

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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.

1 Representative(s) Littlefield offered the following:

2
3 **Amendment to Senate Amendment (211682) (with title**
4 **amendment)**

5 On page 1, line 17, through page 2, line(s) 16,
6 remove: All of said lines

7
8 and insert:

9 Section 1. Subsections (5), (8), (9), (12), (18), (24),
10 and (27) of section 403.503, Florida Statutes, are amended,
11 subsections (6) through (14) are renumbered as subsections (7)
12 through (15), respectively, subsections (15) through (28) are
13 renumbered as subsections (17) through (30), respectively, and
14 new subsections (6) and (16) are added to that section, to read:

15 403.503 Definitions relating to Florida Electrical Power
16 Plant Siting Act.--As used in this act:

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17 (5) "Application" means the documents required by the
18 department to be filed to initiate a certification review and
19 evaluation, including the initial document filing, amendments,
20 and responses to requests from the department for additional
21 data and information ~~proceeding and shall include the documents~~
22 ~~necessary for the department to render a decision on any permit~~
23 ~~required pursuant to any federally delegated or approved permit~~
24 ~~program.~~

25 (6) "Associated facilities" means, for the purpose of
26 certification, those facilities which directly support the
27 construction and operation of the electrical power plant such as
28 fuel unloading facilities; pipelines necessary for transporting
29 fuel for the operation of the facility or other fuel
30 transportation facilities; water or wastewater transport
31 pipelines; construction, maintenance, and access roads; and
32 railway lines necessary for transport of construction equipment
33 or fuel for the operation of the facility.

34 (9)-(8) "Completeness" means that the application has
35 addressed all applicable sections of the prescribed application
36 format, and ~~but does not mean~~ that those sections are sufficient
37 in comprehensiveness of data or in quality of information
38 provided to allow the department to determine whether the
39 application provides the reviewing agencies adequate information
40 to prepare the reports required by s. 403.507.

41 (10)-(9) "Corridor" means the proposed area within which an
42 associated linear facility right-of-way is to be located. The
43 width of the corridor proposed for certification as an
44 associated facility, at the option of the applicant, may be the
45 width of the right-of-way or a wider boundary, not to exceed a
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46 width of 1 mile. The area within the corridor in which a right-
47 of-way may be located may be further restricted by a condition
48 of certification. After all property interests required for the
49 right-of-way have been acquired by the licensee applicant, the
50 boundaries of the area certified shall narrow to only that land
51 within the boundaries of the right-of-way.

52 ~~(12)~~ (13) "Electrical power plant" means, for the purpose
53 of certification, any steam or solar electrical generating
54 facility using any process or fuel, including nuclear materials,
55 ~~and includes associated facilities which directly support the~~
56 ~~construction and operation of the electrical power plant and~~
57 ~~those associated transmission lines which connect the electrical~~
58 ~~power plant to an existing transmission network or rights-of-way~~
59 ~~to which the applicant intends to connect,~~ except that this term
60 does not include any steam or solar electrical generating
61 facility of less than 75 megawatts in capacity unless the
62 applicant for such a facility elects to apply for certification
63 under this act. This term includes associated facilities to be
64 owned by the applicant which are physically connected to the
65 electrical power plant site or which are directly connected to
66 the electrical power plant site by other proposed associated
67 facilities to be owned by the applicant, and associated
68 transmission lines to be owned by the applicant which connect
69 the electrical power plant to an existing transmission network
70 or rights-of-way of which the applicant intends to connect. An
71 ~~associated transmission line may include,~~ At the applicant's
72 option, this term may include, any offsite associated facilities
73 which will not be owned by the applicant; offsite associated
74 facilities which are owned by the applicant but which are not

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75 directly connected to the electrical power plant site; any
76 proposed terminal or intermediate substations or substation
77 expansions connected to the associated transmission line; or new
78 transmission lines, upgrades, or improvements of an existing
79 transmission line on any portion of the applicant's electrical
80 transmission system necessary to support the generation injected
81 into the system from the proposed electrical power plant.

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

84 (20)-(18) "Nonprocedural requirements of agencies" means
85 any agency's regulatory requirements established by statute,
86 rule, ordinance, zoning ordinance, land development code, or
87 comprehensive plan, excluding any provisions prescribing forms,
88 fees, procedures, or time limits for the review or processing of
89 information submitted to demonstrate compliance with such
90 regulatory requirements.

91 (26)-(24) "Right-of-way" means land necessary for the
92 construction and maintenance of a connected associated linear
93 facility, such as a railroad line, pipeline, or transmission
94 line as owned by or proposed to be certified by the applicant.
95 The typical width of the right-of-way shall be identified in the
96 application. The right-of-way shall be located within the
97 certified corridor and shall be identified by the applicant
98 subsequent to certification in documents filed with the
99 department prior to construction.

100 (29)-(27) "Ultimate site capacity" means the maximum
101 generating capacity for a site as certified by the board.

102 ~~"Sufficiency" means that the application is not only complete~~
103 ~~but that all sections are sufficient in the comprehensiveness of~~
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104 ~~data or in the quality of information provided to allow the~~
105 ~~department to determine whether the application provides the~~
106 ~~reviewing agencies adequate information to prepare the reports~~
107 ~~required by s. 403.507.~~

108 Section 2. Subsections (1), (7), (9), and (10) of section
109 403.504, Florida Statutes, are amended, and new subsections (9),
110 (10), (11), and (12) are added to that section, to read:

111 403.504 Department of Environmental Protection; powers and
112 duties enumerated.--The department shall have the following
113 powers and duties in relation to this act:

114 (1) To adopt rules pursuant to ss. 120.536(1) and 120.54
115 to implement the provisions of this act, including rules setting
116 forth environmental precautions to be followed in relation to
117 the location, construction, and operation of electrical power
118 plants.

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

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

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

125 (11) To administer and manage the terms and conditions of
126 the certification order and supporting documents and records for
127 the life of the facility.

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

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

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

135 Section 3. Section 403.5055, Florida Statutes, is amended
136 to read:

137 403.5055 Application for permits pursuant to s.
138 403.0885.--In processing applications for permits pursuant to s.
139 403.0885 that are associated with applications for electrical
140 power plant certification:

141 (1) The procedural requirements set forth in 40 C.F.R. s.
142 123.25, including public notice, public comments, and public
143 hearings, shall be closely coordinated with the certification
144 process established under this part. In the event of a conflict
145 between the certification process and federally required
146 procedures for NPDES permit issuance, the applicable federal
147 requirements shall control.

148 ~~(2) The department's proposed action pursuant to 40 C.F.R.~~
149 ~~s. 124.6, including any draft NPDES permit (containing the~~
150 ~~information required under 40 C.F.R. s. 124.6(d)), shall within~~
151 ~~130 days after the submittal of a complete application be~~
152 ~~publicly noticed and transmitted to the United States~~
153 ~~Environmental Protection Agency for its review pursuant to 33~~
154 ~~U.S.C. s. 1342(d).~~

155 (2)(3) If available at the time the department issues its
156 project analysis pursuant to s. 403.507(5), the department shall
157 include in its project analysis ~~written analysis pursuant to s.~~
158 ~~403.507(3) copies of the department's proposed action pursuant~~
159 ~~to 40 C.F.R. s. 124.6 on any application for a NPDES permit; any~~
160 ~~corresponding comments received from the United States~~

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161 Environmental Protection Agency, the applicant, or the general
162 public; and the department's response to those comments.

163 ~~(3)-(4)~~ The department shall not issue or deny the permit
164 pursuant to s. 403.0885 in advance of the issuance of the
165 electrical electric power plant certification under this part
166 unless required to do so by the provisions of federal law. When
167 possible, any hearing on a permit issued pursuant to s. 403.0885
168 shall be conducted in conjunction with the certification hearing
169 held pursuant to this act. The department's actions on an NPDES
170 permit shall be based on the record and recommended order of the
171 certification hearing, if the hearing on the NPDES was conducted
172 in conjunction with the certification hearing, and of any other
173 proceeding held in connection with the application for an NPDES
174 permit, timely public comments received with respect to the
175 application, and the provisions of federal law. The department's
176 action on an NPDES permit, if issued, shall differ from the
177 actions taken by the siting board regarding the certification
178 order if federal laws and regulations require different action
179 to be taken to ensure compliance with the Clean Water Act, as
180 amended, and implementing regulations. Nothing in this part
181 shall be construed to displace the department's authority as the
182 final permitting entity under the federally approved state NPDES
183 program. Nothing in this part shall be construed to authorize
184 the issuance of a state NPDES permit which does not conform to
185 the requirements of the federally approved state NPDES program.
186 ~~The permit, if issued, shall be valid for no more than 5 years.~~

187 ~~(5) The department's action on an NPDES permit renewal, if~~
188 ~~issued, shall differ from the actions taken by the siting board~~
189 ~~regarding the certification order if federal laws and~~

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190 ~~regulations require different action to be taken to ensure~~
191 ~~compliance with the Clean Water Act, as amended, and~~
192 ~~implementing regulations.~~

193 Section 4. Section 403.506, Florida Statutes, is amended
194 to read:

195 403.506 Applicability, thresholds, and certification.--

196 (1) The provisions of this act shall apply to any
197 electrical power plant as defined herein, except that the
198 provisions of this act shall not apply to any electrical power
199 plant or steam generating plant of less than 75 megawatts in
200 capacity or to any substation to be constructed as part of an
201 associated transmission line unless the applicant has elected to
202 apply for certification of such plant or substation under this
203 act. The provisions of this act shall not apply to any unit
204 capacity expansion of 35 megawatts or less of an existing
205 exothermic reaction cogeneration unit that was exempt from this
206 act when it was originally built; however, this exemption shall
207 not apply if the unit uses oil or natural gas for purposes other
208 than unit startup. No construction of any new electrical power
209 plant or expansion in steam generating capacity as measured by
210 an increase in the maximum electrical generator rating of any
211 existing electrical power plant may be undertaken after October
212 1, 1973, without first obtaining certification in the manner as
213 herein provided, except that this act shall not apply to any
214 such electrical power plant which is presently operating or
215 under construction or which has, upon the effective date of
216 chapter 73-33, Laws of Florida, applied for a permit or
217 certification under requirements in force prior to the effective
218 date of such act.

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219 (2) Except as provided in the certification, modification
220 of nonnuclear fuels, internal related hardware, including
221 increases in steam turbine efficiency, or operating conditions
222 not in conflict with certification which increase the electrical
223 output of a unit to no greater capacity than the maximum
224 electrical generator rating ~~operating capacity~~ of the existing
225 generator shall not constitute an alteration or addition to
226 generating capacity which requires certification pursuant to
227 this act.

228 ~~(3) The application for any related department license~~
229 ~~which is required pursuant to any federally delegated or~~
230 ~~approved permit program shall be processed within the time~~
231 ~~periods allowed by this act, in lieu of those specified in s.~~
232 ~~120.60. However, permits issued pursuant to s. 403.0885 shall be~~
233 ~~processed in accordance with 40 C.F.R. part 123.~~

234 Section 5. Section 403.5064, Florida Statutes, is amended
235 to read:

236 403.5064 ~~Distribution of~~ Application; schedules.--

237 (1) The formal date of filing of a certification
238 application and commencement of the certification review process
239 shall be when the applicant submits:

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

243 (b) The application fee specified under s. 403.518 to the
244 department.

