

CHAMBER ACTION

1 The Fiscal Council recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5
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; requiring the Department of Environmental
16 Protection to adopt rules and coordinate with the
17 Department of Agriculture and Consumer Services; requiring
18 joint departmental approval for the funding of any
19 project; creating s. 377.805, F.S.; establishing an
20 energy-efficient products sales tax holiday; specifying a
21 period during which the sale of energy-efficient products
22 is exempt from certain tax; providing a limitation;
23 providing a definition; prohibiting purchase of products

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24 | by certain payment methods; providing that certain
25 | purchases or attempts to purchase are unfair methods of
26 | competition and punishable as such; creating s. 377.806,
27 | F.S.; creating the Solar Energy System Incentives Program;
28 | providing program requirements, procedures, and
29 | limitations; requiring the Department of Environmental
30 | Protection to adopt rules; creating s. 377.901, F.S.;
31 | creating the Florida Energy Council within the Department
32 | of Environmental Protection; providing purpose and
33 | composition; providing for appointment of members and
34 | terms; providing for reimbursement for travel expenses and
35 | per diem; requiring the department to provide certain
36 | services to the council; providing rulemaking authority;
37 | amending s. 212.08, F.S.; providing definitions for the
38 | terms "biodiesel," "ethanol," and "hydrogen fuel cells";
39 | providing tax exemptions in the form of a rebate for the
40 | sale or use of certain equipment, machinery, and other
41 | materials for renewable energy technologies; providing
42 | eligibility requirements and tax credit limits; directing
43 | the Department of Revenue to adopt rules; directing the
44 | Department of Environmental Protection to determine and
45 | publish certain information relating to such exemptions;
46 | providing for expiration of the exemption; amending s.
47 | 213.053, F.S.; authorizing the Department of Revenue to
48 | share certain information with the Department of
49 | Environmental Protection for specified purposes; amending
50 | s. 220.02, F.S.; providing the order of application of the
51 | renewable energy technologies investment tax credit;

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52 | creating s. 220.192, F.S.; providing definitions;
53 | establishing a corporate tax credit for certain costs
54 | related to renewable energy technologies; providing
55 | eligibility requirements and credit limits; providing
56 | certain authority to the Department of Environmental
57 | Protection and the Department of Revenue; directing the
58 | Department of Environmental Protection to determine and
59 | publish certain information; providing for expiration of
60 | the tax credit; amending s. 220.13, F.S.; providing an
61 | addition to the definition of "adjusted federal income";
62 | amending s. 186.801, F.S.; revising the provisions of
63 | electric utility 10-year site plans to include the effect
64 | on fuel diversity; amending s. 366.04, F.S.; revising the
65 | safety standards for public utilities; amending s. 366.05,
66 | F.S.; authorizing the Public Service Commission to adopt
67 | certain construction standards and make certain
68 | determinations; directing the commission to conduct a
69 | study and provide a report by a certain date; amending s.
70 | 403.503, F.S.; revising and providing definitions
71 | applicable to the Florida Electrical Power Plant Siting
72 | Act; amending s. 403.504, F.S.; providing the Department
73 | of Environmental Protection with additional powers and
74 | duties relating to the Florida Electrical Power Plant
75 | Siting Act; amending s. 403.5055, F.S.; revising
76 | provisions for certain permits associated with
77 | applications for electrical power plant certification;
78 | amending s. 403.506, F.S.; revising provisions relating to
79 | applicability and certification of certain power plants;

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80 | amending s. 403.5064, F.S.; revising provisions for
81 | distribution of applications and schedules relating to
82 | certification; amending s. 403.5065, F.S.; revising
83 | provisions relating to the appointment of administrative
84 | law judges and specifying their powers and duties;
85 | amending s. 403.5066, F.S.; revising provisions relating
86 | to the determination of completeness for certain
87 | applications; creating s. 403.50663, F.S.; authorizing
88 | certain local governments and regional planning councils
89 | to hold an informational public meeting about a proposed
90 | electrical power plant or associated facilities; providing
91 | requirements and procedures therefor; creating s.
92 | 403.50665, F.S.; requiring local governments to file
93 | certain land use determinations; providing requirements
94 | and procedures therefor; repealing s. 403.5067, F.S.,
95 | relating to the determination of sufficiency for certain
96 | applications; amending s. 403.507, F.S.; revising required
97 | preliminary statement provisions for affected agencies;
98 | requiring a report as a condition precedent to the project
99 | analysis and certification hearing; amending s. 403.508,
100 | F.S.; revising provisions relating to land use and
101 | certification hearings, including cancellation and
102 | responsibility for payment of expenses and costs;
103 | requiring certain notice; amending s. 403.509, F.S.;
104 | revising provisions relating to the final disposition of
105 | certain applications; providing requirements and
106 | provisions with respect thereto; amending s. 403.511,
107 | F.S.; revising provisions relating to the effect of

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108 certification for the construction and operation of
109 proposed electrical power plants; providing that issuance
110 of certification meets certain coastal zone consistency
111 requirements; creating s. 403.5112, F.S.; requiring filing
112 of notice for certified corridor routes; providing
113 requirements and procedures with respect thereto; creating
114 s. 403.5113, F.S.; authorizing postcertification
115 amendments for power plant site certification
116 applications; providing requirements and procedures with
117 respect thereto; amending s. 403.5115, F.S.; requiring
118 certain public notice for activities relating to
119 electrical power plant site application, certification,
120 and land use determination; providing requirements and
121 procedures with respect thereto; directing the Department
122 of Environmental Protection to maintain certain lists and
123 provide copies of certain publications; amending s.
124 403.513, F.S.; revising provisions for judicial review of
125 appeals relating to electrical power plant site
126 certification; amending s. 403.516, F.S.; revising
127 provisions relating to modification of certification for
128 electrical power plant sites; amending s. 403.517, F.S.;
129 revising provisions relating to supplemental applications
130 for sites certified for ultimate site capacity; amending
131 s. 403.5175, F.S.; revising provisions relating to
132 existing electrical power plant site certification;
133 revising the procedure for reviewing and processing
134 applications; requiring additional information to be
135 included in certain applications; amending s. 403.518,

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136 F.S.; revising the allocation of proceeds from certain
 137 fees collected; providing for reimbursement of certain
 138 expenses; directing the Department of Environmental
 139 Protection to establish rules for determination of certain
 140 fees; eliminating certain operational license fees;
 141 providing for the application, processing, approval, and
 142 cancellation of electrical power plant certification;
 143 amending s. 403.519, F.S.; directing the Public Service
 144 Commission to consider fuel diversity and reliability in
 145 certain determinations; amending 403.885, F.S.; revising
 146 provisions and requirements relating to the stormwater
 147 management, wastewater management, and water restoration
 148 grants program; providing an appropriation; providing an
 149 effective date.

150
 151 Be It Enacted by the Legislature of the State of Florida:

152
 153 Section 1. Legislative findings and intent.--The
 154 Legislature finds that advancing the development of renewable
 155 energy technologies and energy efficiency is important for the
 156 state's future, its energy stability, and the protection of its
 157 citizens' public health and its environment. The Legislature
 158 finds that the development of renewable energy technologies and
 159 energy efficiency in the state will help to reduce demand for
 160 foreign fuels, promote energy diversity, enhance system
 161 reliability, reduce pollution, educate the public on the promise
 162 of renewable energy technologies, and promote economic growth.
 163 The Legislature finds that there is a need to assist in the

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164 development of market demand that will advance the
165 commercialization and widespread application of renewable energy
166 technologies. The Legislature further finds that the state is
167 ideally positioned to stimulate economic development through
168 such renewable energy technologies due to its ongoing and
169 successful research and development track record in these areas,
170 an abundance of natural and renewable energy sources, an ability
171 to attract significant federal research and development funds,
172 and the need to find and secure renewable energy technologies
173 for the benefit of its citizens, visitors, and environment.

174 Section 2. Section 377.801, Florida Statutes, is created
175 to read:

176 377.801 Short title.--Sections 377.801-377.806 may be
177 cited as the "Florida Renewable Energy Technologies and Energy
178 Efficiency Act."

179 Section 3. Section 377.802, Florida Statutes, is created
180 to read:

181 377.802 Purpose.--This act is intended to provide matching
182 grants to stimulate capital investment in the state and to
183 enhance the market for and promote the statewide utilization of
184 renewable energy technologies. The targeted grants program is
185 designed to advance the already growing establishment of
186 renewable energy technologies in the state and encourage the use
187 of other incentives such as tax exemptions and regulatory
188 certainty to attract additional renewable energy technology
189 producers, developers, and users to the state. This act is also
190 intended to provide incentives for the purchase of energy-

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191 efficient appliances and rebates for solar energy equipment
 192 installations for residential and commercial buildings.

193 Section 4. Section 377.803, Florida Statutes, is created
 194 to read:

195 377.803 Definitions.--As used in ss. 377.801-377.806, the
 196 term:

197 (1) "Act" means the Florida Renewable Energy Technologies
 198 and Energy Efficiency Act.

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

202 (3) "Commission" means the Florida Public Service
 203 Commission.

204 (4) "Department" means the Department of Environmental
 205 Protection.

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

209 (6) "Renewable energy" means electrical, mechanical, or
 210 thermal energy produced from a method that uses one or more of
 211 the following fuels or energy sources: hydrogen, biomass, solar
 212 energy, geothermal energy, wind energy, ocean energy, waste
 213 heat, or hydroelectric power.

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

216 (8) "Solar energy system" means equipment that provides
 217 for the collection and use of incident solar energy for water
 218 heating, space heating or cooling, or other applications that

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219 require a conventional source of energy such as petroleum
220 products, natural gas, or electricity that performs primarily
221 with solar energy. In other systems in which solar energy is
222 used in a supplemental way, only those components that collect
223 and transfer solar energy shall be included in this definition.

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

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

228 Section 5. Section 377.804, Florida Statutes, is created
229 to read:

230 377.804 Renewable Energy Technologies Grants Program.--

231 (1) The Renewable Energy Technologies Grants Program is
232 established within the department to provide renewable energy
233 matching grants for demonstration, commercialization, research,
234 and development projects relating to renewable energy
235 technologies.

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

239 (a) Municipalities and county governments.

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

242 (c) Universities and colleges in the state.

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

244 (e) Not-for-profit organizations.

245 (f) Other qualified persons, as determined by the
246 department.

247 (3) The department may adopt rules pursuant to ss.
248 120.536(1) and 120.54 to provide for application requirements,
249 provide for ranking of applications, and administer the awarding
250 of grants under this program.

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

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

257 (b) The degree to which the project stimulates in-state
258 capital investment and economic development in metropolitan and
259 rural areas, including the creation of jobs and the future
260 development of a commercial market for renewable energy
261 technologies.

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

266 (d) The degree to which the project incorporates an
267 innovative new technology or an innovative application of an
268 existing technology.

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

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

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

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

277 (i) Project duration and timeline for expenditures.

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

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

281 (5) The department shall solicit the expertise of other
282 state agencies in evaluating project proposals. State agencies
283 shall cooperate with the Department of Environmental Protection
284 and provide such assistance as required.

285 (6) The department shall coordinate and actively consult
286 with the Department of Agriculture and Consumer Services during
287 the review and approval process of grants relating to bioenergy
288 projects for renewable energy technology, and the departments
289 shall jointly determine the grant awards to these bioenergy
290 projects. No grant funding shall be awarded to any bioenergy
291 project without such joint approval. Factors for consideration
292 in awarding grants may include, but are not limited to, the
293 degree to which:

294 (a) The project stimulates in-state capital investment and
295 economic development in metropolitan and rural areas, including
296 the creation of jobs and the future development of a commercial
297 market for bioenergy.

298 (b) The project produces bioenergy from Florida-grown
299 crops or biomass.

300 (c) The project demonstrates efficient use of energy and
301 material resources.

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302 (d) The project fosters overall understanding and
303 appreciation of bioenergy technologies.

304 (e) Matching funds and in-kind contributions from an
305 applicant are available.

306 (f) The project duration and the timeline for expenditures
307 are acceptable.

308 (g) The project has a reasonable assurance of enhancing
309 the value of agricultural products or will expand agribusiness
310 in the state.

311 (h) Preliminary market and feasibility research has been
312 conducted by the applicant or others and shows there is a
313 reasonable assurance of a potential market.

314 Section 6. Section 377.805, Florida Statutes, is created
315 to read:

316 377.805 Energy-efficient products sales tax holiday.--The
317 period from 12:01 a.m., October 5, through midnight, October 11,
318 2006, shall be designated "Energy Efficiency Week," and the tax
319 levied under chapter 212 may not be collected on the sale of a
320 new energy-efficient product having a selling price of \$1,500 or
321 less per product during that period. This exemption applies only
322 when the energy-efficient product is purchased for noncommercial
323 home or personal use and does not apply when the product is
324 purchased for trade, business, or resale. As used in this
325 section, the term "energy-efficient product" means a dishwasher,
326 clothes washer, air conditioner, ceiling fan, incandescent or
327 florescent light bulb, dehumidifier, programmable thermostat, or
328 refrigerator that has been designated by the United States
329 Environmental Protection Agency or by the United States

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330 Department of Energy as meeting or exceeding the requirements
 331 under the Energy Star Program of either agency. Purchases made
 332 under this section may not be made using a business or company
 333 credit or debit card or check. Any construction company,
 334 building contractor, or commercial business or entity that
 335 purchases or attempts to purchase the energy-efficient products
 336 as exempt under this section commits an unfair method of
 337 competition in violation of s. 501.204, punishable as provided
 338 in s. 501.2075.

339 Section 7. Section 377.806, Florida Statutes, is created
 340 to read:

341 377.806 Solar Energy System Incentives Program.--

342 (1) PURPOSE.--The Solar Energy System Incentives Program
 343 is established within the department to provide financial
 344 incentives for the purchase and installation of solar energy
 345 systems. Any resident of the state who purchases and installs a
 346 new solar energy system of 2 kilowatts or larger for a solar
 347 photovoltaic system, a solar energy system that provides at
 348 least 50 percent of a building's hot water consumption for a
 349 solar thermal system, or a solar thermal pool heater, from July
 350 1, 2006, through June 30, 2010, is eligible for a rebate on a
 351 portion of the purchase price of that solar energy system.

352 (2) SOLAR PHOTOVOLTAIC SYSTEM INCENTIVE.--

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

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

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357 2. The system complies with state interconnection
358 standards as provided by the commission.

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

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

365 1. Twenty thousand dollars for a residence.

366 2. One hundred thousand dollars for a place of business, a
367 publicly owned or operated facility, or a facility owned or
368 operated by a private, not-for-profit organization, including
369 condominiums or apartment buildings.

370 (3) SOLAR THERMAL SYSTEM INCENTIVE.--

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

373 1. The system is installed by a state-licensed solar or
374 plumbing contractor.

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

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

379 1. Five hundred dollars for a residence.

380 2. Fifteen dollars per 1,000 Btu for a maximum of \$5,000
381 for a place of business, a publicly owned or operated facility,
382 or a facility owned or operated by a private, not-for-profit
383 organization, including condominiums or apartment buildings. Btu
384 must be verified by approved metering equipment.

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

386 (a) Eligibility requirements.--A solar thermal pool heater
387 qualifies for a rebate if the system is installed by a state-
388 licensed solar or plumbing contractor and the system complies
389 with all applicable building codes as defined by the local
390 jurisdictional authority.

