

HB 1473

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CHAMBER ACTION

1 The Utilities & Telecommunications Committee recommends the
2 following:

Council/Committee Substitute

5 Remove the entire bill and insert:

6 A bill to be entitled

7 An act relating to energy; providing legislative findings
8 and intent; creating s. 377.801, F.S.; creating the
9 "Florida Renewable Energy Technologies and Energy
10 Efficiency Act"; creating s. 377.802, F.S.; stating the
11 purpose of the act; creating s. 377.803, F.S.; providing
12 definitions; creating s. 377.804, F.S.; creating the
13 Renewable Energy Technologies Grants Program; providing
14 program requirements and procedures, including matching
15 funds; creating s. 377.805, F.S.; establishing an energy-
16 efficient products sales tax holiday; specifying a period
17 during which the sale of energy-efficient products is
18 exempt from certain tax; providing a limitation; providing
19 a definition; creating s. 377.806, F.S.; creating the
20 Solar Energy System Incentives Program; providing program
21 requirements, procedures, and limitations; requiring the
22 Department of Environmental Protection to adopt rules;
23 creating s. 377.901, F.S.; creating the Florida Energy

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24 Council within the Department of Environmental Protection;
25 providing purpose and composition; providing for
26 appointment of members and terms; providing for
27 reimbursement for travel expenses and per diem; requiring
28 the department to provide certain services to the council;
29 providing rulemaking authority; amending s. 212.08, F.S.;
30 providing definitions for the terms "biodiesel,"
31 "ethanol," and "hydrogen fuel cells"; providing tax
32 exemptions in the form of a rebate for the sale or use of
33 certain equipment, machinery, and other materials for
34 renewable energy technologies; providing eligibility
35 requirements and tax credit limits; directing the
36 Department of Revenue to adopt rules; directing the
37 Department of Environmental Protection to determine and
38 publish certain information relating to such exemptions;
39 providing for expiration of the exemption; amending s.
40 213.053, F.S.; authorizing the Department of Revenue to
41 share certain information with the Department of
42 Environmental Protection for specified purposes; amending
43 s. 220.02, F.S.; providing the order of application of the
44 renewable energy technologies investment tax credit;
45 creating s. 220.192, F.S.; providing definitions;
46 establishing a corporate tax credit for certain costs
47 related to renewable energy technologies; providing
48 eligibility requirements and credit limits; providing
49 certain authority to the Department of Environmental
50 Protection and the Department of Revenue; directing the
51 Department of Environmental Protection to determine and

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52 | publish certain information; providing for expiration of
53 | the tax credit; amending s. 220.13, F.S.; providing an
54 | addition to the definition of "adjusted federal income";
55 | amending s. 186.801, F.S.; revising the provisions of
56 | electric utility 10-year site plans to include the effect
57 | on fuel diversity; amending s. 366.04, F.S.; revising the
58 | safety standards for public utilities; amending s. 366.05,
59 | F.S.; authorizing the Public Service Commission to adopt
60 | certain construction standards and make certain
61 | determinations; directing the commission to conduct a
62 | study and provide a report by a certain date; amending s.
63 | 403.503, F.S.; revising and providing definitions
64 | applicable to the Florida Electrical Power Plant Siting
65 | Act; amending s. 403.504, F.S.; providing the Department
66 | of Environmental Protection with additional powers and
67 | duties relating to the Florida Electrical Power Plant
68 | Siting Act; amending s. 403.5055, F.S.; revising
69 | provisions for certain permits associated with
70 | applications for electrical power plant certification;
71 | amending s. 403.506, F.S.; revising provisions relating to
72 | applicability and certification of certain power plants;
73 | amending s. 403.5064, F.S.; revising provisions for
74 | distribution of applications and schedules relating to
75 | certification; amending s. 403.5065, F.S.; revising
76 | provisions relating to the appointment of administrative
77 | law judges and specifying their powers and duties;
78 | amending s. 403.5066, F.S.; revising provisions relating
79 | to the determination of completeness for certain

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80 applications; creating s. 403.50663, F.S.; authorizing
81 certain local governments and regional planning councils
82 to hold an informational public meeting about a proposed
83 electrical power plant or associated facilities; providing
84 requirements and procedures therefor; creating s.
85 403.50665, F.S.; requiring local governments to file
86 certain land use determinations; providing requirements
87 and procedures therefor; repealing s. 403.5067, F.S.,
88 relating to the determination of sufficiency for certain
89 applications; amending s. 403.507, F.S.; revising required
90 preliminary statement provisions for affected agencies;
91 requiring a report as a condition precedent to the project
92 analysis and certification hearing; amending s. 403.508,
93 F.S.; revising provisions relating to land use and
94 certification hearings, including cancellation and
95 responsibility for payment of expenses and costs;
96 requiring certain notice; amending s. 403.509, F.S.;
97 revising provisions relating to the final disposition of
98 certain applications; providing requirements and
99 provisions with respect thereto; amending s. 403.511,
100 F.S.; revising provisions relating to the effect of
101 certification for the construction and operation of
102 proposed electrical power plants; providing that issuance
103 of certification meets certain coastal zone consistency
104 requirements; creating s. 403.5112, F.S.; requiring filing
105 of notice for certified corridor routes; providing
106 requirements and procedures with respect thereto; creating
107 s. 403.5113, F.S.; authorizing postcertification

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108 amendments for power plant site certification
109 applications; providing requirements and procedures with
110 respect thereto; amending s. 403.5115, F.S.; requiring
111 certain public notice for activities relating to
112 electrical power plant site application, certification,
113 and land use determination; providing requirements and
114 procedures with respect thereto; directing the Department
115 of Environmental Protection to maintain certain lists and
116 provide copies of certain publications; amending s.
117 403.513, F.S.; revising provisions for judicial review of
118 appeals relating to electrical power plant site
119 certification; amending s. 403.516, F.S.; revising
120 provisions relating to modification of certification for
121 electrical power plant sites; amending s. 403.517, F.S.;
122 revising provisions relating to supplemental applications
123 for sites certified for ultimate site capacity; amending
124 s. 403.5175, F.S.; revising provisions relating to
125 existing electrical power plant site certification;
126 revising the procedure for reviewing and processing
127 applications; requiring additional information to be
128 included in certain applications; amending s. 403.518,
129 F.S.; revising the allocation of proceeds from certain
130 fees collected; providing for reimbursement of certain
131 expenses; directing the Department of Environmental
132 Protection to establish rules for determination of certain
133 fees; eliminating certain operational license fees;
134 providing for the application, processing, approval, and
135 cancellation of electrical power plant certification;

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136 amending s. 403.519, F.S.; directing the Public Service
137 Commission to consider fuel diversity and reliability in
138 certain determinations; providing an effective date.
139

140 Be It Enacted by the Legislature of the State of Florida:
141

142 Section 1. Legislative findings and intent.--The
143 Legislature finds that advancing the development of renewable
144 energy technologies and energy efficiency is important for the
145 state's future, its energy stability, and the protection of its
146 citizens' public health and its environment. The Legislature
147 finds that the development of renewable energy technologies and
148 energy efficiency in the state will help to reduce demand for
149 foreign fuels, promote energy diversity, enhance system
150 reliability, reduce pollution, educate the public on the promise
151 of renewable energy technologies, and promote economic growth.
152 The Legislature finds that there is a need to assist in the
153 development of market demand that will advance the
154 commercialization and widespread application of renewable energy
155 technologies. The Legislature further finds that the state is
156 ideally positioned to stimulate economic development through
157 such renewable energy technologies due to its ongoing and
158 successful research and development track record in these areas,
159 an abundance of natural and renewable energy sources, an ability
160 to attract significant federal research and development funds,
161 and the need to find and secure renewable energy technologies
162 for the benefit of its citizens, visitors, and environment.

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163 Section 2. Section 377.801, Florida Statutes, is created
164 to read:

165 377.801 Short title.--Sections 377.801-377.806 may be
166 cited as the "Florida Renewable Energy Technologies and Energy
167 Efficiency Act."

168 Section 3. Section 377.802, Florida Statutes, is created
169 to read:

170 377.802 Purpose.--This act is intended to provide matching
171 grants to stimulate capital investment in the state and to
172 enhance the market for and promote the statewide utilization of
173 renewable energy technologies. The targeted grants program is
174 designed to advance the already growing establishment of
175 renewable energy technologies in the state and encourage the use
176 of other incentives such as tax exemptions and regulatory
177 certainty to attract additional renewable energy technology
178 producers, developers, and users to the state. This act is also
179 intended to provide incentives for the purchase of energy-
180 efficient appliances and rebates for solar energy equipment
181 installations for residential and commercial buildings.

182 Section 4. Section 377.803, Florida Statutes, is created
183 to read:

184 377.803 Definitions.--As used in ss. 377.801-377.806, the
185 term:

186 (1) "Act" means the Florida Renewable Energy Technologies
187 and Energy Efficiency Act.

188 (2) "Approved metering equipment" means a device capable
189 of measuring the energy output of a solar thermal system that
190 has been approved by the commission.

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191 (3) "Commission" means the Florida Public Service
192 Commission.

193 (4) "Department" means the Department of Environmental
194 Protection.

195 (5) "Person" means an individual, partnership, joint
196 venture, private or public corporation, association, firm,
197 public service company, or any other public or private entity.

198 (6) "Renewable energy" means electrical, mechanical, or
199 thermal energy produced from a method that uses one or more of
200 the following fuels or energy sources: hydrogen, biomass, solar
201 energy, geothermal energy, wind energy, ocean energy, waste
202 heat, or hydroelectric power.

203 (7) "Renewable energy technology" means any technology
204 that generates or utilizes a renewable energy resource.

205 (8) "Solar energy system" means equipment that provides
206 for the collection and use of incident solar energy for water
207 heating, space heating or cooling, or other applications that
208 require a conventional source of energy such as petroleum
209 products, natural gas, or electricity that performs primarily
210 with solar energy. In other systems in which solar energy is
211 used in a supplemental way, only those components that collect
212 and transfer solar energy shall be included in this definition.

213 (9) "Solar photovoltaic system" means a device that
214 converts incident sunlight into electrical current.

215 (10) "Solar thermal system" means a device that traps heat
216 from incident sunlight in order to heat water.

217 Section 5. Section 377.804, Florida Statutes, is created
218 to read:

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219 377.804 Renewable Energy Technologies Grants Program.--
220 (1) The Renewable Energy Technologies Grants Program is
221 established within the department to provide renewable energy
222 matching grants for demonstration, commercialization, research,
223 and development projects relating to renewable energy
224 technologies.

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

228 (a) Municipalities and county governments.
229 (b) Established for-profit companies licensed to do
230 business in the state.

231 (c) Universities and colleges in the state.
232 (d) Utilities located and operating within the state.
233 (e) Not-for-profit organizations.
234 (f) Other qualified persons, as determined by the
235 department.

236 (3) The department may adopt rules pursuant to ss.
237 120.536(1) and 120.54 to provide for application requirements,
238 provide for ranking of applications, and administer the awarding
239 of grants under this program.

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

242 (a) The availability of matching funds or other in-kind
243 contributions applied to the total project from an applicant.
244 The department shall give greater preference to projects that
245 provide such matching funds or other in-kind contributions.

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246 (b) The degree to which the project stimulates in-state
247 capital investment and economic development in metropolitan and
248 rural areas, including the creation of jobs and the future
249 development of a commercial market for renewable energy
250 technologies.

251 (c) The extent to which the proposed project has been
252 demonstrated to be technically feasible based on pilot project
253 demonstrations, laboratory testing, scientific modeling, or
254 engineering or chemical theory that supports the proposal.

255 (d) The degree to which the project incorporates an
256 innovative new technology or an innovative application of an
257 existing technology.

258 (e) The degree to which a project generates thermal,
259 mechanical, or electrical energy by means of a renewable energy
260 resource that has substantial long-term production potential.

261 (f) The degree to which a project demonstrates efficient
262 use of energy and material resources.

263 (g) The degree to which the project fosters overall
264 understanding and appreciation of renewable energy technologies.

265 (h) The ability to administer a complete project.

266 (i) Project duration and timeline for expenditures.

267 (j) The geographic area in which the project is to be
268 conducted in relation to other projects.

269 (k) The degree of public visibility and interaction.

270 (5) The department shall solicit the expertise of other
271 state agencies in evaluating project proposals. State agencies
272 shall cooperate with the Department of Environmental Protection
273 and provide such assistance as required.

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274 Section 6. Section 377.805, Florida Statutes, is created
275 to read:

276 377.805 Energy-efficient products sales tax holiday.--The
277 period from 12:01 a.m., October 5, through midnight, October 11,
278 in each year from 2006 to 2009, shall be designated "Energy
279 Efficiency Week," and the tax levied under chapter 212 may not
280 be collected on the sale of an energy-efficient product having a
281 selling price of \$1,500 or less per product during that period.
282 This exemption applies only when the energy-efficient product is
283 purchased for noncommercial home or personal use and does not
284 apply when the product is purchased for trade, business, or
285 resale. As used in this subsection, the term "energy-efficient
286 product" means a dishwasher, clothes washer, air conditioner,
287 ceiling fan, incandescent or florescent light bulb,
288 dehumidifier, programmable thermostat, or refrigerator that has
289 been designated by the United States Environmental Protection
290 Agency and by the United States Department of Energy as meeting
291 or exceeding each agency's requirements for energy efficiency or
292 that has been designated as meeting or exceeding the
293 requirements under the Energy Star Program of either agency.

294 Section 7. Section 377.806, Florida Statutes, is created
295 to read:

296 377.806 Solar Energy System Incentives Program.--
297 (1) PURPOSE.--The Solar Energy System Incentives Program
298 is established within the department to provide financial
299 incentives for the purchase and installation of solar energy
300 systems. Any resident of the state who purchases and installs a
301 new solar energy system of 2 kilowatts or larger for a solar

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302 photovoltaic system, a solar energy system that provides at
303 least 50 percent of a building's hot water consumption for a
304 solar thermal system, or a solar thermal pool heater, from July
305 1, 2006, through June 30, 2010, is eligible for a rebate on a
306 portion of the purchase price of that solar energy system.

307 (2) SOLAR PHOTOVOLTAIC SYSTEM INCENTIVE.--

308 (a) Eligibility requirements.--A solar photovoltaic system
309 qualifies for a rebate if:

310 1. The system is installed by a state-licensed master
311 electrician, electrical contractor, or solar contractor.

312 2. The system complies with state interconnection
313 standards as provided by the commission.

314 3. The system complies with all applicable building codes
315 as defined by the local jurisdictional authority.

316 (b) Rebate amounts.--The rebate amount shall be set at \$4
317 per watt based on the total wattage rating of the system. The
318 maximum allowable rebate per solar photovoltaic system
319 installation shall be as follows:

320 1. Twenty thousand dollars for a residence.

321 2. One hundred thousand dollars for a place of business, a
322 publicly owned or operated facility, or a facility owned or
323 operated by a private, not-for-profit organization, including
324 condominiums or apartment buildings.