245 (2)~~(1)~~ Within 7 days after the filing of an application,
246 the department shall provide to the applicant and the Division
247 of Administrative Hearings the names and addresses of any

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248 additional these affected or other agencies or persons entitled
249 to notice and copies of the application and any amendments.
250 Copies of the application shall be distributed within 5 days by
251 the applicant to these additional agencies. This distribution
252 shall not be a basis for altering the schedule of dates for the
253 certification process.

254 (3) Any amendment to the application made prior to
255 certification shall be disposed of as part of the original
256 certification proceeding. Amendment of the application may be
257 considered good cause for alteration of time limits pursuant to
258 s. 403.5095.

259 (4)(2) Within 7 days after the filing of an application
260 completeness has been determined, the department shall prepare a
261 proposed schedule of dates for determination of completeness,
262 submission of statements of issues, determination of
263 sufficiency, and submittal of final reports, from affected and
264 other agencies and other significant dates to be followed during
265 the certification process, including dates for filing notices of
266 appearance to be a party pursuant to s. 403.508(3)(4). This
267 schedule shall be timely provided by the department to the
268 applicant, the administrative law judge, all agencies identified
269 pursuant to subsection (2) (1), and all parties. Within 7 days
270 after the filing of the proposed schedule, the administrative
271 law judge shall issue an order establishing a schedule for the
272 matters addressed in the department's proposed schedule and
273 other appropriate matters, if any.

274 (5)(3) Within 7 days after completeness has been
275 determined, the applicant shall distribute copies of the
276 application to all agencies identified by the department

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277 ~~pursuant to subsection (1)~~. Copies of changes and amendments to
278 the application shall be timely distributed by the applicant to
279 all ~~affected~~ agencies and parties who have received a copy of
280 the application.

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

283 Section 6. Section 403.5065, Florida Statutes, is amended
284 to read:

285 403.5065 Appointment of administrative law judge; powers
286 and duties.--

287 (1) Within 7 days after receipt of an application, ~~whether~~
288 ~~complete or not~~, the department shall request the Division of
289 Administrative Hearings to designate an administrative law judge
290 to conduct the hearings required by this act. The division
291 director shall designate an administrative law judge within 7
292 days after receipt of the request from the department. In
293 designating an administrative law judge for this purpose, the
294 division director shall, whenever practicable, assign an
295 administrative law judge who has had prior experience or
296 training in electrical power plant site certification
297 proceedings. Upon being advised that an administrative law judge
298 has been appointed, the department shall immediately file a copy
299 of the application and all supporting documents with the
300 designated administrative law judge, who shall docket the
301 application.

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

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305 Section 7. Section 403.5066, Florida Statutes, is amended
306 to read:

307 403.5066 Determination of completeness.--

308 (1)(a) Within 30 days after the filing of an application,
309 affected agencies shall file a statement with the department
310 containing each agency's recommendations on the completeness of
311 the application.

312 (b) Within 40 ~~15~~ days after the filing ~~receipt~~ of an
313 application, the department shall file a statement with the
314 Division of Administrative Hearings, ~~and~~ with the applicant, ~~and~~
315 with all parties declaring its position with regard to the
316 completeness, ~~not the sufficiency,~~ of the application. ~~The~~
317 department's statement shall be based upon consultation with the
318 affected agencies.

319 (2)~~(1)~~ If the department declares the application to be
320 incomplete, the applicant, within 15 days after the filing of
321 the statement by the department, shall file with the Division of
322 Administrative Hearings, ~~and~~ with the department, ~~and all~~
323 parties a statement:

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

326 (b) A statement agreeing to supply the additional
327 information necessary to make the application complete. Such
328 additional information shall be provided within 30 days after
329 the issuance of the department's statement on completeness of
330 the application. The time schedules under this act shall not be
331 tolled if the applicant makes the application complete within 30
332 days after the issuance of the department's statement on
333 completeness of the application. A subsequent finding by the

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334 department that the application remains incomplete, based upon
335 the additional information submitted by the applicant or upon
336 the failure of the applicant to timely submit the additional
337 information, tolls the time schedules under this act until the
338 application is determined complete; ~~Agreeing with the statement~~
339 ~~of the department and agreeing to amend the application without~~
340 ~~withdrawing it. The time schedules referencing a complete~~
341 ~~application under this act shall not commence until the~~
342 ~~application is determined complete; or~~

343 (c) A statement contesting the department's determination
344 of incompleteness; or ~~contesting the statement of the~~
345 ~~department.~~

346 (d) A statement agreeing with the department and
347 requesting additional time beyond 30 days to provide the
348 information necessary to make the application complete. If the
349 applicant exercises this option, the time schedules under this
350 act are tolled until the application is determined complete.

351 (3) (a) ~~(2)~~ If the applicant contests the determination by
352 the department that an application is incomplete, the
353 administrative law judge shall schedule a hearing on the
354 statement of completeness. The hearing shall be held as
355 expeditiously as possible, but not later than 21 ~~30~~ days after
356 the filing of the statement by the department. The
357 administrative law judge shall render a decision within 7 ~~10~~
358 days after the hearing.

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

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362 (c)-(a) If the administrative law judge determines that the
363 application was not complete ~~as filed~~, the applicant shall
364 withdraw the application or make such additional submittals as
365 necessary to complete it. The time schedules referencing a
366 complete application under this act shall not commence until the
367 application is determined complete.

368 (d)-(b) If the administrative law judge determines that the
369 application was complete at the time it was declared incomplete
370 ~~filed~~, the time schedules referencing a complete application
371 under this act shall commence upon such determination.

372 (4) If the applicant provides additional information to
373 address the issues identified in the determination of
374 incompleteness, each affected agency may submit to the
375 department, no later than 15 days after the applicant files the
376 additional information, a recommendation on whether the agency
377 believes the application is complete. Within 22 days after
378 receipt of the additional information from the applicant
379 submitted under paragraph (2)(b), paragraph (2)(d), or paragraph
380 (3)(c), the department shall determine whether the additional
381 information supplied by an applicant makes the application
382 complete. If the department finds that the application is still
383 incomplete, the applicant may exercise any of the options
384 specified in subsection (2) as often as is necessary to resolve
385 the dispute.

386 Section 8. Section 403.50663, Florida Statutes, is created
387 to read:

388 403.50663 Informational public meetings.--

389 (1) A local government within whose jurisdiction the power
390 plant is proposed to be sited may hold one informational public
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391 meeting in addition to the hearings specifically authorized by
392 this act on any matter associated with the electrical power
393 plant proceeding. Such informational public meetings shall be
394 held by the local government or by the regional planning council
395 if the local government does not hold such meeting within 70
396 days after the filing of the application. The purpose of an
397 informational public meeting is for the local government or
398 regional planning council to further inform the public about the
399 proposed electrical power plant or associated facilities, obtain
400 comments from the public, and formulate its recommendation with
401 respect to the proposed electrical power plant.

402 (2) Informational public meetings shall be held solely at
403 the option of each local government or regional planning council
404 if a public meeting is not held by the local government. It is
405 the legislative intent that local governments or regional
406 planning councils attempt to hold such public meetings. Parties
407 to the proceedings under this act shall be encouraged to attend;
408 however, no party other than the applicant and the department
409 shall be required to attend such informational public meetings.

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

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

418 Section 9. Section 403.50665, Florida Statutes, is created
419 to read:

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420 403.50665 Land use consistency.--

421 (1) The applicant shall include in the application a
422 statement on the consistency of the site or any directly
423 associated facilities with existing land use plans and zoning
424 ordinances that were in effect on the date the application was
425 filed and a full description of such consistency.

426 (2) Within 45 days after the filing of the application,
427 each local government shall file a determination with the
428 department, the applicant, the administrative law judge, and all
429 parties on the consistency of the site or any directly
430 associated facilities with existing land use plans and zoning
431 ordinances that were in effect on the date the application was
432 filed, based on the information provided in the application. The
433 local government may issue its determination up to 35 days later
434 if the local government has requested additional information on
435 land use and zoning consistency as part of the local
436 government's statement on completeness of the application
437 submitted pursuant to s. 403.5066(1)(a). Notice of the
438 consistency determination shall be published in accordance with
439 the requirements of s. 403.5115.

440 (3) If the local government issues a determination that
441 the proposed electrical power plant is not consistent or in
442 compliance with local land use plans and zoning ordinances, the
443 applicant may apply to the local government for the necessary
444 local approval to address the inconsistencies in the local
445 government's determination. If the applicant makes such an
446 application to the local government, the time schedules under
447 this act shall be tolled until the local government issues its
448 revised determination on land use and zoning or the applicant

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449 otherwise withdraws its application to the local government. If
450 the applicant applies to the local government for necessary
451 local land use or zoning approval, the local government shall
452 issue a revised determination within 30 days following the
453 conclusion of that local proceeding, and the time schedules and
454 notice requirements under this act shall apply to such revised
455 determination.

456 (4) If any substantially affected person wishes to dispute
457 the local government's determination, he or she shall file a
458 petition with the department within 21 days after the
459 publication of notice of the local government's determination.
460 If a hearing is requested, the provisions of s. 403.508(1) shall
461 apply.

462 (5) The dates in this section may be altered upon
463 agreement between the applicant, the local government, and the
464 department pursuant to s. 403.5095.

465 (6) If it is determined by the local government that the
466 proposed site or directly associated facility does conform with
467 existing land use plans and zoning ordinances in effect as of
468 the date of the application and no petition has been filed, the
469 responsible zoning or planning authority shall not thereafter
470 change such land use plans or zoning ordinances so as to
471 foreclose construction and operation of the proposed site or
472 directly associated facilities unless certification is
473 subsequently denied or withdrawn.

474 Section 10. Section 403.5067, Florida Statutes, is
475 repealed.

476 Section 11. Section 403.507, Florida Statutes, is amended
477 to read:

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478 403.507 Preliminary statements of issues, reports, project
479 analyses, and studies.--

480 (1) Each affected agency identified in paragraph (2)(a)
481 shall submit a preliminary statement of issues to the
482 department, ~~and~~ the applicant, and all parties no later than 40
483 ~~60~~ days after the certification application has been determined
484 ~~distribution of the complete application~~. The failure to raise
485 an issue in this statement shall not preclude the issue from
486 being raised in the agency's report.

487 (2)(a) No later than 100 days after the certification
488 application has been determined complete, the following agencies
489 shall prepare reports as provided below and shall submit them to
490 the department and the applicant ~~within 150 days after~~
491 ~~distribution of the complete application~~:

492 1. The Department of Community Affairs shall prepare a
493 report containing recommendations which address the impact upon
494 the public of the proposed electrical power plant, based on the
495 degree to which the electrical power plant is consistent with
496 the applicable portions of the state comprehensive plan,
497 emergency management, and other such matters within its
498 jurisdiction. The Department of Community Affairs may also
499 comment on the consistency of the proposed electrical power
500 plant with applicable strategic regional policy plans or local
501 comprehensive plans and land development regulations.

502 ~~2. The Public Service Commission shall prepare a report as~~
503 ~~to the present and future need for the electrical generating~~
504 ~~capacity to be supplied by the proposed electrical power plant.~~
505 ~~The report shall include the commission's determination pursuant~~

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506 ~~to s. 403.519 and may include the commission's comments with~~
507 ~~respect to any other matters within its jurisdiction.~~

508 2.3. The water management district shall prepare a report
509 as to matters within its jurisdiction, including but not limited
510 to, the impact of the proposed electrical power plant on water
511 resources, regional water supply planning, and district-owned
512 lands and works.