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

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

395 (6) REBATE AVAILABILITY.--The department shall determine
396 and publish on a regular basis the amount of rebate funds
397 remaining in each fiscal year. The total dollar amount of all
398 rebates issued by the department is subject to the total amount
399 of appropriations in any fiscal year for this program. If funds
400 are insufficient during the current fiscal year, any requests
401 for rebates received during that fiscal year may be processed
402 during the following fiscal year. Requests for rebates received
403 in a fiscal year that are processed during the following fiscal
404 year shall be given priority over requests for rebates received
405 during the following fiscal year.

406 (7) RULES.--The department shall adopt rules pursuant to
407 ss. 120.536(1) and 120.54 to develop rebate applications and
408 administer the issuance of rebates.

409 Section 8. Section 377.901, Florida Statutes, is created
410 to read:

411 377.901 Florida Energy Council.--

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412 (1) The Florida Energy Council is created within the
413 Department of Environmental Protection to provide advice and
414 counsel to the Governor, the President of the Senate, and the
415 Speaker of the House of Representatives on the energy policy of
416 the state. The council shall advise the state on current and
417 projected energy issues, including, but not limited to,
418 transportation, generation, transmission, distributed
419 generation, fuel supply issues, emerging technologies,
420 efficiency, and conservation. In developing its recommendations,
421 the council shall be guided by the principles of reliability,
422 efficiency, affordability, and diversity.

423 (2) (a) The council shall be comprised of a diversity of
424 stakeholders and may include utility providers, alternative
425 energy providers, researchers, environmental scientists, fuel
426 suppliers, technology manufacturers, persons representing
427 environmental, consumer, and public health interests, and
428 others.

429 (b) The council shall consist of nine voting members as
430 follows:

431 1. The Secretary of Environmental Protection, or his or
432 her designee, who shall serve as chair of the council.

433 2. The chair of the Public Service Commission, or his or
434 her designee, who shall serve as vice chair of the council.

435 3. One member shall be the Commissioner of Agriculture, or
436 his or her designee.

437 4. Two members who shall be appointed by the Governor.

438 5. Two members who shall be appointed by the President of
439 the Senate.

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440 6. Two members who shall be appointed by the Speaker of
441 the House of Representatives.

442 (c) All initial members shall be appointed prior to
443 September 1, 2006. Appointments made by the Governor, the
444 President of the Senate, and the Speaker of the House of
445 Representatives shall be for terms of 2 years each. Members
446 shall serve until their successors are appointed. Vacancies
447 shall be filled in the manner of the original appointment for
448 the remainder of the term that is vacated.

449 (d) Members shall serve without compensation but are
450 entitled to reimbursement for travel expenses and per diem
451 related to council duties and responsibilities pursuant to s.
452 112.061.

453 (3) The department shall provide primary staff support to
454 the council and shall ensure that council meetings are
455 electronically recorded. Such recording shall be preserved
456 pursuant to chapters 119 and 257.

457 (4) The department may adopt rules pursuant to ss.
458 120.536(1) and 120.54 to implement the provisions of this
459 section.

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

462 212.08 Sales, rental, use, consumption, distribution, and
463 storage tax; specified exemptions.--The sale at retail, the
464 rental, the use, the consumption, the distribution, and the
465 storage to be used or consumed in this state of the following
466 are hereby specifically exempt from the tax imposed by this
467 chapter.

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468 (7) MISCELLANEOUS EXEMPTIONS.--Exemptions provided to any
469 entity by this chapter do not inure to any transaction that is
470 otherwise taxable under this chapter when payment is made by a
471 representative or employee of the entity by any means,
472 including, but not limited to, cash, check, or credit card, even
473 when that representative or employee is subsequently reimbursed
474 by the entity. In addition, exemptions provided to any entity by
475 this subsection do not inure to any transaction that is
476 otherwise taxable under this chapter unless the entity has
477 obtained a sales tax exemption certificate from the department
478 or the entity obtains or provides other documentation as
479 required by the department. Eligible purchases or leases made
480 with such a certificate must be in strict compliance with this
481 subsection and departmental rules, and any person who makes an
482 exempt purchase with a certificate that is not in strict
483 compliance with this subsection and the rules is liable for and
484 shall pay the tax. The department may adopt rules to administer
485 this subsection.

486 (ccc) Equipment, machinery, and other materials for
487 renewable energy technologies.--

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

489 a. "Biodiesel" means the mono-alkyl esters of long-chain
490 fatty acids derived from plant or animal matter for use as a
491 source of energy and meeting the specifications for biodiesel
492 and biodiesel blends with petroleum products as adopted by the
493 Department of Agriculture and Consumer Services. Biodiesel may
494 refer to biodiesel blends designated BXX, where XX represents
495 the volume percentage of biodiesel fuel in the blend.

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496 b. "Ethanol" means nominally anhydrous denatured alcohol
497 produced by the fermentation of plant sugars meeting the
498 specifications for fuel ethanol and fuel ethanol blends with
499 petroleum products as adopted by the Department of Agriculture
500 and Consumer Services. Ethanol may refer to fuel ethanol blends
501 designated EXX, where XX represents the volume percentage of
502 fuel ethanol in the blend.

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

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

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

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

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

519 3. The Department of Environmental Protection shall
520 provide to the department a list of items eligible for the
521 exemption provided in this paragraph.

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522 4.a. The exemption provided in this paragraph shall be
523 available to a purchaser only through a refund of previously
524 paid taxes.

525 b. To be eligible to receive the exemption provided in
526 this paragraph, a purchaser shall file an application with the
527 Department of Environmental Protection. The application shall be
528 developed by the Department of Environmental Protection, in
529 consultation with the department, and shall require:

530 (I) The name and address of the person claiming the
531 refund.

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

535 (III) The sales invoice or other proof of purchase showing
536 the amount of sales tax paid, the date of purchase, and the name
537 and address of the sales tax dealer from whom the property was
538 purchased.

539 (IV) A sworn statement that the information provided is
540 accurate and that the requirements of this paragraph have been
541 met.

542 c. Within 30 days after receipt of an application, the
543 Department of Environmental Protection shall review the
544 application and shall notify the applicant of any deficiencies.
545 Upon receipt of a completed application, the Department of
546 Environmental Protection shall evaluate the application for
547 exemption and issue a written certification that the applicant
548 is eligible for a refund or issue a written denial of such
549 certification within 60 days after receipt of the application.

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550 The Department of Environmental Protection shall provide the
551 department with a copy of each certification issued upon
552 approval of an application.

553 d. Each certified applicant shall be responsible for
554 forwarding a certified copy of the application and copies of all
555 required documentation to the department within 6 months after
556 certification by the Department of Environmental Protection.

557 e. The provisions of s. 212.095 do not apply to any refund
558 application made pursuant to this paragraph. A refund approved
559 pursuant to this paragraph shall be made within 30 days after
560 formal approval by the department.

561 f. The department shall adopt rules governing the manner
562 and form of refund applications and may establish guidelines as
563 to the requisites for an affirmative showing of qualification
564 for exemption under this paragraph.

565 g. The Department of Environmental Protection shall be
566 responsible for ensuring that the exemptions do not exceed the
567 limits provided in subparagraph 2.

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

571 6. This paragraph expires July 1, 2010.

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

574 213.053 Confidentiality and information sharing.--

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

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

580
 581 Disclosure of information under this subsection shall be
 582 pursuant to a written agreement between the executive director
 583 and the agency. Such agencies, governmental or nongovernmental,
 584 shall be bound by the same requirements of confidentiality as
 585 the Department of Revenue. Breach of confidentiality is a
 586 misdemeanor of the first degree, punishable as provided by s.
 587 775.082 or s. 775.083.

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

590 220.02 Legislative intent.--

591 (8) It is the intent of the Legislature that credits
 592 against either the corporate income tax or the franchise tax be
 593 applied in the following order: those enumerated in s. 631.828,
 594 those enumerated in s. 220.191, those enumerated in s. 220.181,
 595 those enumerated in s. 220.183, those enumerated in s. 220.182,
 596 those enumerated in s. 220.1895, those enumerated in s. 221.02,
 597 those enumerated in s. 220.184, those enumerated in s. 220.186,
 598 those enumerated in s. 220.1845, those enumerated in s. 220.19,
 599 those enumerated in s. 220.185, ~~and~~ those enumerated in s.
 600 220.187, and those enumerated in s. 220.192.

601 Section 12. Section 220.192, Florida Statutes, is created
 602 to read:

603 220.192 Renewable energy technologies investment tax
 604 credit.--

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

606 (a) "Biodiesel" means biodiesel as defined in s.
607 212.08(7)(ccc).

608 (b) "Eligible costs" means:

609 1. Seventy-five percent of all capital costs, operation
610 and maintenance costs, and research and development costs
611 incurred between July 1, 2006, and June 30, 2010, up to a limit
612 of \$3 million per state fiscal year for all taxpayers, in
613 connection with an investment in hydrogen-powered vehicles and
614 hydrogen vehicle fueling stations in the state, including, but
615 not limited to, the costs of constructing, installing, and
616 equipping such technologies in the state.

617 2. Seventy-five percent of all capital costs, operation
618 and maintenance costs, and research and development costs
619 incurred between July 1, 2006, and June 30, 2010, up to a limit
620 of \$1.5 million per state fiscal year for all taxpayers, and
621 limited to a maximum of \$12,000 per fuel cell, in connection
622 with an investment in commercial stationary hydrogen fuel cells
623 in the state, including, but not limited to, the costs of
624 constructing, installing, and equipping such technologies in the
625 state.

626 3. Seventy-five percent of all capital costs, operation
627 and maintenance costs, and research and development costs
628 incurred between July 1, 2006, and June 30, 2010, up to a limit
629 of \$6.5 million per state fiscal year for all taxpayers, in
630 connection with an investment in the production, storage, and
631 distribution of biodiesel (B10-B100) and ethanol (E10-E100) in
632 the state, including the costs of constructing, installing, and

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633 equipping such technologies in the state. Gasoline fueling
634 station pump retrofits for ethanol (E10-E100) distribution
635 qualify as an eligible cost under this subparagraph.

636 (c) "Ethanol" means ethanol as defined in s.
637 212.08(7)(ccc).

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

640 (2) TAX CREDIT.--For tax years beginning on or after
641 January 1, 2007, a credit against the tax imposed by this
642 chapter shall be granted in an amount equal to the eligible
643 costs. Credits may be used in tax years beginning January 1,
644 2007, and ending December 31, 2010, after which the credit shall
645 expire. If the credit is not fully used in any one tax year
646 because of insufficient tax liability on the part of the
647 corporation, the unused amount may be carried forward and used
648 in tax years beginning January 1, 2007, and ending December 31,
649 2012, after which the credit carryover expires and may not be
650 used. A taxpayer that files a consolidated return in this state
651 as a member of an affiliated group under s. 220.131(1) may be
652 allowed the credit on a consolidated return basis up to the
653 amount of tax imposed upon the consolidated group. Any eligible
654 cost for which a credit is claimed and which is deducted or
655 otherwise reduces federal taxable income shall be added back in
656 computing adjusted federal income under s. 220.13.

657 (3) APPLICATION PROCESS.--Any corporation wishing to
658 obtain tax credits available under this section must submit to
659 the Department of Environmental Protection an application for
660 tax credit that includes a complete description of all eligible

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661 costs for which the corporation is seeking a credit and a
662 description of the total amount of credits sought. The
663 Department of Environmental Protection shall make a
664 determination on the eligibility of the applicant for the
665 credits sought and certify the determination to the applicant
666 and the Department of Revenue. The corporation must attach the
667 Department of Environmental Protection's certification to the
668 tax return on which the credit is claimed. The Department of
669 Environmental Protection shall be responsible for ensuring that
670 the corporate income tax credits granted in each fiscal year do
671 not exceed the limits provided for in this section. The
672 Department of Environmental Protection is authorized to adopt
673 the necessary rules, guidelines, and application materials for
674 the application process.

675 (4) ADMINISTRATION; AUDIT AUTHORITY; RECAPTURE OF
676 CREDITS.--

677 (a) In addition to its existing audit and investigation
678 authority, the Department of Revenue may perform any additional
679 financial and technical audits and investigations, including
680 examining the accounts, books, and records of the tax credit
681 applicant, that are necessary to verify the eligible costs
682 included in the tax credit return and to ensure compliance with
683 this section. The Department of Environmental Protection shall
684 provide technical assistance when requested by the Department of
685 Revenue on any technical audits or examinations performed
686 pursuant to this section.

687 (b) It is grounds for forfeiture of previously claimed and
688 received tax credits if the Department of Revenue determines, as

689 a result of either an audit or examination or from information
690 received from the Department of Environmental Protection, that a
691 taxpayer received tax credits pursuant to this section to which
692 the taxpayer was not entitled. The taxpayer is responsible for
693 returning forfeited tax credits to the Department of Revenue,
694 and such funds shall be paid into the General Revenue Fund of
695 the state.

696 (c) The Department of Environmental Protection may revoke
697 or modify any written decision granting eligibility for tax
698 credits under this section if it is discovered that the tax
699 credit applicant submitted any false statement, representation,
700 or certification in any application, record, report, plan, or
701 other document filed in an attempt to receive tax credits under
702 this section. The Department of Environmental Protection shall
703 immediately notify the Department of Revenue of any revoked or
704 modified orders affecting previously granted tax credits.
705 Additionally, the taxpayer must notify the Department of Revenue
706 of any change in its tax credit claimed.

707 (d) The taxpayer shall file with the Department of Revenue
708 an amended return or such other report as the Department of
709 Revenue prescribes by rule and shall pay any required tax and
710 interest within 60 days after the taxpayer receives notification
711 from the Department of Environmental Protection that previously
712 approved tax credits have been revoked or modified. If the
713 revocation or modification order is contested, the taxpayer
714 shall file an amended return or other report as provided in this
715 paragraph within 60 days after a final order is issued following
716 proceedings.

717 (e) A notice of deficiency may be issued by the Department
 718 of Revenue at any time within 3 years after the taxpayer
 719 receives formal notification from the Department of
 720 Environmental Protection that previously approved tax credits
 721 have been revoked or modified. If a taxpayer fails to notify the
 722 Department of Revenue of any changes to its tax credit claimed,
 723 a notice of deficiency may be issued at any time.

724 (5) RULES.--The Department of Revenue shall have the
 725 authority to adopt rules relating to the forms required to claim
 726 a tax credit under this section, the requirements and basis for
 727 establishing an entitlement to a credit, and the examination and
 728 audit procedures required to administer this section.

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

732 Section 13. Paragraph (a) of subsection (1) of section
 733 220.13, Florida Statutes, is amended to read:

734 220.13 "Adjusted federal income" defined.--

735 (1) The term "adjusted federal income" means an amount
 736 equal to the taxpayer's taxable income as defined in subsection
 737 (2), or such taxable income of more than one taxpayer as
 738 provided in s. 220.131, for the taxable year, adjusted as
 739 follows:

740 (a) Additions.--There shall be added to such taxable
 741 income:

742 1. The amount of any tax upon or measured by income,
 743 excluding taxes based on gross receipts or revenues, paid or
 744 accrued as a liability to the District of Columbia or any state

745 | of the United States which is deductible from gross income in
746 | the computation of taxable income for the taxable year.

747 | 2. The amount of interest which is excluded from taxable
748 | income under s. 103(a) of the Internal Revenue Code or any other
749 | federal law, less the associated expenses disallowed in the
750 | computation of taxable income under s. 265 of the Internal
751 | Revenue Code or any other law, excluding 60 percent of any
752 | amounts included in alternative minimum taxable income, as
753 | defined in s. 55(b)(2) of the Internal Revenue Code, if the
754 | taxpayer pays tax under s. 220.11(3).

