed and operated at sites
 2000 which have been previously certified for an ultimate site
 2001 capacity.

2002 (c) Any time limitation in this section or in rules
 2003 adopted pursuant to this section may be altered pursuant to s.
 2004 403.5095 ~~by the designated administrative law judge upon~~
 2005 ~~stipulation between the department and the applicant, unless~~
 2006 ~~objected to by any party within 5 days after notice, or for good~~
 2007 ~~cause shown by any party. The parties to the proceeding shall~~
 2008 ~~adhere to the provisions of chapter 120 and this act in~~
 2009 ~~considering and processing such supplemental applications.~~

2010 (2) ~~Supplemental applications shall be reviewed as~~
 2011 ~~provided in ss. 403.507 403.511, except that the time limits~~
 2012 ~~provided in this section shall apply to such supplemental~~
 2013 ~~applications.~~

2014 (3) The land use and zoning consistency determination of
 2015 s. 403.50665 ~~hearing requirements of s. 403.508(1) and (2)~~ shall
 2016 not be applicable to the processing of supplemental applications
 2017 pursuant to this section so long as:

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2018 (a) The previously certified ultimate site capacity is not
 2019 exceeded; and

2020 (b) The lands required for the construction or operation
 2021 of the electrical power plant which is the subject of the
 2022 supplemental application are within the boundaries of the
 2023 previously certified site.

2024 ~~(4) For the purposes of this act, the term "ultimate site~~
 2025 ~~capacity" means the maximum generating capacity for a site as~~
 2026 ~~certified by the board.~~

2027 Section 38. Section 403.5175, Florida Statutes, is amended
 2028 to read:

2029 403.5175 Existing electrical power plant site
 2030 certification.--

2031 (1) An electric utility that owns or operates an existing
 2032 electrical power plant as defined in s. 403.503(12) may apply
 2033 for certification of an existing power plant and its site in
 2034 order to obtain all agency licenses necessary to assure
 2035 compliance with federal or state environmental laws and
 2036 regulation using the centrally coordinated, one-stop licensing
 2037 process established by this part. An application for site
 2038 certification under this section must be in the form prescribed
 2039 by department rule. Applications must be reviewed and processed
 2040 using the same procedural steps and notices as for an
 2041 application for a new facility in accordance with ss. 403.5064-
 2042 403.5115, except that a determination of need by the Public
 2043 Service Commission is not required.

2044 (2) An application for certification under this section
 2045 must include:

2046 (a) A description of the site and existing power plant
 2047 installations;

2048 (b) A description of all proposed changes or alterations
 2049 to the site or electrical power plant, including all new
 2050 associated facilities that are the subject of the application;

2051 (c) A description of the environmental and other impacts
 2052 caused by the existing utilization of the site and directly
 2053 associated facilities, and the operation of the electrical power
 2054 plant that is the subject of the application, and of the
 2055 environmental and other benefits, if any, to be realized as a
 2056 result of the proposed changes or alterations if certification
 2057 is approved and such other information as is necessary for the
 2058 reviewing agencies to evaluate the proposed changes and the
 2059 expected impacts;

2060 (d) The justification for the proposed changes or
 2061 alterations;

2062 (e) Copies of all existing permits, licenses, and
 2063 compliance plans authorizing utilization of the site and
 2064 directly associated facilities or operation of the electrical
 2065 power plant that is the subject of the application.

2066 (3) The land use and zoning determination ~~hearing~~
 2067 requirements of s. 403.50665 ~~s. 403.508(1) and (2)~~ do not apply
 2068 to an application under this section if the applicant does not
 2069 propose to expand the boundaries of the existing site. If the
 2070 applicant proposes to expand the boundaries of the existing site
 2071 to accommodate portions of the plant or associated facilities, a
 2072 land use and zoning determination shall be made ~~hearing must be~~
 2073 ~~held~~ as specified in s. 403.50665 ~~s. 403.508(1) and (2)~~;

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2074 provided, however, that the sole issue for determination ~~through~~
 2075 ~~the land use hearing~~ is whether the proposed site expansion is
 2076 consistent and in compliance with the existing land use plans
 2077 and zoning ordinances.