513 3.4. Each local government in whose jurisdiction the
514 proposed electrical power plant is to be located shall prepare a
515 report as to the consistency of the proposed electrical power
516 plant with all applicable local ordinances, regulations,
517 standards, or criteria that apply to the proposed electrical
518 power plant, including ~~adopted local comprehensive plans, land~~
519 ~~development regulations, and any applicable local environmental~~
520 regulations adopted pursuant to s. 403.182 or by other means.

521 4.5. The Fish and Wildlife Conservation Commission shall
522 prepare a report as to matters within its jurisdiction.

523 5.6. Each ~~The~~ regional planning council shall prepare a
524 report containing recommendations that address the impact upon
525 the public of the proposed electrical power plant, based on the
526 degree to which the electrical power plant is consistent with
527 the applicable provisions of the strategic regional policy plan
528 adopted pursuant to chapter 186 and other matters within its
529 jurisdiction.

530 6. The Department of Transportation shall address the
531 impact of the proposed electrical power plant on matters within
532 its jurisdiction.

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

537 ~~(b) As needed to verify or supplement the studies made by~~
538 ~~the applicant in support of the application, it shall be the~~
539 ~~duty of the department to conduct, or contract for, studies of~~
540 ~~the proposed electrical power plant and site, including, but not~~
541 ~~limited to, the following, which shall be completed no later~~
542 ~~than 210 days after the complete application is filed with the~~
543 ~~department:~~

- 544 ~~1. Cooling system requirements.~~
- 545 ~~2. Construction and operational safeguards.~~
- 546 ~~3. Proximity to transportation systems.~~
- 547 ~~4. Soil and foundation conditions.~~
- 548 ~~5. Impact on suitable present and projected water supplies~~
549 ~~for this and other competing uses.~~
- 550 ~~6. Impact on surrounding land uses.~~
- 551 ~~7. Accessibility to transmission corridors.~~
- 552 ~~8. Environmental impacts.~~
- 553 ~~9. Requirements applicable under any federally delegated~~
554 ~~or approved permit program.~~

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

557 (a) A notice of any nonprocedural requirements not
558 specifically listed in the application from which a variance,
559 exemption, exception all information on variances, exemptions,
560 exceptions, or other relief is necessary in order for the
561 proposed electrical power plant to be certified. Failure of such
562 notification by an agency shall be treated as a waiver from
563 nonprocedural requirements of that agency. However, no variance

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564 shall be granted from standards or regulations of the department
565 applicable under any federally delegated or approved permit
566 program, except as expressly allowed in such program. ~~which may~~
567 be required by s. 403.511(2) and

568 (b) A recommendation for approval or denial of the
569 application.

570 (c) Any proposed conditions of certification on matters
571 within the jurisdiction of such agency. For each condition
572 proposed by an agency in its report, the agency shall list the
573 specific statute, rule, or ordinance which authorizes the
574 proposed condition.

575 (d) The agencies shall initiate the activities required by
576 this section no later than 15 ~~30~~ days after the ~~complete~~
577 application is distributed. The agencies shall keep the
578 applicant and the department informed as to the progress of the
579 studies and any issues raised thereby.

580 ~~(3) No later than 60 days after the application for a~~
581 ~~federally required new source review or prevention of~~
582 ~~significant deterioration permit for the electrical power plant~~
583 ~~is complete and sufficient, the department shall issue its~~
584 ~~preliminary determination on such permit. Notice of such~~
585 ~~determination shall be published as required by the department's~~
586 ~~rules for notices of such permits. The department shall receive~~
587 ~~public comments and comments from the United States~~
588 ~~Environmental Protection Agency and other affected agencies on~~
589 ~~the preliminary determination as provided for in the federally~~
590 ~~approved state implementation plan. The department shall~~
591 ~~maintain a record of all comments received and considered in~~
592 ~~taking action on such permits. If a petition for an~~

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

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

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

607 (5)(4) The department shall prepare a project written
608 analysis, which shall be filed with the designated
609 administrative law judge and served on all parties no later than
610 130 ~~240~~ days after the ~~complete~~ application is determined
611 ~~complete~~ filed with the department, but no later than 60 days
612 ~~prior to the hearing~~, and which shall include:

613 (a) A statement indicating whether the proposed electrical
614 power plant and proposed ultimate site capacity will be in
615 compliance and consistent with matters within the department's
616 standard jurisdiction, including ~~with~~ the rules of the
617 department, as well as whether the proposed electrical power
618 plant and proposed ultimate site capacity will be in compliance
619 with the nonprocedural requirements of the affected agencies.

620 (b) Copies of the studies and reports required by this
621 section and s. 403.519.

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

624 (d) The recommendation of the department as to the
625 disposition of the application, of variances, exemptions,
626 exceptions, or other relief identified by any party, and of any
627 proposed conditions of certification which the department
628 believes should be imposed.

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

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

636 (6)(5) Except when good cause is shown, the failure of any
637 agency to submit a preliminary statement of issues or a report,
638 or to submit its preliminary statement of issues or report
639 within the allowed time, shall not be grounds for the alteration
640 of any time limitation in this act. Neither the failure to
641 submit a preliminary statement of issues or a report nor the
642 inadequacy of the preliminary statement of issues or report are
643 ~~shall be~~ grounds to deny or condition certification.

644 Section 12. Section 403.508, Florida Statutes, is amended
645 to read:

646 403.508 Land use and certification hearings ~~proceedings~~,
647 parties, participants.--

648 (1) (a) If a petition for a hearing on land use has been
649 filed pursuant to s. 403.50665, the designated administrative
650 law judge shall conduct a land use hearing in the county of the

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651 proposed site or directly associated facility, as applicable, as
652 expeditiously as possible, but not later than 30 ~~within 90~~ days
653 after the department's receipt of the petition a ~~complete~~
654 application for electrical power plant site certification by the
655 department. The place of such hearing shall be as close as
656 possible to the proposed site or directly associated facility.
657 If a petition is filed, the hearing shall be held regardless of
658 the status of the completeness of the application. However,
659 incompleteness of information necessary for a local government
660 to evaluate an application may be claimed by the local
661 government as cause for a statement of inconsistency with
662 existing land use plans and zoning ordinances under s.
663 403.50665.

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

666 (c) ~~(2)~~ The sole issue for determination at the land use
667 hearing shall be whether or not the proposed site is consistent
668 and in compliance with existing land use plans and zoning
669 ordinances. If the administrative law judge concludes that the
670 proposed site is not consistent or in compliance with existing
671 land use plans and zoning ordinances, the administrative law
672 judge shall receive at the hearing evidence on, and address in
673 the recommended order any changes to or approvals or variances
674 under, the applicable land use plans or zoning ordinances which
675 will render the proposed site consistent and in compliance with
676 the local land use plans and zoning ordinances.

677 (d) The designated administrative law judge's recommended
678 order shall be issued within 30 days after completion of the

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679 hearing and shall be reviewed by the board within 60 ~~45~~ days
680 after receipt of the recommended order by the board.

681 (e) If it is determined by the board that the proposed
682 site does conform with existing land use plans and zoning
683 ordinances in effect as of the date of the application, or as
684 otherwise provided by this act, the responsible zoning or
685 planning authority shall not thereafter change such land use
686 plans or zoning ordinances so as to foreclose construction and
687 operation of ~~affect~~ the proposed electrical power plant on the
688 proposed site or directly associated facilities unless
689 certification is subsequently denied or withdrawn.

690 (f) If it is determined by the board that the proposed
691 site does not conform with existing land use plans and zoning
692 ordinances, ~~it shall be the responsibility of the applicant to~~
693 ~~make the necessary application for rezoning. Should the~~
694 ~~application for rezoning be denied, the applicant may appeal~~
695 ~~this decision to the board, which may, if it determines after~~
696 notice and hearing and upon consideration of the recommended
697 order on land use and zoning issues that it is in the public
698 interest to authorize the use of the land as a site for an
699 electrical power plant, authorize a variance or other necessary
700 approval to the adopted land use plan and zoning ordinances
701 required to render the proposed site consistent with local land
702 use plans and zoning ordinances. The board's action shall not be
703 controlled by any other procedural requirements of law. In the
704 event a variance or other approval is denied by the board, it
705 shall be the responsibility of the applicant to make the
706 necessary application for any approvals determined by the board
707 as required to make the proposed site consistent and in

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708 compliance with local land use plans and zoning ordinances. No
709 further action may be taken on the complete application ~~by the~~
710 ~~department~~ until the proposed site conforms to the adopted land
711 use plan or zoning ordinances or the board grants relief as
712 provided under this act.

713 (2) (a) (3) A certification hearing shall be held by the
714 designated administrative law judge no later than 265 ~~300~~ days
715 after the ~~complete~~ application is filed with the department,
716 ~~however, an affirmative determination of need by the Public~~
717 ~~Service Commission pursuant to s. 403.519 shall be a condition~~
718 ~~precedent to the conduct of the certification hearing.~~ The
719 certification hearing shall be held at a location in proximity
720 to the proposed site. ~~The certification hearing shall also~~
721 ~~constitute the sole hearing allowed by chapter 120 to determine~~
722 ~~the substantial interest of a party regarding any required~~
723 ~~agency license or any related permit required pursuant to any~~
724 ~~federally delegated or approved permit program.~~ At the
725 conclusion of the certification hearing, the designated
726 administrative law judge shall, after consideration of all
727 evidence of record, submit to the board a recommended order no
728 later than 45 ~~60~~ days after the filing of the hearing
729 transcript. ~~In the event the administrative law judge fails to~~
730 ~~issue a recommended order within 60 days after the filing of the~~
731 ~~hearing transcript, the administrative law judge shall submit a~~
732 ~~report to the board with a copy to all parties within 60 days~~
733 ~~after the filing of the hearing transcript to advise the board~~
734 ~~of the reason for the delay in the issuance of the recommended~~
735 ~~order and of the date by which the recommended order will be~~
736 ~~issued.~~

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

740 (3)-(4)(a) Parties to the proceeding shall include:

- 741 1. The applicant.
- 742 2. The Public Service Commission.
- 743 3. The Department of Community Affairs.
- 744 4. The Fish and Wildlife Conservation Commission.
- 745 5. The water management district.
- 746 6. The department.
- 747 7. The regional planning council.
- 748 8. The local government.
- 749 9. The Department of Transportation.

750 (b) Any party listed in paragraph (a) other than the
751 department or the applicant may waive its right to participate
752 in these proceedings. If such listed party fails to file a
753 notice of its intent to be a party on or before the 90th day
754 prior to the certification hearing, such party shall be deemed
755 to have waived its right to be a party.

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

- 761 1. Any agency not listed in paragraph (a) as to matters
762 within its jurisdiction.
- 763 2. Any domestic nonprofit corporation or association
764 formed, in whole or in part, to promote conservation or natural
765 beauty; to protect the environment, personal health, or other

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766 biological values; to preserve historical sites; to promote
767 consumer interests; to represent labor, commercial, or
768 industrial groups; or to promote comprehensive planning or
769 orderly development of the area in which the proposed electrical
770 power plant is to be located.

771 (d) Notwithstanding paragraph (e), failure of an agency
772 described in subparagraph (c)1. to file a notice of intent to be
773 a party within the time provided herein shall constitute a
774 waiver of the right of that agency to participate as a party in
775 the proceeding.

776 (e) Other parties may include any person, including those
777 persons enumerated in paragraph (c) who have failed to timely
778 file a notice of intent to be a party, whose substantial
779 interests are affected and being determined by the proceeding
780 and who timely file a motion to intervene pursuant to chapter
781 120 and applicable rules. Intervention pursuant to this
782 paragraph may be granted at the discretion of the designated
783 administrative law judge and upon such conditions as he or she
784 may prescribe any time prior to 30 days before the commencement
785 of the certification hearing.

