

Bill No. CS for SB 888

Barcode 312076

CHAMBER ACTION

Senate

House

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The Committee on Environmental Preservation (Constantine)  
recommended the following amendment:

**Senate Amendment (with title amendment)**

On page 44, line 7, through  
page 94, line 2, delete those lines

and insert:

Section 19. Subsections (5), (8), (9), (12), (18),  
(24), and (27) of section 403.503, Florida Statutes, are  
amended, subsections (16) through (28) are renumbered as (17)  
through (29), respectively, and new subsection (16) is added  
to that section, to read:

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

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

1 ~~any permit required pursuant to any federally delegated or~~  
2 ~~approved permit program.~~

3 (8) "Completeness" means that the application has  
4 addressed all applicable sections of the prescribed  
5 application format, and ~~but does not mean~~ that those sections  
6 are sufficient in comprehensiveness of data or in quality of  
7 information provided to allow the department to determine  
8 whether the application provides the reviewing agencies  
9 adequate information to prepare the reports required by s.  
10 403.507.

11 (9) "Corridor" means the proposed area within which an  
12 associated linear facility right-of-way is to be located. The  
13 width of the corridor proposed for certification as an  
14 associated facility, at the option of the applicant, may be  
15 the width of the right-of-way or a wider boundary, not to  
16 exceed a width of 1 mile. The area within the corridor in  
17 which a right-of-way may be located may be further restricted  
18 by a condition of certification. After all property interests  
19 required for the right-of-way have been acquired by the  
20 applicant, the boundaries of the area certified shall narrow  
21 to only that land within the boundaries of the right-of-way.

22 (12) "Electrical power plant" means, for the purpose  
23 of certification, any steam or solar electrical generating  
24 facility using any process or fuel, including nuclear  
25 materials, except that this term does not include any steam or  
26 solar electric generating facility of less than 75 megawatts  
27 in capacity unless the applicant for such a facility elects to  
28 apply for certification under this act. This term ~~and~~ includes  
29 associated facilities to be owned by the licensee which  
30 directly support the construction and operation of the  
31 electrical power plant such as fuel unloading facilities,

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1 pipelines necessary for transporting fuel for the operation of  
2 the facility or other fuel transportation facilities, water or  
3 wastewater transport pipelines, construction, maintenance and  
4 access roads, railway lines necessary for transport of  
5 construction equipment or fuel for the operation of the  
6 facility, and those associated transmission lines owned by the  
7 licensee which connect the electrical power plant to an  
8 existing transmission network or rights-of-way to which the  
9 applicant intends to connect, ~~except that this term does not~~  
10 ~~include any steam or solar electrical generating facility of~~  
11 ~~less than 75 megawatts in capacity unless the applicant for~~  
12 ~~such a facility elects to apply for certification under this~~  
13 ~~act.~~ Associated facilities ~~An associated transmission line~~ may  
14 include, at the applicant's option, offsite associated  
15 facilities that will not be owned by the applicant and any  
16 proposed terminal or intermediate substations or substation  
17 expansions connected to the associated transmission line.

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

20       (19)(18) "Nonprocedural requirements of agencies"  
21 means any agency's regulatory requirements established by  
22 statute, rule, ordinance, zoning ordinance, land development  
23 code, or comprehensive plan, excluding any provisions  
24 prescribing forms, fees, procedures, or time limits for the  
25 review or processing of information submitted to demonstrate  
26 compliance with such regulatory requirements.

27       (25)(24) "Right-of-way" means land necessary for the  
28 construction and maintenance of a connected associated linear  
29 facility, such as a railroad line, pipeline, or transmission  
30 line as owned by or proposed to be certified by the applicant.

31 The typical width of the right-of-way shall be identified in

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1 the application. The right-of-way shall be located within the  
2 certified corridor and shall be identified by the applicant  
3 subsequent to certification in documents filed with the  
4 department prior to construction.

5 ~~(28)(27)~~ "Ultimate site capacity" means the maximum  
6 generating capacity for a site as certified by the board.

7 ~~"Sufficiency" means that the application is not only complete~~  
8 ~~but that all sections are sufficient in the comprehensiveness~~  
9 ~~of data or in the quality of information provided to allow the~~  
10 ~~department to determine whether the application provides the~~  
11 ~~reviewing agencies adequate information to prepare the reports~~  
12 ~~required by s. 403.507.~~

13 Section 20. Subsections (1), (7), (9), and (10) of  
14 section 403.504, Florida Statutes, are amended, and new  
15 subsections (9), (10), (11), and (12) are added to that  
16 section, to read:

17 403.504 Department of Environmental Protection; powers  
18 and duties enumerated.--The department shall have the  
19 following powers and duties in relation to this act:

20 (1) To adopt rules pursuant to ss. 120.536(1) and  
21 120.54 to implement the provisions of this act, including  
22 rules setting forth environmental precautions to be followed  
23 in relation to the location, construction, and operation of  
24 electrical power plants.

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

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

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

31 (11) To administer and manage the terms and conditions

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1 of the certification order and supporting documents and  
2 records for the life of the facility.

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

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

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

10 Section 21. Section 403.5055, Florida Statutes, is  
11 amended to read:

12 403.5055 Application for permits pursuant to s.  
13 403.0885.--In processing applications for permits pursuant to  
14 s. 403.0885 that are associated with applications for  
15 electrical power plant certification:

16 (1) The procedural requirements set forth in 40 C.F.R.  
17 s. 123.25, including public notice, public comments, and  
18 public hearings, shall be closely coordinated with the  
19 certification process established under this part. In the  
20 event of a conflict between the certification process and  
21 federally required procedures for NPDES permit issuance, the  
22 applicable federal requirements shall control.

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

30 (2)(3) If available at the time the department issues  
31 its project analysis under s. 403.507(3), the department shall

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1 include in its written project analysis ~~pursuant to s.~~  
2 ~~403.507(3)~~ copies of the department's proposed action pursuant  
3 to 40 C.F.R. s. 124.6 on any application for a NPDES permit;  
4 any corresponding comments received from the United States  
5 Environmental Protection Agency, the applicant, or the general  
6 public; and the department's response to those comments.

7       ~~(3)(4)~~ The department shall not issue or deny the  
8 permit pursuant to s. 403.0885 in advance of the issuance of  
9 the electric power plant certification under this part unless  
10 required to do so by the provisions of federal law. When  
11 possible, any hearing on a permit issued pursuant to s.  
12 403.0885, shall be conducted in conjunction with the  
13 certification hearing held pursuant to this act. The  
14 department's actions on an NPDES permit shall be based on the  
15 record and recommended order of the certification hearing, if  
16 the hearing on the NPDES was conducted in conjunction with the  
17 certification hearing, and of any other proceeding held in  
18 connection with the application for an NPDES permit, timely  
19 public comments received with respect to the application, and  
20 the provisions of federal law. The department's action on an  
21 NPDES permit, if issued, shall differ from the actions taken  
22 by the siting board regarding the certification order if  
23 federal laws and regulations require different action to be  
24 taken to ensure compliance with the Clean Water Act, as  
25 amended, and implementing regulations. Nothing in this part  
26 shall be construed to displace the department's authority as  
27 the final permitting entity under the federally approved state  
28 NPDES program. Nothing in this part shall be construed to  
29 authorize the issuance of a state NPDES permit which does not  
30 conform to the requirements of the federally approved state  
31 NPDES program. ~~The permit, if issued, shall be valid for no~~

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1 ~~more than 5 years.~~

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

8           Section 22. Section 403.506, Florida Statutes, is  
9 amended to read:

10           403.506 Applicability, thresholds, and  
11 certification.--

12           (1) The provisions of this act shall apply to any  
13 electrical power plant as defined herein, except that the  
14 provisions of this act shall not apply to any electrical power  
15 plant or steam generating plant of less than 75 megawatts in  
16 capacity or to any substation to be constructed as part of an  
17 associated transmission line unless the applicant has elected  
18 to apply for certification of such plant or substation under  
19 this act. The provisions of this act do not apply to any unit  
20 capacity extension of 35 megawatts or less of an existing  
21 exothermic reactor cogeneration unit that was exempt from this  
22 act when the unit was originally built. However, this  
23 exemption does not apply if the unit uses oil or natural gas  
24 for purposes other than to start the unit. No construction of  
25 any new electrical power plant or expansion in steam  
26 generating capacity as measured by an increase in the maximum  
27 electrical generator rating of any existing electrical power  
28 plant may be undertaken after October 1, 1973, without first  
29 obtaining certification in the manner as herein provided,  
30 except that this act shall not apply to any such electrical  
31 power plant which is presently operating or under construction

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1 or which has, upon the effective date of chapter 73-33, Laws  
2 of Florida, applied for a permit or certification under  
3 requirements in force prior to the effective date of such act.

4 (2) Except as provided in the certification,  
5 modification of nonnuclear fuels, internal related hardware,  
6 including increases in steam turbine efficiency, or operating  
7 conditions not in conflict with certification which increase  
8 the electrical output of a unit to no greater capacity than  
9 the maximum electrical generator rating ~~operating capacity~~ of  
10 the existing generator shall not constitute an alteration or  
11 addition to generating capacity which requires certification  
12 pursuant to this act.