755 | 3. In the case of a regulated investment company or real
756 | estate investment trust, an amount equal to the excess of the
757 | net long-term capital gain for the taxable year over the amount
758 | of the capital gain dividends attributable to the taxable year.

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

763 | 5. That portion of the ad valorem school taxes paid or
764 | incurred for the taxable year which is equal to the amount of
765 | the credit allowable for the taxable year under s. 220.182. The
766 | provisions of this subparagraph shall expire and be void on June
767 | 30, 2005.

768 | 6. The amount of emergency excise tax paid or accrued as a
769 | liability to this state under chapter 221 which tax is
770 | deductible from gross income in the computation of taxable
771 | income for the taxable year.

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772 7. That portion of assessments to fund a guaranty
773 association incurred for the taxable year which is equal to the
774 amount of the credit allowable for the taxable year.

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

780 9. The amount taken as a credit for the taxable year under
781 s. 220.1895.

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

785 11. The amount taken as a credit for the taxable year
786 under s. 220.187.

787 12. The amount taken as a credit for the taxable year
788 under s. 220.192.

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

791 186.801 Ten-year site plans.--

792 (2) Within 9 months after the receipt of the proposed
793 plan, the commission shall make a preliminary study of such plan
794 and classify it as "suitable" or "unsuitable." The commission
795 may suggest alternatives to the plan. All findings of the
796 commission shall be made available to the Department of
797 Environmental Protection for its consideration at any subsequent
798 electrical power plant site certification proceedings. It is
799 recognized that 10-year site plans submitted by an electric

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800 utility are tentative information for planning purposes only and
801 may be amended at any time at the discretion of the utility upon
802 written notification to the commission. A complete application
803 for certification of an electrical power plant site under
804 chapter 403, when such site is not designated in the current 10-
805 year site plan of the applicant, shall constitute an amendment
806 to the 10-year site plan. In its preliminary study of each 10-
807 year site plan, the commission shall consider such plan as a
808 planning document and shall review:

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

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

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

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

815 (e)~~(d)~~ The views of appropriate local, state, and federal
816 agencies, including the views of the appropriate water
817 management district as to the availability of water and its
818 recommendation as to the use by the proposed plant of salt water
819 or fresh water for cooling purposes.

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

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

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

826 366.04 Jurisdiction of commission.--

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827 (6) The commission shall further have exclusive
 828 jurisdiction to prescribe and enforce safety standards for
 829 transmission and distribution facilities of all public electric
 830 utilities, cooperatives organized under the Rural Electric
 831 Cooperative Law, and electric utilities owned and operated by
 832 municipalities. In adopting safety standards, the commission
 833 shall, at a minimum:

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

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

838
 839 The standards prescribed by the current 1984 edition of the
 840 National Electrical Safety Code (ANSI C2) shall constitute
 841 acceptable and adequate requirements for the protection of the
 842 safety of the public, and compliance with the minimum
 843 requirements of that code shall constitute good engineering
 844 practice by the utilities. The administrative authority referred
 845 to in the 1984 edition of the National Electrical Safety Code is
 846 the commission. However, nothing herein shall be construed as
 847 superseding, repealing, or amending the provisions of s.
 848 403.523(1) and (10).

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

851 366.05 Powers.--

852 (1) In the exercise of such jurisdiction, the commission
 853 shall have power to prescribe fair and reasonable rates and
 854 charges, classifications, standards of quality and measurements,

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855 | including the ability to adopt construction standards that
856 | exceed the National Electrical Safety Code for purposes of
857 | ensuring the reliable provision of service, and service rules
858 | and regulations to be observed by each public utility; to
859 | require repairs, improvements, additions, replacements, and
860 | extensions to the plant and equipment of any public utility when
861 | reasonably necessary to promote the convenience and welfare of
862 | the public and secure adequate service or facilities for those
863 | reasonably entitled thereto; to employ and fix the compensation
864 | for such examiners and technical, legal, and clerical employees
865 | as it deems necessary to carry out the provisions of this
866 | chapter; and to adopt rules pursuant to ss. 120.536(1) and
867 | 120.54 to implement and enforce the provisions of this chapter.

868 | (8) If the commission determines that there is probable
869 | cause to believe that inadequacies exist with respect to the
870 | energy grids developed by the electric utility industry,
871 | including inadequacies in fuel diversity or fuel supply
872 | reliability, it shall have the power, after proceedings as
873 | provided by law, and after a finding that mutual benefits will
874 | accrue to the electric utilities involved, to require
875 | installation or repair of necessary facilities, including
876 | generating plants and transmission facilities, with the costs to
877 | be distributed in proportion to the benefits received, and to
878 | take all necessary steps to ensure compliance. The electric
879 | utilities involved in any action taken or orders issued pursuant
880 | to this subsection shall have full power and authority,
881 | notwithstanding any general or special laws to the contrary, to
882 | jointly plan, finance, build, operate, or lease generating and

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

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883 transmission facilities and shall be further authorized to
884 exercise the powers granted to corporations in chapter 361. This
885 subsection shall not supersede or control any provision of the
886 Florida Electrical Power Plant Siting Act, ss. 403.501-403.518.

887 Section 17. The Florida Public Service Commission shall
888 direct a study of the electric transmission grid in the state.
889 The study shall look at electric system reliability to examine
890 the efficiency and reliability of power transfer and emergency
891 contingency conditions. In addition, the study shall examine the
892 strengthening of infrastructure to address issues arising from
893 the 2004 and 2005 hurricane seasons. A report of the results of
894 the study shall be provided to the Governor, the President of
895 the Senate, and the Speaker of the House of Representatives by
896 January 30, 2007.

897 Section 18. Subsections (5), (8), (9), (12), (18), (24),
898 and (27) of section 403.503, Florida Statutes, are amended,
899 subsections (16) through (28) are renumbered as (17) through
900 (29), respectively, and a new subsection (16) is added to that
901 section, to read:

902 403.503 Definitions relating to Florida Electrical Power
903 Plant Siting Act.--As used in this act:

904 (5) "Application" means the documents required by the
905 department to be filed to initiate a certification review and
906 evaluation, including the initial document filing, amendments,
907 and responses to requests from the department for additional
908 data and information ~~proceeding and shall include the documents~~
909 ~~necessary for the department to render a decision on any permit~~

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910 ~~required pursuant to any federally delegated or approved permit~~
911 ~~program.~~

912 (8) "Completeness" means that the application has
913 addressed all applicable sections of the prescribed application
914 format, and ~~but does not mean~~ that those sections are sufficient
915 in comprehensiveness of data or in quality of information
916 provided to allow the department to determine whether the
917 application provides the reviewing agencies adequate information
918 to prepare the reports required by s. 403.507.

919 (9) "Corridor" means the proposed area within which an
920 associated linear facility right-of-way is to be located. The
921 width of the corridor proposed for certification as an
922 associated facility, at the option of the applicant, may be the
923 width of the right-of-way or a wider boundary, not to exceed a
924 width of 1 mile. The area within the corridor in which a right-
925 of-way may be located may be further restricted by a condition
926 of certification. After all property interests required for the
927 right-of-way have been acquired by the licensee applicant, the
928 boundaries of the area certified shall narrow to only that land
929 within the boundaries of the right-of-way.

930 (12) "Electrical power plant" means, for the purpose of
931 certification, any steam or solar electrical generating facility
932 using any process or fuel, including nuclear materials, except
933 that this term does not include any steam or solar electrical
934 generating facility of less than 75 megawatts in capacity unless
935 the applicant for such a facility elects to apply for
936 certification under this act, or any unit capacity expansion of
937 35 megawatts or less of an existing exothermic reaction

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938 cogeneration unit that was originally built under a power plant
939 siting act exemption. This exemption does not apply if the unit
940 uses oil or natural gas for purposes other than startup. This
941 term and includes associated facilities to be owned by the
942 licensee which directly support the construction and operation
943 of the electrical power plant such as fuel unloading facilities,
944 pipelines necessary for transporting fuel for the operation of
945 the facility or other fuel transportation facilities, water or
946 wastewater transport pipelines, construction, maintenance and
947 access roads, railway lines necessary for transport of
948 construction equipment or fuel for the operation of the
949 facility, and those associated transmission lines owned by the
950 licensee which connect the electrical power plant to an existing
951 transmission network or rights-of-way to which the applicant
952 intends to connect, except that this term does not include any
953 steam or solar electrical generating facility of less than 75
954 megawatts in capacity unless the applicant for such a facility
955 elects to apply for certification under this act. Associated
956 facilities ~~An associated transmission line~~ may include, at the
957 applicant's option, offsite associated facilities that will not
958 be owned by the applicant and any proposed terminal or
959 intermediate substations or substation expansions connected to
960 the associated transmission line.

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

963 (19)-(18) "Nonprocedural requirements of agencies" means
964 any agency's regulatory requirements established by statute,
965 rule, ordinance, zoning ordinance, land development code, or

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966 comprehensive plan, excluding any provisions prescribing forms,
967 fees, procedures, or time limits for the review or processing of
968 information submitted to demonstrate compliance with such
969 regulatory requirements.

970 (25)~~(24)~~ "Right-of-way" means land necessary for the
971 construction and maintenance of a connected associated linear
972 facility, such as a railroad line, pipeline, or transmission
973 line as owned by or proposed to be certified by the applicant.
974 The typical width of the right-of-way shall be identified in the
975 application. The right-of-way shall be located within the
976 certified corridor and shall be identified by the applicant
977 subsequent to certification in documents filed with the
978 department prior to construction.

979 (28)~~(27)~~ "Ultimate site capacity" means the maximum
980 generating capacity for a site as certified by the board.
981 ~~"Sufficiency" means that the application is not only complete~~
982 ~~but that all sections are sufficient in the comprehensiveness of~~
983 ~~data or in the quality of information provided to allow the~~
984 ~~department to determine whether the application provides the~~
985 ~~reviewing agencies adequate information to prepare the reports~~
986 ~~required by s. 403.507.~~

987 Section 19. Subsections (1), (7), (9), and (10) of section
988 403.504, Florida Statutes, are amended, and new subsections (9),
989 (10), (11), and (12) are added to that section, to read:

990 403.504 Department of Environmental Protection; powers and
991 duties enumerated.--The department shall have the following
992 powers and duties in relation to this act:

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993 (1) To adopt rules pursuant to ss. 120.536(1) and 120.54
994 to implement the provisions of this act, including rules setting
995 forth environmental precautions to be followed in relation to
996 the location, construction, and operation of electrical power
997 plants.

998 (7) To conduct studies and prepare a project ~~written~~
999 analysis under s. 403.507.

1000 (9) To issue final orders after receipt of the
1001 administrative law judge's order relinquishing jurisdiction
1002 pursuant to s. 403.508(6).

1003 (10) To act as clerk for the siting board.

1004 (11) To administer and manage the terms and conditions of
1005 the certification order and supporting documents and records for
1006 the life of the facility.

1007 (12) To issue emergency orders on behalf of the board for
1008 facilities licensed under this act.

1009 ~~(9) To notify all affected agencies of the filing of a~~
1010 ~~notice of intent within 15 days after receipt of the notice.~~

1011 ~~(10) To issue, with the electrical power plant~~
1012 ~~certification, any license required pursuant to any federally~~
1013 ~~delegated or approved permit program.~~

1014 Section 20. Section 403.5055, Florida Statutes, is amended
1015 to read:

1016 403.5055 Application for permits pursuant to s.
1017 403.0885.--In processing applications for permits pursuant to s.
1018 403.0885 that are associated with applications for electrical
1019 power plant certification:

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1020 (1) The procedural requirements set forth in 40 C.F.R. s.
1021 123.25, including public notice, public comments, and public
1022 hearings, shall be closely coordinated with the certification
1023 process established under this part. In the event of a conflict
1024 between the certification process and federally required
1025 procedures for NPDES permit issuance, the applicable federal
1026 requirements shall control.

1027 ~~(2) The department's proposed action pursuant to 40 C.F.R.~~
1028 ~~s. 124.6, including any draft NPDES permit (containing the~~
1029 ~~information required under 40 C.F.R. s. 124.6(d)), shall within~~
1030 ~~130 days after the submittal of a complete application be~~
1031 ~~publicly noticed and transmitted to the United States~~
1032 ~~Environmental Protection Agency for its review pursuant to 33~~
1033 ~~U.S.C. s. 1342(d).~~

1034 (2)(3) If available at the time the department issues its
1035 project analysis pursuant to s. 403.507(5), the department shall
1036 include in its project analysis ~~written analysis pursuant to s.~~
1037 ~~403.507(3) copies of the department's proposed action pursuant~~
1038 ~~to 40 C.F.R. s. 124.6 on any application for a NPDES permit; any~~
1039 ~~corresponding comments received from the United States~~
1040 ~~Environmental Protection Agency, the applicant, or the general~~
1041 ~~public; and the department's response to those comments.~~

1042 (3)(4) The department shall not issue or deny the permit
1043 pursuant to s. 403.0885 in advance of the issuance of the
1044 electrical electric power plant certification under this part
1045 unless required to do so by the provisions of federal law. When
1046 possible, any hearing on a permit issued pursuant to s. 403.0885
1047 shall be conducted in conjunction with the certification hearing

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1048 held pursuant to this act. The department's actions on an NPDES
1049 permit shall be based on the record and recommended order of the
1050 certification hearing, if the hearing on the NPDES was conducted
1051 in conjunction with the certification hearing, and of any other
1052 proceeding held in connection with the application for an NPDES
1053 permit, timely public comments received with respect to the
1054 application, and the provisions of federal law. The department's
1055 action on an NPDES permit, if issued, shall differ from the
1056 actions taken by the siting board regarding the certification
1057 order if federal laws and regulations require different action
1058 to be taken to ensure compliance with the Clean Water Act, as
1059 amended, and implementing regulations. Nothing in this part
1060 shall be construed to displace the department's authority as the
1061 final permitting entity under the federally approved state NPDES
1062 program. Nothing in this part shall be construed to authorize
1063 the issuance of a state NPDES permit which does not conform to
1064 the requirements of the federally approved state NPDES program.
1065 ~~The permit, if issued, shall be valid for no more than 5 years.~~

1066 ~~(5) The department's action on an NPDES permit renewal, if~~
1067 ~~issued, shall differ from the actions taken by the siting board~~
1068 ~~regarding the certification order if federal laws and~~
1069 ~~regulations require different action to be taken to ensure~~
1070 ~~compliance with the Clean Water Act, as amended, and~~
1071 ~~implementing regulations.~~

1072 Section 21. Section 403.506, Florida Statutes, is amended
1073 to read:

1074 403.506 Applicability, thresholds, and certification.--

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1075 (1) The provisions of this act shall apply to any
1076 electrical power plant as defined herein, except that the
1077 provisions of this act shall not apply to any electrical power
1078 plant or steam generating plant of less than 75 megawatts in
1079 capacity or to any substation to be constructed as part of an
1080 associated transmission line unless the applicant has elected to
1081 apply for certification of such plant or substation under this
1082 act. The provisions of this act shall not apply to any unit
1083 capacity expansion of 35 megawatts or less of an existing
1084 exothermic reaction cogeneration unit that was exempt from this
1085 act when it was originally built; however, this exemption shall
1086 not apply if the unit uses oil or natural gas for purposes other
1087 than unit startup. No construction of any new electrical power
1088 plant or expansion in steam generating capacity as measured by
1089 an increase in the maximum electrical generator rating of any
1090 existing electrical power plant may be undertaken after October
1091 1, 1973, without first obtaining certification in the manner as
1092 herein provided, except that this act shall not apply to any
1093 such electrical power plant which is presently operating or
1094 under construction or which has, upon the effective date of
1095 chapter 73-33, Laws of Florida, applied for a permit or
1096 certification under requirements in force prior to the effective
1097 date of such act.