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

789 (4) (a) The order of presentation at the certification
790 hearing, unless otherwise changed by the administrative law
791 judge to ensure the orderly presentation of witnesses and
792 evidence, shall be:

- 793 1. The applicant.
794 2. The department.

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- 795 3. State agencies.
796 4. Regional agencies, including regional planning councils
797 and water management districts.
798 5. Local governments.
799 6. Other parties.

800 ~~(b)(5)~~ When appropriate, any person may be given an
801 opportunity to present oral or written communications to the
802 designated administrative law judge. If the designated
803 administrative law judge proposes to consider such
804 communications, then all parties shall be given an opportunity
805 to cross-examine or challenge or rebut such communications.

806 (5) At the conclusion of the certification hearing, the
807 designated administrative law judge shall, after consideration
808 of all evidence of record, submit to the board a recommended
809 order no later than 45 days after the filing of the hearing
810 transcript.

811 (6) (a) No earlier than 29 days prior to the conduct of the
812 certification hearing, the department or the applicant may
813 request that the administrative law judge cancel the
814 certification hearing and relinquish jurisdiction to the
815 department if all parties to the proceeding stipulate that there
816 are no disputed issues of fact or law to be raised at the
817 certification hearing, and if sufficient time remains for the
818 applicant and the department to publish public notices of the
819 cancellation of the hearing at least 3 days prior to the
820 scheduled date of the hearing.

821 (b) The administrative law judge shall issue an order
822 granting or denying the request within 5 days after receipt of
823 the request.

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824 (c) If the administrative law judge grants the request,
825 the department and the applicant shall publish notices of the
826 cancellation of the certification hearing, in accordance with s.
827 403.5115.

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

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

834 (7) The applicant shall pay those expenses and costs
835 associated with the conduct of the hearings and the recording
836 and transcription of the proceedings.

837 ~~(6) The designated administrative law judge shall have all~~
838 ~~powers and duties granted to administrative law judges by~~
839 ~~chapter 120 and this chapter and by the rules of the department~~
840 ~~and the Administration Commission, including the authority to~~
841 ~~resolve disputes over the completeness and sufficiency of an~~
842 ~~application for certification.~~

843 ~~(7) The order of presentation at the certification~~
844 ~~hearing, unless otherwise changed by the administrative law~~
845 ~~judge to ensure the orderly presentation of witnesses and~~
846 ~~evidence, shall be:~~

847 ~~(a) The applicant.~~

848 ~~(b) The department.~~

849 ~~(c) State agencies.~~

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

852 ~~(e) Local governments.~~

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853 ~~(f) Other parties.~~

854 (8) In issuing permits under the federally approved new
855 source review or prevention of significant deterioration permit
856 program, the department shall observe the procedures specified
857 under the federally approved state implementation plan,
858 including public notice, public comment, public hearing, and
859 notice of applications and amendments to federal, state, and
860 local agencies, to assure that all such permits issued in
861 coordination with the certification of a power plant under this
862 act are federally enforceable and are issued after opportunity
863 for informed public participation regarding the terms and
864 conditions thereof. When possible, any hearing on a federally
865 approved or delegated program permit such as new source review,
866 prevention of significant deterioration permit, or NPDES permit
867 shall be conducted in conjunction with the certification hearing
868 held under this act. ~~The department shall accept written comment~~
869 ~~with respect to an application for, or the department's~~
870 ~~preliminary determination on, a new source review or prevention~~
871 ~~of significant deterioration permit for a period of no less than~~
872 ~~30 days from the date notice of such action is published. Upon~~
873 ~~request submitted within 30 days after published notice, the~~
874 ~~department shall hold a public meeting, in the area affected,~~
875 ~~for the purpose of receiving public comment on issues related to~~
876 ~~the new source review or prevention of significant deterioration~~
877 ~~permit. If requested following notice of the department's~~
878 ~~preliminary determination, the public meeting to receive public~~
879 ~~comment shall be held prior to the scheduled certification~~
880 ~~hearing. The department shall also solicit comments from the~~
881 ~~United States Environmental Protection Agency and other affected~~

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882 ~~federal agencies regarding the department's preliminary~~
883 ~~determination for any federally required new source review or~~
884 ~~prevention of significant deterioration permit.~~ It is the intent
885 of the Legislature that the review, processing, and issuance of
886 such federally delegated or approved permits be closely
887 coordinated with the certification process established under
888 this part. In the event of a conflict between the certification
889 process and federally required procedures ~~contained in the state~~
890 ~~implementation plan,~~ the applicable federal requirements ~~of the~~
891 ~~implementation plan~~ shall control.

892 Section 13. Section 403.509, Florida Statutes, is amended
893 to read:

894 403.509 Final disposition of application.--

895 (1) (a) If the administrative law judge has granted a
896 request to cancel the certification hearing and has relinquished
897 jurisdiction to the department under the provisions of s.
898 403.508(6), within 40 days thereafter, the secretary of the
899 department shall act upon the application by written order in
900 accordance with the terms of this act and the stipulation of the
901 parties in requesting cancellation of the certification hearing.

902 (b) If the administrative law judge has not granted a
903 request to cancel the certification hearing under the provisions
904 of s. 403.508(6), within 60 days after receipt of the designated
905 administrative law judge's recommended order, the board shall
906 act upon the application by written order, approving
907 certification or denying certification the issuance of a
908 certificate, in accordance with the terms of this act, and
909 stating the reasons for issuance or denial. If certification the
910 certificate is denied, the board shall set forth in writing the

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911 action the applicant would have to take to secure the board's
912 approval of the application.

913 (2) The issues that may be raised in any hearing before
914 the board shall be limited to those matters raised in the
915 certification proceeding before the administrative law judge or
916 raised in the recommended order. All parties, or their
917 representatives, or persons who appear before the board shall be
918 subject to the provisions of s. 120.66.

919 (3) In determining whether an application should be
920 approved in whole, approved with modifications or conditions, or
921 denied, the board, or secretary when applicable, shall consider
922 whether, and the extent to which, the location of the electrical
923 power plant and directly associated facilities and their
924 construction and operation will:

925 (a) Provide reasonable assurance that operational
926 safeguards are technically sufficient for the public welfare and
927 protection.

928 (b) Comply with applicable nonprocedural requirements of
929 agencies.

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

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

934 (e) Effect a reasonable balance between the need for the
935 facility as established pursuant to s. 403.519, and the impacts
936 upon air and water quality, fish and wildlife, water resources,
937 and other natural resources of the state resulting from the
938 construction and operation of the facility.

939 (f) Minimize, through the use of reasonable and available
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940 methods, the adverse effects on human health, the environment,
941 and the ecology of the land and its wildlife and the ecology of
942 state waters and their aquatic life.

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

944 ~~(3) Within 30 days after issuance of the certification,~~
945 ~~the department shall issue and forward to the United States~~
946 ~~Environmental Protection Agency a proposed operation permit for~~
947 ~~a major source of air pollution and must issue or deny any other~~
948 ~~license required pursuant to any federally delegated or approved~~
949 ~~permit program. The department's action on the license and its~~
950 ~~action on the proposed operation permit for a major source of~~
951 ~~air pollution shall be based upon the record and recommended~~
952 ~~order of the certification hearing. The department's actions on~~
953 ~~a federally required new source review or prevention of~~
954 ~~significant deterioration permit shall be based on the record~~
955 ~~and recommended order of the certification hearing and of any~~
956 ~~other proceeding held in connection with the application for a~~
957 ~~new source review or prevention of significant deterioration~~
958 ~~permit, on timely public comments received with respect to the~~
959 ~~application or preliminary determination for such permit, and on~~
960 ~~the provisions of the state implementation plan.~~

961 (4) The department's action on a federally required new
962 source review or prevention of significant deterioration permit
963 shall differ from the actions taken by the siting board
964 regarding the certification if the federally approved state
965 implementation plan requires such a different action to be taken
966 by the department. Nothing in this part shall be construed to
967 displace the department's authority as the final permitting
968 entity under the federally approved permit program. Nothing in

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969 | this part shall be construed to authorize the issuance of a new
970 | source review or prevention of significant deterioration permit
971 | which does not conform to the requirements of the federally
972 | approved state implementation plan. ~~Any final operation permit
973 | for a major source of air pollution must be issued in accordance
974 | with the provisions of s. 403.0872. Unless the federally
975 | delegated or approved permit program provides otherwise,
976 | licenses issued by the department under this subsection shall be
977 | effective for the term of the certification issued by the board.
978 | If renewal of any license issued by the department pursuant to a
979 | federally delegated or approved permit program is required, such
980 | renewal shall not affect the certification issued by the board,
981 | except as necessary to resolve inconsistencies pursuant to s.
982 | 403.516(1)(a).~~

983 | (5)~~(4)~~ In regard to the properties and works of any agency
984 | which is a party to the certification hearing, the board shall
985 | have the authority to decide issues relating to the use, the
986 | connection thereto, or the crossing thereof, for the electrical
987 | power plant and directly associated facilities ~~site~~ and to
988 | direct any such agency to execute, within 30 days after the
989 | entry of certification, the necessary license or easement for
990 | such use, connection, or crossing, subject only to the
991 | conditions set forth in such certification.

992 | (6)~~(5)~~ ~~Except for the issuance of any operation permit for
993 | a major source of air pollution pursuant to s. 403.0872, The
994 | issuance or denial of the certification by the board or
995 | secretary of the department and the issuance or denial of any
996 | related department license required pursuant to any federally~~

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997 ~~delegated or approved permit program~~ shall be the final
998 administrative action required as to that application.

999 ~~(6) All certified electrical power plants must apply for~~
1000 ~~and obtain a major source air operation permit pursuant to s.~~
1001 ~~403.0872. Major source air operation permit applications for~~
1002 ~~certified electrical power plants must be submitted pursuant to~~
1003 ~~a schedule developed by the department. To the extent that any~~
1004 ~~conflicting provision, limitation, or restriction under any~~
1005 ~~rule, regulation, or ordinance imposed by any political~~
1006 ~~subdivision of the state, or by any local pollution control~~
1007 ~~program, was superseded during the certification process~~
1008 ~~pursuant to s. 403.510(1), such rule, regulation, or ordinance~~
1009 ~~shall continue to be superseded for purposes of the major source~~
1010 ~~air operation permit program under s. 403.0872.~~

1011 Section 14. Section 403.511, Florida Statutes, is amended
1012 to read:

1013 403.511 Effect of certification.--

1014 (1) Subject to the conditions set forth therein, any
1015 certification ~~signed by the Governor~~ shall constitute the sole
1016 license of the state and any agency as to the approval of the
1017 site and the construction and operation of the proposed
1018 electrical power plant, except for the issuance of department
1019 licenses required under any federally delegated or approved
1020 permit program and except as otherwise provided in subsection
1021 (4).

1022 (2) (a) The certification shall authorize the licensee
1023 ~~applicant~~ named therein to construct and operate the proposed
1024 electrical power plant, subject only to the conditions of
1025 certification set forth in such certification, and except for

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1026 the issuance of department licenses or permits required under
1027 any federally delegated or approved permit program.