13 ~~(3) The application for any related department license~~  
14 ~~which is required pursuant to any federally delegated or~~  
15 ~~approved permit program shall be processed within the time~~  
16 ~~periods allowed by this act, in lieu of those specified in s.~~  
17 ~~120.60. However, permits issued pursuant to s. 403.0885 shall~~  
18 ~~be processed in accordance with 40 C.F.R. part 123.~~

19 Section 23. Section 403.5064, Florida Statutes, is  
20 amended to read:

21 403.5064 Application ~~Distribution of application;~~  
22 schedules.--

23 (1) The formal date of certification application  
24 filing and commencement of the certification review process  
25 shall be when the applicant submits:

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

29 (b) The application fee specified under s. 403.518 to  
30 the department.

31 (2)~~(1)~~ Within 7 days after the filing of an



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1 application, the department shall provide to the applicant and  
 2 the Division of Administrative Hearings the names and  
 3 addresses of any additional ~~those affected or other~~ agencies  
 4 or persons entitled to notice and copies of the application  
 5 and any amendments. Copies of the application shall be  
 6 distributed within 5 days by the applicant to those additional  
 7 agencies. This distribution may not be the basis for altering  
 8 the schedule of dates for the certification process.

9       (3) Any amendment to the application made prior to  
 10 certification shall be disposed of as part of the original  
 11 certification proceeding. Amendment of the application may be  
 12 considered good cause for alteration of time limits pursuant  
 13 to s. 403.5095.

14       (4)(2) Within 7 days after the application filing  
 15 ~~completeness has been determined~~, the department shall prepare  
 16 a proposed schedule of dates for determination of  
 17 completeness, submission of statements of issues,  
 18 ~~determination of sufficiency, and submittal of final reports,~~  
 19 ~~from affected and other agencies~~ and other significant dates  
 20 to be followed during the certification process, including  
 21 dates for filing notices of appearance to be a party pursuant  
 22 to s. 403.508(3)(4). This schedule shall be timely provided by  
 23 the department to the applicant, the administrative law judge,  
 24 all agencies identified pursuant to subsection(2) ~~(1)~~, and  
 25 all parties. Within 7 days after the filing of this proposed  
 26 schedule, the administrative law judge shall issue an order  
 27 establishing a schedule for the matters addressed in the  
 28 department's proposed schedule and other appropriate matters,  
 29 if any.

30       (5)(3) Within 7 days after completeness has been  
 31 ~~determined, the applicant shall distribute copies of the~~

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1 ~~application to all agencies identified by the department~~  
 2 ~~pursuant to subsection (1)~~. Copies of changes and amendments  
 3 to the application shall be timely distributed by the  
 4 applicant to all ~~affected~~ agencies and parties who have  
 5 received a copy of the application.

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

8 Section 24. Section 403.5065, Florida Statutes, is  
 9 amended to read:

10 403.5065 Appointment of administrative law judge,  
 11 powers and duties.--

12 (1) Within 7 days after receipt of an application,  
 13 ~~whether complete or not,~~ the department shall request the  
 14 Division of Administrative Hearings to designate an  
 15 administrative law judge to conduct the hearings required by  
 16 this act. The division director shall designate an  
 17 administrative law judge within 7 days after receipt of the  
 18 request from the department. In designating an administrative  
 19 law judge for this purpose, the division director shall,  
 20 whenever practicable, assign an administrative law judge who  
 21 has had prior experience or training in electrical power plant  
 22 site certification proceedings. Upon being advised that an  
 23 administrative law judge has been appointed, the department  
 24 shall immediately file a copy of the application and all  
 25 supporting documents with the designated administrative law  
 26 judge, who shall docket the application.

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

30 Section 25. Section 403.5066, Florida Statutes, is  
 31 amended to read:

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1 403.5066 Determination of completeness.--

2 (1)(a) Within 30 days after filing of an application,  
3 the affected agencies shall file a statement with the  
4 department containing each agency's recommendations on the  
5 completeness of the application.

6 (b) Within 40 15 days after the filing receipt of an  
7 application, the department shall file a statement with the  
8 Division of Administrative Hearings, and with the applicant,  
9 and with all parties declaring its position with regard to the  
10 completeness, not the sufficiency, of the application. The  
11 department's statement shall be based upon consultation with  
12 the affected agencies.

13 (2)(1) If the department declares the application to  
14 be incomplete, the applicant, within 15 days after the filing  
15 of the statement by the department, shall file with the  
16 Division of Administrative Hearings, and with the department,  
17 and all parties a statement:

18 (a) A withdrawal of Agreeing with the statement of the  
19 department and withdrawing the application;

20 (b) A statement agreeing to supply the additional  
21 information necessary to make the application complete. Such  
22 additional information shall be provided within 30 days after  
23 issuance of the department's statement concerning the  
24 completeness of the application. The time schedules under this  
25 act may not be tolled if the applicant makes the application  
26 complete within 30 days after issuance of the department's  
27 statement concerning the completeness of the application. A  
28 subsequent finding by the department that the application  
29 remains incomplete based upon additional information submitted  
30 by the applicant, or based on the failure of the applicant to  
31 timely submit the additional information, tolls the time

1 schedules under this act until the application is determined  
 2 complete; ~~Agreeing with the statement of the department and~~  
 3 ~~agreeing to amend the application without withdrawing it. The~~  
 4 ~~time schedules referencing a complete application under this~~  
 5 ~~act shall not commence until the application is determined~~  
 6 ~~complete; or~~

7           (c) A statement contesting the department's  
 8 determination of incompleteness; or ~~contesting the statement~~  
 9 ~~of the department.~~

10           (d) A statement agreeing with the department and  
 11 requesting additional time beyond 30 days to provide the  
 12 information necessary to make the application complete. If the  
 13 applicant exercises this option, the time schedules under this  
 14 act are tolled until the application is determined complete.

15           ~~(3)(a)(2)~~ If the applicant contests the determination  
 16 by the department that an application is incomplete, the  
 17 administrative law judge shall schedule a hearing on the  
 18 statement of completeness. The hearing shall be held as  
 19 expeditiously as possible, but not later than 21 ~~30~~ days after  
 20 the filing of the statement by the department. The  
 21 administrative law judge shall render a decision within 7 ~~10~~  
 22 days after the hearing.

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

26           ~~(c)(a)~~ If the administrative law judge determines that  
 27 the application was not complete ~~as filed~~, the applicant shall  
 28 withdraw the application or make such additional submittals as  
 29 necessary to complete it. The time schedules referencing a  
 30 complete application under this act shall not commence until  
 31 the application is determined complete.

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1           ~~(d)(b)~~ If the administrative law judge determines that  
2 the application was complete at the time it was declared  
3 incomplete filed, the time schedules referencing a complete  
4 application under this act shall commence upon such  
5 determination.

6           (4) If the applicant provides additional information  
7 to address the issues identified in the determination of  
8 incompleteness, each affected agency may submit to the  
9 department, no later than 15 days after the applicant files  
10 the additional information, a recommendation on whether the  
11 agency believes the application is complete. Within 22 days  
12 after receipt of the additional information from the applicant  
13 submitted under paragraph (2)(b), paragraph (2)(d), or  
14 paragraph (3)(c), the department shall determine whether the  
15 additional information supplied by an applicant makes the  
16 application complete. If the department finds that the  
17 application is still incomplete, the applicant may exercise  
18 any of the options specified in subsection (2) as often as is  
19 necessary to resolve the dispute.

20           Section 26. Section 403.50663, Florida Statutes, is  
21 created to read:

22           403.50663 Informational public meetings.--

23           (1) A local government within whose jurisdiction the  
24 power plant is proposed to be sited, may hold one  
25 informational public meeting in addition to the hearings  
26 specifically authorized by this act on any matter associated  
27 with the electric power plant proceeding. Such informational  
28 public meetings shall be held by the local government, or the  
29 regional planning council, if the local government does not  
30 hold such a meeting within 70 days after the filing of the  
31 application. The purpose of an informational public meeting is

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1 for the local government or regional planning council to  
 2 further inform the public about the proposed electric power  
 3 plant or associated facilities, obtain comments from the  
 4 public, and formulate its recommendation with respect to the  
 5 proposed electric power plant.

6 (2) Informational public meetings shall be held solely  
 7 at the option of each local government or regional planning  
 8 council if a public meeting is not conducted by the local  
 9 government. It is the legislative intent that local  
 10 governments or regional planning councils attempt to hold such  
 11 public meetings. Parties to the proceedings under this act  
 12 shall be encouraged to attend; however, no party other than  
 13 the applicant and the department shall be required to attend  
 14 such informational public meetings.

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

19 (4) The failure to hold an informational public  
 20 meeting or the procedure used for the informational public  
 21 meeting are not grounds for the alteration of any time  
 22 limitation in this act under s. 403.5095 or grounds to deny or  
 23 condition certification.

24 Section 27. Section 403.50665, Florida Statutes, is  
 25 created to read:

26 403.50665 Land use consistency.--

27 (1) The applicant shall include with the application a  
 28 statement concerning the consistency of the site or any  
 29 directly associated facilities with existing land use plans  
 30 and zoning ordinances that were in effect on the date the  
 31 application was filed, and a full description of such

1 consistency.