1098 (2) Except as provided in the certification, modification
1099 of nonnuclear fuels, internal related hardware, including
1100 increases in steam turbine efficiency, or operating conditions
1101 not in conflict with certification which increase the electrical
1102 output of a unit to no greater capacity than the maximum

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1103 | electrical generator rating ~~operating capacity~~ of the existing
1104 | generator shall not constitute an alteration or addition to
1105 | generating capacity which requires certification pursuant to
1106 | this act.

1107 | ~~(3) The application for any related department license~~
1108 | ~~which is required pursuant to any federally delegated or~~
1109 | ~~approved permit program shall be processed within the time~~
1110 | ~~periods allowed by this act, in lieu of those specified in s.~~
1111 | ~~120.60. However, permits issued pursuant to s. 403.0885 shall be~~
1112 | ~~processed in accordance with 40 C.F.R. part 123.~~

1113 | Section 22. Section 403.5064, Florida Statutes, is amended
1114 | to read:

1115 | 403.5064 Application ~~Distribution of application;~~
1116 | schedules.--

1117 | (1) The formal date of filing of a certification
1118 | application and commencement of the certification review process
1119 | shall be when the applicant submits:

1120 | (a) Copies of the certification application in a quantity
1121 | and format as prescribed by rule to the department and other
1122 | agencies identified in s. 403.507(2)(a).

1123 | (b) The application fee specified under s. 403.518 to the
1124 | department.

1125 | (2)~~(1)~~ Within 7 days after the filing of an application,
1126 | the department shall provide to the applicant and the Division
1127 | of Administrative Hearings the names and addresses of any
1128 | additional ~~those affected or other agencies or persons~~ entitled
1129 | to notice and copies of the application and any amendments.
1130 | Copies of the application shall be distributed within 5 days

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1131 after the provision of such names and addresses by the applicant
1132 to these additional agencies. This distribution shall not be a
1133 basis for altering the schedule of dates for the certification
1134 process.

1135 (3) Any amendment to the application made prior to
1136 certification shall be disposed of as part of the original
1137 certification proceeding. Amendment of the application may be
1138 considered good cause for alteration of time limits pursuant to
1139 s. 403.5095.

1140 (4)-(2) Within 7 days after the filing of an application
1141 completeness has been determined, the department shall prepare a
1142 proposed schedule of dates for determination of completeness,
1143 submission of statements of issues, determination of
1144 sufficiency, and submittal of final reports, from affected and
1145 other agencies and other significant dates to be followed during
1146 the certification process, including dates for filing notices of
1147 appearance to be a party pursuant to s. 403.508(3)-(4). This
1148 schedule shall be timely provided by the department to the
1149 applicant, the administrative law judge, all agencies identified
1150 pursuant to subsection (2) -(1), and all parties. Within 7 days
1151 after the filing of the proposed schedule, the administrative
1152 law judge shall issue an order establishing a schedule for the
1153 matters addressed in the department's proposed schedule and
1154 other appropriate matters, if any.

1155 (5)-(3) Within 7 days after completeness has been
1156 determined, the applicant shall distribute copies of the
1157 application to all agencies identified by the department
1158 pursuant to subsection (1). Copies of changes and amendments to

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1159 | the application shall be timely distributed by the applicant to
 1160 | all ~~affected~~ agencies and parties who have received a copy of
 1161 | the application.

1162 | (6) Notice of the filing of the application shall be
 1163 | published in accordance with the requirements of s. 403.5115.

1164 | Section 23. Section 403.5065, Florida Statutes, is amended
 1165 | to read:

1166 | 403.5065 Appointment of administrative law judge; powers
 1167 | and duties.--

1168 | (1) Within 7 days after receipt of an application, ~~whether~~
 1169 | ~~complete or not,~~ the department shall request the Division of
 1170 | Administrative Hearings to designate an administrative law judge
 1171 | to conduct the hearings required by this act. The division
 1172 | director shall designate an administrative law judge within 7
 1173 | days after receipt of the request from the department. In
 1174 | designating an administrative law judge for this purpose, the
 1175 | division director shall, whenever practicable, assign an
 1176 | administrative law judge who has had prior experience or
 1177 | training in electrical power plant site certification
 1178 | proceedings. Upon being advised that an administrative law judge
 1179 | has been appointed, the department shall immediately file a copy
 1180 | of the application and all supporting documents with the
 1181 | designated administrative law judge, who shall docket the
 1182 | application.

1183 | (2) The administrative law judge shall have all powers and
 1184 | duties granted to administrative law judges by chapter 120 and
 1185 | by the laws and rules of the department.

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1186 Section 24. Section 403.5066, Florida Statutes, is amended
1187 to read:

1188 403.5066 Determination of completeness.--

1189 (1) (a) Within 30 days after the filing of an application,
1190 affected agencies shall file a statement with the department
1191 containing each agency's recommendations on the completeness of
1192 the application.

1193 (b) Within ~~40~~ 15 days after the filing receipt of an
1194 application, the department shall file a statement with the
1195 Division of Administrative Hearings, ~~and~~ with the applicant, ~~and~~
1196 with all parties declaring its position with regard to the
1197 completeness, ~~not the sufficiency,~~ of the application. ~~The~~
1198 department's statement shall be based upon consultation with the
1199 affected agencies.

1200 (2) ~~(1)~~ If the department declares the application to be
1201 incomplete, the applicant, within 15 days after the filing of
1202 the statement by the department, shall file with the Division of
1203 Administrative Hearings, ~~and~~ with the department, ~~and all~~
1204 parties a statement:

1205 (a) A withdrawal of ~~Agreeing with the statement of the~~
1206 department ~~and withdrawing~~ the application;

1207 (b) A statement agreeing to supply the additional
1208 information necessary to make the application complete. Such
1209 additional information shall be provided within 30 days after
1210 the issuance of the department's statement on completeness of
1211 the application. The time schedules under this act shall not be
1212 tolled if the applicant makes the application complete within 30
1213 days after the issuance of the department's statement on

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1214 completeness of the application. A subsequent finding by the
 1215 department that the application remains incomplete, based upon
 1216 the additional information submitted by the applicant or upon
 1217 the failure of the applicant to timely submit the additional
 1218 information, tolls the time schedules under this act until the
 1219 application is determined complete; ~~Agreeing with the statement~~
 1220 of the department and agreeing to amend the application without
 1221 withdrawing it. The time schedules referencing a complete
 1222 application under this act shall not commence until the
 1223 application is determined complete; or

1224 (c) A statement contesting the department's determination
 1225 of incompleteness; or ~~contesting the statement of the~~
 1226 department.

1227 (d) A statement agreeing with the department and
 1228 requesting additional time beyond 30 days to provide the
 1229 information necessary to make the application complete. If the
 1230 applicant exercises this option, the time schedules under this
 1231 act are tolled until the application is determined complete.

1232 (3) (a) ~~(2)~~ If the applicant contests the determination by
 1233 the department that an application is incomplete, the
 1234 administrative law judge shall schedule a hearing on the
 1235 statement of completeness. The hearing shall be held as
 1236 expeditiously as possible, but not later than 21 ~~30~~ days after
 1237 the filing of the statement by the department. The
 1238 administrative law judge shall render a decision within 7 ~~10~~
 1239 days after the hearing.

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1240 (b) Parties to a hearing on the issue of completeness
1241 shall include the applicant, the department, and any agency that
1242 has jurisdiction over the matter in dispute.

1243 (c)~~(a)~~ If the administrative law judge determines that the
1244 application was not complete ~~as filed~~, the applicant shall
1245 withdraw the application or make such additional submittals as
1246 necessary to complete it. The time schedules referencing a
1247 complete application under this act shall not commence until the
1248 application is determined complete.

1249 (d)~~(b)~~ If the administrative law judge determines that the
1250 application was complete at the time it was declared incomplete
1251 ~~filed~~, the time schedules referencing a complete application
1252 under this act shall commence upon such determination.

1253 (4) If the applicant provides additional information to
1254 address the issues identified in the determination of
1255 incompleteness, each affected agency may submit to the
1256 department, no later than 15 days after the applicant files the
1257 additional information, a recommendation on whether the agency
1258 believes the application is complete. Within 22 days after
1259 receipt of the additional information from the applicant
1260 submitted under paragraph (2)(b), paragraph (2)(d), or paragraph
1261 (3)(c), the department shall determine whether the additional
1262 information supplied by an applicant makes the application
1263 complete. If the department finds that the application is still
1264 incomplete, the applicant may exercise any of the options
1265 specified in subsection (2) as often as is necessary to resolve
1266 the dispute.

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1267 Section 25. Section 403.50663, Florida Statutes, is
1268 created to read:

1269 403.50663 Informational public meetings.--

1270 (1) A local government within whose jurisdiction the power
1271 plant is proposed to be sited may hold one informational public
1272 meeting in addition to the hearings specifically authorized by
1273 this act on any matter associated with the electrical power
1274 plant proceeding. Such informational public meetings shall be
1275 held by the local government or by the regional planning council
1276 if the local government does not hold such meeting within 70
1277 days after the filing of the application. The purpose of an
1278 informational public meeting is for the local government or
1279 regional planning council to further inform the public about the
1280 proposed electrical power plant or associated facilities, obtain
1281 comments from the public, and formulate its recommendation with
1282 respect to the proposed electrical power plant.

1283 (2) Informational public meetings shall be held solely at
1284 the option of each local government or regional planning council
1285 if a public meeting is not held by the local government. It is
1286 the legislative intent that local governments or regional
1287 planning councils attempt to hold such public meetings. Parties
1288 to the proceedings under this act shall be encouraged to attend;
1289 however, no party other than the applicant and the department
1290 shall be required to attend such informational public meetings.

1291 (3) A local government or regional planning council that
1292 intends to conduct an informational public meeting must provide
1293 notice of the meeting to all parties not less than 5 days prior
1294 to the meeting.

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1295 (4) The failure to hold an informational public meeting or
 1296 the procedure used for the informational public meeting are not
 1297 grounds for the alteration of any time limitation in this act
 1298 under s. 403.5095 or grounds to deny or condition certification.

1299 Section 26. Section 403.50665, Florida Statutes, is
 1300 created to read:

1301 403.50665 Land use consistency.--

1302 (1) The applicant shall include in the application a
 1303 statement on the consistency of the site or any directly
 1304 associated facilities with existing land use plans and zoning
 1305 ordinances that were in effect on the date the application was
 1306 filed and a full description of such consistency.

1307 (2) Within 80 days after the filing of the application,
 1308 each local government shall file a determination with the
 1309 department, the applicant, the administrative law judge, and all
 1310 parties on the consistency of the site or any directly
 1311 associated facilities with existing land use plans and zoning
 1312 ordinances that were in effect on the date the application was
 1313 filed, based on the information provided in the application. The
 1314 applicant shall publish notice of the consistency determination
 1315 in accordance with the requirements of s. 403.5115.

1316 (3) If any substantially affected person wishes to dispute
 1317 the local government's determination, he or she shall file a
 1318 petition with the department within 15 days after the
 1319 publication of notice of the local government's determination.
 1320 If a hearing is requested, the provisions of s. 403.508(1) shall
 1321 apply.

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1322 (4) The dates in this section may be altered upon
 1323 agreement between the applicant, the local government, and the
 1324 department pursuant to s. 403.5095.

1325 (5) If it is determined by the local government that the
 1326 proposed site or directly associated facility does conform with
 1327 existing land use plans and zoning ordinances in effect as of
 1328 the date of the application and no petition has been filed, the
 1329 responsible zoning or planning authority shall not thereafter
 1330 change such land use plans or zoning ordinances so as to
 1331 foreclose construction and operation of the proposed site or
 1332 directly associated facilities unless certification is
 1333 subsequently denied or withdrawn.

1334 Section 27. Section 403.5067, Florida Statutes, is
 1335 repealed.

1336 Section 28. Section 403.507, Florida Statutes, is amended
 1337 to read:

1338 403.507 Preliminary statements of issues, reports, project
 1339 analyses, and studies.--

1340 (1) Each affected agency identified in paragraph (2)(a)
 1341 shall submit a preliminary statement of issues to the
 1342 department, ~~and~~ the applicant, and all parties no later than 40
 1343 ~~60~~ days after the certification application has been determined
 1344 ~~distribution of the complete application.~~ The failure to raise
 1345 an issue in this statement shall not preclude the issue from
 1346 being raised in the agency's report.

1347 (2)(a) No later than 100 days after the certification
 1348 application has been determined complete, the following agencies
 1349 shall prepare reports as provided below and shall submit them to

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1350 the department and the applicant ~~within 150 days after~~
1351 ~~distribution of the complete application:~~

1352 1. The Department of Community Affairs shall prepare a
1353 report containing recommendations which address the impact upon
1354 the public of the proposed electrical power plant, based on the
1355 degree to which the electrical power plant is consistent with
1356 the applicable portions of the state comprehensive plan,
1357 emergency management requirements, and other such matters within
1358 its jurisdiction. The Department of Community Affairs may also
1359 comment on the consistency of the proposed electrical power
1360 plant with applicable strategic regional policy plans or local
1361 comprehensive plans and land development regulations.

1362 ~~2. The Public Service Commission shall prepare a report as~~
1363 ~~to the present and future need for the electrical generating~~
1364 ~~capacity to be supplied by the proposed electrical power plant.~~
1365 ~~The report shall include the commission's determination pursuant~~
1366 ~~to s. 403.519 and may include the commission's comments with~~
1367 ~~respect to any other matters within its jurisdiction.~~

1368 2.3. The water management district shall prepare a report
1369 as to matters within its jurisdiction, including but not limited
1370 to, the impact of the proposed electrical power plant on water
1371 resources, regional water supply planning, and district-owned
1372 lands and works.

1373 3.4. Each local government in whose jurisdiction the
1374 proposed electrical power plant is to be located shall prepare a
1375 report as to the consistency of the proposed electrical power
1376 plant with all applicable local ordinances, regulations,
1377 standards, or criteria that apply to the proposed electrical

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1378 power plant, including ~~adopted local comprehensive plans, land~~
1379 ~~development regulations, and any applicable local environmental~~
1380 regulations adopted pursuant to s. 403.182 or by other means.

1381 4.5. The Fish and Wildlife Conservation Commission shall
1382 prepare a report as to matters within its jurisdiction.

1383 5.6. Each ~~The~~ regional planning council shall prepare a
1384 report containing recommendations that address the impact upon
1385 the public of the proposed electrical power plant, based on the
1386 degree to which the electrical power plant is consistent with
1387 the applicable provisions of the strategic regional policy plan
1388 adopted pursuant to chapter 186 and other matters within its
1389 jurisdiction.

1390 6. The Department of Transportation shall address the
1391 impact of the proposed electrical power plant on matters within
1392 its jurisdiction.

1393 (b)7. Any other agency, if requested by the department,
1394 shall also perform studies or prepare reports as to matters
1395 within that agency's jurisdiction which may potentially be
1396 affected by the proposed electrical power plant.