1028 (b)1. Except as provided in subsection (4), the
1029 certification may include conditions which constitute variances,
1030 exemptions, or exceptions from nonprocedural requirements of the
1031 department or any agency which were expressly considered during
1032 the proceeding, including, but not limited to, any site specific
1033 criteria, standards, or limitations under local land use and
1034 zoning approvals which affect the proposed electrical power
1035 plant or its site, unless waived by the agency ~~as provided below~~
1036 and which otherwise would be applicable to the construction and
1037 operation of the proposed electrical power plant.

1038 2. No variance, exemption, exception, or other relief
1039 shall be granted from a state statute or rule for the protection
1040 of endangered or threatened species, aquatic preserves,
1041 Outstanding National Resource Waters, or Outstanding Florida
1042 Waters or for the disposal of hazardous waste, except to the
1043 extent authorized by the applicable statute or rule or except
1044 upon a finding in the certification order ~~by the siting board~~
1045 that the public interests set forth in s. 403.509(3) ~~403.502~~ in
1046 certifying the electrical power plant at the site proposed by
1047 the applicant overrides the public interest protected by the
1048 statute or rule from which relief is sought. ~~Each party shall~~
1049 ~~notify the applicant and other parties at least 60 days prior to~~
1050 ~~the certification hearing of any nonprocedural requirements not~~
1051 ~~specifically listed in the application from which a variance,~~
1052 ~~exemption, exception, or other relief is necessary in order for~~
1053 ~~the board to certify any electrical power plant proposed for~~
1054 ~~certification. Failure of such notification by an agency shall~~
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1055 ~~be treated as a waiver from nonprocedural requirements of the~~
1056 ~~department or any other agency. However, no variance shall be~~
1057 ~~granted from standards or regulations of the department~~
1058 ~~applicable under any federally delegated or approved permit~~
1059 ~~program, except as expressly allowed in such program.~~

1060 (3) The certification and any order on land use and zoning
1061 issued under this act shall be in lieu of any license, permit,
1062 certificate, or similar document required by any state,
1063 regional, or local agency pursuant to, but not limited to,
1064 chapter 125, chapter 161, chapter 163, chapter 166, chapter 186,
1065 chapter 253, chapter 298, chapter 370, chapter 373, chapter 376,
1066 chapter 380, chapter 381, chapter 387, chapter 403, except for
1067 permits issued pursuant to any federally delegated or approved
1068 permit program ~~s. 403.0885~~ and except as provided in ~~s.~~
1069 ~~403.509(3) and (6),~~ chapter 404, or the Florida Transportation
1070 Code, or 33 U.S.C. s. 1341.

1071 (4) This act shall not affect in any way the ratemaking
1072 powers of the Public Service Commission under chapter 366; nor
1073 shall this act in any way affect the right of any local
1074 government to charge appropriate fees or require that
1075 construction be in compliance with applicable building
1076 construction codes.

1077 (5) (a) An electrical power plant certified pursuant to
1078 this act shall comply with rules adopted by the department
1079 subsequent to the issuance of the certification which prescribe
1080 new or stricter criteria, to the extent that the rules are
1081 applicable to electrical power plants. Except when express
1082 variances, exceptions, exemptions, or other relief have been
1083 granted, subsequently adopted rules which prescribe new or

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1084 stricter criteria shall operate as automatic modifications to
1085 certifications.

1086 (b) Upon written notification to the department, any
1087 holder of a certification issued pursuant to this act may choose
1088 to operate the certified electrical power plant in compliance
1089 with any rule subsequently adopted by the department which
1090 prescribes criteria more lenient than the criteria required by
1091 the terms and conditions in the certification which are not
1092 site-specific.

1093 (c) No term or condition of certification shall be
1094 interpreted to preclude the postcertification exercise by any
1095 party of whatever procedural rights it may have under chapter
1096 120, including those related to rulemaking proceedings. This
1097 subsection shall apply to previously issued certifications.

1098 (6) No term or condition of a site certification shall be
1099 interpreted to supersede or control the provisions of a final
1100 operation permit for a major source of air pollution issued by
1101 the department pursuant to s. 403.0872 to a such facility
1102 certified under this part.

1103 (7) Pursuant to s. 380.23, electrical power plants are
1104 subject to the federal coastal consistency review program.
1105 Issuance of certification shall constitute the state's
1106 certification of coastal zone consistency.

1107 Section 15. Section 403.5112, Florida Statutes, is created
1108 to read:

1109 403.5112 Filing of notice of certified corridor route.--

1110 (1) Within 60 days after certification of a directly
1111 associated linear facility pursuant to this act, the applicant
1112 shall file, in accordance with s. 28.222, with the department
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1113 and the clerk of the circuit court for each county through which
1114 the corridor will pass, a notice of the certified route.

1115 (2) The notice shall consist of maps or aerial photographs
1116 in the scale of 1:24,000 which clearly show the location of the
1117 certified route and shall state that the certification of the
1118 corridor will result in the acquisition of rights-of-way within
1119 the corridor. Each clerk shall record the filing in the official
1120 record of the county for the duration of the certification or
1121 until such time as the applicant certifies to the department and
1122 the clerk that all lands required for the transmission line
1123 rights-of-way within the corridor have been acquired within such
1124 county, whichever is sooner.

1125 Section 16. Section 403.5113, Florida Statutes, is created
1126 to read:

1127 403.5113 Postcertification amendments.--

1128 (1) If, subsequent to certification by the board, a
1129 licensee proposes any material change to the application and
1130 revisions or amendments thereto, as certified, the licensee
1131 shall submit a written request for amendment and a description
1132 of the proposed change to the application to the department.
1133 Within 30 days after the receipt of the request for the
1134 amendment, the department shall determine whether the proposed
1135 change to the application requires a modification of the
1136 conditions of certification.

1137 (2) If the department concludes that the change would not
1138 require a modification of the conditions of certification, the
1139 department shall provide written notification of the approval of
1140 the proposed amendment to the licensee, all agencies, and all
1141 other parties.

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1142 (3) If the department concludes that the change would
1143 require a modification of the conditions of certification, the
1144 department shall provide written notification to the licensee
1145 that the proposed change to the application requires a request
1146 for modification pursuant to s. 403.516.

1147 (4) Postcertification submittals filed by the licensee
1148 with one or more agencies are for the purpose of monitoring for
1149 compliance with the issued certification and must be reviewed by
1150 the agencies on an expedited and priority basis because each
1151 facility certified under this act is a critical infrastructure
1152 facility. In no event shall a postcertification review be
1153 completed in more than 90 days after complete information is
1154 submitted to the reviewing agencies.

1155 Section 17. Section 403.5115, Florida Statutes, is amended
1156 to read:

1157 403.5115 Public notice; costs of proceeding.--

1158 (1) The following notices are to be published by the
1159 applicant:

1160 (a) Notice A notice of the filing of a notice of intent
1161 under s. 403.5063, which shall be published within 21 days after
1162 the filing of the notice. The notice shall be published as
1163 specified by subsection (2), except that the newspaper notice
1164 shall be one-fourth page in size in a standard size newspaper or
1165 one-half page in size in a tabloid size newspaper.

1166 (b) Notice A notice of filing of the application, which
1167 shall include a description of the proceedings required by this
1168 act, within 21 days after the date of the application filing be
1169 published as specified in subsection (2), within 15 days after
1170 the application has been determined complete. Such notice shall
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1171 give notice of the provisions of s. 403.511(1) and (2) ~~and that~~
1172 ~~the application constitutes a request for a federally required~~
1173 ~~new source review or prevention of significant deterioration~~
1174 ~~permit.~~

1175 (c) Notice of the land use determination made pursuant to
1176 s. 403.50665(1) within 21 days after the determination is filed.

1177 (d) Notice of the land use hearing, which shall be
1178 published as specified in subsection (2), no later than 15 ~~45~~
1179 days before the hearing.

1180 (e)~~(d)~~ Notice of the certification hearing and notice of
1181 the deadline for filing notice of intent to be a party, which
1182 shall be published as specified in subsection (2), at least 65
1183 days before the date set for the certification ~~no later than 45~~
1184 ~~days before the hearing.~~

1185 (f) Notice of the cancellation of the certification
1186 hearing, if applicable, no later than 3 days before the date of
1187 the originally scheduled certification hearing.

1188 (g)~~(e)~~ Notice of modification when required by the
1189 department, based on whether the requested modification of
1190 certification will significantly increase impacts to the
1191 environment or the public. Such notice shall be published as
1192 specified under subsection (2):

1193 1. Within 21 days after receipt of a request for
1194 modification, ~~except that~~ The newspaper notice shall be of a
1195 size as directed by the department commensurate with the scope
1196 of the modification.

1197 2. If a hearing is to be conducted in response to the
1198 request for modification, then notice shall be published no

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1199 ~~later than 30 days before the hearing provided as specified in~~
1200 ~~paragraph (d).~~

1201 ~~(h) (f)~~ Notice of a supplemental application, which shall
1202 be published as specified in paragraph (b) and subsection (2).
1203 ~~follows:~~

1204 ~~1. Notice of receipt of the supplemental application shall~~
1205 ~~be published as specified in paragraph (b).~~

1206 ~~2. Notice of the certification hearing shall be published~~
1207 ~~as specified in paragraph (d).~~

1208 (i) Notice of existing site certification pursuant to s.
1209 403.5175. Notices shall be published as specified in paragraph
1210 (b) and subsection (2).

1211 (2) Notices provided by the applicant shall be published
1212 in newspapers of general circulation within the county or
1213 counties in which the proposed electrical power plant will be
1214 located. The newspaper notices shall be at least one-half page
1215 in size in a standard size newspaper or a full page in a tabloid
1216 size newspaper ~~and published in a section of the newspaper other~~
1217 ~~than the legal notices section.~~ These notices shall include a
1218 map generally depicting the project and all associated
1219 facilities corridors. A newspaper of general circulation shall
1220 be the newspaper which has the largest daily circulation in that
1221 county and has its principal office in that county. If the
1222 newspaper with the largest daily circulation has its principal
1223 office outside the county, the notices shall appear in both the
1224 newspaper having the largest circulation in that county and in a
1225 newspaper authorized to publish legal notices in that county.

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1226 (3) All notices published by the applicant shall be paid
1227 for by the applicant and shall be in addition to the application
1228 fee.

1229 (4) The department shall arrange for publication of the
1230 following notices in the manner specified by chapter 120 and
1231 provide copies of those notices to any persons who have
1232 requested to be placed on the departmental mailing list for this
1233 purpose:

1234 (a) Notice Publish in the Florida Administrative Weekly
1235 notices of the filing of the notice of intent within 15 days
1236 after receipt of the notice.†

1237 (b) Notice of the filing of the application, no later than
1238 21 days after the application filing.†

1239 (c) Notice of the land use determination made pursuant to
1240 s. 403.50665(1) within 21 days after the determination is filed.

1241 (d) Notice of the land use hearing before the
1242 administrative law judge, if applicable, no later than 15 days
1243 before the hearing.†

1244 (e) Notice of the land use hearing before the board, if
1245 applicable.

1246 (f) Notice of the certification hearing at least 45 days
1247 before the date set for the certification hearing.†

1248 (g) Notice of the cancellation of the certification
1249 hearing, if applicable, no later than 3 days prior to the date
1250 of the originally scheduled certification hearing.