2       (2) Within 80 days after the application is filed,  
3 each local government shall file a determination with the  
4 department, the applicant, the administrative law judge, and  
5 all parties on the consistency of the site or any directly  
6 associated facilities with existing land use plans and zoning  
7 ordinances that were in effect on the date the application was  
8 filed based on the information in the application. The  
9 applicant shall publish notice of the determination in  
10 accordance with the requirements of s. 403.5115.

11       (3) If any substantially affected person wishes to  
12 dispute the local government's determination, he or she shall  
13 file a petition with the department within 15 days after the  
14 publication of notice of the local government's determination.  
15 If a hearing is requested, the provisions of s. 403.508(1)  
16 shall apply.

17       (4) The time periods in this section may be altered  
18 upon an agreement between the applicant, the local government,  
19 and the department under s. 403.5095.

20       (5) If it is determined by the local government that  
21 the proposed site or directly associated facility does conform  
22 with existing land use plans and zoning ordinances in effect  
23 as of the date of the application and no petition has been  
24 filed, the responsible zoning or planning authority shall not  
25 thereafter change such land use plans or zoning ordinances so  
26 as to foreclose construction and operation of the proposed  
27 site or directly associated facilities unless certification is  
28 subsequently denied or withdrawn.

29       Section 28. Section 403.5067, Florida Statutes, is  
30 repealed.

31       Section 29. Section 403.507, Florida Statutes, is

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1 amended to read:

2 403.507 Preliminary statements of issues, reports,  
3 project analyses, and studies.--

4 (1) Each affected agency identified in paragraph  
5 (2)(a) shall submit a preliminary statement of issues to the  
6 department, ~~and the applicant, and all parties~~ no later than  
7 40 ~~60~~ days after the certification application has been  
8 determined ~~distribution of the complete application.~~ The  
9 failure to raise an issue in this statement shall not preclude  
10 the issue from being raised in the agency's report.

11 (2)(a) No later than 100 days after the certification  
12 application has been determined complete, the following  
13 agencies shall prepare reports as provided below and shall  
14 submit them to the department and the applicant ~~within 150~~  
15 ~~days after distribution of the complete application:~~

16 1. The Department of Community Affairs shall prepare a  
17 report containing recommendations which address the impact  
18 upon the public of the proposed electrical power plant, based  
19 on the degree to which the electrical power plant is  
20 consistent with the applicable portions of the state  
21 comprehensive plan, emergency management, and other such  
22 matters within its jurisdiction. The Department of Community  
23 Affairs may also comment on the consistency of the proposed  
24 electrical power plant with applicable strategic regional  
25 policy plans or local comprehensive plans and land development  
26 regulations.

27 ~~2. The Public Service Commission shall prepare a~~  
28 ~~report as to the present and future need for the electrical~~  
29 ~~generating capacity to be supplied by the proposed electrical~~  
30 ~~power plant. The report shall include the commission's~~  
31 ~~determination pursuant to s. 403.519 and may include the~~



1 ~~commission's comments with respect to any other matters within~~  
2 ~~its jurisdiction.~~

3       ~~2.3.~~ The water management district shall prepare a  
4 report as to matters within its jurisdiction, including, but  
5 not limited to, impact on water resources, impact on regional  
6 water supply planning, and impact on district-owned lands and  
7 works.

8       ~~3.4.~~ Each local government in whose jurisdiction the  
9 proposed electrical power plant is to be located shall prepare  
10 a report as to the consistency of the proposed electrical  
11 power plant with all applicable local ordinances, regulations,  
12 standards, or criteria that apply to the proposed electrical  
13 power plant, including ~~adopted local comprehensive plans, land~~  
14 ~~development regulations, and any applicable local~~  
15 environmental regulations adopted pursuant to s. 403.182 or by  
16 other means.

17       ~~4.5.~~ The Fish and Wildlife Conservation Commission  
18 shall prepare a report as to matters within its jurisdiction.

19       ~~5.6.~~ Each ~~The~~ regional planning council shall prepare  
20 a report containing recommendations that address the impact  
21 upon the public of the proposed electrical power plant, based  
22 on the degree to which the electrical power plant is  
23 consistent with the applicable provisions of the strategic  
24 regional policy plan adopted pursuant to chapter 186 and other  
25 matters within its jurisdiction.

26       ~~6.~~ The Department of Transportation shall address the  
27 impact of the proposed power plant on matters within its  
28 jurisdiction.

29       ~~(b)7.~~ Any other agency, if requested by the  
30 department, shall also perform studies or prepare reports as  
31 to matters within that agency's jurisdiction which may

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1 potentially be affected by the proposed electrical power  
2 plant.

3 ~~(b) As needed to verify or supplement the studies made~~  
4 ~~by the applicant in support of the application, it shall be~~  
5 ~~the duty of the department to conduct, or contract for,~~  
6 ~~studies of the proposed electrical power plant and site,~~  
7 ~~including, but not limited to, the following, which shall be~~  
8 ~~completed no later than 210 days after the complete~~  
9 ~~application is filed with the department:~~

- 10 ~~1. Cooling system requirements.~~
- 11 ~~2. Construction and operational safeguards.~~
- 12 ~~3. Proximity to transportation systems.~~
- 13 ~~4. Soil and foundation conditions.~~
- 14 ~~5. Impact on suitable present and projected water~~
- 15 ~~supplies for this and other competing uses.~~
- 16 ~~6. Impact on surrounding land uses.~~
- 17 ~~7. Accessibility to transmission corridors.~~
- 18 ~~8. Environmental impacts.~~
- 19 ~~9. Requirements applicable under any federally~~
- 20 ~~delegated or approved permit program.~~

21 ~~(3)(c) Each report described in subsection (2)~~  
22 ~~paragraphs (a) and (b) shall contain:~~

23 ~~(a) A notice of any nonprocedural requirements not~~  
24 ~~specifically listed in the application from which a variance,~~  
25 ~~exemption, exception, all information on variances,~~  
26 ~~exemptions, exceptions, or other relief is necessary in order~~  
27 ~~for the proposed electric power plant to be certified. Failure~~  
28 ~~of such notification by an agency shall be treated as a waiver~~  
29 ~~from nonprocedural requirements of that agency. However, no~~  
30 ~~variance shall be granted from standards or regulations of the~~  
31 ~~department applicable under any federally delegated or~~

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1 approved permit program, except as expressly allowed in such  
2 program. which may be required by s. 403.511(2) and

3 (b) A recommendation for approval or denial of the  
4 application.

5 (c) Any proposed conditions of certification on  
6 matters within the jurisdiction of such agency. For each  
7 condition proposed by an agency in its report, the agency  
8 shall list the specific statute, rule, or ordinance which  
9 authorizes the proposed condition.

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

15 ~~(3) No later than 60 days after the application for a~~  
16 ~~federally required new source review or prevention of~~  
17 ~~significant deterioration permit for the electrical power~~  
18 ~~plant is complete and sufficient, the department shall issue~~  
19 ~~its preliminary determination on such permit. Notice of such~~  
20 ~~determination shall be published as required by the~~  
21 ~~department's rules for notices of such permits. The department~~  
22 ~~shall receive public comments and comments from the United~~  
23 ~~States Environmental Protection Agency and other affected~~  
24 ~~agencies on the preliminary determination as provided for in~~  
25 ~~the federally approved state implementation plan. The~~  
26 ~~department shall maintain a record of all comments received~~  
27 ~~and considered in taking action on such permits. If a petition~~  
28 ~~for an administrative hearing on the department's preliminary~~  
29 ~~determination is filed by a substantially affected person,~~  
30 ~~that hearing shall be consolidated with the certification~~  
31 ~~hearing.~~

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

9           (b) Receipt of an affirmative determination of need by  
 10 the submittal deadline under paragraph (a) and shall be a  
 11 condition precedent to the issuance of the department's  
 12 project analysis and its conduct of the certification hearing.

13           (5)(4) The department shall prepare a project ~~written~~  
 14 analysis, which shall be filed with the designated  
 15 administrative law judge and served on all parties no later  
 16 than 130 ~~240~~ days after the ~~complete~~ application is determined  
 17 complete ~~filed with the department, but no later than 60 days~~  
 18 ~~prior to the hearing, and which shall include:~~

19           (a) A statement indicating whether the proposed  
 20 electrical power plant and proposed ultimate site capacity  
 21 will be in compliance and consistent with matters within the  
 22 department's standard jurisdiction, including ~~with~~ the rules  
 23 of the department, as well as whether the proposed electrical  
 24 power plant and proposed ultimate site capacity will be in  
 25 compliance with the nonprocedural requirements of the affected  
 26 agencies.

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

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

31           (d) The recommendation of the department as to the

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1 disposition of the application, of variances, exemptions,  
2 exceptions, or other relief identified by any party, and of  
3 any proposed conditions of certification which the department  
4 believes should be imposed.

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

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

13 ~~(6)(5)~~ Except when good cause is shown, the failure of  
14 any agency to submit a preliminary statement of issues or a  
15 report, or to submit its preliminary statement of issues or  
16 report within the allowed time, shall not be grounds for the  
17 alteration of any time limitation in this act. Neither the  
18 failure to submit a preliminary statement of issues or a  
19 report nor the inadequacy of the preliminary statement of  
20 issues or report are ~~shall be~~ grounds to deny or condition  
21 certification.