325 (3) SOLAR THERMAL SYSTEM INCENTIVE.--

326 (a) Eligibility requirements.--A solar thermal system
327 qualifies for a rebate if:

328 1. The system is installed by a state-licensed solar or
329 plumbing contractor.

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330 2. The system complies with all applicable building codes
331 as defined by the local jurisdictional authority.

332 (b) Rebate amounts.--Authorized rebates for installation
333 of solar thermal systems shall be as follows:

334 1. Five hundred dollars for a residence.

335 2. Fifteen dollars per 1,000 Btu for a maximum of \$5,000
336 for a place of business, a publicly owned or operated facility,
337 or a facility owned or operated by a private, not-for-profit
338 organization, including condominiums or apartment buildings. Btu
339 must be verified by approved metering equipment.

340 (4) SOLAR THERMAL POOL HEATER INCENTIVE.--

341 (a) Eligibility requirements.--A solar thermal pool heater
342 qualifies for a rebate if the system is installed by a state-
343 licensed solar or plumbing contractor and the system complies
344 with all applicable building codes as defined by the local
345 jurisdictional authority.

346 (b) Rebate amount.--Authorized rebates for installation of
347 solar thermal pool heaters shall be \$100 per installation.

348 (5) APPLICATION.--Application for a rebate must be made
349 within 90 days after the purchase of the solar energy equipment.

350 (6) REBATE AVAILABILITY.--The department shall determine
351 and publish on a regular basis the amount of rebate funds
352 remaining in each fiscal year. The total dollar amount of all
353 rebates issued by the department is subject to the total amount
354 of appropriations in any fiscal year for this program. If funds
355 are insufficient during the current fiscal year, any requests
356 for rebates received during that fiscal year may be processed
357 during the following fiscal year. Requests for rebates received

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358 | in a fiscal year that are processed during the following fiscal
359 | year shall be given priority over requests for rebates received
360 | during the following fiscal year.

361 | (7) RULES.--The department shall adopt rules pursuant to
362 | ss. 120.536(1) and 120.54 to develop rebate applications and
363 | administer the issuance of rebates.

364 | Section 8. Section 377.901, Florida Statutes, is created
365 | to read:

366 | 377.901 Florida Energy Council.--

367 | (1) The Florida Energy Council is created within the
368 | Department of Environmental Protection to provide advice and
369 | counsel to the Governor, the President of the Senate, and the
370 | Speaker of the House of Representatives on the energy policy of
371 | the state. The council shall advise the state on current and
372 | projected energy issues, including, but not limited to,
373 | transportation, generation, transmission, distributed
374 | generation, fuel supply issues, emerging technologies,
375 | efficiency, and conservation. In developing its recommendations,
376 | the council shall be guided by the principles of reliability,
377 | efficiency, affordability, and diversity.

378 | (2) (a) The council shall be comprised of a diversity of
379 | stakeholders and may include utility providers, alternative
380 | energy providers, researchers, environmental scientists, fuel
381 | suppliers, technology manufacturers, persons representing
382 | environmental, consumer, and public health interests, and
383 | others.

384 | (b) The council shall consist of nine voting members as
385 | follows:

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- 386 1. The Secretary of Environmental Protection, or his or
387 her designee, who shall serve as chair of the council.
- 388 2. The chair of the Public Service Commission, or his or
389 her designee, who shall serve as vice chair of the council.
- 390 3. One member shall be the Commissioner of Agriculture, or
391 his or her designee.
- 392 4. Two members who shall be appointed by the Governor.
- 393 5. Two members who shall be appointed by the President of
394 the Senate.
- 395 6. Two members who shall be appointed by the Speaker of
396 the House of Representatives.
- 397 (c) All initial members shall be appointed prior to
398 September 1, 2006. Appointments made by the Governor, the
399 President of the Senate, and the Speaker of the House of
400 Representatives shall be for terms of 2 years each. Members
401 shall serve until their successors are appointed. Vacancies
402 shall be filled in the manner of the original appointment for
403 the remainder of the term that is vacated.
- 404 (d) Members shall serve without compensation but are
405 entitled to reimbursement for travel expenses and per diem
406 related to council duties and responsibilities pursuant to s.
407 112.061.
- 408 (3) The department shall provide primary staff support to
409 the council and shall ensure that council meetings are
410 electronically recorded. Such recording shall be preserved
411 pursuant to chapters 119 and 257.

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412 (4) The department may adopt rules pursuant to ss.
 413 120.536(1) and 120.54 to implement the provisions of this
 414 section.

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

417 212.08 Sales, rental, use, consumption, distribution, and
 418 storage tax; specified exemptions.--The sale at retail, the
 419 rental, the use, the consumption, the distribution, and the
 420 storage to be used or consumed in this state of the following
 421 are hereby specifically exempt from the tax imposed by this
 422 chapter.

423 (7) MISCELLANEOUS EXEMPTIONS.--Exemptions provided to any
 424 entity by this chapter do not inure to any transaction that is
 425 otherwise taxable under this chapter when payment is made by a
 426 representative or employee of the entity by any means,
 427 including, but not limited to, cash, check, or credit card, even
 428 when that representative or employee is subsequently reimbursed
 429 by the entity. In addition, exemptions provided to any entity by
 430 this subsection do not inure to any transaction that is
 431 otherwise taxable under this chapter unless the entity has
 432 obtained a sales tax exemption certificate from the department
 433 or the entity obtains or provides other documentation as
 434 required by the department. Eligible purchases or leases made
 435 with such a certificate must be in strict compliance with this
 436 subsection and departmental rules, and any person who makes an
 437 exempt purchase with a certificate that is not in strict
 438 compliance with this subsection and the rules is liable for and

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439 shall pay the tax. The department may adopt rules to administer
440 this subsection.

441 (ccc) Equipment, machinery, and other materials for
442 renewable energy technologies.--

443 1. As used in this paragraph, the term:

444 a. "Biodiesel" means the mono-alkyl esters of long-chain
445 fatty acids derived from plant or animal matter for use as a
446 source of energy and meeting the specifications for biodiesel
447 and biodiesel blends with petroleum products as adopted by the
448 Department of Agriculture and Consumer Services. Biodiesel may
449 refer to biodiesel blends designated BXX, where XX represents
450 the volume percentage of biodiesel fuel in the blend.

451 b. "Ethanol" means nominally anhydrous denatured alcohol
452 produced by the fermentation of plant sugars meeting the
453 specifications for fuel ethanol and fuel ethanol blends with
454 petroleum products as adopted by the Department of Agriculture
455 and Consumer Services. Ethanol may refer to fuel ethanol blends
456 designated EXX, where XX represents the volume percentage of
457 fuel ethanol in the blend.

458 c. "Hydrogen fuel cells" means equipment using hydrogen or
459 a hydrogen-rich fuel in an electrochemical process to generate
460 energy, electricity, or the transfer of heat.

461 2. The sale or use of the following in the state is exempt
462 from the tax imposed by this chapter:

463 a. Hydrogen-powered vehicles, materials incorporated into
464 hydrogen-powered vehicles, and hydrogen-fueling stations, up to
465 a limit of \$2 million in taxes each state fiscal year.

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466 b. Commercial stationary hydrogen fuel cells, up to a
467 limit of \$1 million in taxes each state fiscal year.

468 c. Materials used in the distribution of biodiesel (B10-
469 B100) and ethanol (E10-E85), including fueling infrastructure,
470 transportation, and storage, up to a limit of \$1 million in
471 taxes each state fiscal year. Gasoline fueling station pump
472 retrofits for ethanol (E10-E100) distribution qualify for the
473 exemption provided in this sub-subparagraph.

474 3. The Department of Environmental Protection shall
475 provide to the department a list of items eligible for the
476 exemption provided in this paragraph.

477 4.a. The exemption provided in this paragraph shall be
478 available to a purchaser only through a refund of previously
479 paid taxes.

480 b. To be eligible to receive the exemption provided in
481 this paragraph, a purchaser shall file an application with the
482 Department of Environmental Protection. The application shall be
483 developed by the Department of Environmental Protection, in
484 consultation with the department, and shall require:

485 (I) The name and address of the person claiming the
486 refund.

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

490 (III) The sales invoice or other proof of purchase showing
491 the amount of sales tax paid, the date of purchase, and the name
492 and address of the sales tax dealer from whom the property was
493 purchased.

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494 (IV) A sworn statement that the information provided is
495 accurate and that the requirements of this paragraph have been
496 met.

497 c. Within 30 days after receipt of an application, the
498 Department of Environmental Protection shall review the
499 application and shall notify the applicant of any deficiencies.
500 Upon receipt of a completed application, the Department of
501 Environmental Protection shall evaluate the application for
502 exemption and issue a written certification that the applicant
503 is eligible for a refund or issue a written denial of such
504 certification within 60 days after receipt of the application.
505 The Department of Environmental Protection shall provide the
506 department with a copy of each certification issued upon
507 approval of an application.

508 d. Each certified applicant shall be responsible for
509 forwarding a certified copy of the application and copies of all
510 required documentation to the department within 6 months after
511 certification by the Department of Environmental Protection.

512 e. The provisions of s. 212.095 do not apply to any refund
513 application made pursuant to this paragraph. A refund approved
514 pursuant to this paragraph shall be made within 30 days after
515 formal approval by the department.

516 f. The department shall adopt rules governing the manner
517 and form of refund applications and may establish guidelines as
518 to the requisites for an affirmative showing of qualification
519 for exemption under this paragraph.

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520 g. The Department of Environmental Protection shall be
521 responsible for ensuring that the exemptions do not exceed the
522 limits provided in subparagraph 2.

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

526 6. This paragraph expires July 1, 2010.

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

529 213.053 Confidentiality and information sharing.--

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

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

535
536 Disclosure of information under this subsection shall be
537 pursuant to a written agreement between the executive director
538 and the agency. Such agencies, governmental or nongovernmental,
539 shall be bound by the same requirements of confidentiality as
540 the Department of Revenue. Breach of confidentiality is a
541 misdemeanor of the first degree, punishable as provided by s.
542 775.082 or s. 775.083.

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

545 220.02 Legislative intent.--

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

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548 applied in the following order: those enumerated in s. 631.828,
549 those enumerated in s. 220.191, those enumerated in s. 220.181,
550 those enumerated in s. 220.183, those enumerated in s. 220.182,
551 those enumerated in s. 220.1895, those enumerated in s. 221.02,
552 those enumerated in s. 220.184, those enumerated in s. 220.186,
553 those enumerated in s. 220.1845, those enumerated in s. 220.19,
554 those enumerated in s. 220.185, ~~and~~ those enumerated in s.
555 220.187, and those enumerated in s. 220.192.

556 Section 12. Section 220.192, Florida Statutes, is created
557 to read:

558 220.192 Renewable energy technologies investment tax
559 credit.--

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

561 (a) "Biodiesel" means biodiesel as defined in s.
562 212.08(7)(ccc).

563 (b) "Eligible costs" means:

564 1. Seventy-five percent of all capital costs, operation
565 and maintenance costs, and research and development costs
566 incurred between July 1, 2006, and June 30, 2010, up to a limit
567 of \$3 million per state fiscal year for all taxpayers, in
568 connection with an investment in hydrogen-powered vehicles and
569 hydrogen vehicle fueling stations in the state, including, but
570 not limited to, the costs of constructing, installing, and
571 equipping such technologies in the state.

572 2. Seventy-five percent of all capital costs, operation
573 and maintenance costs, and research and development costs
574 incurred between July 1, 2006, and June 30, 2010, up to a limit
575 of \$1.5 million per state fiscal year for all taxpayers, and

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576 limited to a maximum of \$12,000 per fuel cell, in connection
577 with an investment in commercial stationary hydrogen fuel cells
578 in the state, including, but not limited to, the costs of
579 constructing, installing, and equipping such technologies in the
580 state.

581 3. Seventy-five percent of all capital costs, operation
582 and maintenance costs, and research and development costs
583 incurred between July 1, 2006, and June 30, 2010, up to a limit
584 of \$6.5 million per state fiscal year for all taxpayers, in
585 connection with an investment in the production, storage, and
586 distribution of biodiesel (B10-B100) and ethanol (E10-E100) in
587 the state, including the costs of constructing, installing, and
588 equipping such technologies in the state. Gasoline fueling
589 station pump retrofits for ethanol (E10-E100) distribution
590 qualify as an eligible cost under this subparagraph.

591 (c) "Ethanol" means ethanol as defined in s.
592 212.08(7)(ccc).

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

595 (2) TAX CREDIT.--For tax years beginning on or after
596 January 1, 2007, a credit against the tax imposed by this
597 chapter shall be granted in an amount equal to the eligible
598 costs. Credits may be used in tax years beginning January 1,
599 2007, and ending December 31, 2010, after which the credit shall
600 expire. If the credit is not fully used in any one tax year
601 because of insufficient tax liability on the part of the
602 corporation, the unused amount may be carried forward and used
603 in tax years beginning January 1, 2007, and ending December 31,

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604 2012, after which the credit carryover expires and may not be
 605 used. A taxpayer that files a consolidated return in this state
 606 as a member of an affiliated group under s. 220.131(1) may be
 607 allowed the credit on a consolidated return basis up to the
 608 amount of tax imposed upon the consolidated group. Any eligible
 609 cost for which a credit is claimed and which is deducted or
 610 otherwise reduces federal taxable income shall be added back in
 611 computing adjusted federal income under s. 220.13.

612 (3) APPLICATION PROCESS.--Any corporation wishing to
 613 obtain tax credits available under this section must submit to
 614 the Department of Environmental Protection an application for
 615 tax credit that includes a complete description of all eligible
 616 costs for which the corporation is seeking a credit and a
 617 description of the total amount of credits sought. The
 618 Department of Environmental Protection shall make a
 619 determination on the eligibility of the applicant for the
 620 credits sought and certify the determination to the applicant
 621 and the Department of Revenue. The corporation must attach the
 622 Department of Environmental Protection's certification to the
 623 tax return on which the credit is claimed. The Department of
 624 Environmental Protection shall be responsible for ensuring that
 625 the corporate income tax credits granted in each fiscal year do
 626 not exceed the limits provided for in this section. The
 627 Department of Environmental Protection is authorized to adopt
 628 the necessary rules, guidelines, and application materials for
 629 the application process.

630 (4) ADMINISTRATION; AUDIT AUTHORITY; RECAPTURE OF
 631 CREDITS.--

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632 (a) In addition to its existing audit and investigation
633 authority, the Department of Revenue may perform any additional
634 financial and technical audits and investigations, including
635 examining the accounts, books, and records of the tax credit
636 applicant, that are necessary to verify the eligible costs
637 included in the tax credit return and to ensure compliance with
638 this section. The Department of Environmental Protection shall
639 provide technical assistance when requested by the Department of
640 Revenue on any technical audits or examinations performed
641 pursuant to this section.

