

By the Committee on Environmental Preservation and Conservation

592-2169-07

1 A bill to be entitled
2 An act relating to the Department of
3 Environmental Protection; amending s. 258.007,
4 F.S.; providing that certain violations in a
5 state park are civil infractions; amending s.
6 316.212, F.S.; allowing the operation of golf
7 carts on roads within the state park system
8 under certain conditions; amending s. 373.4142,
9 F.S.; providing statewide consistency for water
10 quality standards in the Northwest Florida
11 Water Management District; amending s. 373.414,
12 F.S.; providing that certain variance
13 provisions apply in the Northwest Florida Water
14 Management District; amending s. 373.4211,
15 F.S.; ratifying the wetland rule and amending
16 it to include certain plant species approved by
17 the Environmental Regulation Commission;
18 providing for delay of the ratification until
19 certain conditions are met; amending s.
20 403.031, F.S.; conforming the definition of the
21 term "regulated air pollutant" to changes made
22 in the federal Clean Air Act; amending s.
23 403.067, F.S.; providing for the trading of
24 water quality credits in the total maximum
25 daily load program in areas that have adopted a
26 basin action plan; providing for rules and
27 specifying what the rules must address;
28 amending s. 403.0872, F.S.; conforming the
29 requirements for air operation permits to
30 changes made to Title V of the Clean Air Act to
31 delete certain minor sources from the Title V

1 | permitting requirements; amending s. 403.088,
2 | F.S.; providing for the revision of water
3 | pollution operation permits; amending s.
4 | 403.50663, F.S.; clarifying certain notice
5 | requirements; amending s. 403.50665, F.S.;
6 | providing for a local government to issue a
7 | statement of inconsistency with existing land
8 | use plans and zoning ordinances due to
9 | incompleteness of information necessary for an
10 | evaluation; amending s. 403.508, F.S.;
11 | clarifying certain hearing requirements for
12 | land use and certification hearings; amending
13 | s. 403.509, F.S.; clarifying certain provisions
14 | relating to certifications issued by the
15 | Department of Environmental Protection;
16 | amending s. 403.5113, F.S.; providing technical
17 | corrections to provisions requiring
18 | postcertification amendments and review;
19 | amending s. 403.5115, F.S.; clarifying certain
20 | public-notice requirements; amending s.
21 | 403.5252, F.S.; clarifying provisions relating
22 | to the determination of completeness of an
23 | application for an electric transmission line;
24 | amending s. 403.527, F.S.; clarifying the time
25 | under which the department or the applicant may
26 | request the cancellation of a certification
27 | hearing for a proposed transmission line;
28 | amending s. 403.5271, F.S.; clarifying the
29 | responsibilities of reviewing agencies to
30 | review the completeness of an application;
31 | amending s. 403.5317, F.S.; clarifying the

1 provisions relating to a change in the
2 condition of a certification; amending s.
3 403.5363, F.S.; providing that notice of a
4 cancellation of a certification hearing must be
5 within a certain time; amending s. 403.861,
6 F.S.; requiring fire hydrants to have a device
7 installed that prevents the contamination of
8 the water supply; repealing ch. 325, F.S.,
9 consisting of ss. 325.2055, 325.221, 325.222,
10 and 325.223, F.S., relating to motor vehicle
11 air conditioning refrigerants; repealing s.
12 403.0875, F.S., relating to citrus juice
13 processing facilities; repealing s.
14 373.459(6)(e), F.S.; abrogating the repeal of
15 certain water management district requirements
16 for matching funds; providing an effective
17 date.

18
19 Be It Enacted by the Legislature of the State of Florida:

20
21 Section 1. Section 258.007, Florida Statutes, is
22 amended to read:

23 258.007 Powers of division.--

24 (1) The Division of Recreation and Parks shall have
25 power to acquire in the name of the state any property, real
26 or personal, by purchase, grant, devise, condemnation,
27 donation, or otherwise, which in its judgment may be necessary
28 or proper toward the administration of the purposes of this
29 chapter; however, no property of any nature may be acquired by
30 purchase, lease, grant, donation, devise, or otherwise, under
31 conditions which shall pledge the credit of, or obligate in

1 any manner whatsoever, the state to pay any sum of money, and
2 the power of condemnation as herein granted is limited to the
3 acquisition of property or property rights which may be
4 required for state park purposes for parks under the
5 jurisdiction of the Division of Recreation and Parks on July
6 1, 1980. Acquisition of such property or property rights
7 shall not exceed an aggregate of 40 acres or 10 percent of the
8 total acreage of the respective park as it existed on July 1,
9 1980, whichever is less, and shall be restricted to properties
10 wholly surrounded by state park property at the time of
11 acquisition. Express legislative approval is required for the
12 acquisition by condemnation of any new area or memorial which
13 the division may desire for the purposes set forth in this
14 chapter, except that the division may maintain and insure with
15 the State Risk Management Trust Fund buildings on property
16 owned by the state or any of its agencies.

17 (2) The division has authority to adopt rules pursuant
18 to ss. 120.536(1) and 120.54 to implement provisions of law
19 conferring duties on it, and the violation of any rule
20 authorized by this subsection ~~section~~ shall be ~~a misdemeanor~~
21 ~~and punishable as follows: accordingly.~~

22 (a) Except as provided in paragraph (b), any person
23 who violates or otherwise fails to comply with rules adopted
24 under this subsection commits a noncriminal infraction for
25 which ejection from all property managed by the division and a
26 fine of up to \$1,000 may be imposed by the division.

27 (b) Unless such activity has been specifically
28 permitted by the division, any person who is in violation of
29 any of the following commits a misdemeanor of the second
30 degree, punishable as provided in s. 775.082 or s. 775.083,
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1 and shall be ejected from all property managed by the
2 division:
3 1. Cutting, carving, injuring, mutilating, moving,
4 displacing, or breaking off any water-bottom formation or
5 coral within the boundaries of a state park.
6 2. Capturing, trapping, injuring, or harassing wild
7 animals within the boundaries of a state park.
8 3. Collecting plant or animal specimens within the
9 boundaries of a state park.
10 4. Leaving the designated public roads with a vehicle
11 within the boundaries of a state park.
12 5. Hunting within the boundaries of a state park.
13 6. Failing to sign a citation given under paragraph
14 (a), failing to appear in court in response to a citation, or
15 failing to comply with the court's order.
16 (3) The division may grant privileges, leases,
17 concessions, and permits for the use of land for the
18 accommodation of visitors in the various parks, monuments, and
19 memorials, provided no natural curiosities or objects of
20 interest shall be granted, leased, or rented on such terms as
21 shall deny or interfere with free access to them by the
22 public; provided further, such grants, leases, and permits may
23 be made and given without advertisement or securing
24 competitive bids; and provided further, that no such grant,
25 lease, or permit shall be assigned or transferred by any
26 grantee without consent of the division.
27 (4) The division is authorized to grant easements for
28 rights-of-way over, across, and upon lands of the state for
29 the maintenance of poles and lines for the transmission and
30 distribution of electrical power and for telephone and
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1 telegraphic purposes, under such conditions and with such
2 limitations as the division may impose.

3 (5)(a) The division, in cooperation with the Division
4 of Historical Resources of the Department of State, is
5 authorized and empowered to select and designate, within the
6 state park system, sites of historic interest and value and to
7 erect and maintain appropriate signs or markers indicating
8 said sites upon public property as well as upon private
9 property where permission is obtained.

10 (b) The division is authorized to receive gifts and
11 donations from any source to carry out the purpose of this
12 section.

