

1 inconsistency with existing land use plans and
2 zoning ordinances due to incompleteness of
3 information necessary for an evaluation;
4 amending s. 403.508, F.S.; clarifying certain
5 hearing requirements for land use and
6 certification hearings; amending s. 403.509,
7 F.S.; clarifying certain provisions relating to
8 certifications issued by the Department of
9 Environmental Protection; amending s. 403.5113,
10 F.S.; providing technical corrections to
11 provisions requiring postcertification
12 amendments and review; amending s. 403.5115,
13 F.S.; clarifying certain public-notice
14 requirements; amending s. 403.5252, F.S.;
15 clarifying provisions relating to the
16 determination of completeness of an application
17 for an electric transmission line; amending s.
18 403.527, F.S.; clarifying the time under which
19 the department or the applicant may request the
20 cancellation of a certification hearing for a
21 proposed transmission line; amending s.
22 403.5271, F.S.; clarifying the responsibilities
23 of reviewing agencies to review the
24 completeness of an application; amending s.
25 403.5317, F.S.; clarifying the provisions
26 relating to a change in the condition of a
27 certification; amending s. 403.5363, F.S.;
28 providing that notice of a cancellation of a
29 certification hearing must be within a certain
30 time; repealing ss. 325.221, 325.222, and
31 325.223, F.S., relating to motor vehicle air

1 conditioning refrigerants; repealing s.
2 403.0875, F.S., relating to citrus juice
3 processing facilities; providing an effective
4 date.

5
6 Be It Enacted by the Legislature of the State of Florida:

7
8 Section 1. Paragraph (ccc) of subsection (7) of
9 section 212.08, Florida Statutes, is amended to read:

10 212.08 Sales, rental, use, consumption, distribution,
11 and storage tax; specified exemptions.--The sale at retail,
12 the rental, the use, the consumption, the distribution, and
13 the storage to be used or consumed in this state of the
14 following are hereby specifically exempt from the tax imposed
15 by this chapter.

16 (7) MISCELLANEOUS EXEMPTIONS.--Exemptions provided to
17 any entity by this chapter do not inure to any transaction
18 that is otherwise taxable under this chapter when payment is
19 made by a representative or employee of the entity by any
20 means, including, but not limited to, cash, check, or credit
21 card, even when that representative or employee is
22 subsequently reimbursed by the entity. In addition, exemptions
23 provided to any entity by this subsection do not inure to any
24 transaction that is otherwise taxable under this chapter
25 unless the entity has obtained a sales tax exemption
26 certificate from the department or the entity obtains or
27 provides other documentation as required by the department.
28 Eligible purchases or leases made with such a certificate must
29 be in strict compliance with this subsection and departmental
30 rules, and any person who makes an exempt purchase with a
31 certificate that is not in strict compliance with this

1 subsection and the rules is liable for and shall pay the tax.
2 The department may adopt rules to administer this subsection.
3 (ccc) Equipment, machinery, and other materials for
4 renewable energy technologies.--

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

6 a. "Biodiesel" means the mono-alkyl esters of
7 long-chain fatty acids derived from plant or animal matter for
8 use as a source of energy and meeting the specifications for
9 biodiesel and biodiesel blends with petroleum products as
10 adopted by the Department of Agriculture and Consumer
11 Services. Biodiesel may refer to biodiesel blends designated
12 BXX, where XX represents the volume percentage of biodiesel
13 fuel in the blend.

14 b. "Ethanol" means nominally anhydrous denatured
15 alcohol produced by the fermentation of plant sugars meeting
16 the specifications for fuel ethanol and fuel ethanol blends
17 with petroleum products as adopted by the Department of
18 Agriculture and Consumer Services. Ethanol may refer to fuel
19 ethanol blends designated EXX, where XX represents the volume
20 percentage of fuel ethanol in the blend.

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

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

26 a. Hydrogen-powered vehicles, materials incorporated
27 into hydrogen-powered vehicles, and hydrogen-fueling stations,
28 up to a limit of \$2 million in tax each state fiscal year for
29 all taxpayers.

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1 b. Commercial stationary hydrogen fuel cells, up to a
2 limit of \$1 million in tax each state fiscal year for all
3 taxpayers.

4 c. Materials used in the distribution of biodiesel
5 (B10-B100) and ethanol (E10-100), including fueling
6 infrastructure, transportation, and storage, up to a limit of
7 \$1 million in tax each state fiscal year for all taxpayers.
8 Gasoline fueling station pump retrofits for ethanol (E10-E100)
9 distribution qualify for the exemption provided in this
10 sub-subparagraph.

11 3. The Department of Environmental Protection shall
12 provide to the department a list of items eligible for the
13 exemption provided in this paragraph.

14 4. The exemption provided in this paragraph shall be
15 available only to the end user of the equipment, machinery,
16 and other materials.