22 Section 30. Section 403.508, Florida Statutes, is  
23 amended to read:

24 403.508 Land use and certification hearings  
25 ~~proceedings~~, parties, participants.--

26 (1)(a) If a petition for a hearing on land use has  
27 been filed pursuant to s. 403.50665, the designated  
28 administrative law judge shall conduct a land use hearing in  
29 the county of the proposed site or directly associated  
30 facility, as applicable, not later than 30 ~~within 90~~ days  
31 after the department's receipt of the petition ~~a complete~~

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1 ~~application for electrical power plant site certification by~~  
2 ~~the department.~~ The place of such hearing shall be as close as  
3 possible to the proposed site or directly associated facility.  
4 If a petition is filed, the hearing must be held regardless of  
5 the status of the completeness of the application. However,  
6 incompleteness of information necessary for a local government  
7 to evaluate an application may be claimed by the local  
8 government as cause for a statement of inconsistency with  
9 existing land use plans and zoning ordinances under s.  
10 403.50665.

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

13 ~~(c)(2)~~ The sole issue for determination at the land  
14 use hearing shall be whether or not the proposed site is  
15 consistent and in compliance with existing land use plans and  
16 zoning ordinances. If the administrative law judge concludes  
17 that the proposed site is not consistent or in compliance with  
18 existing land use plans and zoning ordinances, the  
19 administrative law judge shall receive evidence on, and  
20 address in the recommended order, any changes to or approvals  
21 or variances under the applicable land use plans or zoning  
22 ordinances which will render the proposed site consistent and  
23 in compliance with the local land use plans and zoning  
24 ordinances.

25 (d) The designated administrative law judge's  
26 recommended order shall be issued within 30 days after  
27 completion of the hearing and shall be reviewed by the board  
28 within 60 ~~45~~ days after receipt of the recommended order by  
29 the board.

30 (e) If it is determined by the board that the proposed  
31 site does conform with existing land use plans and zoning

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1 ordinances in effect as of the date of the application, or as  
 2 otherwise provided by this act, the responsible zoning or  
 3 planning authority shall not thereafter change such land use  
 4 plans or zoning ordinances so as to foreclose construction and  
 5 operation of ~~affect~~ the proposed power plant on the proposed  
 6 site or directly associated facilities unless certification is  
 7 subsequently denied or withdrawn.

8 (f) If it is determined by the board that the proposed  
 9 site does not conform, ~~it shall be the responsibility of the~~  
 10 ~~applicant to make the necessary application for rezoning.~~  
 11 ~~Should the application for rezoning be denied, the applicant~~  
 12 ~~may appeal this decision to the board, which may, if it~~  
 13 determines after notice and hearing and upon consideration of  
 14 the recommended order on land use and zoning issues that it is  
 15 in the public interest to authorize the use of the land as a  
 16 site for an electrical power plant, authorize an amendment to  
 17 rezoning, a variance, or other approval to the adopted land  
 18 use plan and zoning ordinances required to render the proposed  
 19 site consistent with local land use plans and zoning  
 20 ordinances. The board's actions may not be controlled by any  
 21 other procedural requirements of law. In the event a variance  
 22 or other approval by the board is denied, it shall be the  
 23 responsibility of the applicant to make the necessary  
 24 application to the applicable local government for any  
 25 approvals determined by the board as required to make the  
 26 proposed site consistent and in compliance with local land use  
 27 plans and zoning ordinances. No further action may be taken on  
 28 the complete application ~~by the department~~ until the proposed  
 29 site conforms to the adopted land use plan or zoning  
 30 ordinances or the board grants relief as provided under this  
 31 act.

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1           ~~(2)(a)(3)~~ A certification hearing shall be held by the  
2 designated administrative law judge no later than 265 ~~300~~ days  
3 after the complete application is filed with the department;  
4 ~~however, an affirmative determination of need by the Public~~  
5 ~~Service Commission pursuant to s. 403.519 shall be a condition~~  
6 ~~precedent to the conduct of the certification hearing. The~~  
7 certification hearing shall be held at a location in proximity  
8 to the proposed site. ~~The certification hearing shall also~~  
9 ~~constitute the sole hearing allowed by chapter 120 to~~  
10 ~~determine the substantial interest of a party regarding any~~  
11 ~~required agency license or any related permit required~~  
12 ~~pursuant to any federally delegated or approved permit~~  
13 ~~program.~~ At the conclusion of the certification hearing, the  
14 designated administrative law judge shall, after consideration  
15 of all evidence of record, submit to the board a recommended  
16 order no later than 45 ~~60~~ days after the filing of the hearing  
17 transcript. ~~In the event the administrative law judge fails to~~  
18 ~~issue a recommended order within 60 days after the filing of~~  
19 ~~the hearing transcript, the administrative law judge shall~~  
20 ~~submit a report to the board with a copy to all parties within~~  
21 ~~60 days after the filing of the hearing transcript to advise~~  
22 ~~the board of the reason for the delay in the issuance of the~~  
23 ~~recommended order and of the date by which the recommended~~  
24 ~~order will be issued.~~

25           (b) Notice of the certification hearing and notice of  
26 the deadline for filing the notice of intent to be a party  
27 shall be made in accordance with the requirements of s.  
28 403.5115.

29           ~~(3)(4)~~(a) Parties to the proceeding shall include:  
30           1. The applicant.  
31           2. The Public Service Commission.



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- 1           3. The Department of Community Affairs.
- 2           4. The Fish and Wildlife Conservation Commission.
- 3           5. The water management district.
- 4           6. The department.
- 5           7. The regional planning council.
- 6           8. The local government.
- 7           9. The Department of Transportation.

8           (b) Any party listed in paragraph (a) other than the  
 9 department or the applicant may waive its right to participate  
 10 in these proceedings. If such listed party fails to file a  
 11 notice of its intent to be a party on or before the 90th day  
 12 prior to the certification hearing, such party shall be deemed  
 13 to have waived its right to be a party.

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

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

22           2. Any domestic nonprofit corporation or association  
 23 formed, in whole or in part, to promote conservation or  
 24 natural beauty; to protect the environment, personal health,  
 25 or other biological values; to preserve historical sites; to  
 26 promote consumer interests; to represent labor, commercial, or  
 27 industrial groups; or to promote comprehensive planning or  
 28 orderly development of the area in which the proposed  
 29 electrical power plant is to be located.

30           (d) Notwithstanding paragraph (e), failure of an  
 31 agency described in subparagraph (c)1. to file a notice of

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1 intent to be a party within the time provided herein shall  
2 constitute a waiver of the right of that agency to participate  
3 as a party in the proceeding.

4 (e) Other parties may include any person, including  
5 those persons enumerated in paragraph (c) who have failed to  
6 timely file a notice of intent to be a party, whose  
7 substantial interests are affected and being determined by the  
8 proceeding and who timely file a motion to intervene pursuant  
9 to chapter 120 and applicable rules. Intervention pursuant to  
10 this paragraph may be granted at the discretion of the  
11 designated administrative law judge and upon such conditions  
12 as he or she may prescribe any time prior to 30 days before  
13 the commencement of the certification hearing.

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

18 (4)(a) The order of presentation at the certification  
19 hearing, unless otherwise changed by the administrative law  
20 judge to ensure the orderly presentation of witnesses and  
21 evidence, shall be:

- 22 1. The applicant.
- 23 2. The department.
- 24 3. State agencies.
- 25 4. Regional agencies, including regional planning  
26 councils and water management districts.
- 27 5. Local governments.
- 28 6. Other parties.

29 ~~(b)(5)~~ When appropriate, any person may be given an  
30 opportunity to present oral or written communications to the  
31 designated administrative law judge. If the designated

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1 administrative law judge proposes to consider such  
2 communications, then all parties shall be given an opportunity  
3 to cross-examine or challenge or rebut such communications.

4 (5) At the conclusion of the certification hearing,  
5 the designated administrative law judge shall, after  
6 consideration of all evidence of record, submit to the board a  
7 recommended order no later than 45 days after the filing of  
8 the hearing transcript.

9 (6)(a) No sooner than 29 days before the certification  
10 hearing, the department or the applicant may request that the  
11 administrative law judge cancel the certification hearing and  
12 relinquish jurisdiction to the department if all parties to  
13 the proceeding stipulate that there are no disputed issues of  
14 fact to be raised at the certification hearing and if  
15 sufficient time remains for the applicant and the department  
16 to publish public notices of the cancellation of the hearing  
17 at least 3 days before the scheduled date of the hearing.

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

20 (c) If the administrative law judge grants the  
21 request, the department and the applicant shall publish  
22 notices of the cancellation of the certification hearing, in  
23 accordance with s. 403.5115.