13 Section 2. Section 316.212, Florida Statutes, is
14 amended to read:

15 316.212 Operation of golf carts on certain
16 roadways.--The operation of a golf cart upon the public roads
17 or streets of this state is prohibited except as provided
18 herein:

19 (1) A golf cart may be operated only upon a county
20 road that has been designated by a county, or a municipal
21 street that has been designated by a municipality, for use by
22 golf carts. Prior to making such a designation, the
23 responsible local governmental entity must first determine
24 that golf carts may safely travel on or cross the public road
25 or street, considering factors including the speed, volume,
26 and character of motor vehicle traffic using the road or
27 street. Upon a determination that golf carts may be safely
28 operated on a designated road or street, the responsible
29 governmental entity shall post appropriate signs to indicate
30 that such operation is allowed.

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1 (2) A golf cart may be operated on a part of the State
2 Highway System only under the following conditions:

3 (a) To cross a portion of the State Highway System
4 which intersects a county road or municipal street that has
5 been designated for use by golf carts if the Department of
6 Transportation has reviewed and approved the location and
7 design of the crossing and any traffic control devices needed
8 for safety purposes.

9 (b) To cross, at midblock, a part of the State Highway
10 System where a golf course is constructed on both sides of the
11 highway if the Department of Transportation has reviewed and
12 approved the location and design of the crossing and any
13 traffic control devices needed for safety purposes.

14 (c) A golf cart may be operated on a state road that
15 has been designated for transfer to a local government unit
16 pursuant to s. 335.0415 if the Department of Transportation
17 determines that the operation of a golf cart within the
18 right-of-way of the road will not impede the safe and
19 efficient flow of motor vehicular traffic. The department may
20 authorize the operation of golf carts on such a road if:

21 1. The road is the only available public road along
22 which golf carts may travel or cross or the road provides the
23 safest travel route among alternative routes available; and

24 2. The speed, volume, and character of motor vehicular
25 traffic using the road is considered in making such a
26 determination.

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28 Upon its determination that golf carts may be operated on a
29 given road, the department shall post appropriate signs on the
30 road to indicate that such operation is allowed.

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1 (3) Any other provision of this section to the
2 contrary notwithstanding, a golf cart may be operated for the
3 purpose of crossing a street or highway where a single mobile
4 home park is located on both sides of the street or highway
5 and is divided by that street or highway, provided that the
6 governmental entity having original jurisdiction over such
7 street or highway shall review and approve the location of the
8 crossing and require implementation of any traffic controls
9 needed for safety purposes. This subsection shall apply only
10 to residents or guests of the mobile home park. Any other
11 provision of law to the contrary notwithstanding, if notice is
12 posted at the entrance and exit to any mobile home park that
13 residents of the park utilize golf carts or electric vehicles
14 within the confines of the park it shall not be necessary that
15 the park have a gate or other device at the entrance and exit
16 in order for such golf carts or electric vehicles to be
17 lawfully operated in the park.

18 (4) Notwithstanding any other provisions of this
19 section, a golf cart may be operated on a road that is part of
20 the State Park Road System and where the posted speed limit is
21 35 miles per hour or less, and where not otherwise prohibited
22 by the Division of Recreation and Parks of the Department of
23 Environmental Protection.

24 ~~(5)(4)~~ A golf cart may be operated only during the
25 hours between sunrise and sunset, unless the responsible
26 governmental entity has determined that a golf cart may be
27 operated during the hours between sunset and sunrise and the
28 golf cart is equipped with headlights, brake lights, turn
29 signals, and a windshield.

30 ~~(6)(5)~~ A golf cart must be equipped with efficient
31 brakes, reliable steering apparatus, safe tires, a rearview

1 mirror, and red reflectorized warning devices in both the
2 front and rear.

3 ~~(7)(6)~~ A golf cart may not be operated on public roads
4 or streets by any person under the age of 14.

5 ~~(8)(7)~~ A local governmental entity may enact an
6 ordinance regarding golf cart operation and equipment which is
7 more restrictive than those enumerated in this section. Upon
8 enactment of any such ordinance, the local governmental entity
9 shall post appropriate signs or otherwise inform the residents
10 that such an ordinance exists and that it shall be enforced
11 within the local government's jurisdictional territory. An
12 ordinance referred to in this section must apply only to an
13 unlicensed driver.

14 ~~(9)(8)~~ A violation of this section is a noncriminal
15 traffic infraction, punishable pursuant to chapter 318 as a
16 moving violation for infractions of subsection (1), subsection
17 (2), subsection (3), subsection ~~(5)(4)~~, or a local ordinance
18 corresponding thereto and enacted pursuant to subsection ~~(8)~~
19 ~~(7)~~, or punishable pursuant to chapter 318 as a nonmoving
20 violation for infractions of subsection ~~(6)(5)~~, subsection
21 ~~(7)(6)~~, or a local ordinance corresponding thereto and
22 enacted pursuant to subsection ~~(8)(7)~~.

23 Section 3. Section 373.4142, Florida Statutes, is
24 amended to read:

25 373.4142 Water quality within stormwater treatment
26 systems.--State surface water quality standards applicable to
27 waters of the state, as defined in s. 403.031(13), shall not
28 apply within a stormwater management system which is designed,
29 constructed, operated, and maintained for stormwater treatment
30 in accordance with a valid permit or noticed exemption issued
31 pursuant to chapter ~~62-25~~ ~~17-25~~, Florida Administrative Code;

1 a valid permit or exemption under s. 373.4145 within the
2 Northwest Florida Water Management District; a valid permit
3 issued on or subsequent to April 1, 1986, within the Suwannee
4 River Water Management District or the St. Johns River Water
5 Management District pursuant to this part; a valid permit
6 issued on or subsequent to March 1, 1988, within the Southwest
7 Florida Water Management District pursuant to this part; or a
8 valid permit issued on or subsequent to January 6, 1982,
9 within the South Florida Water Management District pursuant to
10 this part. Such inapplicability of state water quality
11 standards shall be limited to that part of the stormwater
12 management system located upstream of a manmade water control
13 structure permitted, or approved under a noticed exemption, to
14 retain or detain stormwater runoff in order to provide
15 treatment of the stormwater. The additional use of such a
16 stormwater management system for flood attenuation or
17 irrigation shall not divest the system of the benefits of this
18 exemption. This section shall not affect the authority of the
19 department and water management districts to require
20 reasonable assurance that the water quality within such
21 stormwater management systems will not adversely impact public
22 health, fish and wildlife, or adjacent waters.

23 Section 4. Subsection (17) of section 373.414, Florida
24 Statutes, is amended to read:

25 373.414 Additional criteria for activities in surface
26 waters and wetlands.--

27 (17) The variance provisions of s. 403.201 are
28 applicable to the provisions of this section or any rule
29 adopted pursuant hereto. The governing boards and the
30 department are authorized to review and take final agency
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1 | action on petitions requesting such variances for those
2 | activities they regulate under this part and s. 373.4145.

3 | Section 5. Subsection (27) is added to section
4 | 373.4211, Florida Statutes, to read:

5 | 373.4211 Ratification of chapter 17-340, Florida
6 | Administrative Code, on the delineation of the landward extent
7 | of wetlands and surface waters.--Pursuant to s. 373.421, the
8 | Legislature ratifies chapter 17-340, Florida Administrative
9 | Code, approved on January 13, 1994, by the Environmental
10 | Regulation Commission, with the following changes:

11 | (27) Pursuant to s. 373.421 and subsection (26), the
12 | Legislature ratifies amendments to chapter 62-340, Florida
13 | Administrative Code, approved on February 23, 2006, by the
14 | Environmental Regulation Commission. Rule 62-340.450(3)
15 | Facultative Species is amended by the addition of the
16 | following plant species: Ilex glabra and Pinus elliottii.
17 | However, this ratification and rule revision does not take
18 | effect until state and federal wetland jurisdiction
19 | delineation methodologies are aligned.