17 ~~5.4~~-a. The exemption provided in this paragraph shall
18 be available to a purchaser only through a refund of
19 previously paid taxes.

20 b. To be eligible to receive the exemption provided in
21 this paragraph, a purchaser shall file an application with the
22 Department of Environmental Protection. The application shall
23 be developed by the Department of Environmental Protection, in
24 consultation with the department, and shall require:

25 (I) The name and address of the person claiming the
26 refund.

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

30 (III) The sales invoice or other proof of purchase
31 showing the amount of sales tax paid, the date of purchase,

1 and the name and address of the sales tax dealer from whom the
2 property was purchased.

3 (IV) A sworn statement that the information provided
4 is accurate and that the requirements of this paragraph have
5 been met.

6 c. Within 30 days after receipt of an application, the
7 Department of Environmental Protection shall review the
8 application and shall notify the applicant of any
9 deficiencies. Upon receipt of a completed application, the
10 Department of Environmental Protection shall evaluate the
11 application for exemption and issue a written certification
12 that the applicant is eligible for a refund or issue a written
13 denial of such certification within 60 days after receipt of
14 the application. The Department of Environmental Protection
15 shall provide the department with a copy of each certification
16 issued upon approval of an application.

17 d. Each certified applicant shall be responsible for
18 forwarding a certified copy of the application and copies of
19 all required documentation to the department within 6 months
20 after certification by the Department of Environmental
21 Protection.

22 e. The provisions of s. 212.095 do not apply to any
23 refund application made pursuant to this paragraph. A refund
24 approved pursuant to this paragraph shall be made within 30
25 days after formal approval by the department.

26 f. The department may adopt all rules pursuant to ss.
27 120.536(1) and 120.54 to administer this paragraph, including
28 rules establishing forms and procedures for claiming this
29 exemption.

30 g. The Department of Environmental Protection shall be
31 responsible for ensuring that the total amounts of the

1 exemptions authorized do not exceed the limits as specified in
2 subparagraph 2.

3 ~~6.5.~~ The Department of Environmental Protection shall
4 determine and publish on a regular basis the amount of sales
5 tax funds remaining in each fiscal year.

6 ~~7.6.~~ This paragraph expires July 1, 2010.

7 Section 2. Section 258.007, Florida Statutes, is
8 amended to read:

9 258.007 Powers of division.--

10 (1) The Division of Recreation and Parks shall have
11 power to acquire in the name of the state any property, real
12 or personal, by purchase, grant, devise, condemnation,
13 donation, or otherwise, which in its judgment may be necessary
14 or proper toward the administration of the purposes of this
15 chapter; however, no property of any nature may be acquired by
16 purchase, lease, grant, donation, devise, or otherwise, under
17 conditions which shall pledge the credit of, or obligate in
18 any manner whatsoever, the state to pay any sum of money, and
19 the power of condemnation as herein granted is limited to the
20 acquisition of property or property rights which may be
21 required for state park purposes for parks under the
22 jurisdiction of the Division of Recreation and Parks on July
23 1, 1980. Acquisition of such property or property rights
24 shall not exceed an aggregate of 40 acres or 10 percent of the
25 total acreage of the respective park as it existed on July 1,
26 1980, whichever is less, and shall be restricted to properties
27 wholly surrounded by state park property at the time of
28 acquisition. Express legislative approval is required for the
29 acquisition by condemnation of any new area or memorial which
30 the division may desire for the purposes set forth in this
31 chapter, except that the division may maintain and insure with

1 the State Risk Management Trust Fund buildings on property
2 owned by the state or any of its agencies.

3 (2) The division has authority to adopt rules pursuant
4 to ss. 120.536(1) and 120.54 to implement provisions of law
5 conferring duties on it, and the violation of any rule
6 authorized by this section shall be punishable as a civil
7 infraction as defined by s. 775.08(3), not to exceed \$500 per
8 violation ~~a misdemeanor and punishable accordingly.~~

9 (3) The division may grant privileges, leases,
10 concessions, and permits for the use of land for the
11 accommodation of visitors in the various parks, monuments, and
12 memorials, provided no natural curiosities or objects of
13 interest shall be granted, leased, or rented on such terms as
14 shall deny or interfere with free access to them by the
15 public; provided further, such grants, leases, and permits may
16 be made and given without advertisement or securing
17 competitive bids; and provided further, that no such grant,
18 lease, or permit shall be assigned or transferred by any
19 grantee without consent of the division.

20 (4) The division is authorized to grant easements for
21 rights-of-way over, across, and upon lands of the state for
22 the maintenance of poles and lines for the transmission and
23 distribution of electrical power and for telephone and
24 telegraphic purposes, under such conditions and with such
25 limitations as the division may impose.