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

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

30 (7)(6) The applicant shall pay those expenses and  
31 costs associated with the conduct of the hearings and the

1 recording and transcription of the proceedings. ~~The designated~~  
 2 ~~administrative law judge shall have all powers and duties~~  
 3 ~~granted to administrative law judges by chapter 120 and this~~  
 4 ~~chapter and by the rules of the department and the~~  
 5 ~~Administration Commission, including the authority to resolve~~  
 6 ~~disputes over the completeness and sufficiency of an~~  
 7 ~~application for certification.~~

8 ~~(7) The order of presentation at the certification~~  
 9 ~~hearing, unless otherwise changed by the administrative law~~  
 10 ~~judge to ensure the orderly presentation of witnesses and~~  
 11 ~~evidence, shall be:~~

12 ~~(a) The applicant.~~

13 ~~(b) The department.~~

14 ~~(c) State agencies.~~

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

17 ~~(e) Local governments.~~

18 ~~(f) Other parties.~~

19 (8) In issuing permits under the federally approved  
 20 new source review or prevention of significant deterioration  
 21 permit program, the department shall observe the procedures  
 22 specified under the federally approved state implementation  
 23 plan, including public notice, public comment, public hearing,  
 24 and notice of applications and amendments to federal, state,  
 25 and local agencies, to assure that all such permits issued in  
 26 coordination with the certification of a power plant under  
 27 this act are federally enforceable and are issued after  
 28 opportunity for informed public participation regarding the  
 29 terms and conditions thereof. When possible, any hearing on a  
 30 federally approved or delegated program permit such as new  
 31 source review, prevention of significant deterioration permit,

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1 or NPDES permit shall be conducted in conjunction with the  
2 certification hearing held under this act. ~~The department~~  
3 ~~shall accept written comment with respect to an application~~  
4 ~~for, or the department's preliminary determination on, a new~~  
5 ~~source review or prevention of significant deterioration~~  
6 ~~permit for a period of no less than 30 days from the date~~  
7 ~~notice of such action is published. Upon request submitted~~  
8 ~~within 30 days after published notice, the department shall~~  
9 ~~hold a public meeting, in the area affected, for the purpose~~  
10 ~~of receiving public comment on issues related to the new~~  
11 ~~source review or prevention of significant deterioration~~  
12 ~~permit. If requested following notice of the department's~~  
13 ~~preliminary determination, the public meeting to receive~~  
14 ~~public comment shall be held prior to the scheduled~~  
15 ~~certification hearing. The department shall also solicit~~  
16 ~~comments from the United States Environmental Protection~~  
17 ~~Agency and other affected federal agencies regarding the~~  
18 ~~department's preliminary determination for any federally~~  
19 ~~required new source review or prevention of significant~~  
20 ~~deterioration permit. It is the intent of the Legislature that~~  
21 the review, processing, and issuance of such federally  
22 delegated or approved permits be closely coordinated with the  
23 certification process established under this part. In the  
24 event of a conflict between the certification process and  
25 federally required procedures contained in the state  
26 implementation plan, the applicable federal requirements of  
27 the implementation plan shall control.

28 Section 31. Section 403.509, Florida Statutes, is  
29 amended to read:

30 403.509 Final disposition of application.--

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

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1 request to cancel the certification hearing and has  
2 relinquished jurisdiction to the department under the  
3 provisions of s. 403.508(6), within 40 days thereafter, the  
4 secretary of the department shall act upon the application by  
5 written order in accordance with the terms of this act, and  
6 the stipulation of the parties in requesting the cancellation  
7 of the certification hearing.

8 (b) If the administrative law judge has not granted a  
9 request to cancel the certification hearing under the  
10 provisions of s. 403.508(6), within 60 days after receipt of  
11 the designated administrative law judge's recommended order,  
12 the board shall act upon the application by written order,  
13 approving ~~certification~~ or denying certification ~~the issuance~~  
14 of a certificate, in accordance with the terms of this act,  
15 and stating the reasons for issuance or denial. If  
16 certification ~~the certificate~~ is denied, the board shall set  
17 forth in writing the action the applicant would have to take  
18 to secure the board's approval of the application.

19 (2) The issues that may be raised in any hearing  
20 before the board shall be limited to those matters raised in  
21 the certification proceeding before the administrative law  
22 judge or raised in the recommended order. All parties, or  
23 their representatives, or persons who appear before the board  
24 shall be subject to the provisions of s. 120.66.

25 (3) In determining whether an application should be  
26 approved in whole, approved with modifications or conditions,  
27 or denied, the board, or secretary when applicable, shall  
28 consider whether, and the extent to which, the location of  
29 electric power plant and directly associated facilities and  
30 their construction and operation will:

31 (a) Provide reasonable assurance that operational

1 safeguards are technically sufficient for the public welfare  
2 and protection.

3 (b) Comply with applicable nonprocedural requirements  
4 of agencies.

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

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

9 (e) Provide a reasonable balance between the need for  
10 the facility as established pursuant to s. 403.519, and the  
11 impacts upon air and water quality, fish and wildlife, water  
12 resources, and other natural resources as a result of the  
13 construction and operation of the facility.

14 (f) Minimize, through the use of reasonable and  
15 available methods, the adverse effects on human health, the  
16 environment, and the ecology of the land and its wildlife and  
17 the ecology of state waters and their aquatic life.

18 ~~(4)(3) Within 30 days after issuance of the~~  
19 ~~certification, the department shall issue and forward to the~~  
20 ~~United States Environmental Protection Agency a proposed~~  
21 ~~operation permit for a major source of air pollution and must~~  
22 ~~issue or deny any other license required pursuant to any~~  
23 ~~federally delegated or approved permit program. The~~  
24 ~~department's action on the license and its action on the~~  
25 ~~proposed operation permit for a major source of air pollution~~  
26 ~~shall be based upon the record and recommended order of the~~  
27 ~~certification hearing. The department's actions on a federally~~  
28 ~~required new source review or prevention of significant~~  
29 ~~deterioration permit shall be based on the record and~~  
30 ~~recommended order of the certification hearing and of any~~  
31 ~~other proceeding held in connection with the application for a~~

1 ~~new source review or prevention of significant deterioration~~  
2 ~~permit, on timely public comments received with respect to the~~  
3 ~~application or preliminary determination for such permit, and~~  
4 ~~on the provisions of the state implementation plan. The~~  
5 department's action on a federally required new source review  
6 or prevention of significant deterioration permit shall differ  
7 from the actions taken by the siting board regarding the  
8 certification if the federally approved state implementation  
9 plan requires such a different action to be taken by the  
10 department. Nothing in this part shall be construed to  
11 displace the department's authority as the final permitting  
12 entity under the federally approved permit program. Nothing in  
13 this part shall be construed to authorize the issuance of a  
14 new source review or prevention of significant deterioration  
15 permit which does not conform to the requirements of the  
16 federally approved state implementation plan. ~~Any final~~  
17 ~~operation permit for a major source of air pollution must be~~  
18 ~~issued in accordance with the provisions of s. 403.0872.~~  
19 ~~Unless the federally delegated or approved permit program~~  
20 ~~provides otherwise, licenses issued by the department under~~  
21 ~~this subsection shall be effective for the term of the~~  
22 ~~certification issued by the board. If renewal of any license~~  
23 ~~issued by the department pursuant to a federally delegated or~~  
24 ~~approved permit program is required, such renewal shall not~~  
25 ~~affect the certification issued by the board, except as~~  
26 ~~necessary to resolve inconsistencies pursuant to s.~~  
27 ~~403.516(1)(a).~~

28       ~~(5)(4)~~ In regard to the properties and works of any  
29 agency which is a party to the certification hearing, the  
30 board may ~~shall have the authority to~~ decide issues relating  
31 to the use, the connection thereto, or the crossing thereof,



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1 for the electrical power plant and its directly associated  
 2 facilities site and to direct any such agency to execute,  
 3 within 30 days after the entry of certification, the necessary  
 4 license or easement for such use, connection, or crossing,  
 5 subject only to the conditions set forth in such  
 6 certification. However, the applicant shall seek any necessary  
 7 interest in state lands the title to which is vested in the  
 8 Board of Trustees of the Internal Improvement Trust Fund from  
 9 the board of trustees or from the governing board of the water  
 10 management district before, during, or after the certification  
 11 proceeding. Certification may be made contingent upon issuance  
 12 of the appropriate interest. The applicant or any party to the  
 13 certification proceeding may not directly or indirectly raise  
 14 or relitigate any matter that was or could have been an issue  
 15 in the certification proceeding in any proceeding before the  
 16 Board of Trustees of the Internal Improvement Trust Fund in  
 17 which the applicant is seeking a necessary interest in state  
 18 land, but the information presented in the certification  
 19 proceeding shall be available for review by the board of  
 20 trustees and its staff.

21 ~~(6)(5) Except as specified in subsection (4), for the~~  
 22 ~~issuance of any operation permit for a major source of air~~  
 23 ~~pollution pursuant to s. 403.0872, the issuance or denial of~~  
 24 ~~the certification by the board or the Secretary of the~~  
 25 ~~department and the issuance or denial of any related~~  
 26 ~~department license required pursuant to any federally~~  
 27 ~~delegated or approved permit program shall be the final~~  
 28 ~~administrative action required as to that application.~~

29 ~~(6) All certified electrical power plants must apply~~  
 30 ~~for and obtain a major source air operation permit pursuant to~~  
 31 ~~s. 403.0872. Major source air operation permit applications~~

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1 ~~for certified electrical power plants must be submitted~~  
2 ~~pursuant to a schedule developed by the department. To the~~  
3 ~~extent that any conflicting provision, limitation, or~~  
4 ~~restriction under any rule, regulation, or ordinance imposed~~  
5 ~~by any political subdivision of the state, or by any local~~  
6 ~~pollution control program, was superseded during the~~  
7 ~~certification process pursuant to s. 403.510(1), such rule,~~  
8 ~~regulation, or ordinance shall continue to be superseded for~~  
9 ~~purposes of the major source air-operation permit program~~  
10 ~~under s. 403.0872.~~

11 Section 32. Section 403.511, Florida Statutes, is  
12 amended to read:

13 403.511 Effect of certification.--

14 (1) Subject to the conditions set forth therein, any  
15 certification ~~signed by the Governor~~ shall constitute the sole  
16 license of the state and any agency as to the approval of the  
17 site and the construction and operation of the proposed  
18 electrical power plant, except for the issuance of department  
19 licenses required under any federally delegated or approved  
20 permit program and except as otherwise provided in subsection  
21 (4).