2078 (4) In considering whether an application submitted under
 2079 this section should be approved in whole, approved with
 2080 appropriate conditions, or denied, the board shall consider
 2081 whether, and to the extent to which the proposed changes to the
 2082 electrical power plant and its continued operation under
 2083 certification will:

2084 (a) Comply with the provisions of s. 403.509(3).
 2085 ~~applicable nonprocedural requirements of agencies;~~

2086 (b) Result in environmental or other benefits compared to
 2087 current utilization of the site and operations of the electrical
 2088 power plant if the proposed changes or alterations are
 2089 undertaken.†

2090 ~~(c) Minimize, through the use of reasonable and available~~
 2091 ~~methods, the adverse effects on human health, the environment,~~
 2092 ~~and the ecology of the land and its wildlife and the ecology of~~
 2093 ~~state waters and their aquatic life; and~~

2094 ~~(d) Serve and protect the broad interests of the public.~~

2095 (5) An applicant's failure to receive approval for
 2096 certification of an existing site or an electrical power plant
 2097 under this section is without prejudice to continued operation
 2098 of the electrical power plant or site under existing agency
 2099 licenses.

2100 Section 39. Section 403.518, Florida Statutes, is amended
 2101 to read:

2102 403.518 Fees; disposition.--

2103 (1) The department shall charge the applicant the
 2104 following fees, as appropriate, which, unless otherwise
 2105 specified, shall be paid into the Florida Permit Fee Trust Fund:

2106 (a) A fee for a notice of intent pursuant to s. 403.5063,
 2107 in the amount of \$2,500, to be submitted to the department at
 2108 the time of filing of a notice of intent. The notice-of-intent
 2109 fee shall be used and disbursed in the same manner as the
 2110 application fee.

2111 (b) An application fee, which shall not exceed \$200,000.
 2112 The fee shall be fixed by rule on a sliding scale related to the
 2113 size, type, ultimate site capacity, or increase in electric
 2114 generating capacity proposed by the application, ~~or the number~~
 2115 ~~and size of local governments in whose jurisdiction the~~
 2116 ~~electrical power plant is located.~~

2117 1. Sixty percent of the fee shall go to the department to
 2118 cover any costs associated with coordinating the review
 2119 ~~reviewing~~ and acting upon the application, to cover any field
 2120 services associated with monitoring construction and operation
 2121 of the facility, and to cover the costs of the public notices
 2122 published by the department.

2123 2. The following percentages ~~Twenty percent of the fee or~~
 2124 ~~\$25,000, whichever is greater,~~ shall be transferred to the
 2125 Administrative Trust Fund of the Division of Administrative
 2126 Hearings of the Department of Management Services:--

2127 a. Five percent to compensate expenses from the initial
 2128 exercise of duties associated with the filing of an application.

2129 b. An additional 5 percent if a land use hearing is held

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2130 pursuant to s. 403.508.
 2131 c. An additional 10 percent if a certification hearing is
 2132 held pursuant to s. 403.508.
 2133 3.a. Upon written request with proper itemized accounting
 2134 within 90 days after final agency action by the board or
 2135 withdrawal of the application, the agencies that prepared
 2136 reports pursuant to s. 403.507 or participated in a hearing
 2137 pursuant to s. 403.508, may submit a written request to the
 2138 department for reimbursement of expenses incurred during the
 2139 certification proceedings. The request shall contain an
 2140 accounting of expenses incurred which may include time spent
 2141 reviewing the application, the department shall reimburse the
 2142 Department of Community Affairs, the Fish and Wildlife
 2143 Conservation Commission, and any water management district
 2144 created pursuant to chapter 373, regional planning council, and
 2145 local government in the jurisdiction of which the proposed
 2146 electrical power plant is to be located, and any other agency
 2147 from which the department requests special studies pursuant to
 2148 s. 403.507(2)(a)7. Such reimbursement shall be authorized for
 2149 the preparation of any studies required of the agencies by this
 2150 act, and for agency travel and per diem to attend any hearing
 2151 held pursuant to this act, and for local government's or
 2152 regional planning council's provision of additional notice of
 2153 the informational public meetings governments to participate in
 2154 the proceedings. The department shall review the request and
 2155 verify that the expenses are valid. Valid expenses shall be
 2156 reimbursed; however, in the event the amount of funds available
 2157 for reimbursement allocation is insufficient to provide for full

2158 compensation ~~complete reimbursement~~ to the agencies requesting
 2159 reimbursement, reimbursement shall be on a prorated basis.

2160 b. If the application review is held in abeyance for more
 2161 than 1 year, the agencies may submit a request for
 2162 reimbursement.

2163 4. If any sums are remaining, the department shall retain
 2164 them for its use in the same manner as is otherwise authorized
 2165 by this act; provided, however, that if the certification
 2166 application is withdrawn, the remaining sums shall be refunded
 2167 to the applicant within 90 days after withdrawal.