1397 ~~(b) As needed to verify or supplement the studies made by~~
1398 ~~the applicant in support of the application, it shall be the~~
1399 ~~duty of the department to conduct, or contract for, studies of~~
1400 ~~the proposed electrical power plant and site, including, but not~~
1401 ~~limited to, the following, which shall be completed no later~~
1402 ~~than 210 days after the complete application is filed with the~~
1403 ~~department:~~

1404 ~~1. Cooling system requirements.~~

1405 ~~2. Construction and operational safeguards.~~

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- 1406 ~~3. Proximity to transportation systems.~~
- 1407 ~~4. Soil and foundation conditions.~~
- 1408 ~~5. Impact on suitable present and projected water supplies~~
- 1409 ~~for this and other competing uses.~~
- 1410 ~~6. Impact on surrounding land uses.~~
- 1411 ~~7. Accessibility to transmission corridors.~~
- 1412 ~~8. Environmental impacts.~~
- 1413 ~~9. Requirements applicable under any federally delegated~~
- 1414 ~~or approved permit program.~~

1415 (3)(e) Each report described in subsection (2) paragraphs
 1416 ~~(a) and (b)~~ shall contain:

1417 (a) A notice of any nonprocedural requirements not
 1418 specifically listed in the application from which a variance,
 1419 exemption, exception all information on variances, exemptions,
 1420 exceptions, or other relief is necessary in order for the
 1421 proposed electrical power plant to be certified. Failure of such
 1422 notification by an agency shall be treated as a waiver from
 1423 nonprocedural requirements of that agency. However, no variance
 1424 shall be granted from standards or regulations of the department
 1425 applicable under any federally delegated or approved permit
 1426 program, except as expressly allowed in such program. which may
 1427 be required by s. 403.511(2) and

1428 (b) A recommendation for approval or denial of the
 1429 application.

1430 (c) Any proposed conditions of certification on matters
 1431 within the jurisdiction of such agency. For each condition
 1432 proposed by an agency in its report, the agency shall list the

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1433 specific statute, rule, or ordinance which authorizes the
1434 proposed condition.

1435 (d) The agencies shall initiate the activities required by
1436 this section no later than 30 days after the complete
1437 application is distributed. The agencies shall keep the
1438 applicant and the department informed as to the progress of the
1439 studies and any issues raised thereby.

1440 ~~(3) No later than 60 days after the application for a~~
1441 ~~federally required new source review or prevention of~~
1442 ~~significant deterioration permit for the electrical power plant~~
1443 ~~is complete and sufficient, the department shall issue its~~
1444 ~~preliminary determination on such permit. Notice of such~~
1445 ~~determination shall be published as required by the department's~~
1446 ~~rules for notices of such permits. The department shall receive~~
1447 ~~public comments and comments from the United States~~
1448 ~~Environmental Protection Agency and other affected agencies on~~
1449 ~~the preliminary determination as provided for in the federally~~
1450 ~~approved state implementation plan. The department shall~~
1451 ~~maintain a record of all comments received and considered in~~
1452 ~~taking action on such permits. If a petition for an~~
1453 ~~administrative hearing on the department's preliminary~~
1454 ~~determination is filed by a substantially affected person, that~~
1455 ~~hearing shall be consolidated with the certification hearing.~~

1456 (4) (a) No later than 150 days after the application is
1457 filed, the Public Service Commission shall prepare a report as
1458 to the present and future need for electrical generating
1459 capacity to be supplied by the proposed electrical power plant.
1460 The report shall include the commission's determination pursuant

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1461 to s. 403.519 and may include the commission's comments with
1462 respect to any other matters within its jurisdiction.

1463 (b) Receipt of an affirmative determination of need by the
1464 submittal deadline under paragraph (a) shall be a condition
1465 precedent to issuance of the department's project analysis and
1466 conduct of the certification hearing.

1467 (5)~~(4)~~ The department shall prepare a project ~~written~~
1468 analysis, which shall be filed with the designated
1469 administrative law judge and served on all parties no later than
1470 130 ~~240~~ days after the ~~complete~~ application is determined
1471 complete ~~filed with the department, but no later than 60 days~~
1472 ~~prior to the hearing~~, and which shall include:

1473 (a) A statement indicating whether the proposed electrical
1474 power plant and proposed ultimate site capacity will be in
1475 compliance and consistent with matters within the department's
1476 standard jurisdiction, including ~~with~~ the rules of the
1477 department, as well as whether the proposed electrical power
1478 plant and proposed ultimate site capacity will be in compliance
1479 with the nonprocedural requirements of the affected agencies.

1480 (b) Copies of the studies and reports required by this
1481 section ~~and s. 403.519.~~

1482 (c) The comments received by the department from any other
1483 agency or person.

1484 (d) The recommendation of the department as to the
1485 disposition of the application, of variances, exemptions,
1486 exceptions, or other relief identified by any party, and of any
1487 proposed conditions of certification which the department
1488 believes should be imposed.

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1489 (e) If available, the recommendation of the department
1490 regarding the issuance of any license required pursuant to a
1491 federally delegated or approved permit program.

1492 ~~(f) Copies of the department's draft of the operation~~
1493 ~~permit for a major source of air pollution, which must also be~~
1494 ~~provided to the United States Environmental Protection Agency~~
1495 ~~for review within 5 days after issuance of the written analysis.~~

1496 (6)~~(5)~~ Except when good cause is shown, the failure of any
1497 agency to submit a preliminary statement of issues or a report,
1498 or to submit its preliminary statement of issues or report
1499 within the allowed time, shall not be grounds for the alteration
1500 of any time limitation in this act. Neither the failure to
1501 submit a preliminary statement of issues or a report nor the
1502 inadequacy of the preliminary statement of issues or report are
1503 ~~shall be~~ grounds to deny or condition certification.

1504 Section 29. Section 403.508, Florida Statutes, is amended
1505 to read:

1506 403.508 Land use and certification hearings ~~proceedings~~,
1507 parties, participants.--

1508 (1) (a) If a petition for a hearing on land use has been
1509 filed pursuant to s. 403.50665, the designated administrative
1510 law judge shall conduct a land use hearing in the county of the
1511 proposed site or directly associated facility, as applicable, as
1512 expeditiously as possible, but not later than 30 ~~within 90~~ days
1513 after the department's receipt of the petition ~~a complete~~
1514 ~~application for electrical power plant site certification by the~~
1515 ~~department~~. The place of such hearing shall be as close as
1516 possible to the proposed site or directly associated facility.

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1517 If a petition is filed, the hearing shall be held regardless of
1518 the status of the completeness of the application. However,
1519 incompleteness of information necessary for a local government
1520 to evaluate an application may be claimed by the local
1521 government as cause for a statement of inconsistency with
1522 existing land use plans and zoning ordinances under s.
1523 403.50665.

1524 (b) Notice of the land use hearing shall be published in
1525 accordance with the requirements of s. 403.5115.

1526 (c) ~~(2)~~ The sole issue for determination at the land use
1527 hearing shall be whether or not the proposed site is consistent
1528 and in compliance with existing land use plans and zoning
1529 ordinances. If the administrative law judge concludes that the
1530 proposed site is not consistent or in compliance with existing
1531 land use plans and zoning ordinances, the administrative law
1532 judge shall receive at the hearing evidence on, and address in
1533 the recommended order any changes to or approvals or variances
1534 under, the applicable land use plans or zoning ordinances which
1535 will render the proposed site consistent and in compliance with
1536 the local land use plans and zoning ordinances.

1537 (d) The designated administrative law judge's recommended
1538 order shall be issued within 30 days after completion of the
1539 hearing and shall be reviewed by the board within 60 45 days
1540 after receipt of the recommended order by the board.

1541 (e) If it is determined by the board that the proposed
1542 site does conform with existing land use plans and zoning
1543 ordinances in effect as of the date of the application, or as
1544 otherwise provided by this act, the responsible zoning or

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1545 | planning authority shall not thereafter change such land use
 1546 | plans or zoning ordinances so as to foreclose construction and
 1547 | operation of ~~affect~~ the proposed electrical power plant on the
 1548 | proposed site or directly associated facilities unless
 1549 | certification is subsequently denied or withdrawn.

1550 | (f) If it is determined by the board that the proposed
 1551 | site does not conform with existing land use plans and zoning
 1552 | ordinances, ~~it shall be the responsibility of the applicant to~~
 1553 | ~~make the necessary application for rezoning. Should the~~
 1554 | ~~application for rezoning be denied, the applicant may appeal~~
 1555 | ~~this decision to the board, which~~ may, if it determines after
 1556 | notice and hearing and upon consideration of the recommended
 1557 | order on land use and zoning issues that it is in the public
 1558 | interest to authorize the use of the land as a site for an
 1559 | electrical power plant, authorize an amendment, rezoning,
 1560 | variance, or other approval ~~a variance~~ to the adopted land use
 1561 | plan and zoning ordinances required to render the proposed site
 1562 | consistent with local land use plans and zoning ordinances. The
 1563 | board's action shall not be controlled by any other procedural
 1564 | requirements of law. In the event a variance or other approval
 1565 | is denied by the board, it shall be the responsibility of the
 1566 | applicant to make the necessary application for any approvals
 1567 | determined by the board as required to make the proposed site
 1568 | consistent and in compliance with local land use plans and
 1569 | zoning ordinances. No further action may be taken on the
 1570 | complete application ~~by the department~~ until the proposed site
 1571 | conforms to the adopted land use plan or zoning ordinances or
 1572 | the board grants relief as provided under this act.

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1573 (2) (a) (3) A certification hearing shall be held by the
 1574 designated administrative law judge no later than 265 ~~300~~ days
 1575 after the ~~complete~~ application is filed with the department,
 1576 ~~however, an affirmative determination of need by the Public~~
 1577 ~~Service Commission pursuant to s. 403.519 shall be a condition~~
 1578 ~~precedent to the conduct of the certification hearing.~~ The
 1579 certification hearing shall be held at a location in proximity
 1580 to the proposed site. ~~The certification hearing shall also~~
 1581 ~~constitute the sole hearing allowed by chapter 120 to determine~~
 1582 ~~the substantial interest of a party regarding any required~~
 1583 ~~agency license or any related permit required pursuant to any~~
 1584 ~~federally delegated or approved permit program.~~ At the
 1585 conclusion of the certification hearing, the designated
 1586 administrative law judge shall, after consideration of all
 1587 evidence of record, submit to the board a recommended order no
 1588 later than 45 ~~60~~ days after the filing of the hearing
 1589 transcript. ~~In the event the administrative law judge fails to~~
 1590 ~~issue a recommended order within 60 days after the filing of the~~
 1591 ~~hearing transcript, the administrative law judge shall submit a~~
 1592 ~~report to the board with a copy to all parties within 60 days~~
 1593 ~~after the filing of the hearing transcript to advise the board~~
 1594 ~~of the reason for the delay in the issuance of the recommended~~
 1595 ~~order and of the date by which the recommended order will be~~
 1596 ~~issued.~~

1597 (b) Notice of the certification hearing and notice of the
 1598 deadline for filing of notice of intent to be a party shall be
 1599 made in accordance with the requirements of s. 403.5115.

1600 (3) (a) (4) (a) Parties to the proceeding shall include:

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- 1601 1. The applicant.
- 1602 2. The Public Service Commission.
- 1603 3. The Department of Community Affairs.
- 1604 4. The Fish and Wildlife Conservation Commission.
- 1605 5. The water management district.
- 1606 6. The department.
- 1607 7. The regional planning council.
- 1608 8. The local government.
- 1609 9. The Department of Transportation.

1610 (b) Any party listed in paragraph (a) other than the
 1611 department or the applicant may waive its right to participate
 1612 in these proceedings. If such listed party fails to file a
 1613 notice of its intent to be a party on or before the 90th day
 1614 prior to the certification hearing, such party shall be deemed
 1615 to have waived its right to be a party.

1616 (c) Notwithstanding the provisions of chapter 120, upon
 1617 the filing with the administrative law judge of a notice of
 1618 intent to be a party no later than 75 days after the application
 1619 is filed ~~at least 15 days prior to the date of the land use~~
 1620 ~~hearing,~~ the following shall also be parties to the proceeding:

- 1621 1. Any agency not listed in paragraph (a) as to matters
 1622 within its jurisdiction.
- 1623 2. Any domestic nonprofit corporation or association
 1624 formed, in whole or in part, to promote conservation or natural
 1625 beauty; to protect the environment, personal health, or other
 1626 biological values; to preserve historical sites; to promote
 1627 consumer interests; to represent labor, commercial, or
 1628 industrial groups; or to promote comprehensive planning or

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1629 orderly development of the area in which the proposed electrical
1630 power plant is to be located.

1631 (d) Notwithstanding paragraph (e), failure of an agency
1632 described in subparagraph (c)1. to file a notice of intent to be
1633 a party within the time provided herein shall constitute a
1634 waiver of the right of that agency to participate as a party in
1635 the proceeding.

1636 (e) Other parties may include any person, including those
1637 persons enumerated in paragraph (c) who have failed to timely
1638 file a notice of intent to be a party, whose substantial
1639 interests are affected and being determined by the proceeding
1640 and who timely file a motion to intervene pursuant to chapter
1641 120 and applicable rules. Intervention pursuant to this
1642 paragraph may be granted at the discretion of the designated
1643 administrative law judge and upon such conditions as he or she
1644 may prescribe any time prior to 30 days before the commencement
1645 of the certification hearing.

1646 (f) Any agency, including those whose properties or works
1647 are being affected pursuant to s. 403.509(4), shall be made a
1648 party upon the request of the department or the applicant.

1649 (4) (a) The order of presentation at the certification
1650 hearing, unless otherwise changed by the administrative law
1651 judge to ensure the orderly presentation of witnesses and
1652 evidence, shall be:

- 1653 1. The applicant.
1654 2. The department.
1655 3. State agencies.

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1656 4. Regional agencies, including regional planning councils
1657 and water management districts.

1658 5. Local governments.

1659 6. Other parties.

1660 ~~(b)(5)~~ When appropriate, any person may be given an
1661 opportunity to present oral or written communications to the
1662 designated administrative law judge. If the designated
1663 administrative law judge proposes to consider such
1664 communications, then all parties shall be given an opportunity
1665 to cross-examine or challenge or rebut such communications.

1666 (5) At the conclusion of the certification hearing, the
1667 designated administrative law judge shall, after consideration
1668 of all evidence of record, submit to the board a recommended
1669 order no later than 45 days after the filing of the hearing
1670 transcript.

1671 (6) (a) No earlier than 29 days prior to the conduct of the
1672 certification hearing, the department or the applicant may
1673 request that the administrative law judge cancel the
1674 certification hearing and relinquish jurisdiction to the
1675 department if all parties to the proceeding stipulate that there
1676 are no disputed issues of fact or law to be raised at the
1677 certification hearing, and if sufficient time remains for the
1678 applicant and the department to publish public notices of the
1679 cancellation of the hearing at least 3 days prior to the
1680 scheduled date of the hearing.

1681 (b) The administrative law judge shall issue an order
1682 granting or denying the request within 5 days after receipt of
1683 the request.

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1684 (c) If the administrative law judge grants the request,
1685 the department and the applicant shall publish notices of the
1686 cancellation of the certification hearing, in accordance with s.
1687 403.5115.

1688 (d)1. If the administrative law judge grants the request,
1689 the department shall prepare and issue a final order in
1690 accordance with s. 403.509(1)(a).

1691 2. Parties may submit proposed recommended orders to the
1692 department no later than 10 days after the administrative law
1693 judge issues an order relinquishing jurisdiction.