1251 (h) Notice of the hearing before the board, if
1252 applicable.† ~~and~~

1253 (i) Notice of stipulations, proposed agency action, or
1254 petitions for modification.† ~~and~~

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1255 ~~(b) Provide copies of these notices to any persons who~~
1256 ~~have requested to be placed on the departmental mailing list for~~
1257 ~~this purpose.~~

1258 ~~(5) The applicant shall pay those expenses and costs~~
1259 ~~associated with the conduct of the hearings and the recording~~
1260 ~~and transcription of the proceedings.~~

1261 Section 18. Section 403.513, Florida Statutes, is amended
1262 to read:

1263 403.513 Review.--Proceedings under this act shall be
1264 subject to judicial review as provided in chapter 120. When
1265 possible, separate appeals of the certification order issued by
1266 the board and of any department permit issued pursuant to a
1267 federally delegated or approved permit program may ~~shall~~ be
1268 consolidated for purposes of judicial review.

1269 Section 19. Section 403.516, Florida Statutes, is amended
1270 to read:

1271 403.516 Modification of certification.--

1272 (1) A certification may be modified after issuance in any
1273 one of the following ways:

1274 (a) The board may delegate to the department the authority
1275 to modify specific conditions in the certification.

1276 (b)1. The department may modify specific conditions of a
1277 site certification which are inconsistent with the terms of any
1278 federally delegated or approved ~~final air pollution operation~~
1279 ~~permit for the certified electrical power plant issued by the~~
1280 ~~United States Environmental Protection Agency under the terms of~~
1281 ~~42 U.S.C. s. 7661d.~~

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1282 2. Such modification may be made without further notice if
1283 the matter has been previously noticed under the requirements
1284 for any federally delegated or approved permit program.

1285 (c) The licensee may file a petition for modification with
1286 the department, or the department may initiate the modification
1287 upon its own initiative.

1288 1. A petition for modification must set forth:

1289 a. The proposed modification.

1290 b. The factual reasons asserted for the modification.

1291 c. The anticipated environmental effects of the proposed
1292 modification.

1293 2. ~~(b)~~ The department may modify the terms and conditions
1294 of the certification if no party to the certification hearing
1295 objects in writing to such modification within 45 days after
1296 notice by mail to such party's last address of record, and if no
1297 other person whose substantial interests will be affected by the
1298 modification objects in writing within 30 days after issuance of
1299 public notice.

1300 3. If objections are raised or the department denies the
1301 request, the applicant or department may file a request petition
1302 for a hearing on the modification with the department. Such
1303 request shall be handled pursuant to chapter 120 paragraph (e).

1304 ~~(c) A petition for modification may be filed by the~~
1305 ~~applicant or the department setting forth:~~

1306 ~~1. The proposed modification,~~

1307 ~~2. The factual reasons asserted for the modification, and~~

1308 ~~3. The anticipated effects of the proposed modification on~~
1309 ~~the applicant, the public, and the environment.~~

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1311 ~~The petition for modification shall be filed with the department~~
1312 ~~and the Division of Administrative Hearings.~~

1313 4. Requests referred to the Division of Administrative
1314 Hearings shall be disposed of in the same manner as an
1315 application, but with time periods established by the
1316 administrative law judge commensurate with the significance of
1317 the modification requested.

1318 (d) As required by s. 403.511(5).

1319 ~~(2) Petitions filed pursuant to paragraph (1)(c) shall be~~
1320 ~~disposed of in the same manner as an application, but with time~~
1321 ~~periods established by the administrative law judge commensurate~~
1322 ~~with the significance of the modification requested.~~

1323 ~~(2)(3)~~ Any agreement or modification under this section
1324 must be in accordance with the terms of this act. No
1325 modification to a certification shall be granted that
1326 constitutes a variance from standards or regulations of the
1327 department applicable under any federally delegated or approved
1328 permit program, except as expressly allowed in such program.

1329 Section 20. Section 403.517, Florida Statutes, is amended
1330 to read:

1331 403.517 Supplemental applications for sites certified for
1332 ultimate site capacity.--

1333 (1)(a) Supplemental ~~The department shall adopt rules~~
1334 ~~governing the processing of supplemental applications~~ may be
1335 submitted for certification of the construction and operation of
1336 electrical power plants to be located at sites which have been
1337 previously certified for an ultimate site capacity pursuant to
1338 this act. Supplemental applications shall be limited to
1339 electrical power plants using the fuel type previously certified

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1340 for that site. Such applications shall include all new directly
1341 associated facilities that support the construction and
1342 operation of the electrical power plant. The rules adopted
1343 pursuant to this section shall include provisions for:

1344 1. ~~Prompt appointment of a designated administrative law~~
1345 ~~judge.~~

1346 2. ~~The contents of the supplemental application.~~

1347 3. ~~Resolution of disputes as to the completeness and~~
1348 ~~sufficiency of supplemental applications by the designated~~
1349 ~~administrative law judge.~~

1350 4. ~~Public notice of the filing of the supplemental~~
1351 ~~applications.~~

1352 5. ~~Time limits for prompt processing of supplemental~~
1353 ~~applications.~~

1354 6. ~~Final disposition by the board within 215 days of the~~
1355 ~~filing of a complete supplemental application.~~

1356 (b) The review shall use the same procedural steps and
1357 notices as for an initial application.

1358 (c) The time limits for the processing of a complete
1359 supplemental application shall be designated by the department
1360 commensurate with the scope of the supplemental application, but
1361 shall not exceed any time limitation governing the review of
1362 initial applications for site certification pursuant to this
1363 act, it being the legislative intent to provide shorter time
1364 limitations for the processing of supplemental applications for
1365 electrical power plants to be constructed and operated at sites
1366 which have been previously certified for an ultimate site
1367 capacity.

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1368 ~~(d)(e)~~ Any time limitation in this section or in rules
1369 adopted pursuant to this section may be altered pursuant to s.
1370 403.5095 ~~by the designated administrative law judge upon~~
1371 ~~stipulation between the department and the applicant, unless~~
1372 ~~objected to by any party within 5 days after notice, or for good~~
1373 ~~cause shown by any party. The parties to the proceeding shall~~
1374 ~~adhere to the provisions of chapter 120 and this act in~~
1375 ~~considering and processing such supplemental applications.~~

1376 ~~(2)~~ Supplemental applications shall be reviewed as
1377 provided in ss. ~~403.507 403.511~~, except that the time limits
1378 provided in this section shall apply to such supplemental
1379 applications.

1380 ~~(2)(3)~~ The land use and zoning consistency determination
1381 of s. 403.50665 ~~hearing requirements of s. 403.508(1) and (2)~~
1382 shall not be applicable to the processing of supplemental
1383 applications pursuant to this section so long as:

1384 (a) The previously certified ultimate site capacity is not
1385 exceeded; and

1386 (b) The lands required for the construction or operation
1387 of the electrical power plant which is the subject of the
1388 supplemental application are within the boundaries of the
1389 previously certified site.

1390 ~~(4)~~ ~~For the purposes of this act, the term "ultimate site~~
1391 ~~capacity" means the maximum generating capacity for a site as~~
1392 ~~certified by the board.~~

1393 Section 21. Section 403.5175, Florida Statutes, is amended
1394 to read:

1395 403.5175 Existing electrical power plant site
1396 certification.--

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1397 (1) An electric utility that owns or operates an existing
1398 electrical power plant as defined in s. 403.503(13)-(12) may
1399 apply for certification of an existing power plant and its site
1400 in order to obtain all agency licenses necessary to ensure
1401 ~~assure~~ compliance with federal or state environmental laws and
1402 regulation using the centrally coordinated, one-stop licensing
1403 process established by this part. An application for site
1404 certification under this section must be in the form prescribed
1405 by department rule. Applications must be reviewed and processed
1406 using the same procedural steps and notices as for an
1407 application for a new facility in accordance with ss. 403.5064-
1408 403.5115, except that a determination of need by the Public
1409 Service Commission is not required.

1410 (2) An application for certification under this section
1411 must include:

1412 (a) A description of the site and existing power plant
1413 installations;

1414 (b) A description of all proposed changes or alterations
1415 to the site or electrical power plant, including all new
1416 associated facilities that are the subject of the application;

1417 (c) A description of the environmental and other impacts
1418 caused by the existing utilization of the site and directly
1419 associated facilities, and the operation of the electrical power
1420 plant that is the subject of the application, and of the
1421 environmental and other benefits, if any, to be realized as a
1422 result of the proposed changes or alterations if certification
1423 is approved and such other information as is necessary for the
1424 reviewing agencies to evaluate the proposed changes and the
1425 expected impacts;

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1426 (d) The justification for the proposed changes or
1427 alterations;

1428 (e) Copies of all existing permits, licenses, and
1429 compliance plans authorizing utilization of the site and
1430 directly associated facilities or operation of the electrical
1431 power plant that is the subject of the application.

1432 (3) The land use and zoning determination ~~hearing~~
1433 requirements of s. 403.50665 ~~s. 403.508(1) and (2)~~ do not apply
1434 to an application under this section if the applicant does not
1435 propose to expand the boundaries of the existing site. If the
1436 applicant proposes to expand the boundaries of the existing site
1437 to accommodate portions of the plant or associated facilities, a
1438 land use and zoning determination shall be made ~~hearing must be~~
1439 ~~held~~ as specified in s. 403.50665 ~~s. 403.508(1) and (2)~~;
1440 provided, however, that the sole issue for determination ~~through~~
1441 ~~the land use hearing~~ is whether the proposed site expansion is
1442 consistent and in compliance with the existing land use plans
1443 and zoning ordinances.

1444 (4) In considering whether an application submitted under
1445 this section should be approved in whole, approved with
1446 appropriate conditions, or denied, the board shall consider
1447 whether, and to the extent to which the proposed changes to the
1448 electrical power plant and its continued operation under
1449 certification will:

1450 (a) Comply with the provisions of s. 403.509(3).
1451 ~~applicable nonprocedural requirements of agencies;~~

1452 (b) Result in environmental or other benefits compared to
1453 current utilization of the site and operations of the electrical

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1454 power plant if the proposed changes or alterations are
1455 undertaken.

1456 ~~(c) Minimize, through the use of reasonable and available~~
1457 ~~methods, the adverse effects on human health, the environment,~~
1458 ~~and the ecology of the land and its wildlife and the ecology of~~
1459 ~~state waters and their aquatic life; and~~

1460 ~~(d) Serve and protect the broad interests of the public.~~

1461 (5) An applicant's failure to receive approval for
1462 certification of an existing site or an electrical power plant
1463 under this section is without prejudice to continued operation
1464 of the electrical power plant or site under existing agency
1465 licenses.

1466 Section 22. Section 403.518, Florida Statutes, is amended
1467 to read:

1468 403.518 Fees; disposition.--

1469 ~~(1)~~ The department shall charge the applicant the
1470 following fees, as appropriate, which, unless otherwise
1471 specified, shall be paid into the Florida Permit Fee Trust Fund:

1472 (1)(a) A fee for a notice of intent pursuant to s.
1473 403.5063, in the amount of \$2,500, to be submitted to the
1474 department at the time of filing of a notice of intent. The
1475 notice-of-intent fee shall be used and disbursed in the same
1476 manner as the application fee.

1477 (2)(b) An application fee, which shall not exceed
1478 \$200,000. The fee shall be fixed by rule on a sliding scale
1479 related to the size, type, ultimate site capacity, or increase
1480 in electrical generating capacity proposed by the application,
1481 ~~or the number and size of local governments in whose~~
1482 ~~jurisdiction the electrical power plant is located.~~

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1483 (a)1. Sixty percent of the fee shall go to the department
1484 to cover any costs associated with coordinating the review
1485 ~~reviewing~~ and acting upon the application, to cover any field
1486 services associated with monitoring construction and operation
1487 of the facility, and to cover the costs of the public notices
1488 published by the department.