642 (b) It is grounds for forfeiture of previously claimed and
643 received tax credits if the Department of Revenue determines, as
644 a result of either an audit or examination or from information
645 received from the Department of Environmental Protection, that a
646 taxpayer received tax credits pursuant to this section to which
647 the taxpayer was not entitled. The taxpayer is responsible for
648 returning forfeited tax credits to the Department of Revenue,
649 and such funds shall be paid into the General Revenue Fund of
650 the state.

651 (c) The Department of Environmental Protection may revoke
652 or modify any written decision granting eligibility for tax
653 credits under this section if it is discovered that the tax
654 credit applicant submitted any false statement, representation,
655 or certification in any application, record, report, plan, or
656 other document filed in an attempt to receive tax credits under
657 this section. The Department of Environmental Protection shall
658 immediately notify the Department of Revenue of any revoked or
659 modified orders affecting previously granted tax credits.

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660 Additionally, the taxpayer must notify the Department of Revenue
 661 of any change in its tax credit claimed.

662 (d) The taxpayer shall file with the Department of Revenue
 663 an amended return or such other report as the Department of
 664 Revenue prescribes by rule and shall pay any required tax and
 665 interest within 60 days after the taxpayer receives notification
 666 from the Department of Environmental Protection that previously
 667 approved tax credits have been revoked or modified. If the
 668 revocation or modification order is contested, the taxpayer
 669 shall file an amended return or other report as provided in this
 670 paragraph within 60 days after a final order is issued following
 671 proceedings.

672 (e) A notice of deficiency may be issued by the Department
 673 of Revenue at any time within 3 years after the taxpayer
 674 receives formal notification from the Department of
 675 Environmental Protection that previously approved tax credits
 676 have been revoked or modified. If a taxpayer fails to notify the
 677 Department of Revenue of any changes to its tax credit claimed,
 678 a notice of deficiency may be issued at any time.

679 (5) RULES.--The Department of Revenue shall have the
 680 authority to adopt rules relating to the forms required to claim
 681 a tax credit under this section, the requirements and basis for
 682 establishing an entitlement to a credit, and the examination and
 683 audit procedures required to administer this section.

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

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687 Section 13. Paragraph (a) of subsection (1) of section
688 220.13, Florida Statutes, is amended to read:

689 220.13 "Adjusted federal income" defined.--

690 (1) The term "adjusted federal income" means an amount
691 equal to the taxpayer's taxable income as defined in subsection
692 (2), or such taxable income of more than one taxpayer as
693 provided in s. 220.131, for the taxable year, adjusted as
694 follows:

695 (a) Additions.--There shall be added to such taxable
696 income:

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

702 2. The amount of interest which is excluded from taxable
703 income under s. 103(a) of the Internal Revenue Code or any other
704 federal law, less the associated expenses disallowed in the
705 computation of taxable income under s. 265 of the Internal
706 Revenue Code or any other law, excluding 60 percent of any
707 amounts included in alternative minimum taxable income, as
708 defined in s. 55(b)(2) of the Internal Revenue Code, if the
709 taxpayer pays tax under s. 220.11(3).

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

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

718 5. That portion of the ad valorem school taxes paid or
719 incurred for the taxable year which is equal to the amount of
720 the credit allowable for the taxable year under s. 220.182. The
721 provisions of this subparagraph shall expire and be void on June
722 30, 2005.

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

727 7. That portion of assessments to fund a guaranty
728 association incurred for the taxable year which is equal to the
729 amount of the credit allowable for the taxable year.

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

735 9. The amount taken as a credit for the taxable year under
736 s. 220.1895.

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

740 11. The amount taken as a credit for the taxable year
741 under s. 220.187.

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742 12. The amount taken as a credit for the taxable year
743 under s. 220.192.

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

746 186.801 Ten-year site plans.--

747 (2) Within 9 months after the receipt of the proposed
748 plan, the commission shall make a preliminary study of such plan
749 and classify it as "suitable" or "unsuitable." The commission
750 may suggest alternatives to the plan. All findings of the
751 commission shall be made available to the Department of
752 Environmental Protection for its consideration at any subsequent
753 electrical power plant site certification proceedings. It is
754 recognized that 10-year site plans submitted by an electric
755 utility are tentative information for planning purposes only and
756 may be amended at any time at the discretion of the utility upon
757 written notification to the commission. A complete application
758 for certification of an electrical power plant site under
759 chapter 403, when such site is not designated in the current 10-
760 year site plan of the applicant, shall constitute an amendment
761 to the 10-year site plan. In its preliminary study of each 10-
762 year site plan, the commission shall consider such plan as a
763 planning document and shall review:

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

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

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

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

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770 (e)~~(d)~~ The views of appropriate local, state, and federal
771 agencies, including the views of the appropriate water
772 management district as to the availability of water and its
773 recommendation as to the use by the proposed plant of salt water
774 or fresh water for cooling purposes.

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

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

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

781 366.04 Jurisdiction of commission.--

782 (6) The commission shall further have exclusive
783 jurisdiction to prescribe and enforce safety standards for
784 transmission and distribution facilities of all public electric
785 utilities, cooperatives organized under the Rural Electric
786 Cooperative Law, and electric utilities owned and operated by
787 municipalities. In adopting safety standards, the commission
788 shall, at a minimum:

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

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

793
794 The standards prescribed by the current 1984 edition of the
795 National Electrical Safety Code (ANSI C2) shall constitute
796 acceptable and adequate requirements for the protection of the
797 safety of the public, and compliance with the minimum

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798 requirements of that code shall constitute good engineering
799 practice by the utilities. The administrative authority referred
800 to in the 1984 edition of the National Electrical Safety Code is
801 the commission. However, nothing herein shall be construed as
802 superseding, repealing, or amending the provisions of s.
803 403.523(1) and (10).

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

806 366.05 Powers.--

807 (1) In the exercise of such jurisdiction, the commission
808 shall have power to prescribe fair and reasonable rates and
809 charges, classifications, standards of quality and measurements,
810 including the ability to adopt construction standards that
811 exceed the National Electrical Safety Code for purposes of
812 ensuring the reliable provision of service, and service rules
813 and regulations to be observed by each public utility; to
814 require repairs, improvements, additions, replacements, and
815 extensions to the plant and equipment of any public utility when
816 reasonably necessary to promote the convenience and welfare of
817 the public and secure adequate service or facilities for those
818 reasonably entitled thereto; to employ and fix the compensation
819 for such examiners and technical, legal, and clerical employees
820 as it deems necessary to carry out the provisions of this
821 chapter; and to adopt rules pursuant to ss. 120.536(1) and
822 120.54 to implement and enforce the provisions of this chapter.

823 (8) If the commission determines that there is probable
824 cause to believe that inadequacies exist with respect to the
825 energy grids developed by the electric utility industry,

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826 including inadequacies in fuel diversity or fuel supply
827 reliability, it shall have the power, after proceedings as
828 provided by law, and after a finding that mutual benefits will
829 accrue to the electric utilities involved, to require
830 installation or repair of necessary facilities, including
831 generating plants and transmission facilities, with the costs to
832 be distributed in proportion to the benefits received, and to
833 take all necessary steps to ensure compliance. The electric
834 utilities involved in any action taken or orders issued pursuant
835 to this subsection shall have full power and authority,
836 notwithstanding any general or special laws to the contrary, to
837 jointly plan, finance, build, operate, or lease generating and
838 transmission facilities and shall be further authorized to
839 exercise the powers granted to corporations in chapter 361. This
840 subsection shall not supersede or control any provision of the
841 Florida Electrical Power Plant Siting Act, ss. 403.501-403.518.

842 Section 17. The Florida Public Service Commission shall
843 direct a study of the electric transmission grid in the state.
844 The study shall look at electric system reliability to examine
845 the efficiency and reliability of power transfer and emergency
846 contingency conditions. In addition, the study shall examine the
847 strengthening of infrastructure to address issues arising from
848 the 2004 and 2005 hurricane seasons. A report of the results of
849 the study shall be provided to the Governor, the President of
850 the Senate, and the Speaker of the House of Representatives by
851 January 30, 2007.

852 Section 18. Subsections (5), (8), (9), (12), (18), (24),
853 and (27) of section 403.503, Florida Statutes, are amended,

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854 subsections (16) through (28) are renumbered as (17) through
855 (29), respectively, and a new subsection (16) is added to that
856 section, to read:

857 403.503 Definitions relating to Florida Electrical Power
858 Plant Siting Act.--As used in this act:

859 (5) "Application" means the documents required by the
860 department to be filed to initiate a certification review and
861 evaluation, including the initial document filing, amendments,
862 and responses to requests from the department for additional
863 data and information ~~proceeding and shall include the documents~~
864 ~~necessary for the department to render a decision on any permit~~
865 ~~required pursuant to any federally delegated or approved permit~~
866 ~~program.~~

867 (8) "Completeness" means that the application has
868 addressed all applicable sections of the prescribed application
869 format, and ~~but does not mean~~ that those sections are sufficient
870 in comprehensiveness of data or in quality of information
871 provided to allow the department to determine whether the
872 application provides the reviewing agencies adequate information
873 to prepare the reports required by s. 403.507.

874 (9) "Corridor" means the proposed area within which an
875 associated linear facility right-of-way is to be located. The
876 width of the corridor proposed for certification as an
877 associated facility, at the option of the applicant, may be the
878 width of the right-of-way or a wider boundary, not to exceed a
879 width of 1 mile. The area within the corridor in which a right-
880 of-way may be located may be further restricted by a condition
881 of certification. After all property interests required for the

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882 right-of-way have been acquired by the licensee ~~applicant~~, the
883 boundaries of the area certified shall narrow to only that land
884 within the boundaries of the right-of-way.

885 (12) "Electrical power plant" means, for the purpose of
886 certification, any steam or solar electrical generating facility
887 using any process or fuel, including nuclear materials, except
888 that this term does not include any steam or solar electrical
889 generating facility of less than 75 megawatts in capacity unless
890 the applicant for such a facility elects to apply for
891 certification under this act, or any unit capacity expansion of
892 35 megawatts or less of an existing exothermic reaction
893 cogeneration unit that was originally built under a power plant
894 siting act exemption. This exemption does not apply if the unit
895 uses oil or natural gas for purposes other than startup. This
896 term ~~and~~ includes associated facilities to be owned by the
897 licensee which directly support the construction and operation
898 of the electrical power plant such as fuel unloading facilities,
899 pipelines necessary for transporting fuel for the operation of
900 the facility or other fuel transportation facilities, water or
901 wastewater transport pipelines, construction, maintenance and
902 access roads, railway lines necessary for transport of
903 construction equipment or fuel for the operation of the
904 facility, and those associated transmission lines owned by the
905 licensee which connect the electrical power plant to an existing
906 transmission network or rights-of-way to which the applicant
907 intends to connect, ~~except that this term does not include any~~
908 ~~steam or solar electrical generating facility of less than 75~~
909 ~~megawatts in capacity unless the applicant for such a facility~~

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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910 ~~elects to apply for certification under this act.~~ Associated
 911 facilities ~~An associated transmission line~~ may include, at the
 912 applicant's option, offsite associated facilities that will not
 913 be owned by the applicant and any proposed terminal or
 914 intermediate substations or substation expansions connected to
 915 the associated transmission line.

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

918 ~~(19)-(18)~~ "Nonprocedural requirements of agencies" means
 919 any agency's regulatory requirements established by statute,
 920 rule, ordinance, zoning ordinance, land development code, or
 921 comprehensive plan, excluding any provisions prescribing forms,
 922 fees, procedures, or time limits for the review or processing of
 923 information submitted to demonstrate compliance with such
 924 regulatory requirements.

925 ~~(25)-(24)~~ "Right-of-way" means land necessary for the
 926 construction and maintenance of a connected associated linear
 927 facility, such as a railroad line, pipeline, or transmission
 928 line as owned by or proposed to be certified by the applicant.
 929 The typical width of the right-of-way shall be identified in the
 930 application. The right-of-way shall be located within the
 931 certified corridor and shall be identified by the applicant
 932 subsequent to certification in documents filed with the
 933 department prior to construction.

934 ~~(28)-(27)~~ "Ultimate site capacity" means the maximum
 935 generating capacity for a site as certified by the board.

936 ~~"Sufficiency" means that the application is not only complete~~
 937 ~~but that all sections are sufficient in the comprehensiveness of~~

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938 ~~data or in the quality of information provided to allow the~~
939 ~~department to determine whether the application provides the~~
940 ~~reviewing agencies adequate information to prepare the reports~~
941 ~~required by s. 403.507.~~

942 Section 19. Subsections (1), (7), (9), and (10) of section
943 403.504, Florida Statutes, are amended, and new subsections (9),
944 (10), (11), and (12) are added to that section, to read:

945 403.504 Department of Environmental Protection; powers and
946 duties enumerated.--The department shall have the following
947 powers and duties in relation to this act:

948 (1) To adopt rules pursuant to ss. 120.536(1) and 120.54
949 to implement the provisions of this act, including rules setting
950 forth environmental precautions to be followed in relation to
951 the location, construction, and operation of electrical power
952 plants.

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

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

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

959 (11) To administer and manage the terms and conditions of
960 the certification order and supporting documents and records for
961 the life of the facility.

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

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

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

969 Section 20. Section 403.5055, Florida Statutes, is amended
 970 to read:

971 403.5055 Application for permits pursuant to s.
 972 403.0885.--In processing applications for permits pursuant to s.
 973 403.0885 that are associated with applications for electrical
 974 power plant certification:

975 (1) The procedural requirements set forth in 40 C.F.R. s.
 976 123.25, including public notice, public comments, and public
 977 hearings, shall be closely coordinated with the certification
 978 process established under this part. In the event of a conflict
 979 between the certification process and federally required
 980 procedures for NPDES permit issuance, the applicable federal
 981 requirements shall control.

982 ~~(2) The department's proposed action pursuant to 40 C.F.R.~~
 983 ~~s. 124.6, including any draft NPDES permit (containing the~~
 984 ~~information required under 40 C.F.R. s. 124.6(d)), shall within~~
 985 ~~130 days after the submittal of a complete application be~~
 986 ~~publicly noticed and transmitted to the United States~~
 987 ~~Environmental Protection Agency for its review pursuant to 33~~
 988 ~~U.S.C. s. 1342(d).~~

989 (2)(3) If available at the time the department issues its
 990 project analysis pursuant to s. 403.507(5), the department shall
 991 include in its project analysis ~~written analysis pursuant to s.~~
 992 ~~403.507(3) copies of the department's proposed action pursuant~~
 993 ~~to 40 C.F.R. s. 124.6 on any application for a NPDES permit; any~~

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994 corresponding comments received from the United States
995 Environmental Protection Agency, the applicant, or the general
996 public; and the department's response to those comments.