1694 (7) The applicant shall pay those expenses and costs
1695 associated with the conduct of the hearings and the recording
1696 and transcription of the proceedings.

1697 ~~(6) The designated administrative law judge shall have all~~
1698 ~~powers and duties granted to administrative law judges by~~
1699 ~~chapter 120 and this chapter and by the rules of the department~~
1700 ~~and the Administration Commission, including the authority to~~
1701 ~~resolve disputes over the completeness and sufficiency of an~~
1702 ~~application for certification.~~

1703 ~~(7) The order of presentation at the certification~~
1704 ~~hearing, unless otherwise changed by the administrative law~~
1705 ~~judge to ensure the orderly presentation of witnesses and~~
1706 ~~evidence, shall be:~~

1707 ~~(a) The applicant.~~

1708 ~~(b) The department.~~

1709 ~~(c) State agencies.~~

1710 ~~(d) Regional agencies, including regional planning~~
1711 ~~councils and water management districts.~~

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1712 ~~(e) Local governments.~~
 1713 ~~(f) Other parties.~~
 1714 (8) In issuing permits under the federally approved new
 1715 source review or prevention of significant deterioration permit
 1716 program, the department shall observe the procedures specified
 1717 under the federally approved state implementation plan,
 1718 including public notice, public comment, public hearing, and
 1719 notice of applications and amendments to federal, state, and
 1720 local agencies, to assure that all such permits issued in
 1721 coordination with the certification of a power plant under this
 1722 act are federally enforceable and are issued after opportunity
 1723 for informed public participation regarding the terms and
 1724 conditions thereof. When possible, any hearing on a federally
 1725 approved or delegated program permit such as new source review,
 1726 prevention of significant deterioration permit, or NPDES permit
 1727 shall be conducted in conjunction with the certification hearing
 1728 held under this act. ~~The department shall accept written comment~~
 1729 ~~with respect to an application for, or the department's~~
 1730 ~~preliminary determination on, a new source review or prevention~~
 1731 ~~of significant deterioration permit for a period of no less than~~
 1732 ~~30 days from the date notice of such action is published. Upon~~
 1733 ~~request submitted within 30 days after published notice, the~~
 1734 ~~department shall hold a public meeting, in the area affected,~~
 1735 ~~for the purpose of receiving public comment on issues related to~~
 1736 ~~the new source review or prevention of significant deterioration~~
 1737 ~~permit. If requested following notice of the department's~~
 1738 ~~preliminary determination, the public meeting to receive public~~
 1739 ~~comment shall be held prior to the scheduled certification~~

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1740 ~~hearing. The department shall also solicit comments from the~~
1741 ~~United States Environmental Protection Agency and other affected~~
1742 ~~federal agencies regarding the department's preliminary~~
1743 ~~determination for any federally required new source review or~~
1744 ~~prevention of significant deterioration permit. It is the intent~~
1745 of the Legislature that the review, processing, and issuance of
1746 such federally delegated or approved permits be closely
1747 coordinated with the certification process established under
1748 this part. In the event of a conflict between the certification
1749 process and federally required procedures ~~contained in the state~~
1750 ~~implementation plan,~~ the applicable federal requirements ~~of the~~
1751 ~~implementation plan~~ shall control.

1752 Section 30. Section 403.509, Florida Statutes, is amended
1753 to read:

1754 403.509 Final disposition of application.--

1755 (1) (a) If the administrative law judge has granted a
1756 request to cancel the certification hearing and has relinquished
1757 jurisdiction to the department under the provisions of s.
1758 403.508(6), within 40 days thereafter, the secretary of the
1759 department shall act upon the application by written order in
1760 accordance with the terms of this act and the stipulation of the
1761 parties in requesting cancellation of the certification hearing.

1762 (b) If the administrative law judge has not granted a
1763 request to cancel the certification hearing under the provisions
1764 of s. 403.508(6), within 60 days after receipt of the designated
1765 administrative law judge's recommended order, the board shall
1766 act upon the application by written order, approving
1767 certification or denying certification ~~the issuance of a~~

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1768 ~~ertificate~~, in accordance with the terms of this act, and
1769 stating the reasons for issuance or denial. If certification ~~the~~
1770 ~~ertificate~~ is denied, the board shall set forth in writing the
1771 action the applicant would have to take to secure the board's
1772 approval of the application.

1773 (2) The issues that may be raised in any hearing before
1774 the board shall be limited to those matters raised in the
1775 certification proceeding before the administrative law judge or
1776 raised in the recommended order. All parties, or their
1777 representatives, or persons who appear before the board shall be
1778 subject to the provisions of s. 120.66.

1779 (3) In determining whether an application should be
1780 approved in whole, approved with modifications or conditions, or
1781 denied, the board, or secretary when applicable, shall consider
1782 whether, and the extent to which, the location of the electrical
1783 power plant and directly associated facilities and their
1784 construction and operation will:

1785 (a) Provide reasonable assurance that operational
1786 safeguards are technically sufficient for the public welfare and
1787 protection.

1788 (b) Comply with applicable nonprocedural requirements of
1789 agencies.

1790 (c) Be consistent with applicable local government
1791 comprehensive plans and land development regulations.

1792 (d) Meet the electrical energy needs of the state in an
1793 orderly and timely fashion.

1794 (e) Provide a reasonable balance between the need for the
1795 facility as established pursuant to s. 403.519, and the impacts

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1796 upon air and water quality, fish and wildlife, water resources,
1797 and other natural resources of the state resulting from the
1798 construction and operation of the facility.

1799 (f) Minimize, through the use of reasonable and available
1800 methods, the adverse effects on human health, the environment,
1801 and the ecology of the land and its wildlife and the ecology of
1802 state waters and their aquatic life.

1803 (g) Serve and protect the broad interests of the public.

1804 ~~(3) Within 30 days after issuance of the certification,~~
1805 ~~the department shall issue and forward to the United States~~
1806 ~~Environmental Protection Agency a proposed operation permit for~~
1807 ~~a major source of air pollution and must issue or deny any other~~
1808 ~~license required pursuant to any federally delegated or approved~~
1809 ~~permit program. The department's action on the license and its~~
1810 ~~action on the proposed operation permit for a major source of~~
1811 ~~air pollution shall be based upon the record and recommended~~
1812 ~~order of the certification hearing. The department's actions on~~
1813 ~~a federally required new source review or prevention of~~
1814 ~~significant deterioration permit shall be based on the record~~
1815 ~~and recommended order of the certification hearing and of any~~
1816 ~~other proceeding held in connection with the application for a~~
1817 ~~new source review or prevention of significant deterioration~~
1818 ~~permit, on timely public comments received with respect to the~~
1819 ~~application or preliminary determination for such permit, and on~~
1820 ~~the provisions of the state implementation plan.~~

1821 (4) The department's action on a federally required new
1822 source review or prevention of significant deterioration permit
1823 shall differ from the actions taken by the siting board

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1824 regarding the certification if the federally approved state
 1825 implementation plan requires such a different action to be taken
 1826 by the department. Nothing in this part shall be construed to
 1827 displace the department's authority as the final permitting
 1828 entity under the federally approved permit program. Nothing in
 1829 this part shall be construed to authorize the issuance of a new
 1830 source review or prevention of significant deterioration permit
 1831 which does not conform to the requirements of the federally
 1832 approved state implementation plan. ~~Any final operation permit~~
 1833 ~~for a major source of air pollution must be issued in accordance~~
 1834 ~~with the provisions of s. 403.0872. Unless the federally~~
 1835 ~~delegated or approved permit program provides otherwise,~~
 1836 ~~licenses issued by the department under this subsection shall be~~
 1837 ~~effective for the term of the certification issued by the board.~~
 1838 ~~If renewal of any license issued by the department pursuant to a~~
 1839 ~~federally delegated or approved permit program is required, such~~
 1840 ~~renewal shall not affect the certification issued by the board,~~
 1841 ~~except as necessary to resolve inconsistencies pursuant to s.~~
 1842 ~~403.516(1)(a).~~

1843 (5)~~(4)~~ In regard to the properties and works of any agency
 1844 which is a party to the certification hearing, the board shall
 1845 have the authority to decide issues relating to the use, the
 1846 connection thereto, or the crossing thereof, for the electrical
 1847 power plant and directly associated facilities ~~site~~ and to
 1848 direct any such agency to execute, within 30 days after the
 1849 entry of certification, the necessary license or easement for
 1850 such use, connection, or crossing, subject only to the
 1851 conditions set forth in such certification. However, the

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1852 applicant shall seek any necessary interest in state lands the
1853 title to which is vested in the Board of Trustees of the
1854 Internal Improvement Trust Fund from the Board of Trustees or
1855 from the governing board of the water management district
1856 created pursuant to chapter 373 before, during, or after the
1857 certification proceeding, and certification may be made
1858 contingent upon issuance of the appropriate interest. Neither
1859 the applicant nor any party to the certification proceeding may
1860 directly or indirectly raise or relitigate any matter that was
1861 or could have been an issue in the certification proceeding in
1862 any proceeding before the Board of Trustees of the Internal
1863 Improvement Trust Fund wherein the applicant is seeking
1864 necessary interest in state lands, but the information presented
1865 in the certification proceeding shall be available for review by
1866 the Board of Trustees and its staff.

1867 (6)-(5) Except as specified in subsection (4) for the
1868 issuance of any operation permit for a major source of air
1869 pollution pursuant to s. 403.0872, the issuance or denial of the
1870 certification by the board or secretary of the department and
1871 the issuance or denial of any related department license
1872 required pursuant to any federally delegated or approved permit
1873 program shall be the final administrative action required as to
1874 that application.

1875 (6) All certified electrical power plants must apply for
1876 and obtain a major source air operation permit pursuant to s.
1877 403.0872. Major source air operation permit applications for
1878 certified electrical power plants must be submitted pursuant to
1879 a schedule developed by the department. To the extent that any

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1880 ~~conflicting provision, limitation, or restriction under any~~
1881 ~~rule, regulation, or ordinance imposed by any political~~
1882 ~~subdivision of the state, or by any local pollution control~~
1883 ~~program, was superseded during the certification process~~
1884 ~~pursuant to s. 403.510(1), such rule, regulation, or ordinance~~
1885 ~~shall continue to be superseded for purposes of the major source~~
1886 ~~air operation permit program under s. 403.0872.~~

1887 Section 31. Section 403.511, Florida Statutes, is amended
1888 to read:

1889 403.511 Effect of certification.--

1890 (1) Subject to the conditions set forth therein, any
1891 certification ~~signed by the Governor~~ shall constitute the sole
1892 license of the state and any agency as to the approval of the
1893 site and the construction and operation of the proposed
1894 electrical power plant, except for the issuance of department
1895 licenses required under any federally delegated or approved
1896 permit program and except as otherwise provided in subsection
1897 (4).

1898 (2) (a) The certification shall authorize the licensee
1899 ~~applicant~~ named therein to construct and operate the proposed
1900 electrical power plant, subject only to the conditions of
1901 certification set forth in such certification, and except for
1902 the issuance of department licenses or permits required under
1903 any federally delegated or approved permit program.

1904 (b) 1. Except as provided in subsection (4), the
1905 certification may include conditions which constitute variances,
1906 exemptions, or exceptions from nonprocedural requirements of the
1907 department or any agency which were expressly considered during

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1908 | the proceeding, including, but not limited to, any site specific
 1909 | criteria, standards, or limitations under local land use and
 1910 | zoning approvals which affect the proposed electrical power
 1911 | plant or its site, unless waived by the agency as provided below
 1912 | and which otherwise would be applicable to the construction and
 1913 | operation of the proposed electrical power plant.

1914 | 2. No variance, exemption, exception, or other relief
 1915 | shall be granted from a state statute or rule for the protection
 1916 | of endangered or threatened species, aquatic preserves,
 1917 | Outstanding National Resource Waters, or Outstanding Florida
 1918 | Waters or for the disposal of hazardous waste, except to the
 1919 | extent authorized by the applicable statute or rule or except
 1920 | upon a finding in the certification order ~~by the siting board~~
 1921 | that the public interests set forth in s. 403.509(3) ~~403.502~~ in
 1922 | certifying the electrical power plant at the site proposed by
 1923 | the applicant overrides the public interest protected by the
 1924 | statute or rule from which relief is sought. ~~Each party shall~~
 1925 | ~~notify the applicant and other parties at least 60 days prior to~~
 1926 | ~~the certification hearing of any nonprocedural requirements not~~
 1927 | ~~specifically listed in the application from which a variance,~~
 1928 | ~~exemption, exception, or other relief is necessary in order for~~
 1929 | ~~the board to certify any electrical power plant proposed for~~
 1930 | ~~certification. Failure of such notification by an agency shall~~
 1931 | ~~be treated as a waiver from nonprocedural requirements of the~~
 1932 | ~~department or any other agency. However, no variance shall be~~
 1933 | ~~granted from standards or regulations of the department~~
 1934 | ~~applicable under any federally delegated or approved permit~~
 1935 | ~~program, except as expressly allowed in such program.~~

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1936 (3) The certification and any order on land use and zoning
 1937 issued under this act shall be in lieu of any license, permit,
 1938 certificate, or similar document required by any state,
 1939 regional, or local agency pursuant to, but not limited to,
 1940 chapter 125, chapter 161, chapter 163, chapter 166, chapter 186,
 1941 chapter 253, chapter 298, chapter 370, chapter 373, chapter 376,
 1942 chapter 380, chapter 381, chapter 387, chapter 403, except for
 1943 permits issued pursuant to any federally delegated or approved
 1944 permit program ~~s. 403.0885~~ and except as provided in ~~s.~~
 1945 ~~403.509(3) and (6),~~ chapter 404, or the Florida Transportation
 1946 Code, ~~or 33 U.S.C. s. 1341.~~

1947 (4) This act shall not affect in any way the ratemaking
 1948 powers of the Public Service Commission under chapter 366; nor
 1949 shall this act in any way affect the right of any local
 1950 government to charge appropriate fees or require that
 1951 construction be in compliance with applicable building
 1952 construction codes.

1953 (5) (a) An electrical power plant certified pursuant to
 1954 this act shall comply with rules adopted by the department
 1955 subsequent to the issuance of the certification which prescribe
 1956 new or stricter criteria, to the extent that the rules are
 1957 applicable to electrical power plants. Except when express
 1958 variances, exceptions, exemptions, or other relief have been
 1959 granted, subsequently adopted rules which prescribe new or
 1960 stricter criteria shall operate as automatic modifications to
 1961 certifications.

1962 (b) Upon written notification to the department, any
 1963 holder of a certification issued pursuant to this act may choose

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1964 | to operate the certified electrical power plant in compliance
 1965 | with any rule subsequently adopted by the department which
 1966 | prescribes criteria more lenient than the criteria required by
 1967 | the terms and conditions in the certification which are not
 1968 | site-specific.

1969 | (c) No term or condition of certification shall be
 1970 | interpreted to preclude the postcertification exercise by any
 1971 | party of whatever procedural rights it may have under chapter
 1972 | 120, including those related to rulemaking proceedings. This
 1973 | subsection shall apply to previously issued certifications.

1974 | (6) No term or condition of a site certification shall be
 1975 | interpreted to supersede or control the provisions of a final
 1976 | operation permit for a major source of air pollution issued by
 1977 | the department pursuant to s. 403.0872 to a ~~such~~ facility
 1978 | certified under this part.

1979 | (7) Pursuant to s. 380.23, electrical power plants are
 1980 | subject to the federal coastal consistency review program.
 1981 | Issuance of certification shall constitute the state's
 1982 | certification of coastal zone consistency.