20 | Section 6. Subsection (19) of section 403.031, Florida
21 | Statutes, is amended to read:

22 | 403.031 Definitions.--In construing this chapter, or
23 | rules and regulations adopted pursuant hereto, the following
24 | words, phrases, or terms, unless the context otherwise
25 | indicates, have the following meanings:

26 | (19) "Regulated air pollutant" means any pollutant
27 | regulated under the federal Clean Air Act.+

28 | ~~(a) Nitrogen oxides or any volatile organic compound;~~

29 | ~~(b) Any pollutant regulated under 42 U.S.C. s. 7411 or~~
30 | ~~s. 7412; or~~

31 |

1 ~~(c) Any pollutant for which a national primary ambient~~
2 ~~air quality standard has been adopted.~~

3 Section 7. Subsections (7) and (8) of section 403.067,
4 Florida Statutes, are amended to read:

5 403.067 Establishment and implementation of total
6 maximum daily loads.--

7 (7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND
8 IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.--

9 (a) Basin management action plans.--

10 1. In developing and implementing the total maximum
11 daily load for a water body, the department, or the department
12 in conjunction with a water management district, may develop a
13 basin management action plan that addresses some or all of the
14 watersheds and basins tributary to the water body. Such a plan
15 must ~~shall~~ integrate the appropriate management strategies
16 available to the state through existing water quality
17 protection programs to achieve the total maximum daily loads
18 and may provide for phased implementation of these management
19 strategies to promote timely, cost-effective actions as
20 provided for in s. 403.151. The plan must ~~shall~~ establish a
21 schedule for implementing the management strategies, establish
22 a basis for evaluating the plan's effectiveness, and identify
23 feasible funding strategies for implementing the plan's
24 management strategies. The management strategies may include
25 regional treatment systems or other public works, where
26 appropriate, and voluntary trading of water quality credits in
27 areas that have adopted a basin management action plan to
28 achieve the needed pollutant load reductions.

29 2. A basin management action plan must ~~shall~~ equitably
30 allocate, pursuant to paragraph (6)(b), pollutant reductions
31 to individual basins, as a whole to all basins, or to each

1 identified point source or category of nonpoint sources, as
2 appropriate. For nonpoint sources for which best management
3 practices have been adopted, the initial requirement specified
4 by the plan ~~must shall~~ be those practices developed pursuant
5 to paragraph (c). In accordance with procedures adopted by
6 rule under paragraph (8)(c), the plan must allow point or
7 nonpoint sources that will achieve greater pollutant
8 reductions than required by an adopted total maximum load or
9 wasteload allocation to generate, register, and trade water
10 quality credits for the excess reductions to enable other
11 sources to achieve their allocation if the generation of water
12 quality credits does not remove the obligation of a source or
13 activity to meet applicable technology requirements or adopted
14 best-management practices. The plan must allow trading between
15 NPDES permittees and trading that may or may not involve NPDES
16 permittees, where the generation or use of the credits involve
17 an entity or activity not subject to department water
18 discharge permits whose owner voluntarily elects to become
19 subject to the requirements of this section. Where
20 appropriate, the plan may take into account the benefits of
21 ~~provide~~ pollutant load reduction achieved by point or nonpoint
22 sources credits to dischargers that have implemented
23 management strategies to reduce pollutant loads, including
24 best management practices, prior to the development of the
25 basin management action plan. The plan ~~must shall~~ also
26 identify the mechanisms that will address ~~by which~~ potential
27 future increases in pollutant loading ~~will be addressed~~.

28 3. The basin management action planning process is
29 intended to involve the broadest possible range of interested
30 parties, with the objective of encouraging the greatest amount
31 of cooperation and consensus possible. In developing a basin

1 management action plan, the department shall assure that key
2 stakeholders, including, but not limited to, applicable local
3 governments, water management districts, the Department of
4 Agriculture and Consumer Services, other appropriate state
5 agencies, local soil and water conservation districts,
6 environmental groups, regulated interests, and affected
7 pollution sources, are invited to participate in the process.
8 The department shall hold at least one public meeting in the
9 vicinity of the watershed or basin to discuss and receive
10 comments during the planning process and shall otherwise
11 encourage public participation to the greatest practicable
12 extent. Notice of the public meeting ~~must shall~~ be published
13 in a newspaper of general circulation in each county in which
14 the watershed or basin lies not less than 5 days nor more than
15 15 days before the public meeting. A basin management action
16 plan ~~may shall~~ not supplant or otherwise alter any assessment
17 made under subsection (3) or subsection (4) or any calculation
18 or initial allocation.

19 4. The department shall adopt all or any part of a
20 basin management action plan and any amendment to such plan by
21 secretarial order pursuant to chapter 120 to implement the
22 provisions of this section.

23 5. The basin management action plan ~~must shall~~ include
24 milestones for implementation and water quality improvement,
25 and an associated water quality monitoring component
26 sufficient to evaluate whether reasonable progress in
27 pollutant load reductions is being achieved over time. An
28 assessment of progress toward these milestones ~~must shall~~ be
29 conducted every 5 years, and revisions to the plan ~~must shall~~
30 be made as appropriate. Revisions to the basin management
31 action plan shall be made by the department in cooperation

1 with basin stakeholders. Revisions to the management
2 strategies required for nonpoint sources ~~must shall~~ follow the
3 procedures set forth in subparagraph (c)4. Revised basin
4 management action plans ~~must shall~~ be adopted pursuant to
5 subparagraph 4.

6 6. The provisions of the department's rule relating to
7 the equitable abatement of pollutants into surface waters may
8 not be applied to water bodies or water body segments for
9 which a basin management plan that takes into account future
10 new or expanded activities or discharges has been adopted
11 pursuant to this section.

12 (b) Total maximum daily load implementation.--

13 1. The department shall be the lead agency in
14 coordinating the implementation of the total maximum daily
15 loads through existing water quality protection programs.
16 Application of a total maximum daily load by a water
17 management district ~~must shall~~ be consistent with this section
18 and ~~may shall~~ not require the issuance of an order or a
19 separate action pursuant to s. 120.536(1) or s. 120.54 for the
20 adoption of the calculation and allocation previously
21 established by the department. Such programs may include, but
22 are not limited to:

23 a. Permitting and other existing regulatory programs,
24 including water-quality-based effluent limitations;

25 b. Nonregulatory and incentive-based programs,
26 including best management practices, cost sharing, waste
27 minimization, pollution prevention, agreements established
28 pursuant to s. 403.061(21), and public education;

29 c. Other water quality management and restoration
30 activities, for example surface water improvement and
31 management plans approved by water management districts or

1 basin management action plans developed pursuant to this
2 subsection;

3 d. Trading of water quality credits ~~Pollutant trading~~
4 or other equitable economically based agreements;

5 e. Public works including capital facilities; or
6 f. Land acquisition.

7 2. For a basin management action plan adopted pursuant
8 to paragraph (a) ~~subparagraph (a)4-~~, any management strategies
9 and pollutant reduction requirements associated with a
10 pollutant of concern for which a total maximum daily load has
11 been developed, including effluent limits set forth for a
12 discharger subject to NPDES permitting, if any, must ~~shall~~ be
13 included in a timely manner in subsequent NPDES permits or
14 permit modifications for that discharger. The department may
15 ~~shall~~ not impose limits or conditions implementing an adopted
16 total maximum daily load in an NPDES permit until the permit
17 expires, the discharge is modified, or the permit is reopened
18 pursuant to an adopted basin management action plan.