26 (5)(a) The division, in cooperation with the Division
27 of Historical Resources of the Department of State, is
28 authorized and empowered to select and designate, within the
29 state park system, sites of historic interest and value and to
30 erect and maintain appropriate signs or markers indicating
31

1 | said sites upon public property as well as upon private
2 | property where permission is obtained.

3 | (b) The division is authorized to receive gifts and
4 | donations from any source to carry out the purpose of this
5 | section.

6 | Section 3. Section 373.4142, Florida Statutes, is
7 | amended to read:

8 | 373.4142 Water quality within stormwater treatment
9 | systems.--State surface water quality standards applicable to
10 | waters of the state, as defined in s. 403.031(13), shall not
11 | apply within a stormwater management system which is designed,
12 | constructed, operated, and maintained for stormwater treatment
13 | in accordance with a valid permit or noticed exemption issued
14 | pursuant to chapter ~~62-25~~ ~~17-25~~, Florida Administrative Code;
15 | a valid permit or exemption under s. 373.4145 within the
16 | Northwest Florida Water Management District; a valid permit
17 | issued on or subsequent to April 1, 1986, within the Suwannee
18 | River Water Management District or the St. Johns River Water
19 | Management District pursuant to this part; a valid permit
20 | issued on or subsequent to March 1, 1988, within the Southwest
21 | Florida Water Management District pursuant to this part; or a
22 | valid permit issued on or subsequent to January 6, 1982,
23 | within the South Florida Water Management District pursuant to
24 | this part. Such inapplicability of state water quality
25 | standards shall be limited to that part of the stormwater
26 | management system located upstream of a manmade water control
27 | structure permitted, or approved under a noticed exemption, to
28 | retain or detain stormwater runoff in order to provide
29 | treatment of the stormwater. The additional use of such a
30 | stormwater management system for flood attenuation or
31 | irrigation shall not divest the system of the benefits of this

1 exemption. This section shall not affect the authority of the
2 department and water management districts to require
3 reasonable assurance that the water quality within such
4 stormwater management systems will not adversely impact public
5 health, fish and wildlife, or adjacent waters.

6 Section 4. Subsection (27) is added to section
7 373.4211, Florida Statutes, to read:

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

14 (27) Pursuant to s. 373.421 and subsection (26), the
15 Legislature ratifies amendments to chapter 62-340, Florida
16 Administrative Code, approved on February 23, 2006, by the
17 Environmental Regulation Commission. Rule 62-340.450(3)
18 Facultative Species is amended by the addition of the
19 following plant species: Ilex glabra and Pinus elliottii.

20 Section 5. Section 377.806, Florida Statutes, is
21 amended to read:

22 377.806 Solar Energy System Incentives Program.--

23 (1) PURPOSE.--The Solar Energy System Incentives
24 Program is established within the department to provide
25 financial incentives for the purchase and installation of
26 solar energy systems.

27 (2) ELIGIBILITY.--

28 (a) Any resident of the state who purchases and
29 installs a new solar energy system of 2 kilowatts or larger
30 for a solar photovoltaic system, a solar energy system that
31 provides at least 50 percent of a building's hot water

1 consumption for a solar thermal system, or a solar thermal
2 pool heater, from July 1, 2006, through June 30, 2010, is
3 eligible for a rebate on a portion of the purchase price of
4 that solar energy system.

5 (b) Payment of a rebate may be made only to the final
6 purchaser of an eligible system.

7 ~~(3)(2)~~ SOLAR PHOTOVOLTAIC SYSTEM INCENTIVE.--

8 (a) ~~System Eligibility~~ requirements.--A solar
9 photovoltaic system qualifies for a rebate if:

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

12 2. The system complies with state interconnection
13 standards as provided by the commission.

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

16 (b) Rebate amounts.--The rebate amount shall be set at
17 \$4 per watt based on the total wattage rating of the system.
18 The maximum allowable rebate per solar photovoltaic system
19 installation shall be as follows:

20 1. Twenty thousand dollars for a residence.

21 2. One hundred thousand dollars for a place of
22 business, a publicly owned or operated facility, or a facility
23 owned or operated by a private, not-for-profit organization,
24 including condominiums or apartment buildings.

25 ~~(4)(3)~~ SOLAR THERMAL SYSTEM INCENTIVE.--

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

28 1. The system is installed by a state-licensed solar
29 or plumbing contractor.

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

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

- 3 1. Five hundred dollars for a residence.
4 2. Fifteen dollars per 1,000 Btu up to a maximum of
5 \$5,000 for a place of business, a publicly owned or operated
6 facility, or a facility owned or operated by a private,
7 not-for-profit organization, including condominiums or
8 apartment buildings. Btu must be verified by approved metering
9 equipment.

10 ~~(5)(4)~~ SOLAR THERMAL POOL HEATER INCENTIVE.--

11 (a) Eligibility requirements.--A solar thermal pool
12 heater qualifies for a rebate if the system is installed by a
13 state-licensed solar or plumbing contractor and the system
14 complies with all applicable building codes as defined by the
15 local jurisdictional authority.