1983 | Section 32. Section 403.5112, Florida Statutes, is created
 1984 | to read:

1985 | 403.5112 Filing of notice of certified corridor route.--

1986 | (1) Within 60 days after certification of a directly
 1987 | associated linear facility pursuant to this act, the applicant
 1988 | shall file, in accordance with s. 28.222, with the department
 1989 | and the clerk of the circuit court for each county through which
 1990 | the corridor will pass, a notice of the certified route.

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1991 (2) The notice shall consist of maps or aerial photographs
 1992 in the scale of 1:24,000 which clearly show the location of the
 1993 certified route and shall state that the certification of the
 1994 corridor will result in the acquisition of rights-of-way within
 1995 the corridor. Each clerk shall record the filing in the official
 1996 record of the county for the duration of the certification or
 1997 until such time as the applicant certifies to the department and
 1998 the clerk that all lands required for the transmission line
 1999 rights-of-way within the corridor have been acquired within such
 2000 county, whichever is sooner.

2001 Section 33. Section 403.5113, Florida Statutes, is created
 2002 to read:

2003 403.5113 Postcertification amendments.--

2004 (1) If, subsequent to certification by the board, a
 2005 licensee proposes any material change to the application and
 2006 revisions or amendments thereto, as certified, the licensee
 2007 shall submit a written request for amendment and a description
 2008 of the proposed change to the application to the department.
 2009 Within 30 days after the receipt of the request for the
 2010 amendment, the department shall determine whether the proposed
 2011 change to the application requires a modification of the
 2012 conditions of certification.

2013 (2) If the department concludes that the change would not
 2014 require a modification of the conditions of certification, the
 2015 department shall provide written notification of the approval of
 2016 the proposed amendment to the licensee, all agencies, and all
 2017 other parties.

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2018 (3) If the department concludes that the change would
 2019 require a modification of the conditions of certification, the
 2020 department shall provide written notification to the licensee
 2021 that the proposed change to the application requires a request
 2022 for modification pursuant to s. 403.516.

2023 Section 34. Section 403.5115, Florida Statutes, is amended
 2024 to read:

2025 403.5115 Public notice; costs of proceeding.--

2026 (1) The following notices are to be published by the
 2027 applicant:

2028 (a) Notice ~~A notice~~ of the filing of a notice of intent
 2029 under s. 403.5063, which shall be published within 21 days after
 2030 the filing of the notice. The notice shall be published as
 2031 specified by subsection (2), except that the newspaper notice
 2032 shall be one-fourth page in size in a standard size newspaper or
 2033 one-half page in size in a tabloid size newspaper.

2034 (b) Notice ~~A notice~~ of filing of the application, which
 2035 shall include a description of the proceedings required by this
 2036 act, within 21 days after the date of the application filing be
 2037 ~~published as specified in subsection (2), within 15 days after~~
 2038 ~~the application has been determined complete.~~ Such notice shall
 2039 give notice of the provisions of s. 403.511(1) and (2) ~~and that~~
 2040 ~~the application constitutes a request for a federally required~~
 2041 ~~new source review or prevention of significant deterioration~~
 2042 ~~permit.~~

2043 (c) Notice of the land use determination made pursuant to
 2044 s. 403.50665(1) within 15 days after the determination is filed.

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2045 (d) Notice of the land use hearing, which shall be
2046 published as specified in subsection (2), no later than 15 ~~45~~
2047 days before the hearing.

2048 (e) ~~(d)~~ Notice of the certification hearing and notice of
2049 the deadline for filing notice of intent to be a party, which
2050 shall be published as specified in subsection (2), at least 65
2051 days before the date set for the certification ~~no later than 45~~
2052 ~~days before the hearing.~~

2053 (f) Notice of the cancellation of the certification
2054 hearing, if applicable, no later than 3 days before the date of
2055 the originally scheduled certification hearing.

2056 (g) ~~(e)~~ Notice of modification when required by the
2057 department, based on whether the requested modification of
2058 certification will significantly increase impacts to the
2059 environment or the public. Such notice shall be published as
2060 specified under subsection (2):

2061 1. Within 21 days after receipt of a request for
2062 modification, ~~except that~~ The newspaper notice shall be of a
2063 size as directed by the department commensurate with the scope
2064 of the modification.

2065 2. If a hearing is to be conducted in response to the
2066 request for modification, then notice shall be published no
2067 later than 30 days before the hearing ~~provided as specified in~~
2068 ~~paragraph (d).~~

2069 (h) ~~(f)~~ Notice of a supplemental application, which shall
2070 be published as specified in paragraph (b) and subsection
2071 (2). ~~follows:~~

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2072 ~~1. Notice of receipt of the supplemental application shall~~
2073 ~~be published as specified in paragraph (b).~~

2074 ~~2. Notice of the certification hearing shall be published~~
2075 ~~as specified in paragraph (d).~~

2076 (i) Notice of existing site certification pursuant to s.
2077 403.5175. Notices shall be published as specified in paragraph
2078 (b) and subsection (2).

2079 (2) Notices provided by the applicant shall be published
2080 in newspapers of general circulation within the county or
2081 counties in which the proposed electrical power plant will be
2082 located. The newspaper notices shall be at least one-half page
2083 in size in a standard size newspaper or a full page in a tabloid
2084 size newspaper ~~and published in a section of the newspaper other~~
2085 ~~than the legal notices section.~~ These notices shall include a
2086 map generally depicting the project and all associated
2087 facilities corridors. A newspaper of general circulation shall
2088 be the newspaper which has the largest daily circulation in that
2089 county and has its principal office in that county. If the
2090 newspaper with the largest daily circulation has its principal
2091 office outside the county, the notices shall appear in both the
2092 newspaper having the largest circulation in that county and in a
2093 newspaper authorized to publish legal notices in that county.

2094 (3) All notices published by the applicant shall be paid
2095 for by the applicant and shall be in addition to the application
2096 fee.

2097 (4) The department shall arrange for publication of the
2098 following notices in the manner specified by chapter 120 and
2099 provide copies of those notices to any persons who have

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2100 requested to be placed on the departmental mailing list for this
2101 purpose:

2102 (a) Notice ~~Publish in the Florida Administrative Weekly~~
2103 ~~notices~~ of the filing of the notice of intent within 15 days
2104 after receipt of the notice.†

2105 (b) Notice of the filing of the application, no later than
2106 21 days after the application filing.†

2107 (c) Notice of the land use determination made pursuant to
2108 s. 403.50665(1) within 15 days after the determination is filed.

2109 (d) Notice of the land use hearing before the
2110 administrative law judge, if applicable, no later than 15 days
2111 before the hearing.†

2112 (e) Notice of the land use hearing before the board, if
2113 applicable.

2114 (f) Notice of the certification hearing at least 45 days
2115 before the date set for the certification hearing.†

2116 (g) Notice of the cancellation of the certification
2117 hearing, if applicable, no later than 3 days prior to the date
2118 of the originally scheduled certification hearing.

2119 (h) Notice of the hearing before the board, if
2120 applicable.†

2121 (i) Notice and of stipulations, proposed agency action, or
2122 petitions for modification.† ~~and~~

2123 ~~(b) Provide copies of these notices to any persons who~~
2124 ~~have requested to be placed on the departmental mailing list for~~
2125 ~~this purpose.~~

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2126 ~~(5) The applicant shall pay those expenses and costs~~
2127 ~~associated with the conduct of the hearings and the recording~~
2128 ~~and transcription of the proceedings.~~

2129 Section 35. Section 403.513, Florida Statutes, is amended
2130 to read:

2131 403.513 Review.--Proceedings under this act shall be
2132 subject to judicial review as provided in chapter 120. When
2133 possible, separate appeals of the certification order issued by
2134 the board and of any department permit issued pursuant to a
2135 federally delegated or approved permit program may ~~shall~~ be
2136 consolidated for purposes of judicial review.

2137 Section 36. Section 403.516, Florida Statutes, is amended
2138 to read:

2139 403.516 Modification of certification.--

2140 (1) A certification may be modified after issuance in any
2141 one of the following ways:

2142 (a) The board may delegate to the department the authority
2143 to modify specific conditions in the certification.

2144 (b)1. The department may modify specific conditions of a
2145 site certification which are inconsistent with the terms of any
2146 federally delegated or approved ~~final air pollution operation~~
2147 ~~permit for the certified electrical power plant issued by the~~
2148 ~~United States Environmental Protection Agency under the terms of~~
2149 ~~42 U.S.C. s. 7661d.~~

2150 2. Such modification may be made without further notice if
2151 the matter has been previously noticed under the requirements
2152 for any federally delegated or approved permit program.

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2153 (c) The licensee may file a petition for modification with
 2154 the department, or the department may initiate the modification
 2155 upon its own initiative.

- 2156 1. A petition for modification must set forth:
 2157 a. The proposed modification.
 2158 b. The factual reasons asserted for the modification.
 2159 c. The anticipated environmental effects of the proposed
 2160 modification.

2161 2.~~(b)~~ The department may modify the terms and conditions
 2162 of the certification if no party to the certification hearing
 2163 objects in writing to such modification within 45 days after
 2164 notice by mail to such party's last address of record, and if no
 2165 other person whose substantial interests will be affected by the
 2166 modification objects in writing within 30 days after issuance of
 2167 public notice.

2168 3. If objections are raised or the department denies the
 2169 request, the applicant or department may file a request petition
 2170 for a hearing on the modification with the department. Such
 2171 request shall be handled pursuant to chapter 120 paragraph (e).

2172 ~~(c) A petition for modification may be filed by the~~
 2173 ~~applicant or the department setting forth:~~
 2174 ~~1. The proposed modification,~~
 2175 ~~2. The factual reasons asserted for the modification, and~~
 2176 ~~3. The anticipated effects of the proposed modification on~~
 2177 ~~the applicant, the public, and the environment.~~

2178
 2179 ~~The petition for modification shall be filed with the department~~
 2180 ~~and the Division of Administrative Hearings.~~

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2181 4. Requests referred to the Division of Administrative
2182 Hearings shall be disposed of in the same manner as an
2183 application, but with time periods established by the
2184 administrative law judge commensurate with the significance of
2185 the modification requested.

2186 (d) As required by s. 403.511(5).

2187 ~~(2) Petitions filed pursuant to paragraph (1)(c) shall be~~
2188 ~~disposed of in the same manner as an application, but with time~~
2189 ~~periods established by the administrative law judge commensurate~~
2190 ~~with the significance of the modification requested.~~

2191 (2)(3) Any agreement or modification under this section
2192 must be in accordance with the terms of this act. No
2193 modification to a certification shall be granted that
2194 constitutes a variance from standards or regulations of the
2195 department applicable under any federally delegated or approved
2196 permit program, except as expressly allowed in such program.

2197 Section 37. Section 403.517, Florida Statutes, is amended
2198 to read:

2199 403.517 Supplemental applications for sites certified for
2200 ultimate site capacity.--

2201 (1) (a) Supplemental ~~The department shall adopt rules~~
2202 ~~governing the processing of supplemental applications~~ may be
2203 submitted for certification of the construction and operation of
2204 electrical power plants to be located at sites which have been
2205 previously certified for an ultimate site capacity pursuant to
2206 this act. Supplemental applications shall be limited to
2207 electrical power plants using the fuel type previously certified
2208 for that site. Such applications shall include all new directly

2209 associated facilities that support the construction and
 2210 operation of the electrical power plant. ~~The rules adopted~~
 2211 ~~pursuant to this section shall include provisions for:~~

2212 ~~1. Prompt appointment of a designated administrative law~~
 2213 ~~judge.~~

2214 ~~2. The contents of the supplemental application.~~

2215 ~~3. Resolution of disputes as to the completeness and~~
 2216 ~~sufficiency of supplemental applications by the designated~~
 2217 ~~administrative law judge.~~

2218 ~~4. Public notice of the filing of the supplemental~~
 2219 ~~applications.~~

2220 ~~5. Time limits for prompt processing of supplemental~~
 2221 ~~applications.~~

2222 ~~6. Final disposition by the board within 215 days of the~~
 2223 ~~filing of a complete supplemental application.~~

2224 (b) The review shall use the same procedural steps and
 2225 notices as for an initial application.

2226 (c) The time limits for the processing of a complete
 2227 supplemental application shall be designated by the department
 2228 commensurate with the scope of the supplemental application, but
 2229 shall not exceed any time limitation governing the review of
 2230 initial applications for site certification pursuant to this
 2231 act, it being the legislative intent to provide shorter time
 2232 limitations for the processing of supplemental applications for
 2233 electrical power plants to be constructed and operated at sites
 2234 which have been previously certified for an ultimate site
 2235 capacity.

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2236 ~~(d)(e)~~ Any time limitation in this section or in rules
 2237 adopted pursuant to this section may be altered pursuant to s.
 2238 403.5095 ~~by the designated administrative law judge upon~~
 2239 ~~stipulation between the department and the applicant, unless~~
 2240 ~~objected to by any party within 5 days after notice, or for good~~
 2241 ~~cause shown by any party. The parties to the proceeding shall~~
 2242 ~~adhere to the provisions of chapter 120 and this act in~~
 2243 ~~considering and processing such supplemental applications.~~

2244 (2) ~~Supplemental applications shall be reviewed as~~
 2245 ~~provided in ss. 403.507 403.511, except that the time limits~~
 2246 ~~provided in this section shall apply to such supplemental~~
 2247 ~~applications.~~

2248 ~~(3)~~ The land use and zoning consistency determination of
 2249 s. 403.50665 ~~hearing requirements of s. 403.508(1) and (2)~~ shall
 2250 not be applicable to the processing of supplemental applications
 2251 pursuant to this section so long as:

2252 (a) The previously certified ultimate site capacity is not
 2253 exceeded; and

2254 (b) The lands required for the construction or operation
 2255 of the electrical power plant which is the subject of the
 2256 supplemental application are within the boundaries of the
 2257 previously certified site.

2258 ~~(4)~~ ~~For the purposes of this act, the term "ultimate site~~
 2259 ~~capacity" means the maximum generating capacity for a site as~~
 2260 ~~certified by the board.~~

2261 Section 38. Section 403.5175, Florida Statutes, is amended
 2262 to read:

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2263 | 403.5175 Existing electrical power plant site
2264 | certification.--

2265 | (1) An electric utility that owns or operates an existing
2266 | electrical power plant as defined in s. 403.503(12) may apply
2267 | for certification of an existing power plant and its site in
2268 | order to obtain all agency licenses necessary to ensure ~~assure~~
2269 | compliance with federal or state environmental laws and
2270 | regulation using the centrally coordinated, one-stop licensing
2271 | process established by this part. An application for site
2272 | certification under this section must be in the form prescribed
2273 | by department rule. Applications must be reviewed and processed
2274 | using the same procedural steps and notices as for an
2275 | application for a new facility ~~in accordance with ss. 403.5064-~~
2276 | ~~403.5115~~, except that a determination of need by the Public
2277 | Service Commission is not required.