19 a. Absent a detailed allocation, total maximum daily
20 loads must ~~shall~~ be implemented through NPDES permit
21 conditions that provide for ~~afford~~ a compliance schedule. In
22 such instances, a facility's NPDES permit must ~~shall~~ allow
23 time for the issuance of an order adopting the basin
24 management action plan. The time allowed for the issuance of
25 an order adopting the plan must ~~shall~~ not exceed 5 years. Upon
26 issuance of an order adopting the plan, the permit must ~~shall~~
27 be reopened, as necessary, and permit conditions consistent
28 with the plan must ~~shall~~ be established. Notwithstanding ~~the~~
29 other provisions of this subparagraph, upon request by a NPDES
30 permittee, the department as part of a permit issuance,
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1 renewal, or modification may establish individual allocations
2 prior to the adoption of a basin management action plan.

3 b. For holders of NPDES municipal separate storm sewer
4 system permits and other stormwater sources, implementation of
5 a total maximum daily load or basin management action plan
6 must ~~shall~~ be achieved, to the maximum extent practicable,
7 through the use of best management practices or other
8 management measures.

9 c. The basin management action plan does not relieve
10 the discharger from any requirement to obtain, renew, or
11 modify an NPDES permit or to abide by other requirements of
12 the permit.

13 d. Management strategies set forth in a basin
14 management action plan to be implemented by a discharger
15 subject to permitting by the department must ~~shall~~ be
16 completed pursuant to the schedule set forth in the basin
17 management action plan. This implementation schedule may
18 extend beyond the 5-year term of an NPDES permit.

19 e. Management strategies and pollution reduction
20 requirements set forth in a basin management action plan for a
21 specific pollutant of concern may ~~shall~~ not be subject to
22 challenge under chapter 120 at the time they are incorporated,
23 in an identical form, into a subsequent NPDES permit or permit
24 modification.

25 f. For nonagricultural pollutant sources not subject
26 to NPDES permitting but permitted pursuant to other state,
27 regional, or local water quality programs, the pollutant
28 reduction actions adopted in a basin management action plan
29 must ~~shall~~ be implemented to the maximum extent practicable as
30 part of those permitting programs.

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1 g. A nonpoint source discharger included in a basin
2 management action plan ~~must shall~~ demonstrate compliance with
3 the pollutant reductions established under ~~pursuant to~~
4 subsection (6) by either implementing the appropriate best
5 management practices established pursuant to paragraph (c) or
6 conducting water quality monitoring prescribed by the
7 department or a water management district.

8 h. A nonpoint source discharger included in a basin
9 management action plan may be subject to enforcement action by
10 the department or a water management district based upon a
11 failure to implement the responsibilities set forth in
12 sub-subparagraph g.

13 i. A landowner, discharger, or other responsible
14 person who is implementing applicable management strategies
15 specified in an adopted basin management action plan may shall
16 not be required by permit, enforcement action, or otherwise to
17 implement additional management strategies to reduce pollutant
18 loads to attain the pollutant reductions established pursuant
19 to subsection (6) and ~~must shall~~ be deemed to be in compliance
20 with this section. This subparagraph does not limit the
21 authority of the department to amend a basin management action
22 plan as specified in subparagraph (a)5.

23 (c) Best management practices.--

24 1. The department, in cooperation with the water
25 management districts and other interested parties, as
26 appropriate, may develop suitable interim measures, best
27 management practices, or other measures necessary to achieve
28 the level of pollution reduction established by the department
29 for nonagricultural nonpoint pollutant sources in allocations
30 developed pursuant to subsection (6) and this subsection.
31 These practices and measures may be adopted by rule by the

1 department and the water management districts ~~pursuant to ss.~~
2 ~~120.536(1) and 120.54~~, and, where adopted by rule, shall be
3 implemented by those parties responsible for nonagricultural
4 nonpoint source pollution.

5 2. The Department of Agriculture and Consumer Services
6 may develop and adopt by rule pursuant to ss. 120.536(1) and
7 120.54 suitable interim measures, best management practices,
8 or other measures necessary to achieve the level of pollution
9 reduction established by the department for agricultural
10 pollutant sources in allocations developed pursuant to
11 subsection (6) and this subsection or for programs implemented
12 pursuant to paragraph (11)(b). These practices and measures
13 may be implemented by those parties responsible for
14 agricultural pollutant sources and the department, the water
15 management districts, and the Department of Agriculture and
16 Consumer Services must ~~shall~~ assist with implementation. In
17 the process of developing and adopting rules for interim
18 measures, best management practices, or other measures, the
19 Department of Agriculture and Consumer Services shall consult
20 with the department, the Department of Health, the water
21 management districts, representatives from affected farming
22 groups, and environmental group representatives. Such rules
23 must ~~shall~~ also incorporate provisions for a notice of intent
24 to implement the practices and a system to assure the
25 implementation of the practices, including recordkeeping
26 requirements.

27 3. Where interim measures, best management practices,
28 or other measures are adopted by rule, the effectiveness of
29 such practices in achieving the levels of pollution reduction
30 established in allocations developed by the department
31 pursuant to subsection (6) and this subsection or in programs

1 | implemented pursuant to paragraph (11)(b) must ~~shall~~ be
2 | verified at representative sites by the department. The
3 | department must ~~shall~~ use best professional judgment in making
4 | the initial verification that the best management practices
5 | are reasonably expected to be effective and, where applicable,
6 | must ~~shall~~ notify the appropriate water management district or
7 | the Department of Agriculture and Consumer Services of its
8 | initial verification prior to the adoption of a rule proposed
9 | pursuant to this paragraph. Implementation, in accordance with
10 | rules adopted under this paragraph, of practices that have
11 | been initially verified to be effective, or verified to be
12 | effective by monitoring at representative sites, by the
13 | department, shall provide a presumption of compliance with
14 | state water quality standards and release from the provisions
15 | of s. 376.307(5) for those pollutants addressed by the
16 | practices, and the department is not authorized to institute
17 | proceedings against the owner of the source of pollution to
18 | recover costs or damages associated with the contamination of
19 | surface water or groundwater caused by those pollutants.
20 | Research projects funded by the department, a water management
21 | district, or the Department of Agriculture and Consumer
22 | Services to develop or demonstrate interim measures or best
23 | management practices shall be granted a presumption of
24 | compliance with state water quality standards and a release
25 | from the provisions of s. 376.307(5). The presumption of
26 | compliance and release is ~~shall be~~ limited to the research
27 | site and only for those pollutants addressed by the interim
28 | measures or best management practices. Eligibility for the
29 | presumption of compliance and release is ~~shall be~~ limited to
30 | research projects on sites where the owner or operator of the
31 | research site and the department, a water management district,

1 | or the Department of Agriculture and Consumer Services have
2 | entered into a contract or other agreement that, at a minimum,
3 | specifies the research objectives, the cost-share
4 | responsibilities of the parties, and a schedule that details
5 | the beginning and ending dates of the project.

6 | 4. Where water quality problems are demonstrated,
7 | despite the appropriate implementation, operation, and
8 | maintenance of best management practices and other measures
9 | required by ~~according to~~ rules adopted under this paragraph,
10 | the department, a water management district, or the Department
11 | of Agriculture and Consumer Services, in consultation with the
12 | department, shall institute a reevaluation of the best
13 | management practice or other measure. Should the reevaluation
14 | determine that the best management practice or other measure
15 | requires modification, the department, a water management
16 | district, or the Department of Agriculture and Consumer
17 | Services, as appropriate, shall revise the rule to require
18 | implementation of the modified practice within a reasonable
19 | time period as specified in the rule.

20 | 5. Agricultural records relating to processes or
21 | methods of production, costs of production, profits, or other
22 | financial information held by the Department of Agriculture
23 | and Consumer Services pursuant to subparagraphs 3. and 4. or
24 | pursuant to any rule adopted pursuant to subparagraph 2. are
25 | confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
26 | of the State Constitution. Upon request, records made
27 | confidential and exempt pursuant to this subparagraph shall be
28 | released to the department or any water management district if
29 | ~~provided that~~ the confidentiality specified by this
30 | subparagraph for such records is maintained.