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

19 ~~(6)(5)~~ APPLICATION.--Application for a rebate must be
20 made within 90 days after the purchase of the solar energy
21 equipment.

22 (7) LIMITS.--Rebates are limited to one per type of
23 system described in paragraph (2)(a) per resident, per state
24 fiscal year.

25 ~~(8)(6)~~ REBATE AVAILABILITY.--The department shall
26 determine and publish on a regular basis the amount of rebate
27 funds remaining in each fiscal year. The total dollar amount
28 of all rebates issued by the department is subject to the
29 total amount of appropriations in any fiscal year for this
30 program. If funds are insufficient during the current fiscal
31 year, any requests for rebates received during that fiscal

1 year may be processed during the following fiscal year.
2 Requests for rebates received in a fiscal year that are
3 processed during the following fiscal year shall be given
4 priority over requests for rebates received during the
5 following fiscal year.

6 ~~(9)(7)~~ RULES.--The department shall adopt rules
7 pursuant to ss. 120.536(1) and 120.54 to develop rebate
8 applications and administer the issuance of rebates.

9 Section 6. The period from 12:01 a.m., October 5,
10 through midnight, October 11, 2007, shall be designated
11 "Energy Efficient Week," and the tax levied under chapter 212,
12 Florida Statutes, may not be collected on the sale of a new
13 energy-efficient product having a selling price of \$1,500 or
14 less per product during that period. This exemption applies
15 only when the energy-efficient product is purchased for
16 noncommercial home or personal use and does not apply when the
17 product is purchased for trade, business, or resale. As used
18 in this section, the term "energy-efficient product" means a
19 dishwasher, clothes washer, air conditioner, ceiling fan,
20 florescent light bulb, dehumidifier, programmable thermostat,
21 or refrigerator that has been designated by the United States
22 Environmental Protection Agency or by the United States
23 Department of Energy as meeting or exceeding the requirements
24 under the Energy Star Program of either agency. Purchases made
25 under this section may not be made using a business or company
26 credit or debit card or check. Any construction company,
27 building contractor, or commercial business or entity that
28 purchases or attempts to purchase the energy-efficient
29 products as exempt under this section commits an unfair method
30 of competition in violation of s. 501.204, Florida Statutes,
31 punishable as provided in s. 501.2075, Florida Statutes. The

1 Department of Revenue may adopt rules under ss. 120.536(1) and
2 120.54, Florida Statutes, to administer this section.

3 Section 7. Subsection (19) of section 403.031, Florida
4 Statutes, is amended to read:

5 403.031 Definitions.--In construing this chapter, or
6 rules and regulations adopted pursuant hereto, the following
7 words, phrases, or terms, unless the context otherwise
8 indicates, have the following meanings:

9 (19) "Regulated air pollutant" means any pollutant
10 regulated under the federal Clean Air Act.+

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

12 ~~(b) Any pollutant regulated under 42 U.S.C. s. 7411 or~~
13 ~~s. 7412; or~~

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

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

18 403.0872 Operation permits for major sources of air
19 pollution; annual operation license fee.--Provided that
20 program approval pursuant to 42 U.S.C. s. 7661a has been
21 received from the United States Environmental Protection
22 Agency, beginning January 2, 1995, each major source of air
23 pollution, including electrical power plants certified under
24 s. 403.511, must obtain from the department an operation
25 permit for a major source of air pollution under this section.
26 This operation permit is the only department operation permit
27 for a major source of air pollution required for such source;
28 provided, at the applicant's request, the department shall
29 issue a separate acid rain permit for a major source of air
30 pollution that is an affected source within the meaning of 42
31 U.S.C. s. 7651a(1). Operation permits for major sources of air

1 | pollution, except general permits issued pursuant to s.
2 | 403.814, must be issued in accordance with the procedures
3 | contained in this section and in accordance with chapter 120;
4 | however, to the extent that chapter 120 is inconsistent with
5 | the provisions of this section, the procedures contained in
6 | this section prevail.

7 | (1) For purposes of this section, a major source of
8 | air pollution means a stationary source of air pollution, or
9 | any group of stationary sources within a contiguous area and
10 | under common control, which emits any regulated air pollutant
11 | and which is any of the following:

12 | (a) A major source within the meaning of 42 U.S.C. s.
13 | 7412(a)(1);

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

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

19 | (d) An air pollution source subject to standards or
20 | regulations under 42 U.S.C. s. 7411 or s. 7412; provided that
21 | a source is not a major source solely because of its
22 | regulation under 42 U.S.C. s. 7412(r); or

23 | (e) A stationary air pollution source belonging to a
24 | category designated as a 40 C.F.R. part 70 source by
25 | regulations adopted by the administrator of the United States
26 | Environmental Protection Agency under 42 U.S.C. ss. 7661 et
27 | seq.