22 (2)(a) The certification shall authorize the applicant  
23 named therein to construct and operate the proposed electrical  
24 power plant, subject only to the conditions of certification  
25 set forth in such certification, and except for the issuance  
26 of department licenses or permits required under any federally  
27 delegated or approved permit program.

28 (b)1. Except as provided in subsection (4), the  
29 certification may include conditions which constitute  
30 variances, exemptions, or exceptions from nonprocedural  
31 requirements of the department or any agency which were

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1 expressly considered during the proceeding, including, but not  
 2 limited to, any site-specific criteria, standards, or  
 3 limitations under local land use or zoning approvals which  
 4 affect the proposed power plant or its site, unless waived by  
 5 the agency as provided below and which otherwise would be  
 6 applicable to the construction and operation of the proposed  
 7 electrical power plant.

8       2. No variance, exemption, exception, or other relief  
 9 shall be granted from a state statute or rule for the  
 10 protection of endangered or threatened species, aquatic  
 11 preserves, Outstanding National Resource Waters, or  
 12 Outstanding Florida Waters or for the disposal of hazardous  
 13 waste, except to the extent authorized by the applicable  
 14 statute or rule or except upon a finding in the certification  
 15 order ~~by the siting board~~ that the public interests set forth  
 16 in s. 403.509(3) ~~403.502~~ in certifying the electrical power  
 17 plant at the site proposed by the applicant overrides the  
 18 public interest protected by the statute or rule from which  
 19 relief is sought. ~~Each party shall notify the applicant and~~  
 20 ~~other parties at least 60 days prior to the certification~~  
 21 ~~hearing of any nonprocedural requirements not specifically~~  
 22 ~~listed in the application from which a variance, exemption,~~  
 23 ~~exception, or other relief is necessary in order for the board~~  
 24 ~~to certify any electrical power plant proposed for~~  
 25 ~~certification. Failure of such notification by an agency shall~~  
 26 ~~be treated as a waiver from nonprocedural requirements of the~~  
 27 ~~department or any other agency. However, no variance shall be~~  
 28 ~~granted from standards or regulations of the department~~  
 29 ~~applicable under any federally delegated or approved permit~~  
 30 ~~program, except as expressly allowed in such program.~~

31       (3) The certification and any order on land use and

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1 zoning issued under this act shall be in lieu of any license,  
 2 permit, certificate, or similar document required by any  
 3 state, regional, or local agency pursuant to, but not limited  
 4 to, chapter 125, chapter 161, chapter 163, chapter 166,  
 5 chapter 186, chapter 253, chapter 298, chapter 370, chapter  
 6 373, chapter 376, chapter 380, chapter 381, chapter 387,  
 7 chapter 403, except for permits issued pursuant to any  
 8 federally delegated or approved permit program ~~s. 403.0885~~ and  
 9 except as provided in ~~s. 403.509(3) and (6)~~, chapter 404 or  
 10 the Florida Transportation Code, or 33 U.S.C. s. 1341.

11 (4) This act shall not affect in any way the  
 12 ratemaking powers of the Public Service Commission under  
 13 chapter 366; nor shall this act in any way affect the right of  
 14 any local government to charge appropriate fees or require  
 15 that construction be in compliance with applicable building  
 16 construction codes.

17 (5)(a) An electrical power plant certified pursuant to  
 18 this act shall comply with rules adopted by the department  
 19 subsequent to the issuance of the certification which  
 20 prescribe new or stricter criteria, to the extent that the  
 21 rules are applicable to electrical power plants. Except when  
 22 express variances, exceptions, exemptions, or other relief  
 23 have been granted, subsequently adopted rules which prescribe  
 24 new or stricter criteria shall operate as automatic  
 25 modifications to certifications.

26 (b) Upon written notification to the department, any  
 27 holder of a certification issued pursuant to this act may  
 28 choose to operate the certified electrical power plant in  
 29 compliance with any rule subsequently adopted by the  
 30 department which prescribes criteria more lenient than the  
 31 criteria required by the terms and conditions in the

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1 certification which are not site-specific.

2 (c) No term or condition of certification shall be  
3 interpreted to preclude the postcertification exercise by any  
4 party of whatever procedural rights it may have under chapter  
5 120, including those related to rulemaking proceedings. This  
6 subsection shall apply to previously issued certifications.

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

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

17 (8) Pursuant to s. 380.23, electrical power plants are  
18 subject to the federal coastal consistency review program.  
19 Issuance of certification shall constitute the state's  
20 certification of coastal zone consistency.

21 Section 33. Section 403.5112, Florida Statutes, is  
22 created to read:

23 403.5112 Filing of notice of certified corridor  
24 route.--

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

30 (2) The notice shall consist of maps or aerial  
31 photographs in the scale of 1:24,000 which clearly show the

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1 location of the certified route and shall state that the  
2 certification of the corridor will result in the acquisition  
3 of rights-of-way within the corridor. Each clerk shall record  
4 the filing in the official record of the county for the  
5 duration of the certification or until such time as the  
6 applicant certifies to the department and the clerk that all  
7 lands required for the transmission line rights-of-way within  
8 the corridor have been acquired within such county, whichever  
9 is sooner.

10 Section 34. Section 403.5113, Florida Statutes, is  
11 created to read:

12 403.5113 Postcertification amendments.--

13 (1) If, subsequent to certification by the board, a  
14 licensee proposes any material change to the application, and  
15 revisions or amendments thereto, as certified, the licensee  
16 shall submit a written request for amendment and a description  
17 of the proposed change to the application to the department.  
18 Within 30 days after the receipt of the request for the  
19 amendment, the department shall determine whether the proposed  
20 change to the application requires a modification of the  
21 conditions of certification.

22 (2) If the department concludes that the change would  
23 not require a modification of the conditions of certification,  
24 the department shall provide written notification of the  
25 approval of the proposed amendment to the licensee, all  
26 agencies, and all other parties.

27 (3) If the department concludes that the change would  
28 require a modification of the conditions of certification, the  
29 department shall provide written notification to the licensee  
30 that the proposed change to the application requires a request  
31 for modification pursuant to s. 403.516.

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1 Section 35. Section 403.5115, Florida Statutes, is  
2 amended to read:

3 403.5115 Public notice; costs of proceeding.--

4 (1) The following notices are to be published by the  
5 applicant:

6 (a) Notice ~~A notice~~ of the filing of a notice of  
7 intent under s. 403.5063, which shall be published within 21  
8 days after the filing of the notice. The notice shall be  
9 published as specified by subsection (2), except that the  
10 newspaper notice shall be one-fourth page in size in a  
11 standard size newspaper or one-half page in size in a tabloid  
12 size newspaper.

13 (b) Notice ~~A notice~~ of filing of the application,  
14 which shall include a description of the proceedings required  
15 by this act, within 21 days after the date of the application  
16 filing ~~be published as specified in subsection (2), within 15~~  
17 ~~days after the application has been determined complete.~~ Such  
18 notice shall give notice of the provisions of s. 403.511(1)  
19 and (2) ~~and that the application constitutes a request for a~~  
20 ~~federally required new source review or prevention of~~  
21 ~~significant deterioration permit.~~

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

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

28 (e)~~(d)~~ Notice of the certification hearing and notice  
29 of the deadline for filing notice of intent to be a party,  
30 which shall be published as specified in subsection (2), at  
31 least 65 days before the date set for the certification ~~no~~

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1 ~~later than 45 days before the hearing.~~

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

5       (g)~~(e)~~ Notice of modification when required by the  
6 department, based on whether the requested modification of  
7 certification will significantly increase impacts to the  
8 environment or the public. Such notice shall be published as  
9 specified under subsection (2):

10           1. Within 21 days after receipt of a request for  
11 modification, ~~except that~~ The newspaper notice shall be of a  
12 size as directed by the department commensurate with the scope  
13 of the modification.

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

18       (h)~~(f)~~ Notice of a supplemental application, which  
19 shall be published as specified in paragraph (1)(b) and  
20 subsection (2). ~~follows:~~

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

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

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

28           (2) Notices provided by the applicant shall be  
29 published in newspapers of general circulation within the  
30 county or counties in which the proposed electrical power  
31 plant will be located. The newspaper notices shall be at least



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1 one-half page in size in a standard size newspaper or a full  
 2 page in a tabloid size newspaper ~~and published in a section of~~  
 3 ~~the newspaper other than the legal notices section.~~ These  
 4 notices shall include a map generally depicting the project  
 5 and all associated facilities corridors. A newspaper of  
 6 general circulation shall be the newspaper which has the  
 7 largest daily circulation in that county and has its principal  
 8 office in that county. If the newspaper with the largest daily  
 9 circulation has its principal office outside the county, the  
 10 notices shall appear in both the newspaper having the largest  
 11 circulation in that county and in a newspaper authorized to  
 12 publish legal notices in that county.