997 ~~(3)-(4)~~ The department shall not issue or deny the permit
998 pursuant to s. 403.0885 in advance of the issuance of the
999 electrical electric power plant certification under this part
1000 unless required to do so by the provisions of federal law. When
1001 possible, any hearing on a permit issued pursuant to s. 403.0885
1002 shall be conducted in conjunction with the certification hearing
1003 held pursuant to this act. The department's actions on an NPDES
1004 permit shall be based on the record and recommended order of the
1005 certification hearing, if the hearing on the NPDES was conducted
1006 in conjunction with the certification hearing, and of any other
1007 proceeding held in connection with the application for an NPDES
1008 permit, timely public comments received with respect to the
1009 application, and the provisions of federal law. The department's
1010 action on an NPDES permit, if issued, shall differ from the
1011 actions taken by the siting board regarding the certification
1012 order if federal laws and regulations require different action
1013 to be taken to ensure compliance with the Clean Water Act, as
1014 amended, and implementing regulations. Nothing in this part
1015 shall be construed to displace the department's authority as the
1016 final permitting entity under the federally approved state NPDES
1017 program. Nothing in this part shall be construed to authorize
1018 the issuance of a state NPDES permit which does not conform to
1019 the requirements of the federally approved state NPDES program.
1020 ~~The permit, if issued, shall be valid for no more than 5 years.~~

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1021 ~~(5) The department's action on an NPDES permit renewal, if~~
 1022 ~~issued, shall differ from the actions taken by the siting board~~
 1023 ~~regarding the certification order if federal laws and~~
 1024 ~~regulations require different action to be taken to ensure~~
 1025 ~~compliance with the Clean Water Act, as amended, and~~
 1026 ~~implementing regulations.~~

1027 Section 21. Section 403.506, Florida Statutes, is amended
 1028 to read:

1029 403.506 Applicability, thresholds, and certification.--

1030 (1) The provisions of this act shall apply to any
 1031 electrical power plant as defined herein, except that the
 1032 provisions of this act shall not apply to any electrical power
 1033 plant or steam generating plant of less than 75 megawatts in
 1034 capacity or to any substation to be constructed as part of an
 1035 associated transmission line unless the applicant has elected to
 1036 apply for certification of such plant or substation under this
 1037 act. The provisions of this act shall not apply to any unit
 1038 capacity expansion of 35 megawatts or less of an existing
 1039 exothermic reaction cogeneration unit that was exempt from this
 1040 act when it was originally built; however, this exemption shall
 1041 not apply if the unit uses oil or natural gas for purposes other
 1042 than unit startup. No construction of any new electrical power
 1043 plant or expansion in steam generating capacity as measured by
 1044 an increase in the maximum electrical generator rating of any
 1045 existing electrical power plant may be undertaken after October
 1046 1, 1973, without first obtaining certification in the manner as
 1047 herein provided, except that this act shall not apply to any
 1048 such electrical power plant which is presently operating or

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1049 | under construction or which has, upon the effective date of
1050 | chapter 73-33, Laws of Florida, applied for a permit or
1051 | certification under requirements in force prior to the effective
1052 | date of such act.

1053 | (2) Except as provided in the certification, modification
1054 | of nonnuclear fuels, internal related hardware, including
1055 | increases in steam turbine efficiency, or operating conditions
1056 | not in conflict with certification which increase the electrical
1057 | output of a unit to no greater capacity than the maximum
1058 | electrical generator rating ~~operating capacity~~ of the existing
1059 | generator shall not constitute an alteration or addition to
1060 | generating capacity which requires certification pursuant to
1061 | this act.

1062 | ~~(3) The application for any related department license~~
1063 | ~~which is required pursuant to any federally delegated or~~
1064 | ~~approved permit program shall be processed within the time~~
1065 | ~~periods allowed by this act, in lieu of those specified in s.~~
1066 | ~~120.60. However, permits issued pursuant to s. 403.0885 shall be~~
1067 | ~~processed in accordance with 40 C.F.R. part 123.~~

1068 | Section 22. Section 403.5064, Florida Statutes, is amended
1069 | to read:

1070 | 403.5064 Application ~~Distribution of application;~~
1071 | schedules.--

1072 | (1) The formal date of filing of a certification
1073 | application and commencement of the certification review process
1074 | shall be when the applicant submits:

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1075 (a) Copies of the certification application in a quantity
1076 and format as prescribed by rule to the department and other
1077 agencies identified in s. 403.507(2)(a).

1078 (b) The application fee specified under s. 403.518 to the
1079 department.

1080 (2)-(1) Within 7 days after the filing of an application,
1081 the department shall provide to the applicant and the Division
1082 of Administrative Hearings the names and addresses of any
1083 additional ~~those affected or other~~ agencies or persons entitled
1084 to notice and copies of the application and any amendments.
1085 Copies of the application shall be distributed within 5 days
1086 after the provision of such names and addresses by the applicant
1087 to these additional agencies. This distribution shall not be a
1088 basis for altering the schedule of dates for the certification
1089 process.

1090 (3) Any amendment to the application made prior to
1091 certification shall be disposed of as part of the original
1092 certification proceeding. Amendment of the application may be
1093 considered good cause for alteration of time limits pursuant to
1094 s. 403.5095.

1095 (4)-(2) Within 7 days after the filing of an application
1096 ~~completeness has been determined~~, the department shall prepare a
1097 proposed schedule of dates for determination of completeness,
1098 submission of statements of issues, ~~determination of~~
1099 ~~sufficiency~~, and submittal of final reports, ~~from affected and~~
1100 ~~other agencies~~ and other significant dates to be followed during
1101 the certification process, including dates for filing notices of
1102 appearance to be a party pursuant to s. 403.508 (3)-(4). This

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1103 | schedule shall be timely provided by the department to the
1104 | applicant, the administrative law judge, all agencies identified
1105 | pursuant to subsection (2) ~~(1)~~, and all parties. Within 7 days
1106 | after the filing of the proposed schedule, the administrative
1107 | law judge shall issue an order establishing a schedule for the
1108 | matters addressed in the department's proposed schedule and
1109 | other appropriate matters, if any.

1110 | ~~(5)(3) Within 7 days after completeness has been~~
1111 | ~~determined, the applicant shall distribute copies of the~~
1112 | ~~application to all agencies identified by the department~~
1113 | ~~pursuant to subsection (1).~~ Copies of changes and amendments to
1114 | the application shall be timely distributed by the applicant to
1115 | all ~~affected~~ agencies and parties who have received a copy of
1116 | the application.

1117 | (6) Notice of the filing of the application shall be
1118 | published in accordance with the requirements of s. 403.5115.

1119 | Section 23. Section 403.5065, Florida Statutes, is amended
1120 | to read:

1121 | 403.5065 Appointment of administrative law judge; powers
1122 | and duties.--

1123 | (1) Within 7 days after receipt of an application, ~~whether~~
1124 | ~~complete or not~~, the department shall request the Division of
1125 | Administrative Hearings to designate an administrative law judge
1126 | to conduct the hearings required by this act. The division
1127 | director shall designate an administrative law judge within 7
1128 | days after receipt of the request from the department. In
1129 | designating an administrative law judge for this purpose, the
1130 | division director shall, whenever practicable, assign an

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1131 administrative law judge who has had prior experience or
1132 training in electrical power plant site certification
1133 proceedings. Upon being advised that an administrative law judge
1134 has been appointed, the department shall immediately file a copy
1135 of the application and all supporting documents with the
1136 designated administrative law judge, who shall docket the
1137 application.

1138 (2) The administrative law judge shall have all powers and
1139 duties granted to administrative law judges by chapter 120 and
1140 by the laws and rules of the department.

1141 Section 24. Section 403.5066, Florida Statutes, is amended
1142 to read:

1143 403.5066 Determination of completeness.--

1144 (1) (a) Within 30 days after the filing of an application,
1145 affected agencies shall file a statement with the department
1146 containing each agency's recommendations on the completeness of
1147 the application.

1148 (b) Within ~~40~~ 15 days after the filing receipt of an
1149 application, the department shall file a statement with the
1150 Division of Administrative Hearings, and with the applicant, and
1151 with all parties declaring its position with regard to the
1152 completeness, not the sufficiency, of the application. The
1153 department's statement shall be based upon consultation with the
1154 affected agencies.

1155 (2) ~~(1)~~ If the department declares the application to be
1156 incomplete, the applicant, within 15 days after the filing of
1157 the statement by the department, shall file with the Division of

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1158 | Administrative Hearings, ~~and~~ with the department, and all
 1159 | parties a statement:
 1160 | (a) A withdrawal of ~~Agreeing with the statement of the~~
 1161 | ~~department and withdrawing~~ the application;
 1162 | (b) A statement agreeing to supply the additional
 1163 | information necessary to make the application complete. Such
 1164 | additional information shall be provided within 30 days after
 1165 | the issuance of the department's statement on completeness of
 1166 | the application. The time schedules under this act shall not be
 1167 | tolled if the applicant makes the application complete within 30
 1168 | days after the issuance of the department's statement on
 1169 | completeness of the application. A subsequent finding by the
 1170 | department that the application remains incomplete, based upon
 1171 | the additional information submitted by the applicant or upon
 1172 | the failure of the applicant to timely submit the additional
 1173 | information, tolls the time schedules under this act until the
 1174 | application is determined complete; Agreeing with the statement
 1175 | ~~of the department and agreeing to amend the application without~~
 1176 | ~~withdrawing it. The time schedules referencing a complete~~
 1177 | ~~application under this act shall not commence until the~~
 1178 | ~~application is determined complete; or~~
 1179 | (c) A statement contesting the department's determination
 1180 | of incompleteness; or ~~contesting the statement of the~~
 1181 | ~~department.~~
 1182 | (d) A statement agreeing with the department and
 1183 | requesting additional time beyond 30 days to provide the
 1184 | information necessary to make the application complete. If the

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1185 applicant exercises this option, the time schedules under this
1186 act are tolled until the application is determined complete.

1187 (3) (a) ~~(2)~~ If the applicant contests the determination by
1188 the department that an application is incomplete, the
1189 administrative law judge shall schedule a hearing on the
1190 statement of completeness. The hearing shall be held as
1191 expeditiously as possible, but not later than 21 ~~30~~ days after
1192 the filing of the statement by the department. The
1193 administrative law judge shall render a decision within 7 ~~10~~
1194 days after the hearing.

1195 (b) Parties to a hearing on the issue of completeness
1196 shall include the applicant, the department, and any agency that
1197 has jurisdiction over the matter in dispute.

1198 (c) ~~(a)~~ If the administrative law judge determines that the
1199 application was not complete ~~as filed~~, the applicant shall
1200 withdraw the application or make such additional submittals as
1201 necessary to complete it. The time schedules referencing a
1202 complete application under this act shall not commence until the
1203 application is determined complete.

1204 (d) ~~(b)~~ If the administrative law judge determines that the
1205 application was complete at the time it was declared incomplete
1206 ~~filed~~, the time schedules referencing a complete application
1207 under this act shall commence upon such determination.

1208 (4) If the applicant provides additional information to
1209 address the issues identified in the determination of
1210 incompleteness, each affected agency may submit to the
1211 department, no later than 15 days after the applicant files the
1212 additional information, a recommendation on whether the agency

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1213 believes the application is complete. Within 22 days after
1214 receipt of the additional information from the applicant
1215 submitted under paragraph (2)(b), paragraph (2)(d), or paragraph
1216 (3)(c), the department shall determine whether the additional
1217 information supplied by an applicant makes the application
1218 complete. If the department finds that the application is still
1219 incomplete, the applicant may exercise any of the options
1220 specified in subsection (2) as often as is necessary to resolve
1221 the dispute.

1222 Section 25. Section 403.50663, Florida Statutes, is
1223 created to read:

1224 403.50663 Informational public meetings.--

1225 (1) A local government within whose jurisdiction the power
1226 plant is proposed to be sited may hold one informational public
1227 meeting in addition to the hearings specifically authorized by
1228 this act on any matter associated with the electrical power
1229 plant proceeding. Such informational public meetings shall be
1230 held by the local government or by the regional planning council
1231 if the local government does not hold such meeting within 70
1232 days after the filing of the application. The purpose of an
1233 informational public meeting is for the local government or
1234 regional planning council to further inform the public about the
1235 proposed electrical power plant or associated facilities, obtain
1236 comments from the public, and formulate its recommendation with
1237 respect to the proposed electrical power plant.

1238 (2) Informational public meetings shall be held solely at
1239 the option of each local government or regional planning council
1240 if a public meeting is not held by the local government. It is

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1241 the legislative intent that local governments or regional
1242 planning councils attempt to hold such public meetings. Parties
1243 to the proceedings under this act shall be encouraged to attend;
1244 however, no party other than the applicant and the department
1245 shall be required to attend such informational public meetings.

1246 (3) A local government or regional planning council that
1247 intends to conduct an informational public meeting must provide
1248 notice of the meeting to all parties not less than 5 days prior
1249 to the meeting.

1250 (4) The failure to hold an informational public meeting or
1251 the procedure used for the informational public meeting are not
1252 grounds for the alteration of any time limitation in this act
1253 under s. 403.5095 or grounds to deny or condition certification.

1254 Section 26. Section 403.50665, Florida Statutes, is
1255 created to read:

1256 403.50665 Land use consistency.--

1257 (1) The applicant shall include in the application a
1258 statement on the consistency of the site or any directly
1259 associated facilities with existing land use plans and zoning
1260 ordinances that were in effect on the date the application was
1261 filed and a full description of such consistency.

1262 (2) Within 80 days after the filing of the application,
1263 each local government shall file a determination with the
1264 department, the applicant, the administrative law judge, and all
1265 parties on the consistency of the site or any directly
1266 associated facilities with existing land use plans and zoning
1267 ordinances that were in effect on the date the application was
1268 filed, based on the information provided in the application. The

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1269 applicant shall publish notice of the consistency determination
1270 in accordance with the requirements of s. 403.5115.

1271 (3) If any substantially affected person wishes to dispute
1272 the local government's determination, he or she shall file a
1273 petition with the department within 15 days after the
1274 publication of notice of the local government's determination.
1275 If a hearing is requested, the provisions of s. 403.508(1) shall
1276 apply.

1277 (4) The dates in this section may be altered upon
1278 agreement between the applicant, the local government, and the
1279 department pursuant to s. 403.5095.

1280 (5) If it is determined by the local government that the
1281 proposed site or directly associated facility does conform with
1282 existing land use plans and zoning ordinances in effect as of
1283 the date of the application and no petition has been filed, the
1284 responsible zoning or planning authority shall not thereafter
1285 change such land use plans or zoning ordinances so as to
1286 foreclose construction and operation of the proposed site or
1287 directly associated facilities unless certification is
1288 subsequently denied or withdrawn.

1289 Section 27. Section 403.5067, Florida Statutes, is
1290 repealed.

1291 Section 28. Section 403.507, Florida Statutes, is amended
1292 to read:

1293 403.507 Preliminary statements of issues, reports, project
1294 analyses, and studies.--

1295 (1) Each affected agency identified in paragraph (2) (a)
1296 shall submit a preliminary statement of issues to the

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1297 department, ~~and~~ the applicant, and all parties no later than 40
 1298 ~~60~~ days after the certification application has been determined
 1299 ~~distribution of the complete application~~. The failure to raise
 1300 an issue in this statement shall not preclude the issue from
 1301 being raised in the agency's report.