31 |

1 6. The provisions of subparagraphs 1. and 2. ~~do shall~~
2 not preclude the department or water management district from
3 requiring compliance with water quality standards or with
4 current best management practice requirements set forth in any
5 applicable regulatory program authorized by law to protect for
6 ~~the purpose of protecting~~ water quality. Additionally,
7 subparagraphs 1. and 2. are applicable only to the extent that
8 they do not conflict with any rules adopted by the department
9 which that are necessary to maintain a federally delegated or
10 approved program.

11 (8) RULES.--The department is authorized to adopt
12 rules pursuant to ss. 120.536(1) and 120.54 for:

13 (a) Delisting water bodies or water body segments from
14 the list developed under subsection (4) pursuant to the
15 guidance under subsection (5).;

16 (b) Administering ~~Administration of~~ funds to implement
17 the total maximum daily load and basin management action
18 planning programs.;

19 (c) Water quality credit ~~Procedures for pollutant~~
20 trading among the pollutant sources to a water body or water
21 body segment. By July 1, 2007, rulemaking shall be initiated
22 which provides for the following:~~, including a mechanism for~~
23 ~~the issuance and tracking of pollutant credits. Such~~
24 ~~procedures may be implemented through permits or other~~
25 ~~authorizations and must be legally binding. Prior to adopting~~
26 ~~rules for pollutant trading under this paragraph, and no later~~
27 ~~than November 30, 2006, the Department of Environmental~~
28 ~~Protection shall submit a report to the Governor, the~~
29 ~~President of the Senate, and the Speaker of the House of~~
30 ~~Representatives containing recommendations on such rules,~~
31 ~~including the proposed basis for equitable economically based~~

1 ~~agreements and the tracking and accounting of pollution~~
2 ~~credits or other similar mechanisms. Such recommendations~~
3 ~~shall be developed in cooperation with a technical advisory~~
4 ~~committee that includes experts in pollutant trading and~~
5 ~~representatives of potentially affected parties;~~

6 1. The process to be used to determine how credits are
7 generated, quantified, and validated;

8 2. A publicly accessible water quality credit trading
9 registry that tracks water quality credits and trades and
10 lists the prices paid for such credits and that does not allow
11 the department to participate in the establishment of such
12 prices;

13 3. Limitations on the availability and use of water
14 quality credits, including a list of eligible pollutants or
15 parameters and minimum water quality requirements and, where
16 appropriate, adjustments to reflect best-management practice
17 performance uncertainties and water-segment-specific location
18 factors;

19 4. The timing and duration of credits and allowance
20 for credit transferability; and

21 5. Mechanisms for determining and ensuring compliance
22 with trading procedures, including recordkeeping, monitoring,
23 reporting, and inspections. Generators of traded credits are
24 responsible for achieving the load reductions upon which the
25 credits are based.

26 (d) The total maximum daily load calculation in
27 accordance with paragraph (6)(a) immediately upon the
28 effective date of this act, for those eight water segments
29 within Lake Okeechobee proper as submitted to the United
30 States Environmental Protection Agency pursuant to subsection
31 (2). ~~;~~ and

1 (e) Implementation of other specific provisions.

2 Section 8. Subsection (1) of 403.0872, Florida
3 Statutes, is amended to read:

4 403.0872 Operation permits for major sources of air
5 pollution; annual operation license fee.--Provided that
6 program approval pursuant to 42 U.S.C. s. 7661a has been
7 received from the United States Environmental Protection
8 Agency, beginning January 2, 1995, each major source of air
9 pollution, including electrical power plants certified under
10 s. 403.511, must obtain from the department an operation
11 permit for a major source of air pollution under this section.
12 This ~~operation~~ permit is the only department operation permit
13 for a major source of air pollution required for such source;
14 however provided, at the applicant's request, the department
15 shall issue a separate acid rain permit for a major source of
16 air pollution that is an affected source within the meaning of
17 42 U.S.C. s. 7651a(1). Operation permits for major sources of
18 air pollution, except general permits issued pursuant to s.
19 403.814, must be issued in accordance with the procedures
20 contained in this section and in accordance with chapter 120;
21 however, to the extent that chapter 120 is inconsistent with
22 the provisions of this section, the procedures contained in
23 this section prevail.

24 (1) For purposes of this section, a major source of
25 air pollution means a stationary source of air pollution, or
26 any group of stationary sources within a contiguous area and
27 under common control, which emits any regulated air pollutant
28 and which is ~~any of the following~~:

29 (a) A major source within the meaning of 42 U.S.C. s.
30 7412(a)(1);

31

1 (b) A major stationary source or major emitting
2 facility within the meaning of 42 U.S.C. s. 7602(j) or 42
3 U.S.C. subchapter I, part C or part D;

4 (c) An affected source within the meaning of 42 U.S.C.
5 s. 7651a(1);

6 (d) An air pollution source subject to standards or
7 regulations under 42 U.S.C. s. 7411 or s. 7412; provided that
8 a source is not a major source solely because of its
9 regulation under 42 U.S.C. s. 7412(r); or

10 (e) A stationary air pollution source belonging to a
11 category designated as a 40 C.F.R. part 70 source by
12 regulations adopted by the administrator of the United States
13 Environmental Protection Agency under 42 U.S.C. ss. 7661 et
14 seq.

15
16 The department shall exempt those facilities that are subject
17 to this section solely because they are subject to
18 requirements under 42 U.S.C. s. 7411 or s. 7412 ~~s. 7411~~ or
19 solely because they are subject to reporting requirements
20 under 42 U.S.C. s. 7412 for as long as the exemption is
21 available under federal law.

22 Section 9. Paragraphs (e) and (f) of subsection (2) of
23 section 403.088, Florida Statutes, are amended to read:

24 403.088 Water pollution operation permits;
25 conditions.--

26 (2)

27 (e) However, if the discharge will not meet permit
28 conditions or applicable statutes and rules, the department
29 may issue, renew, revise, or reissue the operation permit if:

30 1. The applicant is constructing, installing, or
31 placing into operation, or has submitted plans and a

1 reasonable schedule for constructing, installing, or placing
2 into operation, an approved pollution abatement facility or
3 alternative waste disposal system;

4 2. The applicant needs permission to pollute the
5 waters within the state for a period of time necessary to
6 complete research, planning, construction, installation, or
7 operation of an approved and acceptable pollution abatement
8 facility or alternative waste disposal system;

9 3. There is no present, reasonable, alternative means
10 of disposing of the waste other than by discharging it into
11 the waters of the state;

12 4. The granting of an operation permit will be in the
13 public interest; ~~or~~

14 5. The discharge will not be unreasonably destructive
15 to the quality of the receiving waters; ~~or-~~

16 6. A water quality credit trade that meets the
17 requirements of a total maximum daily load allocation has been
18 approved in a final order issued under s. 403.067(7)(a)1.4.

19 (f) A permit issued, renewed, revised, or reissued
20 pursuant to paragraph (e) shall be accompanied by an order
21 establishing a schedule for achieving compliance with all
22 permit conditions. Such permit may require compliance with
23 the accompanying order.

24 Section 10. Subsection (3) of section 403.50663,
25 Florida Statutes, is amended to read:

26 403.50663 Informational public meetings.--

27 (3) A local government or regional planning council
28 that intends to conduct an informational public meeting must
29 provide notice of the meeting to all parties not less than 15
30 5 days prior to the meeting, and to the general public, in
31 accordance with the provisions of s. 403.5115(5).