28 |
29 | The department shall exempt those facilities that are subject
30 | to this section solely because they are subject to
31 | requirements under 42 U.S.C. ss. 7411 or 7412 ~~s. 7411~~ or

1 solely because they are subject to reporting requirements
2 under 42 U.S.C. s. 7412 for as long as the exemption is
3 available under federal law.

4 Section 9. Subsection (3) of section 403.50663,
5 Florida Statutes, is amended to read:

6 403.50663 Informational public meetings.--

7 (3) A local government or regional planning council
8 that intends to conduct an informational public meeting must
9 provide notice of the meeting to all parties not less than 15
10 5 days prior to the meeting, and to the general public, in
11 accordance with the provisions of s. 403.5115(5).

12 Section 10. Subsection (2) of section 403.50665,
13 Florida Statutes, is amended to read:

14 403.50665 Land use consistency.--

15 (2) Within 45 days after the filing of the
16 application, each local government shall file a determination
17 with the department, the applicant, the administrative law
18 judge, and all parties on the consistency of the site or any
19 directly associated facilities with existing land use plans
20 and zoning ordinances that were in effect on the date the
21 application was filed, based on the information provided in
22 the application. The local government may issue its
23 determination up to 35 days later if the local government has
24 requested additional information on land use and zoning
25 consistency as part of the local government's statement on
26 completeness of the application submitted pursuant to s.
27 403.5066(1)(a). Incompleteness of information necessary for a
28 local government to evaluate an application may be claimed by
29 the local government as cause for a statement of inconsistency
30 with existing land use plans and zoning ordinances. Notice of
31

1 the consistency determination shall be published in accordance
2 with the requirements of s. 403.5115.

3 Section 11. Section 403.508, Florida Statutes, is
4 amended to read:

5 403.508 Land use and certification hearings, parties,
6 participants.--

7 (1)(a) Within 5 days after the filing of ~~If~~ a petition
8 for a hearing on land use has been filed pursuant to s.
9 403.50665, the designated administrative law judge shall
10 schedule ~~conduct~~ a land use hearing to be conducted in the
11 county of the proposed site or directly associated facility,
12 as applicable, as expeditiously as possible, but not later
13 than 30 days after the department's receipt of the petition.
14 The place of such hearing shall be as close as possible to the
15 proposed site or directly associated facility. If a petition
16 is filed, the hearing shall be held regardless of the status
17 of the completeness of the application. ~~However,~~
18 ~~incompleteness of information necessary for a local government~~
19 ~~to evaluate an application may be claimed by the local~~
20 ~~government as cause for a statement of inconsistency with~~
21 ~~existing land use plans and zoning ordinances under s.~~
22 ~~403.50665.~~

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

25 (c) The sole issue for determination at the land use
26 hearing shall be whether or not the proposed site is
27 consistent and in compliance with existing land use plans and
28 zoning ordinances. If the administrative law judge concludes
29 that the proposed site is not consistent or in compliance with
30 existing land use plans and zoning ordinances, the
31 administrative law judge shall receive at the hearing evidence

1 on, and address in the recommended order any changes to or
2 approvals or variances under, the applicable land use plans or
3 zoning ordinances which will render the proposed site
4 consistent and in compliance with the local land use plans and
5 zoning ordinances.

6 (d) The designated administrative law judge's
7 recommended order shall be issued within 30 days after
8 completion of the hearing and shall be reviewed by the board
9 within 60 days after receipt of the recommended order by the
10 board.

11 (e) If it is determined by the board that the proposed
12 site does conform with existing land use plans and zoning
13 ordinances in effect as of the date of the application, or as
14 otherwise provided by this act, the responsible zoning or
15 planning authority shall not thereafter change such land use
16 plans or zoning ordinances so as to foreclose construction and
17 operation of the proposed electrical power plant on the
18 proposed site or directly associated facilities unless
19 certification is subsequently denied or withdrawn.

20 (f) If it is determined by the board that the proposed
21 site does not conform with existing land use plans and zoning
22 ordinances, the board may, if it determines after notice and
23 hearing and upon consideration of the recommended order on
24 land use and zoning issues that it is in the public interest
25 to authorize the use of the land as a site for an electrical
26 power plant, authorize a variance or other necessary approval
27 to the adopted land use plan and zoning ordinances required to
28 render the proposed site consistent with local land use plans
29 and zoning ordinances. The board's action shall not be
30 controlled by any other procedural requirements of law. In the
31 event a variance or other approval is denied by the board, it

1 shall be the responsibility of the applicant to make the
2 necessary application for any approvals determined by the
3 board as required to make the proposed site consistent and in
4 compliance with local land use plans and zoning ordinances. No
5 further action may be taken on the complete application until
6 the proposed site conforms to the adopted land use plan or
7 zoning ordinances or the board grants relief as provided under
8 this act.