1489 (b)2. The following percentages ~~Twenty percent of the fee~~
1490 ~~or \$25,000, whichever is greater,~~ shall be transferred to the
1491 Administrative Trust Fund of the Division of Administrative
1492 Hearings of the Department of Management Services:—

1493 1. Five percent to compensate expenses from the initial
1494 exercise of duties associated with the filing of an application.

1495 2. An additional 5 percent if a land use hearing is held
1496 pursuant to s. 403.508.

1497 3. An additional 10 percent if a certification hearing is
1498 held pursuant to s. 403.508.

1499 (c)1.3. Upon written request with proper itemized
1500 accounting within 90 days after final agency action by the board
1501 or withdrawal of the application, the agencies that prepared
1502 reports pursuant to s. 403.507 or participated in a hearing
1503 pursuant to s. 403.508 may submit a written request to the
1504 department for reimbursement of expenses incurred during the
1505 certification proceedings. The request shall contain an
1506 accounting of expenses incurred which may include time spent
1507 reviewing the application, the department shall reimburse the
1508 ~~Department of Community Affairs, the Fish and Wildlife~~
1509 ~~Conservation Commission, and any water management district~~
1510 ~~created pursuant to chapter 373, regional planning council, and~~
1511 ~~local government in the jurisdiction of which the proposed~~
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1512 ~~electrical power plant is to be located, and any other agency~~
1513 ~~from which the department requests special studies pursuant to~~
1514 ~~s. 403.507(2)(a)7. Such reimbursement shall be authorized for~~
1515 ~~the preparation of any studies required of the agencies by this~~
1516 ~~act, and for agency travel and per diem to attend any hearing~~
1517 ~~held pursuant to this act, and for any agency or local~~
1518 ~~government's provision of notice of public meetings or hearings~~
1519 ~~required as a result of the application for certification~~
1520 ~~governments to participate in the proceedings. The department~~
1521 ~~shall review the request and verify that the expenses are valid.~~
1522 ~~Valid expenses shall be reimbursed; however, in the event the~~
1523 ~~amount of funds available for reimbursement allocation is~~
1524 ~~insufficient to provide for full compensation complete~~
1525 ~~reimbursement to the agencies requesting reimbursement,~~
1526 ~~reimbursement shall be on a prorated basis.~~

1527 2. If the application review is held in abeyance for more
1528 than 1 year, the agencies may submit a request for
1529 reimbursement.

1530 (d)4- If any sums are remaining, the department shall
1531 retain them for its use in the same manner as is otherwise
1532 authorized by this act; provided, however, that if the
1533 certification application is withdrawn, the remaining sums shall
1534 be refunded to the applicant within 90 days after withdrawal.

1535 (3) (a)-(e) A certification modification fee, which shall
1536 not exceed \$30,000. The department shall establish rules for
1537 determining such a fee based on the equipment redesign, change
1538 in site size, type, increase in generating capacity proposed, or
1539 change in an associated linear facility location.

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1540 **(b)** The fee shall be submitted to the department with a
1541 ~~formal~~ petition for modification ~~to the department~~ pursuant to
1542 s. 403.516. This fee shall be established, disbursed, and
1543 processed in the same manner as the application fee in
1544 subsection (2) paragraph (b), except that the Division of
1545 Administrative Hearings shall not receive a portion of the fee
1546 unless the petition for certification modification is referred
1547 to the Division of Administrative Hearings for hearing. If the
1548 petition is so referred, only \$10,000 of the fee shall be
1549 transferred to the Administrative Trust Fund of the Division of
1550 Administrative Hearings of the Department of Management
1551 Services. ~~The fee for a modification by agreement filed pursuant~~
1552 ~~to s. 403.516(1)(b) shall be \$10,000 to be paid upon the filing~~
1553 ~~of the request for modification. Any sums remaining after~~
1554 ~~payment of authorized costs shall be refunded to the applicant~~
1555 ~~within 90 days of issuance or denial of the modification or~~
1556 ~~withdrawal of the request for modification.~~

1557 **(4)(d)** A supplemental application fee, not to exceed
1558 \$75,000, to cover all reasonable expenses and costs of the
1559 review, processing, and proceedings of a supplemental
1560 application. This fee shall be established, disbursed, and
1561 processed in the same manner as the certification application
1562 fee in subsection (2) paragraph (b), ~~except that only \$20,000 of~~
1563 ~~the fee shall be transferred to the Administrative Trust Fund of~~
1564 ~~the Division of Administrative Hearings of the Department of~~
1565 ~~Management Services.~~

1566 **(5)(e)** An existing site certification application fee, not
1567 to exceed \$200,000, to cover all reasonable costs and expenses
1568 of the review processing and proceedings for certification of an

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1569 existing power plant site under s. 403.5175. This fee must be
1570 established, disbursed, and processed in the same manner as the
1571 certification application fee in subsection (2) paragraph (b).

1572 ~~(2) Effective upon the date commercial operation begins,~~
1573 ~~the operator of an electrical power plant certified under this~~
1574 ~~part is required to pay to the department an annual operation~~
1575 ~~license fee as specified in s. 403.0872(11) to be deposited in~~
1576 ~~the Air Pollution Control Trust Fund.~~

1577 Section 23. Any application for electrical power plant
1578 certification filed pursuant to ss. 403.501-403.518, Florida
1579 Statutes, shall be processed under the provisions of the law
1580 applicable at the time the application was filed, except that
1581 the provisions relating to cancellation of the certification
1582 hearing under s. 403.508(6), Florida Statutes, the provisions
1583 relating to the final disposition of the application and
1584 issuance of the written order by the secretary under s.
1585 403.509(1)(a), Florida Statutes, and notice of the cancellation
1586 of the certification hearing under s. 403.5115, Florida
1587 Statutes, may apply to any application for electrical power
1588 plant certification.

1589 Section 24. Section 403.519, Florida Statutes, is amended
1590 to read:

1591 403.519 Exclusive forum for determination of need.--

1592 (1) On request by an applicant or on its own motion, the
1593 commission shall begin a proceeding to determine the need for an
1594 electrical power plant subject to the Florida Electrical Power
1595 Plant Siting Act.

1596 (2) The applicant ~~commission~~ shall publish a notice of the
1597 proceeding in a newspaper of general circulation in each county
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1598 in which the proposed electrical power plant will be located.
1599 The notice shall be at least one-quarter of a page and published
1600 at least 21 ~~45~~ days prior to the scheduled date for the
1601 proceeding. The commission shall publish notice of the
1602 proceeding in the manner specified by chapter 120 at least 21
1603 days prior to the scheduled date for the proceeding.

1604 (3) The commission shall be the sole forum for the
1605 determination of this matter, which accordingly shall not be
1606 raised in any other forum or in the review of proceedings in
1607 such other forum. In making its determination, the commission
1608 shall take into account the need for electric system reliability
1609 and integrity, the need for adequate electricity at a reasonable
1610 cost, the need for fuel diversity and supply reliability, and
1611 whether the proposed plant is the most cost-effective
1612 alternative available. The commission shall also expressly
1613 consider the conservation measures taken by or reasonably
1614 available to the applicant or its members which might mitigate
1615 the need for the proposed plant and other matters within its
1616 jurisdiction which it deems relevant. The commission's
1617 determination of need for an electrical power plant shall create
1618 a presumption of public need and necessity and shall serve as
1619 the commission's report required by s. 403.507(4)
1620 ~~403.507(2)(a)2~~. An order entered pursuant to this section
1621 constitutes final agency action.

1622 (4) In making its determination on a proposed electrical
1623 power plant using nuclear materials as fuel, the commission
1624 shall hold a hearing within 90 days after the filing of the
1625 petition to determine need and shall issue an order granting or
1626 denying the petition within 135 days after the date of the

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1627 filing of the petition. The commission shall be the sole forum
1628 for the determination of this matter and the issues addressed in
1629 the petition, which accordingly shall not be reviewed in any
1630 other forum, or in the review of proceedings in such other
1631 forum. In making its determination to either grant or deny the
1632 petition, the commission shall consider the need for electric
1633 system reliability and integrity, including fuel diversity, the
1634 need for base-load generating capacity, and the need for
1635 adequate electricity at a reasonable cost.

1636 (a) The applicant's petition shall include:

1637 1. A description of the need for the generation capacity.

1638 2. A description of how the proposed nuclear power plant
1639 will enhance the reliability of electric power production within
1640 the state by improving the balance of power plant fuel diversity
1641 and reducing Florida's dependence on fuel oil and natural gas.

1642 3. A description of and a nonbinding estimate of the cost
1643 of the nuclear power plant.

1644 4. The annualized base revenue requirement for the first
1645 12 months of operation of the nuclear power plant.

1646 5. Information on whether there were any discussions with
1647 any electric utilities regarding ownership of a portion of the
1648 plant by such electric utilities.

1649 (b) In making its determination, the commission shall take
1650 into account matters within its jurisdiction, which it deems
1651 relevant, including whether the nuclear power plant will:

1652 1. Provide needed base-load capacity.

1653 2. Enhance the reliability of electric power production
1654 within the state by improving the balance of power plant fuel

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1655 diversity and reducing Florida's dependence on fuel oil and
1656 natural gas.

1657 3. Provide the most cost-effective source of power, taking
1658 into account the need to improve the balance of fuel diversity,
1659 reduce Florida's dependence on fuel oil and natural gas, reduce
1660 air emission compliance costs, and contribute to the long-term
1661 stability and reliability of the electric grid.

1662 (c) No provision of rule 25-22.082, Florida Administrative
1663 Code, shall be applicable to a nuclear power plant sited under
1664 this act, including provisions for cost recovery, and an
1665 applicant shall not otherwise be required to secure competitive
1666 proposals for power supply prior to making application under
1667 this act or receiving a determination of need from the
1668 commission.

1669 (d) The commission's determination of need for a nuclear
1670 power plant shall create a presumption of public need and
1671 necessity and shall serve as the commission's report required by
1672 s. 403.507(4) (a). An order entered pursuant to this section
1673 constitutes final agency action. Any petition for
1674 reconsideration of a final order on a petition for need
1675 determination shall be filed within 5 days after the date of
1676 such order. The commission's final order, including any order on
1677 reconsideration, shall be reviewable on appeal in the Florida
1678 Supreme Court. Inasmuch as delay in the determination of need
1679 will delay siting of a nuclear power plant or diminish the
1680 opportunity for savings to customers under the federal Energy
1681 Policy Act of 2005, the Supreme Court shall proceed to hear and
1682 determine the action as expeditiously as practicable and give

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1683 the action precedence over matters not accorded similar
1684 precedence by law.

1685 (e) After a petition for determination of need for a
1686 nuclear power plant has been granted, the right of a utility to
1687 recover any costs incurred prior to commercial operation,
1688 including, but not limited to, costs associated with the siting,
1689 design, licensing, or construction of the plant, shall not be
1690 subject to challenge unless and only to the extent the
1691 commission finds, based on a preponderance of the evidence
1692 adduced at a hearing before the commission under s. 120.57, that
1693 certain costs were imprudently incurred. Proceeding with the
1694 construction of the nuclear power plant following an order by
1695 the commission approving the need for the nuclear power plant
1696 under this act shall not constitute or be evidence of
1697 imprudence. Imprudence shall not include any cost increases due
1698 to events beyond the utility's control. Further, a utility's
1699 right to recover costs associated with a nuclear power plant may
1700 not be raised in any other forum or in the review of proceedings
1701 in such other forum. Costs incurred prior to commercial
1702 operation shall be recovered pursuant to chapter 366.