1 Section 11. Subsection (2) of section 403.50665,
2 Florida Statutes, is amended to read:

3 403.50665 Land use consistency.--

4 (2) Within 45 days after the filing of the
5 application, each local government shall file a determination
6 with the department, the applicant, the administrative law
7 judge, and all parties on the consistency of the site or any
8 directly associated facilities with existing land use plans
9 and zoning ordinances that were in effect on the date the
10 application was filed, based on the information provided in
11 the application. The local government may issue its
12 determination up to 35 days later if the local government has
13 requested additional information on land use and zoning
14 consistency as part of the local government's statement on
15 completeness of the application submitted pursuant to s.
16 403.5066(1)(a). Incompleteness of information necessary for a
17 local government to evaluate an application may be claimed by
18 the local government as cause for a statement of inconsistency
19 with existing land use plans and zoning ordinances. Notice of
20 the consistency determination shall be published in accordance
21 with the requirements of s. 403.5115.

22 Section 12. Section 403.508, Florida Statutes, is
23 amended to read:

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

26 (1)(a) Within 5 days after the filing of ~~If~~ a petition
27 for a hearing on land use has been filed pursuant to s.
28 403.50665, the designated administrative law judge shall
29 schedule ~~conduct~~ a land use hearing to be conducted in the
30 county of the proposed site or directly associated facility,
31 as applicable, as expeditiously as possible, but not later

1 | than 30 days after the department's receipt of the petition.
2 | The place of such hearing shall be as close as possible to the
3 | proposed site or directly associated facility. If a petition
4 | is filed, the hearing shall be held regardless of the status
5 | 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) The sole issue for determination at the land use
14 | 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 at the hearing evidence
20 | on, and address in the recommended order any changes to or
21 | approvals or variances under, the applicable land use plans or
22 | zoning ordinances which will render the proposed site
23 | consistent and in compliance with the local land use plans and
24 | zoning 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 days after receipt of the recommended order by the
29 | board.

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

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 the proposed electrical power plant on the
6 | proposed site or directly associated facilities unless
7 | certification is subsequently denied or withdrawn.

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

28 | (2)(a) A certification hearing shall be held by the
29 | designated administrative law judge no later than 265 days
30 | after the application is filed with the department. The
31 | certification hearing shall be held at a location in proximity

1 | to the proposed site. ~~At the conclusion of the certification~~
2 | ~~hearing, the designated administrative law judge shall, after~~
3 | ~~consideration of all evidence of record, submit to the board a~~
4 | ~~recommended order no later than 45 days after the filing of~~
5 | ~~the hearing transcript.~~

6 | (b) Notice of the certification hearing and notice of
7 | the deadline for filing of notice of intent to be a party
8 | shall be made in accordance with the requirements of s.
9 | 403.5115.

10 | (3)(a) Parties to the proceeding shall include:

- 11 | 1. The applicant.
12 | 2. The Public Service Commission.
13 | 3. The Department of Community Affairs.
14 | 4. The Fish and Wildlife Conservation Commission.
15 | 5. The water management district.
16 | 6. The department.
17 | 7. The regional planning council.
18 | 8. The local government.
19 | 9. The Department of Transportation.

20 | (b) Any party listed in paragraph (a) other than the
21 | department or the applicant may waive its right to participate
22 | in these proceedings. If such listed party fails to file a
23 | notice of its intent to be a party on or before the 90th day
24 | prior to the certification hearing, such party shall be deemed
25 | to have waived its right to be a party.

26 | (c) Notwithstanding the provisions of chapter 120,
27 | upon the filing with the administrative law judge of a notice
28 | of intent to be a party no later than 75 days after the
29 | application is filed, the following shall also be parties to
30 | the proceeding:
31 |

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

3 2. Any domestic nonprofit corporation or association
4 formed, in whole or in part, to promote conservation or
5 natural beauty; to protect the environment, personal health,
6 or other biological values; to preserve historical sites; to
7 promote consumer interests; to represent labor, commercial, or
8 industrial groups; or to promote comprehensive planning or
9 orderly development of the area in which the proposed
10 electrical power plant is to be located.

11 (d) Notwithstanding paragraph (e), failure of an
12 agency described in subparagraph (c)1. to file a notice of
13 intent to be a party within the time provided herein shall
14 constitute a waiver of the right of that agency to participate
15 as a party in the proceeding.

16 (e) Other parties may include any person, including
17 those persons enumerated in paragraph (c) who have failed to
18 timely file a notice of intent to be a party, whose
19 substantial interests are affected and being determined by the
20 proceeding and who timely file a motion to intervene pursuant
21 to chapter 120 and applicable rules. Intervention pursuant to
22 this paragraph may be granted at the discretion of the
23 designated administrative law judge and upon such conditions
24 as he or she may prescribe any time prior to 30 days before
25 the commencement of the certification hearing.

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

30 (4)(a) The order of presentation at the certification
31 hearing, unless otherwise changed by the administrative law

1 judge to ensure the orderly presentation of witnesses and
2 evidence, shall be:

- 3 1. The applicant.
- 4 2. The department.
- 5 3. State agencies.
- 6 4. Regional agencies, including regional planning
7 councils and water management districts.
- 8 5. Local governments.
- 9 6. Other parties.

10 (b) When appropriate, any person may be given an
11 opportunity to present oral or written communications to the
12 designated administrative law judge. If the designated
13 administrative law judge proposes to consider such
14 communications, then all parties shall be given an opportunity
15 to cross-examine or challenge or rebut such communications.

16 (5) At the conclusion of the certification hearing,
17 the designated administrative law judge shall, after
18 consideration of all evidence of record, submit to the board a
19 recommended order no later than 45 days after the filing of
20 the hearing transcript.

21 (6)(a) No earlier than 29 days prior to the conduct of
22 the certification hearing, the department or the applicant may
23 request that the administrative law judge cancel the
24 certification hearing and relinquish jurisdiction to the
25 department if all parties to the proceeding stipulate that
26 there are no disputed issues of fact or law to be raised at
27 the certification hearing, and if sufficient time remains for
28 the applicant and the department to publish public notices of
29 the cancellation of the hearing at least 3 days prior to the
30 scheduled date of the hearing.

31

1 (b) The administrative law judge shall issue an order
2 granting or denying the request within 5 days after receipt of
3 the request.

4 (c) If the administrative law judge grants the
5 request, the department and the applicant shall publish
6 notices of the cancellation of the certification hearing, in
7 accordance with s. 403.5115.

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

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

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

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

1 | the Legislature that the review, processing, and issuance of
2 | such federally delegated or approved permits be closely
3 | coordinated with the certification process established under
4 | this part. In the event of a conflict between the
5 | certification process and federally required procedures, the
6 | applicable federal requirements shall control.

7 | Section 13. Subsection (5) of section 403.509, Florida
8 | Statutes, is amended to read:

9 | 403.509 Final disposition of application.--

10 | (5) For certifications that are issued by the board,
11 | in regard to the properties and works of any agency ~~that which~~
12 | is a party to the certification hearing, the board shall have
13 | the authority to decide issues relating to the use, the
14 | connection thereto, or the crossing thereof, for the
15 | electrical power plant and directly associated facilities and
16 | to direct any such agency to execute, within 30 days after the
17 | entry of certification, the necessary license or easement for
18 | such use, connection, or crossing, subject only to the
19 | conditions set forth in such certification. For certifications
20 | that are issued by the department, in regard to the properties
21 | and works of any agency that is a party to the proceeding, any
22 | stipulation filed pursuant to s. 403.508(6)(a) must include a
23 | stipulation regarding any issues relating to the use, the
24 | connection thereto, or the crossing thereof, for the
25 | electrical power plant and directly associated facilities. Any
26 | agency stipulating to the use, connection to, or crossing of
27 | its property must agree to execute, within 30 days after the
28 | entry of certification, the necessary license or easement for
29 | such use, connection, or crossing, subject only to the
30 | conditions set forth in such certification.