9 (2)(a) A certification hearing shall be held by the
10 designated administrative law judge no later than 265 days
11 after the application is filed with the department. The
12 certification hearing shall be held at a location in proximity
13 to the proposed site. ~~At the conclusion of the certification~~
14 ~~hearing, the designated administrative law judge shall, after~~
15 ~~consideration of all evidence of record, submit to the board a~~
16 ~~recommended order no later than 45 days after the filing of~~
17 ~~the hearing transcript.~~

18 (b) Notice of the certification hearing and notice of
19 the deadline for filing of notice of intent to be a party
20 shall be made in accordance with the requirements of s.
21 403.5115.

22 (3)(a) Parties to the proceeding shall include:

- 23 1. The applicant.
- 24 2. The Public Service Commission.
- 25 3. The Department of Community Affairs.
- 26 4. The Fish and Wildlife Conservation Commission.
- 27 5. The water management district.
- 28 6. The department.
- 29 7. The regional planning council.
- 30 8. The local government.
- 31 9. The Department of Transportation.

1 (b) Any party listed in paragraph (a) other than the
2 department or the applicant may waive its right to participate
3 in these proceedings. If such listed party fails to file a
4 notice of its intent to be a party on or before the 90th day
5 prior to the certification hearing, such party shall be deemed
6 to have waived its right to be a party.

7 (c) Notwithstanding the provisions of chapter 120,
8 upon the filing with the administrative law judge of a notice
9 of intent to be a party no later than 75 days after the
10 application is filed, the following shall also be parties to
11 the proceeding:

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

14 2. Any domestic nonprofit corporation or association
15 formed, in whole or in part, to promote conservation or
16 natural beauty; to protect the environment, personal health,
17 or other biological values; to preserve historical sites; to
18 promote consumer interests; to represent labor, commercial, or
19 industrial groups; or to promote comprehensive planning or
20 orderly development of the area in which the proposed
21 electrical power plant is to be located.

22 (d) Notwithstanding paragraph (e), failure of an
23 agency described in subparagraph (c)1. to file a notice of
24 intent to be a party within the time provided herein shall
25 constitute a waiver of the right of that agency to participate
26 as a party in the proceeding.

27 (e) Other parties may include any person, including
28 those persons enumerated in paragraph (c) who have failed to
29 timely file a notice of intent to be a party, whose
30 substantial interests are affected and being determined by the
31 proceeding and who timely file a motion to intervene pursuant

1 | to chapter 120 and applicable rules. Intervention pursuant to
2 | this paragraph may be granted at the discretion of the
3 | designated administrative law judge and upon such conditions
4 | as he or she may prescribe any time prior to 30 days before
5 | the commencement of the certification hearing.

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

10 | (4)(a) The order of presentation at the certification
11 | hearing, unless otherwise changed by the administrative law
12 | judge to ensure the orderly presentation of witnesses and
13 | evidence, shall be:

- 14 | 1. The applicant.
- 15 | 2. The department.
- 16 | 3. State agencies.
- 17 | 4. Regional agencies, including regional planning
18 | councils and water management districts.
- 19 | 5. Local governments.
- 20 | 6. Other parties.

21 | (b) When appropriate, any person may be given an
22 | opportunity to present oral or written communications to the
23 | designated administrative law judge. If the designated
24 | administrative law judge proposes to consider such
25 | communications, then all parties shall be given an opportunity
26 | to cross-examine or challenge or rebut such communications.

27 | (5) At the conclusion of the certification hearing,
28 | the designated administrative law judge shall, after
29 | consideration of all evidence of record, submit to the board a
30 | recommended order no later than 45 days after the filing of
31 | the hearing transcript.

1 (6)(a) No earlier than 29 days prior to the conduct of
2 the certification hearing, the department or the applicant may
3 request that the administrative law judge cancel the
4 certification hearing and relinquish jurisdiction to the
5 department if all parties to the proceeding stipulate that
6 there are no disputed issues of fact or law to be raised at
7 the certification hearing, and if sufficient time remains for
8 the applicant and the department to publish public notices of
9 the cancellation of the hearing at least 3 days prior to the
10 scheduled date of the hearing.

11 (b) The administrative law judge shall issue an order
12 granting or denying the request within 5 days after receipt of
13 the request.

14 (c) If the administrative law judge grants the
15 request, the department and the applicant shall publish
16 notices of the cancellation of the certification hearing, in
17 accordance with s. 403.5115.

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

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

24 (7) The applicant shall pay those expenses and costs
25 associated with the conduct of the hearings and the recording
26 and transcription of the proceedings.