1302 (2) (a) No later than 100 days after the certification
 1303 application has been determined complete, the following agencies
 1304 shall prepare reports as provided below and shall submit them to
 1305 the department and the applicant ~~within 150 days after~~
 1306 ~~distribution of the complete application~~:

1307 1. The Department of Community Affairs shall prepare a
 1308 report containing recommendations which address the impact upon
 1309 the public of the proposed electrical power plant, based on the
 1310 degree to which the electrical power plant is consistent with
 1311 the applicable portions of the state comprehensive plan,
 1312 emergency management requirements, and other such matters within
 1313 its jurisdiction. The Department of Community Affairs may also
 1314 comment on the consistency of the proposed electrical power
 1315 plant with applicable strategic regional policy plans or local
 1316 comprehensive plans and land development regulations.

1317 ~~2. The Public Service Commission shall prepare a report as~~
 1318 ~~to the present and future need for the electrical generating~~
 1319 ~~capacity to be supplied by the proposed electrical power plant.~~
 1320 ~~The report shall include the commission's determination pursuant~~
 1321 ~~to s. 403.519 and may include the commission's comments with~~
 1322 ~~respect to any other matters within its jurisdiction.~~

1323 ~~2.3.~~ The water management district shall prepare a report
 1324 as to matters within its jurisdiction, including but not limited

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1325 to, the impact of the proposed electrical power plant on water
1326 resources, regional water supply planning, and district-owned
1327 lands and works.

1328 ~~3.4.~~ Each local government in whose jurisdiction the
1329 proposed electrical power plant is to be located shall prepare a
1330 report as to the consistency of the proposed electrical power
1331 plant with all applicable local ordinances, regulations,
1332 standards, or criteria that apply to the proposed electrical
1333 power plant, including ~~adopted local comprehensive plans, land~~
1334 ~~development regulations, and~~ any applicable local environmental
1335 regulations adopted pursuant to s. 403.182 or by other means.

1336 ~~4.5.~~ The Fish and Wildlife Conservation Commission shall
1337 prepare a report as to matters within its jurisdiction.

1338 ~~5.6.~~ Each ~~The~~ regional planning council shall prepare a
1339 report containing recommendations that address the impact upon
1340 the public of the proposed electrical power plant, based on the
1341 degree to which the electrical power plant is consistent with
1342 the applicable provisions of the strategic regional policy plan
1343 adopted pursuant to chapter 186 and other matters within its
1344 jurisdiction.

1345 6. The Department of Transportation shall address the
1346 impact of the proposed electrical power plant on matters within
1347 its jurisdiction.

1348 ~~(b)7.~~ Any other agency, if requested by the department,
1349 shall also perform studies or prepare reports as to matters
1350 within that agency's jurisdiction which may potentially be
1351 affected by the proposed electrical power plant.

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1352 ~~(b) As needed to verify or supplement the studies made by~~
1353 ~~the applicant in support of the application, it shall be the~~
1354 ~~duty of the department to conduct, or contract for, studies of~~
1355 ~~the proposed electrical power plant and site, including, but not~~
1356 ~~limited to, the following, which shall be completed no later~~
1357 ~~than 210 days after the complete application is filed with the~~
1358 ~~department:~~

- 1359 ~~1. Cooling system requirements.~~
- 1360 ~~2. Construction and operational safeguards.~~
- 1361 ~~3. Proximity to transportation systems.~~
- 1362 ~~4. Soil and foundation conditions.~~
- 1363 ~~5. Impact on suitable present and projected water supplies~~
1364 ~~for this and other competing uses.~~
- 1365 ~~6. Impact on surrounding land uses.~~
- 1366 ~~7. Accessibility to transmission corridors.~~
- 1367 ~~8. Environmental impacts.~~
- 1368 ~~9. Requirements applicable under any federally delegated~~
1369 ~~or approved permit program.~~

1370 ~~(3)(e) Each report described in subsection (2) paragraphs~~
1371 ~~(a) and (b) shall contain:~~

1372 (a) A notice of any nonprocedural requirements not
1373 specifically listed in the application from which a variance,
1374 exemption, exception all information on variances, exemptions,
1375 exceptions, or other relief is necessary in order for the
1376 proposed electrical power plant to be certified. Failure of such
1377 notification by an agency shall be treated as a waiver from
1378 nonprocedural requirements of that agency. However, no variance
1379 shall be granted from standards or regulations of the department

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1380 applicable under any federally delegated or approved permit
1381 program, except as expressly allowed in such program. ~~which may~~
1382 ~~be required by s. 403.511(2) and~~

1383 (b) A recommendation for approval or denial of the
1384 application.

1385 (c) Any proposed conditions of certification on matters
1386 within the jurisdiction of such agency. For each condition
1387 proposed by an agency in its report, the agency shall list the
1388 specific statute, rule, or ordinance which authorizes the
1389 proposed condition.

1390 (d) The agencies shall initiate the activities required by
1391 this section no later than 30 days after the complete
1392 application is distributed. The agencies shall keep the
1393 applicant and the department informed as to the progress of the
1394 studies and any issues raised thereby.

1395 ~~(3) No later than 60 days after the application for a~~
1396 ~~federally required new source review or prevention of~~
1397 ~~significant deterioration permit for the electrical power plant~~
1398 ~~is complete and sufficient, the department shall issue its~~
1399 ~~preliminary determination on such permit. Notice of such~~
1400 ~~determination shall be published as required by the department's~~
1401 ~~rules for notices of such permits. The department shall receive~~
1402 ~~public comments and comments from the United States~~
1403 ~~Environmental Protection Agency and other affected agencies on~~
1404 ~~the preliminary determination as provided for in the federally~~
1405 ~~approved state implementation plan. The department shall~~
1406 ~~maintain a record of all comments received and considered in~~
1407 ~~taking action on such permits. If a petition for an~~

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1408 ~~administrative hearing on the department's preliminary~~
1409 ~~determination is filed by a substantially affected person, that~~
1410 ~~hearing shall be consolidated with the certification hearing.~~

1411 (4) (a) No later than 150 days after the application is
1412 filed, the Public Service Commission shall prepare a report as
1413 to the present and future need for electrical generating
1414 capacity to be supplied by the proposed electrical power plant.
1415 The report shall include the commission's determination pursuant
1416 to s. 403.519 and may include the commission's comments with
1417 respect to any other matters within its jurisdiction.

1418 (b) Receipt of an affirmative determination of need by the
1419 submittal deadline under paragraph (a) shall be a condition
1420 precedent to issuance of the department's project analysis and
1421 conduct of the certification hearing.

1422 (5) (4) The department shall prepare a project written
1423 analysis, which shall be filed with the designated
1424 administrative law judge and served on all parties no later than
1425 130 240 days after the complete application is determined
1426 complete filed with the department, but no later than 60 days
1427 prior to the hearing, and which shall include:

1428 (a) A statement indicating whether the proposed electrical
1429 power plant and proposed ultimate site capacity will be in
1430 compliance and consistent with matters within the department's
1431 standard jurisdiction, including with the rules of the
1432 department, as well as whether the proposed electrical power
1433 plant and proposed ultimate site capacity will be in compliance
1434 with the nonprocedural requirements of the affected agencies.

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1435 (b) Copies of the studies and reports required by this
1436 section and ~~s. 403.519~~.

1437 (c) The comments received by the department from any other
1438 agency or person.

1439 (d) The recommendation of the department as to the
1440 disposition of the application, of variances, exemptions,
1441 exceptions, or other relief identified by any party, and of any
1442 proposed conditions of certification which the department
1443 believes should be imposed.

1444 (e) If available, the recommendation of the department
1445 regarding the issuance of any license required pursuant to a
1446 federally delegated or approved permit program.

1447 ~~(f) Copies of the department's draft of the operation~~
1448 ~~permit for a major source of air pollution, which must also be~~
1449 ~~provided to the United States Environmental Protection Agency~~
1450 ~~for review within 5 days after issuance of the written analysis.~~

1451 (6) ~~(5)~~ Except when good cause is shown, the failure of any
1452 agency to submit a preliminary statement of issues or a report,
1453 or to submit its preliminary statement of issues or report
1454 within the allowed time, shall not be grounds for the alteration
1455 of any time limitation in this act. Neither the failure to
1456 submit a preliminary statement of issues or a report nor the
1457 inadequacy of the preliminary statement of issues or report are
1458 ~~shall be~~ grounds to deny or condition certification.

1459 Section 29. Section 403.508, Florida Statutes, is amended
1460 to read:

1461 403.508 Land use and certification hearings ~~proceedings~~,
1462 parties, participants.--

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1463 (1) (a) If a petition for a hearing on land use has been
1464 filed pursuant to s. 403.50665, the designated administrative
1465 law judge shall conduct a land use hearing in the county of the
1466 proposed site or directly associated facility, as applicable, as
1467 expeditiously as possible, but not later than 30 ~~within 90~~ days
1468 after the department's receipt of the petition ~~a complete~~
1469 ~~application for electrical power plant site certification by the~~
1470 ~~department.~~ The place of such hearing shall be as close as
1471 possible to the proposed site or directly associated facility.
1472 If a petition is filed, the hearing shall be held regardless of
1473 the status of the completeness of the application. However,
1474 incompleteness of information necessary for a local government
1475 to evaluate an application may be claimed by the local
1476 government as cause for a statement of inconsistency with
1477 existing land use plans and zoning ordinances under s.
1478 403.50665.

1479 (b) Notice of the land use hearing shall be published in
1480 accordance with the requirements of s. 403.5115.

1481 (c) ~~(2)~~ The sole issue for determination at the land use
1482 hearing shall be whether or not the proposed site is consistent
1483 and in compliance with existing land use plans and zoning
1484 ordinances. If the administrative law judge concludes that the
1485 proposed site is not consistent or in compliance with existing
1486 land use plans and zoning ordinances, the administrative law
1487 judge shall receive at the hearing evidence on, and address in
1488 the recommended order any changes to or approvals or variances
1489 under, the applicable land use plans or zoning ordinances which

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1490 will render the proposed site consistent and in compliance with
1491 the local land use plans and zoning ordinances.

1492 (d) The designated administrative law judge's recommended
1493 order shall be issued within 30 days after completion of the
1494 hearing and shall be reviewed by the board within 60 ~~45~~ days
1495 after receipt of the recommended order by the board.

1496 (e) If it is determined by the board that the proposed
1497 site does conform with existing land use plans and zoning
1498 ordinances in effect as of the date of the application, or as
1499 otherwise provided by this act, the responsible zoning or
1500 planning authority shall not thereafter change such land use
1501 plans or zoning ordinances so as to foreclose construction and
1502 operation of ~~affect~~ the proposed electrical power plant on the
1503 proposed site or directly associated facilities unless
1504 certification is subsequently denied or withdrawn.

1505 (f) If it is determined by the board that the proposed
1506 site does not conform with existing land use plans and zoning
1507 ordinances, ~~it shall be the responsibility of the applicant to~~
1508 ~~make the necessary application for rezoning. Should the~~
1509 ~~application for rezoning be denied, the applicant may appeal~~
1510 ~~this decision to the board,~~ ~~which~~ may, if it determines after
1511 notice and hearing and upon consideration of the recommended
1512 order on land use and zoning issues that it is in the public
1513 interest to authorize the use of the land as a site for an
1514 electrical power plant, authorize an amendment, rezoning,
1515 variance, or other approval ~~a variance~~ to the adopted land use
1516 plan and zoning ordinances required to render the proposed site
1517 consistent with local land use plans and zoning ordinances. The

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1518 board's action shall not be controlled by any other procedural
1519 requirements of law. In the event a variance or other approval
1520 is denied by the board, it shall be the responsibility of the
1521 applicant to make the necessary application for any approvals
1522 determined by the board as required to make the proposed site
1523 consistent and in compliance with local land use plans and
1524 zoning ordinances. No further action may be taken on the
1525 complete application ~~by the department~~ until the proposed site
1526 conforms to the adopted land use plan or zoning ordinances or
1527 the board grants relief as provided under this act.

1528 (2) (a) ~~(3)~~ A certification hearing shall be held by the
1529 designated administrative law judge no later than 265 ~~300~~ days
1530 after the ~~complete~~ application is filed with the department,
1531 ~~however, an affirmative determination of need by the Public~~
1532 ~~Service Commission pursuant to s. 403.519 shall be a condition~~
1533 ~~precedent to the conduct of the certification hearing.~~ The
1534 certification hearing shall be held at a location in proximity
1535 to the proposed site. ~~The certification hearing shall also~~
1536 ~~constitute the sole hearing allowed by chapter 120 to determine~~
1537 ~~the substantial interest of a party regarding any required~~
1538 ~~agency license or any related permit required pursuant to any~~
1539 ~~federally delegated or approved permit program.~~ At the
1540 conclusion of the certification hearing, the designated
1541 administrative law judge shall, after consideration of all
1542 evidence of record, submit to the board a recommended order no
1543 later than 45 ~~60~~ days after the filing of the hearing
1544 transcript. ~~In the event the administrative law judge fails to~~
1545 ~~issue a recommended order within 60 days after the filing of the~~

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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1546 ~~hearing transcript, the administrative law judge shall submit a~~
1547 ~~report to the board with a copy to all parties within 60 days~~
1548 ~~after the filing of the hearing transcript to advise the board~~
1549 ~~of the reason for the delay in the issuance of the recommended~~
1550 ~~order and of the date by which the recommended order will be~~
1551 ~~issued.~~

1552 (b) Notice of the certification hearing and notice of the
1553 deadline for filing of notice of intent to be a party shall be
1554 made in accordance with the requirements of s. 403.5115.

1555 (3) (a) (4) (a) Parties to the proceeding shall include:

- 1556 1. The applicant.
- 1557 2. The Public Service Commission.
- 1558 3. The Department of Community Affairs.
- 1559 4. The Fish and Wildlife Conservation Commission.
- 1560 5. The water management district.
- 1561 6. The department.
- 1562 7. The regional planning council.
- 1563 8. The local government.
- 1564 9. The Department of Transportation.

1565 (b) Any party listed in paragraph (a) other than the
1566 department or the applicant may waive its right to participate
1567 in these proceedings. If such listed party fails to file a
1568 notice of its intent to be a party on or before the 90th day
1569 prior to the certification hearing, such party shall be deemed
1570 to have waived its right to be a party.

1571 (c) Notwithstanding the provisions of chapter 120, upon
1572 the filing with the administrative law judge of a notice of
1573 intent to be a party no later than 75 days after the application

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1574 is filed ~~at least 15 days prior to the date of the land use~~
1575 ~~hearing~~, the following shall also be parties to the proceeding:

1576 1. Any agency not listed in paragraph (a) as to matters
1577 within its jurisdiction.

1578 2. Any domestic nonprofit corporation or association
1579 formed, in whole or in part, to promote conservation or natural
1580 beauty; to protect the environment, personal health, or other
1581 biological values; to preserve historical sites; to promote
1582 consumer interests; to represent labor, commercial, or
1583 industrial groups; or to promote comprehensive planning or
1584 orderly development of the area in which the proposed electrical
1585 power plant is to be located.