2168 (c) 1. A certification modification fee, which shall not
 2169 exceed \$30,000. The department shall establish rules for
 2170 determining such a fee based on the equipment redesign, change
 2171 in site size, type, increase in generating capacity proposed, or
 2172 change in an associated linear facility location.

2173 2. The fee shall be submitted to the department with a
 2174 ~~formal~~ petition for modification ~~to the department~~ pursuant to
 2175 s. 403.516. This fee shall be established, disbursed, and
 2176 processed in the same manner as the application fee in paragraph
 2177 (b), except that the Division of Administrative Hearings shall
 2178 not receive a portion of the fee unless the petition for
 2179 certification modification is referred to the Division of
 2180 Administrative Hearings for hearing. If the petition is so
 2181 referred, only \$10,000 of the fee shall be transferred to the
 2182 Administrative Trust Fund of the Division of Administrative
 2183 Hearings of the Department of Management Services. ~~The fee for a~~
 2184 ~~modification by agreement filed pursuant to s. 403.516(1)(b)~~
 2185 ~~shall be \$10,000 to be paid upon the filing of the request for~~

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2186 ~~modification. Any sums remaining after payment of authorized~~
 2187 ~~costs shall be refunded to the applicant within 90 days of~~
 2188 ~~issuance or denial of the modification or withdrawal of the~~
 2189 ~~request for modification.~~

2190 (d) A supplemental application fee, not to exceed \$75,000,
 2191 to cover all reasonable expenses and costs of the review,
 2192 processing, and proceedings of a supplemental application. This
 2193 fee shall be established, disbursed, and processed in the same
 2194 manner as the certification application fee in paragraph (b),
 2195 ~~except that only \$20,000 of the fee shall be transferred to the~~
 2196 ~~Administrative Trust Fund of the Division of Administrative~~
 2197 ~~Hearings of the Department of Management Services.~~

2198 (e) An existing site certification application fee, not to
 2199 exceed \$200,000, to cover all reasonable costs and expenses of
 2200 the review processing and proceedings for certification of an
 2201 existing power plant site under s. 403.5175. This fee must be
 2202 established, disbursed, and processed in the same manner as the
 2203 certification application fee in paragraph (b).

2204 ~~(2) Effective upon the date commercial operation begins,~~
 2205 ~~the operator of an electrical power plant certified under this~~
 2206 ~~part is required to pay to the department an annual operation~~
 2207 ~~license fee as specified in s. 403.0872(11) to be deposited in~~
 2208 ~~the Air Pollution Control Trust Fund.~~

2209 Section 40. Section 403.519, Florida Statutes, is amended
 2210 to read:

2211 403.519 Exclusive forum for determination of need.--

2212 (1) On request by an applicant or on its own motion, the
 2213 commission shall begin a proceeding to determine the need for an

2214 | electrical power plant subject to the Florida Electrical Power
 2215 | Plant Siting Act.

2216 | (2) The applicant ~~commission~~ shall publish a notice of the
 2217 | proceeding in a newspaper of general circulation in each county
 2218 | in which the proposed electrical power plant will be located.
 2219 | The notice shall be at least one-quarter of a page and published
 2220 | at least 21 ~~45~~ days prior to the scheduled date for the
 2221 | proceeding. The commission shall publish notice of the
 2222 | proceeding in the manner specified by chapter 120 at least 21
 2223 | days prior to the scheduled date for the proceeding.

2224 | (3) The commission shall be the sole forum for the
 2225 | determination of this matter, which accordingly shall not be
 2226 | raised in any other forum or in the review of proceedings in
 2227 | such other forum. In making its determination, the commission
 2228 | shall take into account the need for electric system reliability
 2229 | and integrity, the need for adequate electricity at a reasonable
 2230 | cost, the need for fuel diversity and supply reliability, and
 2231 | whether the proposed plant is the most cost-effective
 2232 | alternative available. The commission shall also expressly
 2233 | consider the conservation measures taken by or reasonably
 2234 | available to the applicant or its members which might mitigate
 2235 | the need for the proposed plant and other matters within its
 2236 | jurisdiction which it deems relevant. The commission's
 2237 | determination of need for an electrical power plant shall create
 2238 | a presumption of public need and necessity and shall serve as
 2239 | the commission's report required by s. 403.407(2)(b)
 2240 | ~~403.507(2)(a)2~~. An order entered pursuant to this section
 2241 | constitutes final agency action.

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2242

Section 41. This act shall take effect July 1, 2006.