27 (8) In issuing permits under the federally approved
28 new source review or prevention of significant deterioration
29 permit program, the department shall observe the procedures
30 specified under the federally approved state implementation
31 plan, including public notice, public comment, public hearing,

1 and notice of applications and amendments to federal, state,
2 and local agencies, to assure that all such permits issued in
3 coordination with the certification of a power plant under
4 this act are federally enforceable and are issued after
5 opportunity for informed public participation regarding the
6 terms and conditions thereof. When possible, any hearing on a
7 federally approved or delegated program permit such as new
8 source review, prevention of significant deterioration permit,
9 or NPDES permit shall be conducted in conjunction with the
10 certification hearing held under this act. It is the intent of
11 the Legislature that the review, processing, and issuance of
12 such federally delegated or approved permits be closely
13 coordinated with the certification process established under
14 this part. In the event of a conflict between the
15 certification process and federally required procedures, the
16 applicable federal requirements shall control.

17 Section 12. Subsection (5) of section 403.509, Florida
18 Statutes, is amended to read:

19 403.509 Final disposition of application.--

20 (5) For certifications that are issued by the board,
21 in regard to the properties and works of any agency ~~that which~~
22 is a party to the certification hearing, the board shall have
23 the authority to decide issues relating to the use, the
24 connection thereto, or the crossing thereof, for the
25 electrical power plant and directly associated facilities and
26 to direct any such agency to execute, within 30 days after the
27 entry of certification, the necessary license or easement for
28 such use, connection, or crossing, subject only to the
29 conditions set forth in such certification. For certifications
30 that are issued by the department, in regard to the properties
31 and works of any agency that is a party to the proceeding, any

1 stipulation filed pursuant to s. 403.508(6)(a) must include a
2 stipulation regarding any issues relating to the use, the
3 connection thereto, or the crossing thereof, for the
4 electrical power plant and directly associated facilities. Any
5 agency stipulating to the use, connection to, or crossing of
6 its property must agree to execute, within 30 days after the
7 entry of certification, the necessary license or easement for
8 such use, connection, or crossing, subject only to the
9 conditions set forth in such certification.

10 Section 13. Section 403.5113, Florida Statutes, is
11 amended to read:

12 403.5113 Postcertification amendments and review.--

13 (1) POSTCERTIFICATION AMENDMENTS.--

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

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

29 ~~(c)(3)~~ If the department concludes that the change
30 would require a modification of the conditions of
31 certification, the department shall provide written

1 notification to the licensee that the proposed change to the
2 application requires a request for modification pursuant to s.
3 403.516.

4 ~~(2)(4)~~ POSTCERTIFICATION REVIEW.--Postcertification
5 submittals filed by the licensee with one or more agencies are
6 for the purpose of monitoring for compliance with the issued
7 certification and must be reviewed by the agencies on an
8 expedited and priority basis because each facility certified
9 under this act is a critical infrastructure facility. In no
10 event shall a postcertification review be completed in more
11 than 90 days after complete information is submitted to the
12 reviewing agencies.

13 Section 14. Section 403.5115, Florida Statutes, is
14 amended to read:

15 403.5115 Public notice.--

16 (1) The following notices are to be published by the
17 applicant:

18 (a) Notice of the filing of a notice of intent under
19 s. 403.5063, which shall be published within 21 days after the
20 filing of the notice. The notice shall be published as
21 specified by subsection (2), except that the newspaper notice
22 shall be one-fourth page in size in a standard size newspaper
23 or one-half page in size in a tabloid size newspaper.

24 (b) Notice of filing of the application, which shall
25 include a description of the proceedings required by this act,
26 within 21 days after the date of the application filing. Such
27 notice shall give notice of the provisions of s. 403.511(1)
28 and (2).

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

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

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

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

11 (g) Notice of modification when required by the
12 department, based on whether the requested modification of
13 certification will significantly increase impacts to the
14 environment or the public. Such notice shall be published as
15 specified under subsection (2):

16 1. Within 21 days after receipt of a request for
17 modification. The newspaper notice shall be of a size as
18 directed by the department commensurate with the scope of the
19 modification.

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

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

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

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

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

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

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

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

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

28 (d) Notice of the land use hearing before the
29 administrative law judge, if applicable, no later than 10 ~~15~~
30 days 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 45
4 days before the date set for the certification hearing.

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

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

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

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

25 Section 15. Subsection (1) of section 403.5252,
26 Florida Statutes, is amended to read:

27 403.5252 Determination of completeness.--

28 (1)(a) Within 30 days after the filing ~~distribution~~ of
29 an application, the affected agencies shall file a statement
30 with the department containing the recommendations of each
31

1 agency concerning the completeness of the application for
2 certification.

3 (b) Within ~~37~~ 7 days after the filing ~~receipt~~ of the
4 application ~~completeness statements of each agency~~, the
5 department shall file a statement with the Division of
6 Administrative Hearings, with the applicant, and with all
7 parties declaring its position with regard to the completeness
8 of the application. The statement of the department shall be
9 based upon its consultation with the affected agencies.