1586 (d) Notwithstanding paragraph (e), failure of an agency
1587 described in subparagraph (c)1. to file a notice of intent to be
1588 a party within the time provided herein shall constitute a
1589 waiver of the right of that agency to participate as a party in
1590 the proceeding.

1591 (e) Other parties may include any person, including those
1592 persons enumerated in paragraph (c) who have failed to timely
1593 file a notice of intent to be a party, whose substantial
1594 interests are affected and being determined by the proceeding
1595 and who timely file a motion to intervene pursuant to chapter
1596 120 and applicable rules. Intervention pursuant to this
1597 paragraph may be granted at the discretion of the designated
1598 administrative law judge and upon such conditions as he or she
1599 may prescribe any time prior to 30 days before the commencement
1600 of the certification hearing.

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1601 (f) Any agency, including those whose properties or works
1602 are being affected pursuant to s. 403.509(4), shall be made a
1603 party upon the request of the department or the applicant.

1604 (4) (a) The order of presentation at the certification
1605 hearing, unless otherwise changed by the administrative law
1606 judge to ensure the orderly presentation of witnesses and
1607 evidence, shall be:

1608 1. The applicant.

1609 2. The department.

1610 3. State agencies.

1611 4. Regional agencies, including regional planning councils
1612 and water management districts.

1613 5. Local governments.

1614 6. Other parties.

1615 (b) (5) When appropriate, any person may be given an
1616 opportunity to present oral or written communications to the
1617 designated administrative law judge. If the designated
1618 administrative law judge proposes to consider such
1619 communications, then all parties shall be given an opportunity
1620 to cross-examine or challenge or rebut such communications.

1621 (5) At the conclusion of the certification hearing, the
1622 designated administrative law judge shall, after consideration
1623 of all evidence of record, submit to the board a recommended
1624 order no later than 45 days after the filing of the hearing
1625 transcript.

1626 (6) (a) No earlier than 29 days prior to the conduct of the
1627 certification hearing, the department or the applicant may
1628 request that the administrative law judge cancel the

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1629 certification hearing and relinquish jurisdiction to the
1630 department if all parties to the proceeding stipulate that there
1631 are no disputed issues of fact or law to be raised at the
1632 certification hearing, and if sufficient time remains for the
1633 applicant and the department to publish public notices of the
1634 cancellation of the hearing at least 3 days prior to the
1635 scheduled date of the hearing.

1636 (b) The administrative law judge shall issue an order
1637 granting or denying the request within 5 days after receipt of
1638 the request.

1639 (c) If the administrative law judge grants the request,
1640 the department and the applicant shall publish notices of the
1641 cancellation of the certification hearing, in accordance with s.
1642 403.5115.

1643 (d)1. If the administrative law judge grants the request,
1644 the department shall prepare and issue a final order in
1645 accordance with s. 403.509(1)(a).

1646 2. Parties may submit proposed recommended orders to the
1647 department no later than 10 days after the administrative law
1648 judge issues an order relinquishing jurisdiction.

1649 (7) The applicant shall pay those expenses and costs
1650 associated with the conduct of the hearings and the recording
1651 and transcription of the proceedings.

1652 ~~(6) The designated administrative law judge shall have all~~
1653 ~~powers and duties granted to administrative law judges by~~
1654 ~~chapter 120 and this chapter and by the rules of the department~~
1655 ~~and the Administration Commission, including the authority to~~

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1656 ~~resolve disputes over the completeness and sufficiency of an~~
1657 ~~application for certification.~~

1658 ~~(7) The order of presentation at the certification~~
1659 ~~hearing, unless otherwise changed by the administrative law~~
1660 ~~judge to ensure the orderly presentation of witnesses and~~
1661 ~~evidence, shall be:~~

1662 ~~(a) The applicant.~~

1663 ~~(b) The department.~~

1664 ~~(c) State agencies.~~

1665 ~~(d) Regional agencies, including regional planning~~
1666 ~~councils and water management districts.~~

1667 ~~(e) Local governments.~~

1668 ~~(f) Other parties.~~

1669 (8) In issuing permits under the federally approved new
1670 source review or prevention of significant deterioration permit
1671 program, the department shall observe the procedures specified
1672 under the federally approved state implementation plan,
1673 including public notice, public comment, public hearing, and
1674 notice of applications and amendments to federal, state, and
1675 local agencies, to assure that all such permits issued in
1676 coordination with the certification of a power plant under this
1677 act are federally enforceable and are issued after opportunity
1678 for informed public participation regarding the terms and
1679 conditions thereof. When possible, any hearing on a federally
1680 approved or delegated program permit such as new source review,
1681 prevention of significant deterioration permit, or NPDES permit
1682 shall be conducted in conjunction with the certification hearing
1683 held under this act. ~~The department shall accept written comment~~

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1684 ~~with respect to an application for, or the department's~~
 1685 ~~preliminary determination on, a new source review or prevention~~
 1686 ~~of significant deterioration permit for a period of no less than~~
 1687 ~~30 days from the date notice of such action is published. Upon~~
 1688 ~~request submitted within 30 days after published notice, the~~
 1689 ~~department shall hold a public meeting, in the area affected,~~
 1690 ~~for the purpose of receiving public comment on issues related to~~
 1691 ~~the new source review or prevention of significant deterioration~~
 1692 ~~permit. If requested following notice of the department's~~
 1693 ~~preliminary determination, the public meeting to receive public~~
 1694 ~~comment shall be held prior to the scheduled certification~~
 1695 ~~hearing. The department shall also solicit comments from the~~
 1696 ~~United States Environmental Protection Agency and other affected~~
 1697 ~~federal agencies regarding the department's preliminary~~
 1698 ~~determination for any federally required new source review or~~
 1699 ~~prevention of significant deterioration permit. It is the intent~~
 1700 ~~of the Legislature that the review, processing, and issuance of~~
 1701 ~~such federally delegated or approved permits be closely~~
 1702 ~~coordinated with the certification process established under~~
 1703 ~~this part. In the event of a conflict between the certification~~
 1704 ~~process and federally required procedures ~~contained in the state~~~~
 1705 ~~~~implementation plan~~, the applicable federal requirements ~~of the~~~~
 1706 ~~~~implementation plan~~ shall control.~~

1707 Section 30. Section 403.509, Florida Statutes, is amended
 1708 to read:

1709 403.509 Final disposition of application.--

1710 (1) (a) If the administrative law judge has granted a
 1711 request to cancel the certification hearing and has relinquished

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1712 jurisdiction to the department under the provisions of s.
1713 403.508(6), within 40 days thereafter, the secretary of the
1714 department shall act upon the application by written order in
1715 accordance with the terms of this act and the stipulation of the
1716 parties in requesting cancellation of the certification hearing.

1717 (b) If the administrative law judge has not granted a
1718 request to cancel the certification hearing under the provisions
1719 of s. 403.508(6), within 60 days after receipt of the designated
1720 administrative law judge's recommended order, the board shall
1721 act upon the application by written order, approving
1722 ~~certification~~ or denying certification ~~the issuance of a~~
1723 ~~certificate~~, in accordance with the terms of this act, and
1724 stating the reasons for issuance or denial. If certification ~~the~~
1725 ~~certificate~~ is denied, the board shall set forth in writing the
1726 action the applicant would have to take to secure the board's
1727 approval of the application.

1728 (2) The issues that may be raised in any hearing before
1729 the board shall be limited to those matters raised in the
1730 certification proceeding before the administrative law judge or
1731 raised in the recommended order. All parties, or their
1732 representatives, or persons who appear before the board shall be
1733 subject to the provisions of s. 120.66.

1734 (3) In determining whether an application should be
1735 approved in whole, approved with modifications or conditions, or
1736 denied, the board, or secretary when applicable, shall consider
1737 whether, and the extent to which, the location of the electrical
1738 power plant and directly associated facilities and their
1739 construction and operation will:

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1740 (a) Provide reasonable assurance that operational
1741 safeguards are technically sufficient for the public welfare and
1742 protection.

1743 (b) Comply with applicable nonprocedural requirements of
1744 agencies.

1745 (c) Be consistent with applicable local government
1746 comprehensive plans and land development regulations.

1747 (d) Meet the electrical energy needs of the state in an
1748 orderly and timely fashion.

1749 (e) Provide a reasonable balance between the need for the
1750 facility as established pursuant to s. 403.519, and the impacts
1751 upon air and water quality, fish and wildlife, water resources,
1752 and other natural resources of the state resulting from the
1753 construction and operation of the facility.

1754 (f) Minimize, through the use of reasonable and available
1755 methods, the adverse effects on human health, the environment,
1756 and the ecology of the land and its wildlife and the ecology of
1757 state waters and their aquatic life.

1758 (g) Serve and protect the broad interests of the public.

1759 ~~(3) Within 30 days after issuance of the certification,~~
1760 ~~the department shall issue and forward to the United States~~
1761 ~~Environmental Protection Agency a proposed operation permit for~~
1762 ~~a major source of air pollution and must issue or deny any other~~
1763 ~~license required pursuant to any federally delegated or approved~~
1764 ~~permit program. The department's action on the license and its~~
1765 ~~action on the proposed operation permit for a major source of~~
1766 ~~air pollution shall be based upon the record and recommended~~
1767 ~~order of the certification hearing. The department's actions on~~

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1768 ~~a federally required new source review or prevention of~~
1769 ~~significant deterioration permit shall be based on the record~~
1770 ~~and recommended order of the certification hearing and of any~~
1771 ~~other proceeding held in connection with the application for a~~
1772 ~~new source review or prevention of significant deterioration~~
1773 ~~permit, on timely public comments received with respect to the~~
1774 ~~application or preliminary determination for such permit, and on~~
1775 ~~the provisions of the state implementation plan.~~

1776 (4) The department's action on a federally required new
1777 source review or prevention of significant deterioration permit
1778 shall differ from the actions taken by the siting board
1779 regarding the certification if the federally approved state
1780 implementation plan requires such a different action to be taken
1781 by the department. Nothing in this part shall be construed to
1782 displace the department's authority as the final permitting
1783 entity under the federally approved permit program. Nothing in
1784 this part shall be construed to authorize the issuance of a new
1785 source review or prevention of significant deterioration permit
1786 which does not conform to the requirements of the federally
1787 approved state implementation plan. ~~Any final operation permit~~
1788 ~~for a major source of air pollution must be issued in accordance~~
1789 ~~with the provisions of s. 403.0872. Unless the federally~~
1790 ~~delegated or approved permit program provides otherwise,~~
1791 ~~licenses issued by the department under this subsection shall be~~
1792 ~~effective for the term of the certification issued by the board.~~
1793 ~~If renewal of any license issued by the department pursuant to a~~
1794 ~~federally delegated or approved permit program is required, such~~
1795 ~~renewal shall not affect the certification issued by the board,~~

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1796 ~~except as necessary to resolve inconsistencies pursuant to s.~~
1797 ~~403.516(1)(a).~~

1798 (5)(4) In regard to the properties and works of any agency
1799 which is a party to the certification hearing, the board shall
1800 have the authority to decide issues relating to the use, the
1801 connection thereto, or the crossing thereof, for the electrical
1802 power plant and directly associated facilities ~~site~~ and to
1803 direct any such agency to execute, within 30 days after the
1804 entry of certification, the necessary license or easement for
1805 such use, connection, or crossing, subject only to the
1806 conditions set forth in such certification. However, the
1807 applicant shall seek any necessary interest in state lands the
1808 title to which is vested in the Board of Trustees of the
1809 Internal Improvement Trust Fund from the Board of Trustees or
1810 from the governing board of the water management district
1811 created pursuant to chapter 373 before, during, or after the
1812 certification proceeding, and certification may be made
1813 contingent upon issuance of the appropriate interest. Neither
1814 the applicant nor any party to the certification proceeding may
1815 directly or indirectly raise or relitigate any matter that was
1816 or could have been an issue in the certification proceeding in
1817 any proceeding before the Board of Trustees of the Internal
1818 Improvement Trust Fund wherein the applicant is seeking
1819 necessary interest in state lands, but the information presented
1820 in the certification proceeding shall be available for review by
1821 the Board of Trustees and its staff.

1822 (6)(5) Except as specified in subsection (4) ~~for the~~
1823 ~~issuance of any operation permit for a major source of air~~

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1824 ~~pollution pursuant to s. 403.0872, the issuance or denial of the~~
 1825 ~~certification by the board or secretary of the department and~~
 1826 ~~the issuance or denial of any related department license~~
 1827 ~~required pursuant to any federally delegated or approved permit~~
 1828 ~~program shall be the final administrative action required as to~~
 1829 ~~that application.~~

1830 ~~(6) All certified electrical power plants must apply for~~
 1831 ~~and obtain a major source air operation permit pursuant to s.~~
 1832 ~~403.0872. Major source air operation permit applications for~~
 1833 ~~certified electrical power plants must be submitted pursuant to~~
 1834 ~~a schedule developed by the department. To the extent that any~~
 1835 ~~conflicting provision, limitation, or restriction under any~~
 1836 ~~rule, regulation, or ordinance imposed by any political~~
 1837 ~~subdivision of the state, or by any local pollution control~~
 1838 ~~program, was superseded during the certification process~~
 1839 ~~pursuant to s. 403.510(1), such rule, regulation, or ordinance~~
 1840 ~~shall continue to be superseded for purposes of the major source~~
 1841 ~~air operation permit program under s. 403.0872.~~

1842 Section 31. Section 403.511, Florida Statutes, is amended
 1843 to read:

1844 403.511 Effect of certification.--

1845 (1) Subject to the conditions set forth therein, any
 1846 certification ~~signed by the Governor~~ shall constitute the sole
 1847 license of the state and any agency as to the approval of the
 1848 site and the construction and operation of the proposed
 1849 electrical power plant, except for the issuance of department
 1850 licenses required under any federally delegated or approved

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1851 permit program and except as otherwise provided in subsection
1852 (4).

1853 (2)(a) The certification shall authorize the licensee
1854 ~~applicant~~ named therein to construct and operate the proposed
1855 electrical power plant, subject only to the conditions of
1856 certification set forth in such certification, and except for
1857 the issuance of department licenses or permits required under
1858 any federally delegated or approved permit program.

1859 (b)1. Except as provided in subsection (4), the
1860 certification may include conditions which constitute variances,
1861 exemptions, or exceptions from nonprocedural requirements of the
1862 department or any agency which were expressly considered during
1863 the proceeding, including, but not limited to, any site specific
1864 criteria, standards, or limitations under local land use and
1865 zoning approvals which affect the proposed electrical power
1866 plant or its site, unless waived by the agency as provided below
1867 and which otherwise would be applicable to the construction and
1868 operation of the proposed electrical power plant.