1 Section 14. Section 403.5113, Florida Statutes, is
2 amended to read:

3 403.5113 Postcertification amendments and review.--

4 (1) POSTCERTIFICATION AMENDMENTS.--

5 (a) If, subsequent to certification by the board, a
6 licensee proposes any material change to the application and
7 revisions or amendments thereto, as certified, the licensee
8 shall submit a written request for amendment and a description
9 of the proposed change to the application to the department.

10 Within 30 days after the receipt of the request for the
11 amendment, the department shall determine whether the proposed
12 change to the application requires a modification of the
13 conditions of certification.

14 (b)(2) If the department concludes that the change
15 would not require a modification of the conditions of
16 certification, the department shall provide written
17 notification of the determination on approval of the proposed
18 amendment to the licensee, all agencies, and all other
19 parties.

20 (c)(3) If the department concludes that the change
21 would require a modification of the conditions of
22 certification, the department shall provide written
23 notification to the licensee that the proposed change to the
24 application requires a request for modification pursuant to s.
25 403.516.

26 (2)(4) POSTCERTIFICATION REVIEW.--Postcertification
27 submittals filed by the licensee with one or more agencies are
28 for the purpose of monitoring for compliance with the issued
29 certification and must be reviewed by the agencies on an
30 expedited and priority basis because each facility certified
31 under this act is a critical infrastructure facility. In no

1 event shall a postcertification review be completed in more
2 than 90 days after complete information is submitted to the
3 reviewing agencies.

4 Section 15. Section 403.5115, Florida Statutes, is
5 amended to read:

6 403.5115 Public notice.--

7 (1) The following notices are to be published by the
8 applicant:

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

15 (b) Notice of filing of the application, which shall
16 include a description of the proceedings required by this act,
17 within 21 days after the date of the application filing. Such
18 notice shall give notice of the provisions of s. 403.511(1)
19 and (2).

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

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

26 (e) Notice of the certification hearing and notice of
27 the deadline for filing notice of intent to be a party, which
28 shall be published as specified in subsection (2), at least 65
29 days before the date set for the certification hearing.

30
31

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

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

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

13 2. If a hearing is to be conducted in response to the
14 request for modification, then notice shall be published no
15 later than 30 days before the hearing.

16 (h) Notice of a supplemental application, which shall
17 be published as specified in paragraph (b) and subsection (2).

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

21 (2) Notices provided by the applicant shall be
22 published in newspapers of general circulation within the
23 county or counties in which the proposed electrical power
24 plant will be located. The newspaper notices shall be at least
25 one-half page in size in a standard size newspaper or a full
26 page in a tabloid size newspaper. These notices shall include
27 a map generally depicting the project and all associated
28 facilities corridors. A newspaper of general circulation shall
29 be the newspaper which has the largest daily circulation in
30 that county and has its principal office in that county. If
31 the newspaper with the largest daily circulation has its

1 principal office outside the county, the notices shall appear
2 in both the newspaper having the largest circulation in that
3 county and in a newspaper authorized to publish legal notices
4 in that county.

5 (3) All notices published by the applicant shall be
6 paid for by the applicant and shall be in addition to the
7 application fee.

8 (4) The department shall arrange for publication of
9 the following notices in the manner specified by chapter 120
10 and provide copies of those notices to any persons who have
11 requested to be placed on the departmental mailing list for
12 this purpose for each case for which an application has been
13 received by the department:

14 (a) Notice of the filing of the notice of intent
15 within 15 days after receipt of the notice.

16 (b) Notice of the filing of the application, no later
17 than 21 days after the application filing.

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

21 (d) Notice of the land use hearing before the
22 administrative law judge, if applicable, no later than 10 ~~15~~
23 days before the hearing.

24 (e) Notice of the land use hearing before the board,
25 if applicable.

26 (f) Notice of the certification hearing at least 45
27 days before the date set for the certification hearing.

28 (g) Notice of the cancellation of the certification
29 hearing, if applicable, no later than 3 days prior to the date
30 of the originally scheduled certification hearing.

31

1 (h) Notice of the hearing before the board, if
2 applicable.

3 (i) Notice of stipulations, proposed agency action, or
4 petitions for modification.

5 (5) A local government or regional planning council
6 that proposes to conduct an informational public meeting
7 pursuant to s. 403.50663 must publish notice of the meeting in
8 a newspaper of general circulation within the county or
9 counties in which the proposed electrical power plant will be
10 located no later than 7 days prior to the meeting. A newspaper
11 of general circulation is the newspaper that has the largest
12 daily circulation in that county and has its principal office
13 in that county. If the newspaper having the largest daily
14 circulation has its principal office outside the county, the
15 notices must appear in both the newspaper having the largest
16 circulation in that county and in a newspaper authorized to
17 publish legal notices in that county.

18 Section 16. Subsection (1) of section 403.5252,
19 Florida Statutes, is amended to read:

20 403.5252 Determination of completeness.--

21 (1)(a) Within 30 days after the filing ~~distribution~~ of
22 an application, the affected agencies shall file a statement
23 with the department containing the recommendations of each
24 agency concerning the completeness of the application for
25 certification.

26 (b) Within ~~37~~ 7 days after the filing ~~receipt~~ of the
27 application ~~completeness statements of each agency~~, the
28 department shall file a statement with the Division of
29 Administrative Hearings, with the applicant, and with all
30 parties declaring its position with regard to the completeness
31

1 of the application. The statement of the department shall be
2 based upon its consultation with the affected agencies.

3 Section 17. Subsection (6) of section 403.527, Florida
4 Statutes, is amended to read:

5 403.527 Certification hearing, parties,
6 participants.--

7 (6)(a) No later than 29 ~~25~~ days before the
8 certification hearing, the department or the applicant may
9 request that the administrative law judge cancel the
10 certification hearing and relinquish jurisdiction to the
11 department if all parties to the proceeding stipulate that
12 there are no disputed issues of material fact or law to be
13 raised at the certification hearing.

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

16 (c) If the administrative law judge grants the
17 request, the department and the applicant shall publish
18 notices of the cancellation of the certification hearing in
19 accordance with s. 403.5363.

20 (d)1. If the administrative law judge grants the
21 request, the department shall prepare and issue a final order
22 in accordance with s. 403.529(1)(a).

23 2. Parties may submit proposed final orders to the
24 department no later than 10 days after the administrative law
25 judge issues an order relinquishing jurisdiction.

26 Section 18. Subsection (1) of section 403.5271,
27 Florida Statutes, is amended to read:

28 403.5271 Alternate corridors.--

29 (1) No later than 45 days before the originally
30 scheduled certification hearing, any party may propose
31

1 | alternate transmission line corridor routes for consideration
2 | under the provisions of this act.

3 | (a) A notice of a proposed alternate corridor must be
4 | filed with the administrative law judge, all parties, and any
5 | local governments in whose jurisdiction the alternate corridor
6 | is proposed. The filing must include the most recent United
7 | States Geological Survey 1:24,000 quadrangle maps specifically
8 | delineating the corridor boundaries, a description of the
9 | proposed corridor, and a statement of the reasons the proposed
10 | alternate corridor should be certified.

11 | (b)1. Within 7 days after receipt of the notice, the
12 | applicant and the department shall file with the
13 | administrative law judge and all parties a notice of
14 | acceptance or rejection of a proposed alternate corridor for
15 | consideration. If the alternate corridor is rejected by the
16 | applicant or the department, the certification hearing and the
17 | public hearings shall be held as scheduled. If both the
18 | applicant and the department accept a proposed alternate
19 | corridor for consideration, the certification hearing and the
20 | public hearings shall be rescheduled, if necessary.