13 (3) All notices published by the applicant shall be  
 14 paid for by the applicant and shall be in addition to the  
 15 application fee.

16 (4) The department shall arrange for publication of  
 17 the following notices in the manner specified by chapter 120  
 18 and provide copies of those notices to any persons who have  
 19 requested to be placed on the departmental mailing list for  
 20 this purpose:

21 (a) Notice ~~Publish in the Florida Administrative~~  
 22 ~~Weekly notices~~ of the filing of the notice of intent within 15  
 23 days after receipt of the notice.†

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

26 (c) Notice of the land use determination made pursuant  
 27 to s. 403.50665(1), within 15 days after the determination is  
 28 filed.

29 (d) Notice of the land use hearing before the  
 30 administrative law judge, if applicable, no later than 15 days  
 31 before the hearing.†

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1       (e) Notice of the land use hearing before the board,  
2 if applicable.

3       (f) Notice of the certification hearing at least 65  
4 days before the date set for the certification hearing.†

5       (g) Notice of cancellation of the certification  
6 hearing, if applicable, no later than 3 days before the date  
7 of the originally scheduled certification hearing.

8       (h) Notice of the hearing before the board, if  
9 applicable.†

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

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

15       ~~(5) The applicant shall pay those expenses and costs~~  
16 ~~associated with the conduct of the hearings and the recording~~  
17 ~~and transcription of the proceedings.~~

18       Section 36. Section 403.513, Florida Statutes, is  
19 amended to read:

20       403.513 Review.--Proceedings under this act shall be  
21 subject to judicial review as provided in chapter 120. When  
22 possible, separate appeals of the certification order issued  
23 by the board and of any department permit issued pursuant to a  
24 federally delegated or approved permit program may ~~shall~~ be  
25 consolidated for purposes of judicial review.

26       Section 37. Section 403.516, Florida Statutes, is  
27 amended to read:

28       403.516 Modification of certification.--

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

31       (a) The board may delegate to the department the

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1 authority to modify specific conditions in the certification.

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

8       **2.** Such modification may be made without further  
9 notice if the matter has been previously noticed under the  
10 requirements for any federally delegated or approved permit  
11 program.

12       **(c)** The licensee may file a petition for modification  
13 with the department or the department may initiate the  
14 modification upon its own initiative.

- 15       **1.** A petition for modification must set forth:
- 16       **a.** The proposed modification.
- 17       **b.** The factual reasons asserted for the modification.
- 18       **c.** The anticipated environmental effects of the  
19 proposed modification.

20       **2.(b)** The department may modify the terms and  
21 conditions of the certification if no party to the  
22 certification hearing objects in writing to such modification  
23 within 45 days after notice by mail to such party's last  
24 address of record, and if no other person whose substantial  
25 interests will be affected by the modification objects in  
26 writing within 30 days after issuance of public notice.

27       **3.** If objections are raised or the department denies  
28 the request, the applicant or department may file a request  
29 ~~petition~~ for a hearing on the modification with the  
30 department. Such request shall be handled pursuant to chapter  
31 120 paragraph (c).

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

- 3           ~~1. The proposed modification,~~
- 4           ~~2. The factual reasons asserted for the modification,~~
- 5 ~~and~~
- 6           ~~3. The anticipated effects of the proposed~~  
7 ~~modification on the applicant, the public, and the~~  
8 ~~environment.~~

9  
10 ~~The petition for modification shall be filed with the~~  
11 ~~department and the Division of Administrative Hearings.~~

12           ~~4. Requests referred to the Division of Administrative~~  
13 ~~Hearings shall be disposed of in the same manner as an~~  
14 ~~application, but with time periods established by the~~  
15 ~~administrative law judge commensurate with the significance of~~  
16 ~~the modification requested.~~

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

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

23           ~~(2)(3)~~ Any agreement or modification under this  
24 section must be in accordance with the terms of this act. No  
25 modification to a certification shall be granted that  
26 constitutes a variance from standards or regulations of the  
27 department applicable under any federally delegated or  
28 approved permit program, except as expressly allowed in such  
29 program.

30           Section 38. Section 403.517, Florida Statutes, is  
31 amended to read:

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1           403.517 Supplemental applications for sites certified  
2 for ultimate site capacity.--

3           (1)(a) Supplemental ~~The department shall adopt rules~~  
4 ~~governing the processing of supplemental applications may be~~  
5 submitted for certification of the construction and operation  
6 of electrical power plants to be located at sites which have  
7 been previously certified for an ultimate site capacity  
8 pursuant to this act. Supplemental applications shall be  
9 limited to electrical power plants using the fuel type  
10 previously certified for that site. Such applications shall  
11 include all new directly associated facilities that support  
12 the construction and operation of the electric power plant.

13 ~~The rules adopted pursuant to this section shall include~~  
14 ~~provisions for:~~

15           1. ~~Prompt appointment of a designated administrative~~  
16 ~~law judge.~~

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

18           3. ~~Resolution of disputes as to the completeness and~~  
19 ~~sufficiency of supplemental applications by the designated~~  
20 ~~administrative law judge.~~

21           4. ~~Public notice of the filing of the supplemental~~  
22 ~~applications.~~

23           5. ~~Time limits for prompt processing of supplemental~~  
24 ~~applications.~~

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

27           (b) The review shall use the same procedures and  
28 notices as for an initial application.

29           (c)(b) The time limits for processing of a complete  
30 supplemental application shall be designated by the department  
31 commensurate with the scope of the supplemental application,

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1 but shall not exceed any time limitation governing the review  
 2 of initial applications for site certification pursuant to  
 3 this act, it being the legislative intent to provide shorter  
 4 time limitations for the processing of supplemental  
 5 applications for electrical power plants to be constructed and  
 6 operated at sites which have been previously certified for an  
 7 ultimate site capacity.

8 ~~(d)(c)~~ Any time limitation in this section or in rules  
 9 adopted pursuant to this section may be altered pursuant to s.  
 10 403.5095 ~~by the designated administrative law judge upon~~  
 11 ~~stipulation between the department and the applicant, unless~~  
 12 ~~objected to by any party within 5 days after notice, or for~~  
 13 ~~good cause shown by any party. The parties to the proceeding~~  
 14 ~~shall adhere to the provisions of chapter 120 and this act in~~  
 15 ~~considering and processing such supplemental applications.~~

16 ~~(2) Supplemental applications shall be reviewed as~~  
 17 ~~provided in ss. 403.507-403.511, except that the time limits~~  
 18 ~~provided in this section shall apply to such supplemental~~  
 19 ~~applications.~~

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

24 (a) The previously certified ultimate site capacity is  
 25 not exceeded; and

26 (b) The lands required for the construction or  
 27 operation of the electrical power plant which is the subject  
 28 of the supplemental application are within the boundaries of  
 29 the previously certified site.

30 ~~(4) For the purposes of this act, the term "ultimate~~  
 31 ~~site capacity" means the maximum generating capacity for a~~

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1 ~~site as certified by the board.~~

2 Section 39. Section 403.5175, Florida Statutes, is  
3 amended to read:

4 403.5175 Existing electrical power plant site  
5 certification.--

6 (1) An electric utility that owns or operates an  
7 existing electrical power plant as defined in s. 403.503(12)  
8 may apply for certification of an existing power plant and its  
9 site in order to obtain all agency licenses necessary to  
10 assure compliance with federal or state environmental laws and  
11 regulation using the centrally coordinated, one-stop licensing  
12 process established by this part. An application for site  
13 certification under this section must be in the form  
14 prescribed by department rule. Applications must be reviewed  
15 and processed using the same procedural steps and notices as  
16 for an application for a new facility ~~in accordance with ss.~~  
17 ~~403.5064-403.5115~~, except that a determination of need by the  
18 Public Service Commission is not required.

19 (2) An application for certification under this  
20 section must include:

21 (a) A description of the site and existing power plant  
22 installations;

23 (b) A description of all proposed changes or  
24 alterations to the site or electrical power plant, including  
25 all new associated facilities that are the subject of the  
26 application;

27 (c) A description of the environmental and other  
28 impacts caused by the existing utilization of the site and  
29 directly associated facilities, and the operation of the  
30 electrical power plant that is the subject of the application,  
31 and of the environmental and other benefits, if any, to be

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1 realized as a result of the proposed changes or alterations if  
 2 certification is approved and such other information as is  
 3 necessary for the reviewing agencies to evaluate the proposed  
 4 changes and the expected impacts;

5 (d) The justification for the proposed changes or  
 6 alterations;

7 (e) Copies of all existing permits, licenses, and  
 8 compliance plans authorizing utilization of the site and  
 9 directly associated facilities or operation of the electrical  
 10 power plant that is the subject of the application.

11 (3) The land use and zoning determination ~~hearing~~  
 12 requirements of s. 403.50665 ~~s. 403.508(1) and (2)~~ do not  
 13 apply to an application under this section if the applicant  
 14 does not propose to expand the boundaries of the existing  
 15 site. If the applicant proposes to expand the boundaries of  
 16 the existing site to accommodate portions of the plant or  
 17 associated facilities, a land use and zoning determination  
 18 shall be made ~~hearing must be held~~ as specified in s.  
 19 403.50665 ~~s. 403.508(1) and (2)~~; provided, however, that the  
 20 sole issue for determination ~~through the land use hearing~~ is  
 21 whether the proposed site expansion is consistent and in  
 22 compliance with the existing land use plans and zoning  
 23 ordinances.