1869 2. No variance, exemption, exception, or other relief
1870 shall be granted from a state statute or rule for the protection
1871 of endangered or threatened species, aquatic preserves,
1872 Outstanding National Resource Waters, or Outstanding Florida
1873 Waters or for the disposal of hazardous waste, except to the
1874 extent authorized by the applicable statute or rule or except
1875 upon a finding in the certification order ~~by the siting board~~
1876 that the public interests set forth in s. 403.509(3) ~~403.502~~ in
1877 certifying the electrical power plant at the site proposed by
1878 the applicant overrides the public interest protected by the

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1879 | statute or rule from which relief is sought. ~~Each party shall~~
 1880 | ~~notify the applicant and other parties at least 60 days prior to~~
 1881 | ~~the certification hearing of any nonprocedural requirements not~~
 1882 | ~~specifically listed in the application from which a variance,~~
 1883 | ~~exemption, exception, or other relief is necessary in order for~~
 1884 | ~~the board to certify any electrical power plant proposed for~~
 1885 | ~~certification. Failure of such notification by an agency shall~~
 1886 | ~~be treated as a waiver from nonprocedural requirements of the~~
 1887 | ~~department or any other agency. However, no variance shall be~~
 1888 | ~~granted from standards or regulations of the department~~
 1889 | ~~applicable under any federally delegated or approved permit~~
 1890 | ~~program, except as expressly allowed in such program.~~

1891 | (3) The certification and any order on land use and zoning
 1892 | issued under this act shall be in lieu of any license, permit,
 1893 | certificate, or similar document required by any state,
 1894 | regional, or local agency pursuant to, but not limited to,
 1895 | chapter 125, chapter 161, chapter 163, chapter 166, chapter 186,
 1896 | chapter 253, chapter 298, chapter 370, chapter 373, chapter 376,
 1897 | chapter 380, chapter 381, chapter 387, chapter 403, except for
 1898 | permits issued pursuant to any federally delegated or approved
 1899 | permit program ~~s. 403.0885~~ and except as provided in ~~s.~~
 1900 | ~~403.509(3) and (6),~~ chapter 404, or the Florida Transportation
 1901 | Code, ~~or 33 U.S.C. s. 1341.~~

1902 | (4) This act shall not affect in any way the ratemaking
 1903 | powers of the Public Service Commission under chapter 366; nor
 1904 | shall this act in any way affect the right of any local
 1905 | government to charge appropriate fees or require that

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1906 construction be in compliance with applicable building
1907 construction codes.

1908 (5) (a) An electrical power plant certified pursuant to
1909 this act shall comply with rules adopted by the department
1910 subsequent to the issuance of the certification which prescribe
1911 new or stricter criteria, to the extent that the rules are
1912 applicable to electrical power plants. Except when express
1913 variances, exceptions, exemptions, or other relief have been
1914 granted, subsequently adopted rules which prescribe new or
1915 stricter criteria shall operate as automatic modifications to
1916 certifications.

1917 (b) Upon written notification to the department, any
1918 holder of a certification issued pursuant to this act may choose
1919 to operate the certified electrical power plant in compliance
1920 with any rule subsequently adopted by the department which
1921 prescribes criteria more lenient than the criteria required by
1922 the terms and conditions in the certification which are not
1923 site-specific.

1924 (c) No term or condition of certification shall be
1925 interpreted to preclude the postcertification exercise by any
1926 party of whatever procedural rights it may have under chapter
1927 120, including those related to rulemaking proceedings. This
1928 subsection shall apply to previously issued certifications.

1929 (6) No term or condition of a site certification shall be
1930 interpreted to supersede or control the provisions of a final
1931 operation permit for a major source of air pollution issued by
1932 the department pursuant to s. 403.0872 to a ~~such~~ facility
1933 certified under this part.

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1934 (7) Pursuant to s. 380.23, electrical power plants are
 1935 subject to the federal coastal consistency review program.
 1936 Issuance of certification shall constitute the state's
 1937 certification of coastal zone consistency.

1938 Section 32. Section 403.5112, Florida Statutes, is created
 1939 to read:

1940 403.5112 Filing of notice of certified corridor route.--

1941 (1) Within 60 days after certification of a directly
 1942 associated linear facility pursuant to this act, the applicant
 1943 shall file, in accordance with s. 28.222, with the department
 1944 and the clerk of the circuit court for each county through which
 1945 the corridor will pass, a notice of the certified route.

1946 (2) The notice shall consist of maps or aerial photographs
 1947 in the scale of 1:24,000 which clearly show the location of the
 1948 certified route and shall state that the certification of the
 1949 corridor will result in the acquisition of rights-of-way within
 1950 the corridor. Each clerk shall record the filing in the official
 1951 record of the county for the duration of the certification or
 1952 until such time as the applicant certifies to the department and
 1953 the clerk that all lands required for the transmission line
 1954 rights-of-way within the corridor have been acquired within such
 1955 county, whichever is sooner.

1956 Section 33. Section 403.5113, Florida Statutes, is created
 1957 to read:

1958 403.5113 Postcertification amendments.--

1959 (1) If, subsequent to certification by the board, a
 1960 licensee proposes any material change to the application and
 1961 revisions or amendments thereto, as certified, the licensee

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1962 shall submit a written request for amendment and a description
 1963 of the proposed change to the application to the department.
 1964 Within 30 days after the receipt of the request for the
 1965 amendment, the department shall determine whether the proposed
 1966 change to the application requires a modification of the
 1967 conditions of certification.

1968 (2) If the department concludes that the change would not
 1969 require a modification of the conditions of certification, the
 1970 department shall provide written notification of the approval of
 1971 the proposed amendment to the licensee, all agencies, and all
 1972 other parties.

1973 (3) If the department concludes that the change would
 1974 require a modification of the conditions of certification, the
 1975 department shall provide written notification to the licensee
 1976 that the proposed change to the application requires a request
 1977 for modification pursuant to s. 403.516.

1978 Section 34. Section 403.5115, Florida Statutes, is amended
 1979 to read:

1980 403.5115 Public notice; costs of proceeding.--

1981 (1) The following notices are to be published by the
 1982 applicant:

1983 (a) Notice ~~A notice~~ of the filing of a notice of intent
 1984 under s. 403.5063, which shall be published within 21 days after
 1985 the filing of the notice. The notice shall be published as
 1986 specified by subsection (2), except that the newspaper notice
 1987 shall be one-fourth page in size in a standard size newspaper or
 1988 one-half page in size in a tabloid size newspaper.

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1989 (b) Notice ~~A notice~~ of filing of the application, which
 1990 shall include a description of the proceedings required by this
 1991 act, within 21 days after the date of the application filing be
 1992 published as specified in subsection (2), within 15 days after
 1993 the application has been determined complete. Such notice shall
 1994 give notice of the provisions of s. 403.511(1) and (2) ~~and that~~
 1995 ~~the application constitutes a request for a federally required~~
 1996 ~~new source review or prevention of significant deterioration~~
 1997 ~~permit.~~

1998 (c) Notice of the land use determination made pursuant to
 1999 s. 403.50665(1) within 15 days after the determination is filed.

2000 (d) Notice of the land use hearing, which shall be
 2001 published as specified in subsection (2), no later than 15 45
 2002 days before the hearing.

2003 (e) ~~(d)~~ Notice of the certification hearing and notice of
 2004 the deadline for filing notice of intent to be a party, which
 2005 shall be published as specified in subsection (2), at least 65
 2006 days before the date set for the certification no later than 45
 2007 days before the hearing.

2008 (f) Notice of the cancellation of the certification
 2009 hearing, if applicable, no later than 3 days before the date of
 2010 the originally scheduled certification hearing.

2011 (g) ~~(e)~~ Notice of modification when required by the
 2012 department, based on whether the requested modification of
 2013 certification will significantly increase impacts to the
 2014 environment or the public. Such notice shall be published as
 2015 specified under subsection (2):

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2016 1. Within 21 days after receipt of a request for
2017 modification, ~~except that~~ The newspaper notice shall be of a
2018 size as directed by the department commensurate with the scope
2019 of the modification.

2020 2. If a hearing is to be conducted in response to the
2021 request for modification, then notice shall be published no
2022 later than 30 days before the hearing ~~provided as specified in~~
2023 ~~paragraph (d).~~

2024 (h) ~~(f)~~ Notice of a supplemental application, which shall
2025 be published as specified in paragraph (b) and subsection
2026 (2) follows:

2027 1. ~~Notice of receipt of the supplemental application shall~~
2028 ~~be published as specified in paragraph (b).~~

2029 2. ~~Notice of the certification hearing shall be published~~
2030 ~~as specified in paragraph (d).~~

2031 (i) Notice of existing site certification pursuant to s.
2032 403.5175. Notices shall be published as specified in paragraph
2033 (b) and subsection (2).

2034 (2) Notices provided by the applicant shall be published
2035 in newspapers of general circulation within the county or
2036 counties in which the proposed electrical power plant will be
2037 located. The newspaper notices shall be at least one-half page
2038 in size in a standard size newspaper or a full page in a tabloid
2039 size newspaper ~~and published in a section of the newspaper other~~
2040 ~~than the legal notices section.~~ These notices shall include a
2041 map generally depicting the project and all associated
2042 facilities corridors. A newspaper of general circulation shall
2043 be the newspaper which has the largest daily circulation in that

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2044 county and has its principal office in that county. If the
2045 newspaper with the largest daily circulation has its principal
2046 office outside the county, the notices shall appear in both the
2047 newspaper having the largest circulation in that county and in a
2048 newspaper authorized to publish legal notices in that county.

2049 (3) All notices published by the applicant shall be paid
2050 for by the applicant and shall be in addition to the application
2051 fee.

2052 (4) The department shall arrange for publication of the
2053 following notices in the manner specified by chapter 120 and
2054 provide copies of those notices to any persons who have
2055 requested to be placed on the departmental mailing list for this
2056 purpose:

2057 (a) Notice Publish in the Florida Administrative Weekly
2058 notices of the filing of the notice of intent within 15 days
2059 after receipt of the notice.†

2060 (b) Notice of the filing of the application, no later than
2061 21 days after the application filing.†

2062 (c) Notice of the land use determination made pursuant to
2063 s. 403.50665(1) within 15 days after the determination is filed.

2064 (d) Notice of the land use hearing before the
2065 administrative law judge, if applicable, no later than 15 days
2066 before the hearing.†

2067 (e) Notice of the land use hearing before the board, if
2068 applicable.

2069 (f) Notice of the certification hearing at least 45 days
2070 before the date set for the certification hearing.†

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2071 (g) Notice of the cancellation of the certification
 2072 hearing, if applicable, no later than 3 days prior to the date
 2073 of the originally scheduled certification hearing.

2074 (h) Notice of the hearing before the board, if
 2075 applicable.†

2076 (i) Notice and of stipulations, proposed agency action, or
 2077 petitions for modification.† and

2078 ~~(b) Provide copies of those notices to any persons who~~
 2079 ~~have requested to be placed on the departmental mailing list for~~
 2080 ~~this purpose.~~

2081 ~~(5) The applicant shall pay those expenses and costs~~
 2082 ~~associated with the conduct of the hearings and the recording~~
 2083 ~~and transcription of the proceedings.~~

2084 Section 35. Section 403.513, Florida Statutes, is amended
 2085 to read:

2086 403.513 Review.--Proceedings under this act shall be
 2087 subject to judicial review as provided in chapter 120. When
 2088 possible, separate appeals of the certification order issued by
 2089 the board and of any department permit issued pursuant to a
 2090 federally delegated or approved permit program may ~~shall~~ be
 2091 consolidated for purposes of judicial review.

2092 Section 36. Section 403.516, Florida Statutes, is amended
 2093 to read:

2094 403.516 Modification of certification.--

2095 (1) A certification may be modified after issuance in any
 2096 one of the following ways:

2097 (a) The board may delegate to the department the authority
 2098 to modify specific conditions in the certification.

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2099 (b)1. The department may modify specific conditions of a
 2100 site certification which are inconsistent with the terms of any
 2101 federally delegated or approved ~~final air pollution operation~~
 2102 permit for the certified electrical power plant ~~issued by the~~
 2103 ~~United States Environmental Protection Agency under the terms of~~
 2104 ~~42 U.S.C. s. 7661d.~~

2105 2. Such modification may be made without further notice if
 2106 the matter has been previously noticed under the requirements
 2107 for any federally delegated or approved permit program.

2108 (c) The licensee may file a petition for modification with
 2109 the department, or the department may initiate the modification
 2110 upon its own initiative.

2111 1. A petition for modification must set forth:

2112 a. The proposed modification.

2113 b. The factual reasons asserted for the modification.

2114 c. The anticipated environmental effects of the proposed
 2115 modification.

2116 2.~~(b)~~ The department may modify the terms and conditions
 2117 of the certification if no party to the certification hearing
 2118 objects in writing to such modification within 45 days after
 2119 notice by mail to such party's last address of record, and if no
 2120 other person whose substantial interests will be affected by the
 2121 modification objects in writing within 30 days after issuance of
 2122 public notice.

2123 3. If objections are raised or the department denies the
 2124 request, the applicant or department may file a request ~~petition~~
 2125 for a hearing on the modification with the department. Such
 2126 request shall be handled pursuant to chapter 120 ~~paragraph (c).~~

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2127 ~~(c) A petition for modification may be filed by the~~
 2128 ~~applicant or the department setting forth:~~
 2129 ~~1. The proposed modification,~~
 2130 ~~2. The factual reasons asserted for the modification, and~~
 2131 ~~3. The anticipated effects of the proposed modification on~~
 2132 ~~the applicant, the public, and the environment.~~

2133
 2134 ~~The petition for modification shall be filed with the department~~
 2135 ~~and the Division of Administrative Hearings.~~

2136 4. Requests referred to the Division of Administrative
 2137 Hearings shall be disposed of in the same manner as an
 2138 application, but with time periods established by the
 2139 administrative law judge commensurate with the significance of
 2140 the modification requested.

2141 (d) As required by s. 403.511(5).

2142 ~~(2) Petitions filed pursuant to paragraph (1)(c) shall be~~
 2143 ~~disposed of in the same manner as an application, but with time~~
 2144 ~~periods established by the administrative law judge commensurate~~
 2145 ~~with the significance of the modification requested.~~

2146 ~~(2)(3)~~ Any agreement or modification under this section
 2147 must be in accordance with the terms of this act. No
 2148 modification to a certification shall be granted that
 2149 constitutes a variance from standards or regulations of the
 2150 department applicable under any federally delegated or approved
 2151 permit program, except as expressly allowed in such program.