21 | 2. If rescheduled, the certification hearing shall be
22 | held no more than 90 days after the previously scheduled
23 | certification hearing, unless the data submitted under
24 | paragraph (d) is determined to be incomplete, in which case
25 | the rescheduled certification hearing shall be held no more
26 | than 105 days after the previously scheduled certification
27 | hearing. If additional time is needed due to the alternate
28 | corridor crossing a local government jurisdiction that was not
29 | previously affected, the remainder of the schedule listed
30 | below shall be appropriately adjusted by the administrative
31 |

1 law judge to allow that local government to prepare a report
2 pursuant to s. 403.526(2)(a)5.

3 (c) Notice of the filing of the alternate corridor, of
4 the revised time schedules, of the deadline for newly affected
5 persons and agencies to file notice of intent to become a
6 party, of the rescheduled hearing date, and of the proceedings
7 shall be published in accordance with s. 403.5363.

8 (d) Within 21 days after acceptance of an alternate
9 corridor by the department and the applicant, the party
10 proposing an alternate corridor shall have the burden of
11 providing all data to the agencies listed in s. 403.526(2) and
12 newly affected agencies necessary for the preparation of a
13 supplementary report on the proposed alternate corridor.

14 (e)1. Reviewing agencies shall advise the department
15 of any issues concerning completeness no later than 15 days
16 after the submittal of the data required by paragraph (d).
17 Within 22 days after receipt of the data, the department shall
18 issue a determination of completeness.

19 2. If the department determines that the data required
20 by paragraph (d) is not complete, the party proposing the
21 alternate corridor must file such additional data to correct
22 the incompleteness. This additional data must be submitted
23 within 14 days after the determination by the department.

24 3. Reviewing agencies may advise the department of any
25 issues concerning completeness of the additional data within
26 10 days after the filing by the applicant. If the department,
27 within 14 days after receiving the additional data, determines
28 that the data remains incomplete, the incompleteness of the
29 data is deemed a withdrawal of the proposed alternate
30 corridor. The department may make its determination based on
31 recommendations made by other affected agencies.

1 (f) The agencies listed in s. 403.526(2) and any newly
2 affected agencies shall file supplementary reports with the
3 applicant and the department which address the proposed
4 alternate corridors no later than 24 days after the data
5 submitted pursuant to paragraph (d) or paragraph (e) is
6 determined to be complete.

7 (g) The agency reports on alternate corridors must
8 include all information required by s. 403.526(2).

9 (h) When an agency whose agency head is a collegial
10 body, such as a commission, board, or council, is required to
11 submit a report pursuant to this section and is required by
12 its own internal procedures to have the report reviewed by its
13 agency head prior to finalization, the agency may submit to
14 the department a draft version of the report by the deadline
15 indicated in paragraph (f), and shall submit a final version
16 of the report after review by the agency head no later than 7
17 days after the deadline indicated in paragraph (f).

18 (i) The department shall file with the administrative
19 law judge, the applicant, and all parties a project analysis
20 consistent with s. 403.526(3) no more than 16 days after
21 submittal of agency reports on the proposed alternate
22 corridor.

23 Section 19. Section 403.5317, Florida Statutes, is
24 amended to read:

25 403.5317 Postcertification activities.--

26 (1)(a) If, subsequent to certification, a licensee
27 proposes any material change to the application or prior
28 amendments, the licensee shall submit to the department a
29 written request for amendment and description of the proposed
30 change to the application. The department shall, within 30
31 days after the receipt of the request for the amendment,

1 determine whether the proposed change to the application
2 requires a modification of the conditions of certification.

3 (b) If the department concludes that the change would
4 not require a modification of the conditions of certification,
5 the department shall notify, in writing, the licensee, all
6 agencies, and all parties of the determination on ~~approval of~~
7 the amendment.

8 (c) If the department concludes that the change would
9 require a modification of the conditions of certification, the
10 department shall notify the licensee that the proposed change
11 to the application requires a request for modification under
12 s. 403.5315.

13 (2) Postcertification submittals filed by a licensee
14 with one or more agencies are for the purpose of monitoring
15 for compliance with the issued certification. Each submittal
16 must be reviewed by each agency on an expedited and priority
17 basis because each facility certified under this act is a
18 critical infrastructure facility. Postcertification review may
19 not be completed more than 90 days after complete information
20 for a segment of the certified transmission line is submitted
21 to the reviewing agencies.

22 Section 20. Subsection (3) of section 403.5363,
23 Florida Statutes, is amended to read:

24 403.5363 Public notices; requirements.--

25 (3) The department shall arrange for the publication
26 of the following notices in the manner specified by chapter
27 120:

28 (a) The notice of the filing of an application and the
29 date by which a person intending to become a party must file a
30 petition to intervene or a notice of intent to be a party. The
31

1 notice must be published no later than 21 days after the
2 application has been filed.

3 (b) The notice of any administrative hearing for
4 certification, if applicable. The notice must be published not
5 less than 65 days before the date set for a hearing, except
6 that notice for a rescheduled certification hearing after
7 acceptance of an alternative corridor must be published not
8 less than 50 days before the date set for the hearing.

9 (c) The notice of the cancellation of a certification
10 hearing, if applicable. The notice must be published not later
11 than ~~3~~ 7 days before the date of the originally scheduled
12 certification hearing.

13 (d) The notice of the hearing before the siting board,
14 if applicable.

15 (e) The notice of stipulations, proposed agency
16 action, or a petition for modification.

17 Section 21. Present subsections (9) through (20) of
18 section 403.861, Florida Statutes, are redesignated as
19 subsections (10) through (21), respectively, and a new
20 subsection (9) is added to that section, to read:

21 403.861 Department; powers and duties.--The department
22 shall have the power and the duty to carry out the provisions
23 and purposes of this act and, for this purpose, to:

24 (9) Require that an internal check-valve device that
25 prevents intentional or accidental backflow contamination of
26 the public water supply be installed in all new and
27 replacement fire hydrants. Such device must not delay access
28 to the water supply for fire protection.

29 Section 22. Chapter 325, Florida Statutes, consisting
30 of ss. 325.2055, 325.221, 325.222, and 325.223, Florida
31 Statutes, is repealed.

1 Section 23. Section 403.0875, Florida Statutes, is
2 repealed.

3 Section 24. Paragraph (e) of subsection (6) of section
4 373.459, Florida Statutes, is repealed.

5 Section 25. This act shall take effect July 1, 2007.

6
7 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
8 COMMITTEE SUBSTITUTE FOR
9 Senate Bill 2054

10 The committee substitute makes the following changes:

11 1. Deletes from the bill the provisions clarifying the sales
12 tax exemption for equipment, machinery, and other materials
for renewable energy technologies.

13 2. Clarifies what activities would be decriminalized in state
14 parks and what activities would still be misdemeanors.

15 3. Allows golf carts to be operated on roads within the state
park system under certain conditions.

16 4. Provides that certain variances that apply statewide in
17 the other water management districts also apply in the
Northwest Florida Water Management District.

18 5. Provides that the ratification of the change to the plant
19 list in the wetland delineation rule does not become effective
until the state and federal wetland delineation methodologies
20 are aligned.

21 6. Deletes from the bill provisions relating to
clarifications of the solar energy incentives and rebates.

22 7. Provides for the trading of water quality credits in the
23 total maximum daily load program in areas that have adopted a
basin management action plan.

24 8. Requires new and replacement fire hydrants to have an
25 internal check-valve device that prevents intentional or
accidental backflow contamination of the public water supply.

26 8. Repeals a repeal of certain water management district
27 match requirements. Allows the continuation of current law
beyond July 1, 2007.