24 (4) In considering whether an application submitted  
 25 under this section should be approved in whole, approved with  
 26 appropriate conditions, or denied, the board shall consider  
 27 whether, and to the extent to which the proposed changes to  
 28 the electrical power plant and its continued operation under  
 29 certification will:

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

31 ~~applicable nonprocedural requirements of agencies;~~



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1 (b) Result in environmental or other benefits compared  
2 to current utilization of the site and operations of the  
3 electrical power plant if the proposed changes or alterations  
4 are undertaken.†

5 ~~(c) Minimize, through the use of reasonable and~~  
6 ~~available methods, the adverse effects on human health, the~~  
7 ~~environment, and the ecology of the land and its wildlife and~~  
8 ~~the ecology of state waters and their aquatic life; and~~

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

11 (5) An applicant's failure to receive approval for  
12 certification of an existing site or an electrical power plant  
13 under this section is without prejudice to continued operation  
14 of the electrical power plant or site under existing agency  
15 licenses.

16 Section 40. Section 403.518, Florida Statutes, is  
17 amended to read:

18 403.518 Fees; disposition.--

19 (1) The department shall charge the applicant the  
20 following fees, as appropriate, which, unless otherwise  
21 specified, shall be paid into the Florida Permit Fee Trust  
22 Fund:

23 (a) A fee for a notice of intent pursuant to s.  
24 403.5063, in the amount of \$2,500, to be submitted to the  
25 department at the time of filing of a notice of intent. The  
26 notice-of-intent fee shall be used and disbursed in the same  
27 manner as the application fee.

28 (b) An application fee, which shall not exceed  
29 \$200,000. The fee shall be fixed by rule on a sliding scale  
30 related to the size, type, ultimate site capacity, or increase  
31 in electric generating capacity proposed by the application.

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1 ~~or the number and size of local governments in whose~~  
2 ~~jurisdiction the electrical power plant is located.~~

3       1. Sixty percent of the fee shall go to the department  
4 to cover any costs associated with coordinating the review  
5 ~~reviewing~~ and acting upon the application, to cover any field  
6 services associated with monitoring construction and operation  
7 of the facility, and to cover the costs of the public notices  
8 published by the department.

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

13       a. Five percent to compensate expenses from the  
14 initial exercise of duties associated with the filing of an  
15 application.

16       b. An additional 5 percent if a land use hearing is  
17 held pursuant to s. 403.508.

18       c. An additional 10 percent if a certification hearing  
19 is held pursuant to s. 403.508.

20       3.a. Upon written request with proper itemized  
21 accounting within 90 days after final agency action by the  
22 board or withdrawal of the application, the agencies that  
23 prepared reports pursuant to s. 403.507 or participated in a  
24 hearing pursuant to s. 403.508, may submit a written request  
25 to the department for reimbursement of expenses incurred  
26 during the certification proceedings. The request shall  
27 contain an accounting of expenses incurred which may include  
28 time spent reviewing the application, ~~the department shall~~  
29 ~~reimburse the Department of Community Affairs, the Fish and~~  
30 ~~Wildlife Conservation Commission, and any water management~~  
31 ~~district created pursuant to chapter 373, regional planning~~

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1 ~~council, and local government in the jurisdiction of which the~~  
2 ~~proposed electrical power plant is to be located, and any~~  
3 ~~other agency from which the department requests special~~  
4 ~~studies pursuant to s. 403.507(2)(a)7. Such reimbursement~~  
5 ~~shall be authorized for the preparation of any studies~~  
6 required of the agencies by this act, ~~and for~~ agency travel  
7 and per diem to attend any hearing held pursuant to this act,  
8 and for any agency's or local government's provision of notice  
9 of public meetings or meetings required as a result of the  
10 application for certification ~~governments to participate in~~  
11 ~~the proceedings. The department shall review the request and~~  
12 verify that the expenses are valid. Valid expenses shall be  
13 reimbursed; however, in the event the amount of funds  
14 available for reimbursement ~~allocation~~ is insufficient to  
15 provide for full compensation ~~complete reimbursement~~ to the  
16 agencies requesting reimbursement, reimbursement shall be on a  
17 prorated basis.

18 b. If the application review is held in abeyance for  
19 more than 1 year, the agencies may submit a request for  
20 reimbursement.

21 4. If any sums are remaining, the department shall  
22 retain them for its use in the same manner as is otherwise  
23 authorized by this act; provided, however, that if the  
24 certification application is withdrawn, the remaining sums  
25 shall be refunded to the applicant within 90 days after  
26 withdrawal.

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

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1           2. The fee shall be submitted to the department with a  
2 ~~formal~~ petition for modification ~~to the department~~ pursuant to  
3 s. 403.516. This fee shall be established, disbursed, and  
4 processed in the same manner as the application fee in  
5 paragraph (b), except that the Division of Administrative  
6 Hearings shall not receive a portion of the fee unless the  
7 petition for certification modification is referred to the  
8 Division of Administrative Hearings for hearing. If the  
9 petition is so referred, only \$10,000 of the fee shall be  
10 transferred to the Administrative Trust Fund of the Division  
11 of Administrative Hearings of the Department of Management  
12 Services. ~~The fee for a modification by agreement filed~~  
13 ~~pursuant to s. 403.516(1)(b) shall be \$10,000 to be paid upon~~  
14 ~~the filing of the request for modification. Any sums remaining~~  
15 ~~after payment of authorized costs shall be refunded to the~~  
16 ~~applicant within 90 days of issuance or denial of the~~  
17 ~~modification or withdrawal of the request for modification.~~

18           (d) A supplemental application fee, not to exceed  
19 \$75,000, to cover all reasonable expenses and costs of the  
20 review, processing, and proceedings of a supplemental  
21 application. This fee shall be established, disbursed, and  
22 processed in the same manner as the certification application  
23 fee in paragraph (b), ~~except that only \$20,000 of the fee~~  
24 ~~shall be transferred to the Administrative Trust Fund of the~~  
25 ~~Division of Administrative Hearings of the Department of~~  
26 ~~Management Services.~~

27           (e) An existing site certification application fee,  
28 not to exceed \$200,000, to cover all reasonable costs and  
29 expenses of the review processing and proceedings for  
30 certification of an existing power plant site under s.  
31 403.5175. This fee must be established, disbursed, and

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1 processed in the same manner as the certification application  
2 fee in paragraph (b).

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

8 Section 41. Any application for power plant  
9 certification filed pursuant to ss. 403.501-403.518 shall be  
10 processed under the provisions of law applicable at the time  
11 the application is filed, except that the provisions relating  
12 to cancellation of the certification hearing under s.  
13 403.508(6), the provisions relating to the final disposition  
14 of the application and issuance of the written order by the  
15 secretary under s. 403.509(1)(a), and notice of the  
16 cancellation of the certification hearing under s. 403.5115  
17 may apply to any application for power plant certification.

18 Section 42. Section 403.519, Florida Statutes, is  
19 amended to read:

20 403.519 Exclusive forum for determination of need.--

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

25 (2) The applicant ~~commission~~ shall publish a notice of  
26 the proceeding in a newspaper of general circulation in each  
27 county in which the proposed electrical power plant will be  
28 located. The notice shall be at least one-quarter of a page  
29 and published at least 21 ~~45~~ days prior to the scheduled date  
30 for the proceeding. The commission shall publish notice of the  
31 proceeding in the manner specified by chapter 120 at least 21

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1 days prior to the scheduled date for the proceeding.

2       (3) The commission shall be the sole forum for the  
3 determination of this matter, which accordingly shall not be  
4 raised in any other forum or in the review of proceedings in  
5 such other forum. In making its determination, the commission  
6 shall take into account the need for electric system  
7 reliability and integrity, the need for adequate electricity  
8 at a reasonable cost, the need for fuel diversity and supply  
9 reliability, and whether the proposed plant is the most  
10 cost-effective alternative available. The commission shall  
11 also expressly consider the conservation measures taken by or  
12 reasonably available to the applicant or its members which  
13 might mitigate the need for the proposed plant and other  
14 matters within its jurisdiction which it deems relevant. The  
15 commission's determination of need for an electrical power  
16 plant shall create a presumption of public need and necessity  
17 and shall serve as the commission's report required by s.  
18 403.407(2)(b) ~~403.507(2)(a)2~~. An order entered pursuant to  
19 this section constitutes final agency action.

20       (4) Rule 25-22.082, Florida Administrative Code, does  
21 not apply to an electrical power plant using nuclear materials  
22 for fuel and an applicant for such a power plant is not  
23 required to secure competitive proposals for a power supply  
24 before applying for a certificate and filing a petition for  
25 determination of need.

26  
27 (Redesignate subsequent sections.)  
28  
29

30 ===== T I T L E   A M E N D M E N T =====

31 And the title is amended as follows:

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1           On page 6, line 1, after the first semicolon,

2

3 insert:

4           fees; providing that applications for power

5           plant certification be processed under laws

6           applicable at the time the application is

7           filed; providing exceptions; amending s.

8           403.519, F.S.; directing the

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