2152 Section 37. Section 403.517, Florida Statutes, is amended
 2153 to read:

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2154 403.517 Supplemental applications for sites certified for
 2155 ultimate site capacity.--
 2156 (1) (a) Supplemental ~~The department shall adopt rules~~
 2157 ~~governing the processing of supplemental applications~~ may be
 2158 submitted for certification of the construction and operation of
 2159 electrical power plants to be located at sites which have been
 2160 previously certified for an ultimate site capacity pursuant to
 2161 this act. Supplemental applications shall be limited to
 2162 electrical power plants using the fuel type previously certified
 2163 for that site. Such applications shall include all new directly
 2164 associated facilities that support the construction and
 2165 operation of the electrical power plant. ~~The rules adopted~~
 2166 ~~pursuant to this section shall include provisions for:~~
 2167 1. ~~Prompt appointment of a designated administrative law~~
 2168 ~~judge.~~
 2169 2. ~~The contents of the supplemental application.~~
 2170 3. ~~Resolution of disputes as to the completeness and~~
 2171 ~~sufficiency of supplemental applications by the designated~~
 2172 ~~administrative law judge.~~
 2173 4. ~~Public notice of the filing of the supplemental~~
 2174 ~~applications.~~
 2175 5. ~~Time limits for prompt processing of supplemental~~
 2176 ~~applications.~~
 2177 6. ~~Final disposition by the board within 215 days of the~~
 2178 ~~filing of a complete supplemental application.~~
 2179 (b) The review shall use the same procedural steps and
 2180 notices as for an initial application.

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2181 (c) The time limits for the processing of a complete
 2182 supplemental application shall be designated by the department
 2183 commensurate with the scope of the supplemental application, but
 2184 shall not exceed any time limitation governing the review of
 2185 initial applications for site certification pursuant to this
 2186 act, it being the legislative intent to provide shorter time
 2187 limitations for the processing of supplemental applications for
 2188 electrical power plants to be constructed and operated at sites
 2189 which have been previously certified for an ultimate site
 2190 capacity.

2191 ~~(d)(e)~~ Any time limitation in this section or in rules
 2192 adopted pursuant to this section may be altered pursuant to s.
 2193 403.5095 ~~by the designated administrative law judge upon~~
 2194 ~~stipulation between the department and the applicant, unless~~
 2195 ~~objected to by any party within 5 days after notice, or for good~~
 2196 ~~cause shown by any party. The parties to the proceeding shall~~
 2197 ~~adhere to the provisions of chapter 120 and this act in~~
 2198 ~~considering and processing such supplemental applications.~~

2199 ~~(2) Supplemental applications shall be reviewed as~~
 2200 ~~provided in ss. 403.507 403.511, except that the time limits~~
 2201 ~~provided in this section shall apply to such supplemental~~
 2202 ~~applications.~~

2203 ~~(3)~~ The land use and zoning consistency determination of
 2204 s. 403.50665 ~~hearing requirements of s. 403.508(1) and (2)~~ shall
 2205 not be applicable to the processing of supplemental applications
 2206 pursuant to this section so long as:

2207 (a) The previously certified ultimate site capacity is not
 2208 exceeded; and

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2209 (b) The lands required for the construction or operation
 2210 of the electrical power plant which is the subject of the
 2211 supplemental application are within the boundaries of the
 2212 previously certified site.

2213 ~~(4) For the purposes of this act, the term "ultimate site~~
 2214 ~~capacity" means the maximum generating capacity for a site as~~
 2215 ~~certified by the board.~~

2216 Section 38. Section 403.5175, Florida Statutes, is amended
 2217 to read:

2218 403.5175 Existing electrical power plant site
 2219 certification.--

2220 (1) An electric utility that owns or operates an existing
 2221 electrical power plant as defined in s. 403.503(12) may apply
 2222 for certification of an existing power plant and its site in
 2223 order to obtain all agency licenses necessary to ensure ~~assure~~
 2224 compliance with federal or state environmental laws and
 2225 regulation using the centrally coordinated, one-stop licensing
 2226 process established by this part. An application for site
 2227 certification under this section must be in the form prescribed
 2228 by department rule. Applications must be reviewed and processed
 2229 using the same procedural steps and notices as for an
 2230 application for a new facility in accordance with ss. 403.5064-
 2231 ~~403.5115~~, except that a determination of need by the Public
 2232 Service Commission is not required.

2233 (2) An application for certification under this section
 2234 must include:

2235 (a) A description of the site and existing power plant
 2236 installations;

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2237 (b) A description of all proposed changes or alterations
2238 to the site or electrical power plant, including all new
2239 associated facilities that are the subject of the application;

2240 (c) A description of the environmental and other impacts
2241 caused by the existing utilization of the site and directly
2242 associated facilities, and the operation of the electrical power
2243 plant that is the subject of the application, and of the
2244 environmental and other benefits, if any, to be realized as a
2245 result of the proposed changes or alterations if certification
2246 is approved and such other information as is necessary for the
2247 reviewing agencies to evaluate the proposed changes and the
2248 expected impacts;

2249 (d) The justification for the proposed changes or
2250 alterations;

2251 (e) Copies of all existing permits, licenses, and
2252 compliance plans authorizing utilization of the site and
2253 directly associated facilities or operation of the electrical
2254 power plant that is the subject of the application.

2255 (3) The land use and zoning determination ~~hearing~~
2256 requirements of s. 403.50665 ~~s. 403.508(1) and (2)~~ do not apply
2257 to an application under this section if the applicant does not
2258 propose to expand the boundaries of the existing site. If the
2259 applicant proposes to expand the boundaries of the existing site
2260 to accommodate portions of the plant or associated facilities, a
2261 land use and zoning determination shall be made ~~hearing must be~~
2262 ~~held~~ as specified in s. 403.50665 ~~s. 403.508(1) and (2)~~;
2263 provided, however, that the sole issue for determination ~~through~~
2264 ~~the land use hearing~~ is whether the proposed site expansion is

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2265 consistent and in compliance with the existing land use plans
2266 and zoning ordinances.

2267 (4) In considering whether an application submitted under
2268 this section should be approved in whole, approved with
2269 appropriate conditions, or denied, the board shall consider
2270 whether, and to the extent to which the proposed changes to the
2271 electrical power plant and its continued operation under
2272 certification will:

2273 (a) Comply with the provisions of s. 403.509(3).

2274 ~~applicable nonprocedural requirements of agencies;~~

2275 (b) Result in environmental or other benefits compared to
2276 current utilization of the site and operations of the electrical
2277 power plant if the proposed changes or alterations are
2278 undertaken.

2279 ~~(c) Minimize, through the use of reasonable and available
2280 methods, the adverse effects on human health, the environment,
2281 and the ecology of the land and its wildlife and the ecology of
2282 state waters and their aquatic life; and~~

2283 ~~(d) Serve and protect the broad interests of the public.~~

2284 (5) An applicant's failure to receive approval for
2285 certification of an existing site or an electrical power plant
2286 under this section is without prejudice to continued operation
2287 of the electrical power plant or site under existing agency
2288 licenses.

2289 Section 39. Section 403.518, Florida Statutes, is amended
2290 to read:

2291 403.518 Fees; disposition.--

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2292 ~~(1)~~ The department shall charge the applicant the
2293 following fees, as appropriate, which, unless otherwise
2294 specified, shall be paid into the Florida Permit Fee Trust Fund:

2295 (1)(a) A fee for a notice of intent pursuant to s.
2296 403.5063, in the amount of \$2,500, to be submitted to the
2297 department at the time of filing of a notice of intent. The
2298 notice-of-intent fee shall be used and disbursed in the same
2299 manner as the application fee.

2300 (2)(b) An application fee, which shall not exceed
2301 \$200,000. The fee shall be fixed by rule on a sliding scale
2302 related to the size, type, ultimate site capacity, or increase
2303 in electrical generating capacity proposed by the application,
2304 ~~or the number and size of local governments in whose~~
2305 ~~jurisdiction the electrical power plant is located.~~

2306 (a)1. Sixty percent of the fee shall go to the department
2307 to cover any costs associated with coordinating the review
2308 ~~reviewing~~ and acting upon the application, to cover any field
2309 services associated with monitoring construction and operation
2310 of the facility, and to cover the costs of the public notices
2311 published by the department.

2312 (b)2. The following percentages ~~Twenty percent of the fee~~
2313 ~~or \$25,000, whichever is greater~~, shall be transferred to the
2314 Administrative Trust Fund of the Division of Administrative
2315 Hearings of the Department of Management Services:-

2316 1. Five percent to compensate expenses from the initial
2317 exercise of duties associated with the filing of an application.

2318 2. An additional 5 percent if a land use hearing is held
2319 pursuant to s. 403.508.

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2320 3. An additional 10 percent if a certification hearing is
2321 held pursuant to s. 403.508.

2322 (c)1.3- Upon written request with proper itemized
2323 accounting within 90 days after final agency action by the board
2324 or withdrawal of the application, the agencies that prepared
2325 reports pursuant to s. 403.507 or participated in a hearing
2326 pursuant to s. 403.508 may submit a written request to the
2327 department for reimbursement of expenses incurred during the
2328 certification proceedings. The request shall contain an
2329 accounting of expenses incurred which may include time spent
2330 reviewing the application, ~~the department shall reimburse the~~
2331 Department of Community Affairs, the Fish and Wildlife
2332 Conservation Commission, and any water management district
2333 created pursuant to chapter 373, regional planning council, and
2334 local government in the jurisdiction of which the proposed
2335 electrical power plant is to be located, and any other agency
2336 from which the department requests special studies pursuant to
2337 s. 403.507(2)(a)7. Such reimbursement shall be authorized for
2338 the preparation of any studies required of the agencies by this
2339 act, and for agency travel and per diem to attend any hearing
2340 held pursuant to this act, and for any agency or local
2341 government's provision of notice of public meetings or hearings
2342 required as a result of the application for certification
2343 governments to participate in the proceedings. The department
2344 shall review the request and verify that the expenses are valid.
2345 Valid expenses shall be reimbursed; however, in the event the
2346 amount of funds available for reimbursement allocation is
2347 insufficient to provide for full compensation complete

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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2348 ~~reimbursement~~ to the agencies requesting reimbursement,
2349 reimbursement shall be on a prorated basis.

2350 2. If the application review is held in abeyance for more
2351 than 1 year, the agencies may submit a request for
2352 reimbursement.

2353 (d)4. If any sums are remaining, the department shall
2354 retain them for its use in the same manner as is otherwise
2355 authorized by this act; provided, however, that if the
2356 certification application is withdrawn, the remaining sums shall
2357 be refunded to the applicant within 90 days after withdrawal.

2358 (3) (a) (e) A certification modification fee, which shall
2359 not exceed \$30,000. The department shall establish rules for
2360 determining such a fee based on the equipment redesign, change
2361 in site size, type, increase in generating capacity proposed, or
2362 change in an associated linear facility location.

2363 (b) The fee shall be submitted to the department with a
2364 ~~formal~~ petition for modification ~~to the department~~ pursuant to
2365 s. 403.516. This fee shall be established, disbursed, and
2366 processed in the same manner as the application fee in
2367 subsection (2) paragraph (b), except that the Division of
2368 Administrative Hearings shall not receive a portion of the fee
2369 unless the petition for certification modification is referred
2370 to the Division of Administrative Hearings for hearing. If the
2371 petition is so referred, only \$10,000 of the fee shall be
2372 transferred to the Administrative Trust Fund of the Division of
2373 Administrative Hearings of the Department of Management
2374 Services. ~~The fee for a modification by agreement filed pursuant~~
2375 ~~to s. 403.516(1) (b) shall be \$10,000 to be paid upon the filing~~

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2376 ~~of the request for modification. Any sums remaining after~~
2377 ~~payment of authorized costs shall be refunded to the applicant~~
2378 ~~within 90 days of issuance or denial of the modification or~~
2379 ~~withdrawal of the request for modification.~~

2380 (4)(d) A supplemental application fee, not to exceed
2381 \$75,000, to cover all reasonable expenses and costs of the
2382 review, processing, and proceedings of a supplemental
2383 application. This fee shall be established, disbursed, and
2384 processed in the same manner as the certification application
2385 fee in subsection (2) paragraph (b), ~~except that only \$20,000 of~~
2386 ~~the fee shall be transferred to the Administrative Trust Fund of~~
2387 ~~the Division of Administrative Hearings of the Department of~~
2388 ~~Management Services.~~

2389 (5)(e) An existing site certification application fee, not
2390 to exceed \$200,000, to cover all reasonable costs and expenses
2391 of the review processing and proceedings for certification of an
2392 existing power plant site under s. 403.5175. This fee must be
2393 established, disbursed, and processed in the same manner as the
2394 certification application fee in subsection (2) paragraph (b).

2395 ~~(2) Effective upon the date commercial operation begins,~~
2396 ~~the operator of an electrical power plant certified under this~~
2397 ~~part is required to pay to the department an annual operation~~
2398 ~~license fee as specified in s. 403.0872(11) to be deposited in~~
2399 ~~the Air Pollution Control Trust Fund.~~

2400 Section 40. Any application for electrical power plant
2401 certification filed pursuant to ss. 403.501-403.518, Florida
2402 Statutes, shall be processed under the provisions of the law
2403 applicable at the time the application was filed, except that

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2404 | the provisions relating to cancellation of the certification
 2405 | hearing under s. 403.508(6), Florida Statutes, the provisions
 2406 | relating to the final disposition of the application and
 2407 | issuance of the written order by the secretary under s.
 2408 | 403.509(1)(a), Florida Statutes, and notice of the cancellation
 2409 | of the certification hearing under s. 403.5115, Florida
 2410 | Statutes, may apply to any application for electrical power
 2411 | plant certification.

2412 | Section 41. Section 403.519, Florida Statutes, is amended
 2413 | to read:

2414 | 403.519 Exclusive forum for determination of need.--

2415 | (1) On request by an applicant or on its own motion, the
 2416 | commission shall begin a proceeding to determine the need for an
 2417 | electrical power plant subject to the Florida Electrical Power
 2418 | Plant Siting Act.

2419 | (2) The applicant ~~commission~~ shall publish a notice of the
 2420 | proceeding in a newspaper of general circulation in each county
 2421 | in which the proposed electrical power plant will be located.
 2422 | The notice shall be at least one-quarter of a page and published
 2423 | at least 21 ~~45~~ days prior to the scheduled date for the
 2424 | proceeding. The commission shall publish notice of the
 2425 | proceeding in the manner specified by chapter 120 at least 21
 2426 | days prior to the scheduled date for the proceeding.

2427 | (3) The commission shall be the sole forum for the
 2428 | determination of this matter, which accordingly shall not be
 2429 | raised in any other forum or in the review of proceedings in
 2430 | such other forum. In making its determination, the commission
 2431 | shall take into account the need for electric system reliability

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2432 | and integrity, the need for adequate electricity at a reasonable
 2433 | cost, the need for fuel diversity and supply reliability, and
 2434 | whether the proposed plant is the most cost-effective
 2435 | alternative available. The commission shall also expressly
 2436 | consider the conservation measures taken by or reasonably
 2437 | available to the applicant or its members which might mitigate
 2438 | the need for the proposed plant and other matters within its
 2439 | jurisdiction which it deems relevant. The commission's
 2440 | determination of need for an electrical power plant shall create
 2441 | a presumption of public need and necessity and shall serve as
 2442 | the commission's report required by s. 403.507(4)
 2443 | ~~403.507(2)(a)2~~. An order entered pursuant to this section
 2444 | constitutes final agency action.

2445 | Section 42. This act shall take effect upon becoming a
 2446 | law.