1703 Section 25. Section 366.93, Florida Statutes, is created
1704 to read:

1705 366.93 Cost recovery for the siting, design, licensing,
1706 and construction of nuclear power plants.--

1707 (1) As used in this section, the term:

1708 (a) "Cost" includes, but is not limited to, all capital
1709 investments, including rate of return, any applicable taxes, and
1710 all expenses, including operation and maintenance expenses,

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1711 related to or resulting from the siting, licensing, design,
1712 construction, or operation of the nuclear power plant.

1713 (b) "Electric utility" or "utility" has the same meaning
1714 as that provided in s. 366.8255(1) (a).

1715 (c) "Nuclear power plant" or "plant" is an electrical
1716 power plant as defined in s. 403.503(13) that uses nuclear
1717 materials for fuel.

1718 (d) "Preconstruction" is that period of time after a site
1719 has been selected through and including the date the utility
1720 completes site clearing work. Preconstruction costs shall be
1721 afforded deferred accounting treatment and shall accrue a
1722 carrying charge equal to the utility's allowance for funds
1723 during construction (AFUDC) rate until recovered in rates.

1724 (2) Within 6 months after the enactment of this act, the
1725 commission shall establish, by rule, alternative cost recovery
1726 mechanisms for the recovery of costs incurred in the siting,
1727 design, licensing, and construction of a nuclear power plant.
1728 Such mechanisms shall be designed to promote utility investment
1729 in nuclear power plants and allow for the recovery in rates all
1730 prudently incurred costs, and shall include, but are not limited
1731 to:

1732 (a) Recovery through the capacity cost recovery clause of
1733 any preconstruction costs.

1734 (b) Recovery through an incremental increase in the
1735 utility's capacity cost recovery clause rates of the carrying
1736 costs on the utility's projected construction cost balance
1737 associated with the nuclear power plant. To encourage investment
1738 and provide certainty, for nuclear power plant need petitions
1739 submitted on or before December 31, 2010, associated carrying

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1740 costs shall be equal to the pretax AFUDC in effect upon this act
1741 becoming law. For nuclear power plants for which need petitions
1742 are submitted after December 31, 2010, the utility's existing
1743 pretax AFUDC rate is presumed to be appropriate unless
1744 determined otherwise by the commission in the determination of
1745 need for the nuclear power plant.

1746 (3) After a petition for determination of need is granted,
1747 a utility may petition the commission for cost recovery as
1748 permitted by this section and commission rules.

1749 (4) When the nuclear power plant is placed in commercial
1750 service, the utility shall be allowed to increase its base rate
1751 charges by the projected annual revenue requirements of the
1752 nuclear power plant based on the jurisdictional annual revenue
1753 requirements of the plant for the first 12 months of operation.
1754 The rate of return on capital investments shall be calculated
1755 using the utility's rate of return last approved by the
1756 commission prior to the commercial inservice date of the nuclear
1757 power plant. If any existing generating plant is retired as a
1758 result of operation of the nuclear power plant, the commission
1759 shall allow for the recovery, through an increase in base rate
1760 charges, of the net book value of the retired plant over a
1761 period not to exceed 5 years.

1762 (5) The utility shall report to the commission annually
1763 the budgeted and actual costs as compared to the estimated
1764 inservice cost of the nuclear power plant provided by the
1765 utility pursuant to s. 403.519(4), until the commercial
1766 operation of the nuclear power plant. The utility shall provide
1767 such information on an annual basis following the final order by
1768 the commission approving the determination of need for the

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1769 nuclear power plant, with the understanding that some costs may
1770 be higher than estimated and other costs may be lower.

1771 (6) In the event the utility elects not to complete or is
1772 precluded from completing construction of the nuclear power
1773 plant, the utility shall be allowed to recover all prudent
1774 preconstruction and construction costs incurred following the
1775 commission's issuance of a final order granting a determination
1776 of need for the nuclear power plant. The utility shall recover
1777 such costs through the capacity cost recovery clause over a
1778 period equal to the period during which the costs were incurred
1779 or 5 years, whichever is greater. The unrecovered balance during
1780 the recovery period will accrue interest at the utility's
1781 weighted average cost of capital as reported in the commission's
1782 earnings surveillance reporting requirement for the prior year.

1783 Section 26. Paragraphs (a) and (b) of subsection (2),
1784 subsection (3), and subsection (5) of section 350.01, Florida
1785 Statutes, are amended to read:

1786 350.01 Florida Public Service Commission; terms of
1787 commissioners; vacancies; election and duties of chair; quorum;
1788 proceedings.--

1789 (2) (a) Each commissioner serving on July 1, 1978, shall be
1790 permitted to remain in office until the completion of his or her
1791 current term. Upon the expiration of the term, a successor shall
1792 be appointed in the manner prescribed by s. 350.031(5), (6), ~~(3)~~
1793 and (7) ~~(4)~~ for a 4-year term, except that the terms of the
1794 initial members appointed under this act shall be as follows:

1795 1. The vacancy created by the present term ending in
1796 January, 1981, shall be filled by appointment for a 4-year term
1797 and for 4-year terms thereafter; and

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1798 2. The vacancies created by the two present terms ending
1799 in January, 1979, shall be filled by appointment for a 3-year
1800 term and for 4-year terms thereafter.

1801 (b) Two additional commissioners shall be appointed in the
1802 manner prescribed by s. 350.031(5), (6), ~~(3)~~ and (7) ~~(4)~~ for 4-
1803 year terms beginning the first Tuesday after the first Monday in
1804 January, 1979, and successors shall be appointed for 4-year
1805 terms thereafter with each term beginning on January 2 of the
1806 year the term commences and ending 4 years later on January 1.

1807 (3) Any person serving on the commission who seeks to be
1808 appointed or reappointed shall file with the nominating council
1809 at least 210 ~~180~~ days before the expiration of his or her term a
1810 statement that he or she desires to serve an additional term.

1811
1812
1813 ===== T I T L E A M E N D M E N T =====

1814 Remove the entire title and insert:

1815 A bill to be entitled

1816 An act relating to the Public Service Commission; amending
1817 s. 403.503, F.S.; revising and providing definitions
1818 applicable to the Florida Electrical Power Plant Siting
1819 Act; amending s. 403.504, F.S.; providing the Department
1820 of Environmental Protection with additional powers and
1821 duties relating to the Florida Electrical Power Plant
1822 Siting Act; amending s. 403.5055, F.S.; revising
1823 provisions for certain permits associated with
1824 applications for electrical power plant certification;
1825 amending s. 403.506, F.S.; revising provisions relating to
1826 applicability and certification of certain power plants;

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1827 | amending s. 403.5064, F.S.; revising provisions for
1828 | distribution of applications and schedules relating to
1829 | certification; amending s. 403.5065, F.S.; revising
1830 | provisions relating to the appointment of administrative
1831 | law judges and specifying their powers and duties;
1832 | amending s. 403.5066, F.S.; revising provisions relating
1833 | to the determination of completeness for certain
1834 | applications; creating s. 403.50663, F.S.; authorizing
1835 | certain local governments and regional planning councils
1836 | to hold an informational public meeting about a proposed
1837 | electrical power plant or associated facilities; providing
1838 | requirements and procedures therefor; creating s.
1839 | 403.50665, F.S.; requiring local governments to file
1840 | certain land use determinations; providing requirements
1841 | and procedures therefor; repealing s. 403.5067, F.S.,
1842 | relating to the determination of sufficiency for certain
1843 | applications; amending s. 403.507, F.S.; revising required
1844 | preliminary statement provisions for affected agencies;
1845 | requiring a report as a condition precedent to the project
1846 | analysis and certification hearing; amending s. 403.508,
1847 | F.S.; revising provisions relating to land use and
1848 | certification hearings, including cancellation and
1849 | responsibility for payment of expenses and costs;
1850 | requiring certain notice; amending s. 403.509, F.S.;
1851 | revising provisions relating to the final disposition of
1852 | certain applications; providing requirements and
1853 | provisions with respect thereto; amending s. 403.511,
1854 | F.S.; revising provisions relating to the effect of
1855 | certification for the construction and operation of

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1856 proposed electrical power plants; providing that issuance
1857 of certification meets certain coastal zone consistency
1858 requirements; creating s. 403.5112, F.S.; requiring filing
1859 of notice for certified corridor routes; providing
1860 requirements and procedures with respect thereto; creating
1861 s. 403.5113, F.S.; authorizing postcertification
1862 amendments for power plant site certification
1863 applications; providing requirements and procedures with
1864 respect thereto; amending s. 403.5115, F.S.; requiring
1865 certain public notice for activities relating to
1866 electrical power plant site application, certification,
1867 and land use determination; providing requirements and
1868 procedures with respect thereto; directing the Department
1869 of Environmental Protection to maintain certain lists and
1870 provide copies of certain publications; amending s.
1871 403.513, F.S.; revising provisions for judicial review of
1872 appeals relating to electrical power plant site
1873 certification; amending s. 403.516, F.S.; revising
1874 provisions relating to modification of certification for
1875 electrical power plant sites; amending s. 403.517, F.S.;
1876 revising provisions relating to supplemental applications
1877 for sites certified for ultimate site capacity; amending
1878 s. 403.5175, F.S.; revising provisions relating to
1879 existing electrical power plant site certification;
1880 revising the procedure for reviewing and processing
1881 applications; requiring additional information to be
1882 included in certain applications; amending s. 403.518,
1883 F.S.; revising the allocation of proceeds from certain
1884 fees collected; providing for reimbursement of certain

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1885 expenses; directing the Department of Environmental
1886 Protection to establish rules for determination of certain
1887 fees; eliminating certain operational license fees;
1888 providing for the application, processing, approval, and
1889 cancellation of electrical power plant certification;
1890 amending s. 403.519, F.S.; directing the Public Service
1891 Commission to consider fuel diversity and reliability in
1892 certain determinations; providing requirements and
1893 procedures for determination of need for certain power
1894 plants; providing an exemption from purchased power supply
1895 bid rules under certain circumstances; creating s. 366.93,
1896 F.S.; providing definitions; requiring the Public Service
1897 Commission to implement rules related to nuclear power
1898 plant cost recovery; requiring a report; amending s.
1899 350.01, F.S.; correcting cross-references; revising
1900 provisions for terms of commissioners on the Public
1901 Service Commission; revising a reference to the office of
1902 hearing examiners; amending s. 350.011, F.S.; deleting
1903 obsolete provisions relating to a transfer of certain
1904 functions and duties to the Public Service Commission;
1905 amending s. 350.012, F.S.; removing a provision for
1906 governance of the Committee on Public Service Commission
1907 Oversight; repealing s. 350.051, F.S., relating to
1908 qualifications of the Chief Auditor of the commission;
1909 amending s. 350.06, F.S.; deleting certain provisions
1910 relating to the employment of reporters and furnishing of
1911 transcripts by the commission; revising provisions for the
1912 collection and accounting of fees for furnishing
1913 transcripts and other documents or instruments; amending

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1914 s. 350.113, F.S.; removing limits on the amount of certain
1915 regulatory fees; amending s. 350.117, F.S.; removing an
1916 exception for railroads from certain audits by the
1917 commission; repealing s. 350.80, F.S., relating to
1918 regulation of certain coal slurry pipeline companies;
1919 amending s. 361.08, F.S.; removing a provision for
1920 consideration by the court of certain findings by the
1921 commission relating to coal slurry pipeline companies, to
1922 conform to changes made by the act; providing an effective
1923 date.