2278 | (2) An application for certification under this section
2279 | must include:

2280 | (a) A description of the site and existing power plant
2281 | installations;

2282 | (b) A description of all proposed changes or alterations
2283 | to the site or electrical power plant, including all new
2284 | associated facilities that are the subject of the application;

2285 | (c) A description of the environmental and other impacts
2286 | caused by the existing utilization of the site and directly
2287 | associated facilities, and the operation of the electrical power
2288 | plant that is the subject of the application, and of the
2289 | environmental and other benefits, if any, to be realized as a
2290 | result of the proposed changes or alterations if certification

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2291 is approved and such other information as is necessary for the
2292 reviewing agencies to evaluate the proposed changes and the
2293 expected impacts;

2294 (d) The justification for the proposed changes or
2295 alterations;

2296 (e) Copies of all existing permits, licenses, and
2297 compliance plans authorizing utilization of the site and
2298 directly associated facilities or operation of the electrical
2299 power plant that is the subject of the application.

2300 (3) The land use and zoning determination ~~hearing~~
2301 requirements of s. 403.50665 ~~s. 403.508(1) and (2)~~ do not apply
2302 to an application under this section if the applicant does not
2303 propose to expand the boundaries of the existing site. If the
2304 applicant proposes to expand the boundaries of the existing site
2305 to accommodate portions of the plant or associated facilities, a
2306 land use and zoning determination shall be made ~~hearing must be~~
2307 ~~held~~ as specified in s. 403.50665 ~~s. 403.508(1) and (2)~~;
2308 provided, however, that the sole issue for determination ~~through~~
2309 ~~the land use hearing~~ is whether the proposed site expansion is
2310 consistent and in compliance with the existing land use plans
2311 and zoning ordinances.

2312 (4) In considering whether an application submitted under
2313 this section should be approved in whole, approved with
2314 appropriate conditions, or denied, the board shall consider
2315 whether, and to the extent to which the proposed changes to the
2316 electrical power plant and its continued operation under
2317 certification will:

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2318 (a) Comply with the provisions of s. 403.509(3).
 2319 ~~applicable nonprocedural requirements of agencies;~~
 2320 (b) Result in environmental or other benefits compared to
 2321 current utilization of the site and operations of the electrical
 2322 power plant if the proposed changes or alterations are
 2323 undertaken.~~†~~
 2324 ~~(c) Minimize, through the use of reasonable and available~~
 2325 ~~methods, the adverse effects on human health, the environment,~~
 2326 ~~and the ecology of the land and its wildlife and the ecology of~~
 2327 ~~state waters and their aquatic life; and~~
 2328 ~~(d) Serve and protect the broad interests of the public.~~
 2329 (5) An applicant's failure to receive approval for
 2330 certification of an existing site or an electrical power plant
 2331 under this section is without prejudice to continued operation
 2332 of the electrical power plant or site under existing agency
 2333 licenses.
 2334 Section 39. Section 403.518, Florida Statutes, is amended
 2335 to read:
 2336 403.518 Fees; disposition.--
 2337 ~~(1)~~ The department shall charge the applicant the
 2338 following fees, as appropriate, which, unless otherwise
 2339 specified, shall be paid into the Florida Permit Fee Trust Fund:
 2340 (1)(a) A fee for a notice of intent pursuant to s.
 2341 403.5063, in the amount of \$2,500, to be submitted to the
 2342 department at the time of filing of a notice of intent. The
 2343 notice-of-intent fee shall be used and disbursed in the same
 2344 manner as the application fee.

2345 ~~(2)(b)~~ An application fee, which shall not exceed
 2346 \$200,000. The fee shall be fixed by rule on a sliding scale
 2347 related to the size, type, ultimate site capacity, or increase
 2348 in electrical generating capacity proposed by the application,
 2349 ~~or the number and size of local governments in whose~~
 2350 ~~jurisdiction the electrical power plant is located.~~

2351 ~~(a)1.~~ Sixty percent of the fee shall go to the department
 2352 to cover any costs associated with coordinating the review
 2353 ~~reviewing~~ and acting upon the application, to cover any field
 2354 services associated with monitoring construction and operation
 2355 of the facility, and to cover the costs of the public notices
 2356 published by the department.

2357 ~~(b)2.~~ The following percentages ~~Twenty percent of the fee~~
 2358 ~~or \$25,000, whichever is greater,~~ shall be transferred to the
 2359 Administrative Trust Fund of the Division of Administrative
 2360 Hearings of the Department of Management Services:—

2361 1. Five percent to compensate expenses from the initial
 2362 exercise of duties associated with the filing of an application.

2363 2. An additional 5 percent if a land use hearing is held
 2364 pursuant to s. 403.508.

2365 3. An additional 10 percent if a certification hearing is
 2366 held pursuant to s. 403.508.

2367 ~~(c)1.3.~~ Upon written request with proper itemized
 2368 accounting within 90 days after final agency action by the board
 2369 or withdrawal of the application, the agencies that prepared
 2370 reports pursuant to s. 403.507 or participated in a hearing
 2371 pursuant to s. 403.508 may submit a written request to the
 2372 department for reimbursement of expenses incurred during the

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2373 certification proceedings. The request shall contain an
2374 accounting of expenses incurred which may include time spent
2375 reviewing the application, ~~the department shall reimburse the~~
2376 Department of Community Affairs, the Fish and Wildlife
2377 Conservation Commission, and any water management district
2378 created pursuant to chapter 373, regional planning council, and
2379 local government in the jurisdiction of which the proposed
2380 electrical power plant is to be located, and any other agency
2381 from which the department requests special studies pursuant to
2382 s. 403.507(2)(a)7. Such reimbursement shall be authorized for
2383 the preparation of any studies required of the agencies by this
2384 act, and for agency travel and per diem to attend any hearing
2385 held pursuant to this act, and for any agency or local
2386 government's provision of notice of public meetings or hearings
2387 required as a result of the application for certification
2388 governments to participate in the proceedings. The department
2389 shall review the request and verify that the expenses are valid.
2390 Valid expenses shall be reimbursed; however, in the event the
2391 amount of funds available for reimbursement allocation is
2392 insufficient to provide for full compensation complete
2393 reimbursement to the agencies requesting reimbursement,
2394 reimbursement shall be on a prorated basis.

2395 2. If the application review is held in abeyance for more
2396 than 1 year, the agencies may submit a request for
2397 reimbursement.

2398 (d)4. If any sums are remaining, the department shall
2399 retain them for its use in the same manner as is otherwise
2400 authorized by this act; provided, however, that if the

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2401 certification application is withdrawn, the remaining sums shall
2402 be refunded to the applicant within 90 days after withdrawal.

2403 (3) (a) (e) A certification modification fee, which shall
2404 not exceed \$30,000. The department shall establish rules for
2405 determining such a fee based on the equipment redesign, change
2406 in site size, type, increase in generating capacity proposed, or
2407 change in an associated linear facility location.

2408 (b) The fee shall be submitted to the department with a
2409 ~~formal~~ petition for modification ~~to the department~~ pursuant to
2410 s. 403.516. This fee shall be established, disbursed, and
2411 processed in the same manner as the application fee in
2412 subsection (2) paragraph (b), except that the Division of
2413 Administrative Hearings shall not receive a portion of the fee
2414 unless the petition for certification modification is referred
2415 to the Division of Administrative Hearings for hearing. If the
2416 petition is so referred, only \$10,000 of the fee shall be
2417 transferred to the Administrative Trust Fund of the Division of
2418 Administrative Hearings of the Department of Management
2419 Services. ~~The fee for a modification by agreement filed pursuant~~
2420 ~~to s. 403.516(1)(b) shall be \$10,000 to be paid upon the filing~~
2421 ~~of the request for modification. Any sums remaining after~~
2422 ~~payment of authorized costs shall be refunded to the applicant~~
2423 ~~within 90 days of issuance or denial of the modification or~~
2424 ~~withdrawal of the request for modification.~~

2425 (4) (d) A supplemental application fee, not to exceed
2426 \$75,000, to cover all reasonable expenses and costs of the
2427 review, processing, and proceedings of a supplemental
2428 application. This fee shall be established, disbursed, and

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2429 processed in the same manner as the certification application
2430 fee in subsection (2) paragraph (b), ~~except that only \$20,000 of~~
2431 ~~the fee shall be transferred to the Administrative Trust Fund of~~
2432 ~~the Division of Administrative Hearings of the Department of~~
2433 ~~Management Services.~~

2434 (5)(e) An existing site certification application fee, not
2435 to exceed \$200,000, to cover all reasonable costs and expenses
2436 of the review processing and proceedings for certification of an
2437 existing power plant site under s. 403.5175. This fee must be
2438 established, disbursed, and processed in the same manner as the
2439 certification application fee in subsection (2) paragraph (b).

2440 ~~(2) Effective upon the date commercial operation begins,~~
2441 ~~the operator of an electrical power plant certified under this~~
2442 ~~part is required to pay to the department an annual operation~~
2443 ~~license fee as specified in s. 403.0872(11) to be deposited in~~
2444 ~~the Air Pollution Control Trust Fund.~~

2445 Section 40. Any application for electrical power plant
2446 certification filed pursuant to ss. 403.501-403.518, Florida
2447 Statutes, shall be processed under the provisions of the law
2448 applicable at the time the application was filed, except that
2449 the provisions relating to cancellation of the certification
2450 hearing under s. 403.508(6), Florida Statutes, the provisions
2451 relating to the final disposition of the application and
2452 issuance of the written order by the secretary under s.
2453 403.509(1)(a), Florida Statutes, and notice of the cancellation
2454 of the certification hearing under s. 403.5115, Florida
2455 Statutes, may apply to any application for electrical power
2456 plant certification.

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2457 Section 41. Section 403.519, Florida Statutes, is amended
2458 to read:

2459 403.519 Exclusive forum for determination of need.--

2460 (1) On request by an applicant or on its own motion, the
2461 commission shall begin a proceeding to determine the need for an
2462 electrical power plant subject to the Florida Electrical Power
2463 Plant Siting Act.

2464 (2) The applicant ~~commission~~ shall publish a notice of the
2465 proceeding in a newspaper of general circulation in each county
2466 in which the proposed electrical power plant will be located.
2467 The notice shall be at least one-quarter of a page and published
2468 at least 21 ~~45~~ days prior to the scheduled date for the
2469 proceeding. The commission shall publish notice of the
2470 proceeding in the manner specified by chapter 120 at least 21
2471 days prior to the scheduled date for the proceeding.

2472 (3) The commission shall be the sole forum for the
2473 determination of this matter, which accordingly shall not be
2474 raised in any other forum or in the review of proceedings in
2475 such other forum. In making its determination, the commission
2476 shall take into account the need for electric system reliability
2477 and integrity, the need for adequate electricity at a reasonable
2478 cost, the need for fuel diversity and supply reliability, and
2479 whether the proposed plant is the most cost-effective
2480 alternative available. The commission shall also expressly
2481 consider the conservation measures taken by or reasonably
2482 available to the applicant or its members which might mitigate
2483 the need for the proposed plant and other matters within its
2484 jurisdiction which it deems relevant. The commission's

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2485 determination of need for an electrical power plant shall create
 2486 a presumption of public need and necessity and shall serve as
 2487 the commission's report required by s. 403.507(4)
 2488 ~~403.507(2)(a)2~~. An order entered pursuant to this section
 2489 constitutes final agency action.

2490 Section 42. Section 403.885, Florida Statutes, is amended
 2491 to read:

2492 403.885 Water Projects ~~Stormwater management; wastewater~~
 2493 ~~management; and Water Restoration~~ Grant Program.--

2494 (1) The Department of Environmental Protection shall
 2495 administer a grant program to use funds transferred pursuant to
 2496 s. 212.20 to the Ecosystem Management and Restoration Trust Fund
 2497 or other moneys as appropriated by the Legislature for water
 2498 quality improvement, stormwater management, wastewater
 2499 management, and water restoration project grants. Eligible
 2500 recipients of such grants include counties, municipalities,
 2501 water management districts, and special districts that have
 2502 legal responsibilities for water quality improvement, water
 2503 management, stormwater management, wastewater management, lake
 2504 and river water restoration projects, ~~and~~ drinking water
 2505 projects ~~are not eligible for funding~~ pursuant to this section.

2506 (2) The grant program shall provide for the evaluation of
 2507 annual grant proposals. The department shall evaluate such
 2508 proposals to determine if they:

2509 (a) Protect public health or ~~and~~ the environment.

2510 (b) Implement plans developed pursuant to the Surface
 2511 Water Improvement and Management Act created in part IV of
 2512 chapter 373, other water restoration plans required by law,

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2513 management plans prepared pursuant to s. 403.067, or other plans
2514 adopted by local government for water quality improvement and
2515 water restoration.

2516 ~~(3) In addition to meeting the criteria in subsection (2),~~
2517 ~~annual grant proposals must also meet the following~~
2518 ~~requirements:~~

2519 ~~(a) An application for a stormwater management project may~~
2520 ~~be funded only if the application is approved by the water~~
2521 ~~management district with jurisdiction in the project area.~~
2522 ~~District approval must be based on a determination that the~~
2523 ~~project provides a benefit to a priority water body.~~

2524 ~~(b) Except as provided in paragraph (c), an application~~
2525 ~~for a wastewater management project may be funded only if:~~

- 2526 ~~1. The project has been funded previously through a line~~
- 2527 ~~item in the General Appropriations Act; and~~
- 2528 ~~2. The project is under construction.~~

2529 ~~(c) An application for a wastewater management project~~
2530 ~~that would qualify as a water pollution control project and~~
2531 ~~activity in s. 403.1838 may be funded only if the project~~
2532 ~~sponsor has submitted an application to the department for~~
2533 ~~funding pursuant to that section.~~

2534 ~~(4) All project applicants must provide local matching~~
2535 ~~funds as follows:~~

2536 ~~(a) An applicant for state funding of a stormwater~~
2537 ~~management project shall provide local matching funds equal to~~
2538 ~~at least 50 percent of the total cost of the project; and~~

2539 ~~(b) An applicant for state funding of a wastewater~~
 2540 ~~management project shall provide matching funds equal to at~~
 2541 ~~least 25 percent of the total cost of the project.~~

2542
 2543 ~~The requirement for matching funds may be waived if the~~
 2544 ~~applicant is a financially disadvantaged small local government~~
 2545 ~~as defined in subsection (5).~~

2546 ~~(5) Each fiscal year, at least 20 percent of the funds~~
 2547 ~~available pursuant to this section shall be used for projects to~~
 2548 ~~assist financially disadvantaged small local governments. For~~
 2549 ~~purposes of this section, the term "financially disadvantaged~~
 2550 ~~small local government" means a municipality having a population~~
 2551 ~~of 7,500 or less, a county having a population of 35,000 or~~
 2552 ~~less, according to the latest decennial census and a per capita~~
 2553 ~~annual income less than the state per capita annual income as~~
 2554 ~~determined by the United States Department of Commerce, or a~~
 2555 ~~county in an area designated by the Governor as a rural area of~~
 2556 ~~critical economic concern pursuant to s. 288.0656. Grants made~~
 2557 ~~to these eligible local governments shall not require matching~~
 2558 ~~local funds.~~

2559 ~~(6) Each year, stormwater management and wastewater~~
 2560 ~~management projects submitted for funding through the~~
 2561 ~~legislative process shall be submitted to the department by the~~
 2562 ~~appropriate fiscal committees of the House of Representatives~~
 2563 ~~and the Senate. The department shall review the projects and~~
 2564 ~~must provide each fiscal committee with a list of projects that~~
 2565 ~~appear to meet the eligibility requirements under this grant~~
 2566 ~~program.~~

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2567 Section 43. For the 2006-2007 fiscal year, the sum of
2568 \$61,379 is appropriated from the General Revenue Fund to the
2569 Department of Revenue for the purpose of administering the
2570 energy-efficient products sales tax holiday.

2571 Section 44. This act shall take effect upon becoming a
2572 law.