10 Section 16. Subsection (6) of section 403.527, Florida
11 Statutes, is amended to read:

12 403.527 Certification hearing, parties,
13 participants.--

14 (6)(a) No later than ~~29~~ 25 days before the
15 certification hearing, the department or the applicant may
16 request that the administrative law judge cancel the
17 certification hearing and relinquish jurisdiction to the
18 department if all parties to the proceeding stipulate that
19 there are no disputed issues of material fact or law to be
20 raised at the certification hearing.

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

23 (c) If the administrative law judge grants the
24 request, the department and the applicant shall publish
25 notices of the cancellation of the certification hearing in
26 accordance with s. 403.5363.

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

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

4 Section 17. Subsection (1) of section 403.5271,
5 Florida Statutes, is amended to read:

6 403.5271 Alternate corridors.--

7 (1) No later than 45 days before the originally
8 scheduled certification hearing, any party may propose
9 alternate transmission line corridor routes for consideration
10 under the provisions of this act.

11 (a) A notice of a proposed alternate corridor must be
12 filed with the administrative law judge, all parties, and any
13 local governments in whose jurisdiction the alternate corridor
14 is proposed. The filing must include the most recent United
15 States Geological Survey 1:24,000 quadrangle maps specifically
16 delineating the corridor boundaries, a description of the
17 proposed corridor, and a statement of the reasons the proposed
18 alternate corridor should be certified.

19 (b)1. Within 7 days after receipt of the notice, the
20 applicant and the department shall file with the
21 administrative law judge and all parties a notice of
22 acceptance or rejection of a proposed alternate corridor for
23 consideration. If the alternate corridor is rejected by the
24 applicant or the department, the certification hearing and the
25 public hearings shall be held as scheduled. If both the
26 applicant and the department accept a proposed alternate
27 corridor for consideration, the certification hearing and the
28 public hearings shall be rescheduled, if necessary.

29 2. If rescheduled, the certification hearing shall be
30 held no more than 90 days after the previously scheduled
31 certification hearing, unless the data submitted under

1 paragraph (d) is determined to be incomplete, in which case
2 the rescheduled certification hearing shall be held no more
3 than 105 days after the previously scheduled certification
4 hearing. If additional time is needed due to the alternate
5 corridor crossing a local government jurisdiction that was not
6 previously affected, the remainder of the schedule listed
7 below shall be appropriately adjusted by the administrative
8 law judge to allow that local government to prepare a report
9 pursuant to s. 403.526(2)(a)5.

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

15 (d) Within 21 days after acceptance of an alternate
16 corridor by the department and the applicant, the party
17 proposing an alternate corridor shall have the burden of
18 providing all data to the agencies listed in s. 403.526(2) and
19 newly affected agencies necessary for the preparation of a
20 supplementary report on the proposed alternate corridor.

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

26 2. If the department determines that the data required
27 by paragraph (d) is not complete, the party proposing the
28 alternate corridor must file such additional data to correct
29 the incompleteness. This additional data must be submitted
30 within 14 days after the determination by the department.
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1 3. Reviewing agencies may advise the department of any
2 issues concerning completeness of the additional data within
3 10 days after the filing by the applicant. If the department,
4 within 14 days after receiving the additional data, determines
5 that the data remains incomplete, the incompleteness of the
6 data is deemed a withdrawal of the proposed alternate
7 corridor. The department may make its determination based on
8 recommendations made by other affected agencies.

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

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

17 (h) When an agency whose agency head is a collegial
18 body, such as a commission, board, or council, is required to
19 submit a report pursuant to this section and is required by
20 its own internal procedures to have the report reviewed by its
21 agency head prior to finalization, the agency may submit to
22 the department a draft version of the report by the deadline
23 indicated in paragraph (f), and shall submit a final version
24 of the report after review by the agency head no later than 7
25 days after the deadline indicated in paragraph (f).

26 (i) The department shall file with the administrative
27 law judge, the applicant, and all parties a project analysis
28 consistent with s. 403.526(3) no more than 16 days after
29 submittal of agency reports on the proposed alternate
30 corridor.

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1 Section 18. Section 403.5317, Florida Statutes, is
2 amended to read:

3 403.5317 Postcertification activities.--

4 (1)(a) If, subsequent to certification, a licensee
5 proposes any material change to the application or prior
6 amendments, the licensee shall submit to the department a
7 written request for amendment and description of the proposed
8 change to the application. The department shall, within 30
9 days after the receipt of the request for the amendment,
10 determine whether the proposed change to the application
11 requires a modification of the conditions of certification.

12 (b) If the department concludes that the change would
13 not require a modification of the conditions of certification,
14 the department shall notify, in writing, the licensee, all
15 agencies, and all parties of the determination on approval of
16 the amendment.

17 (c) If the department concludes that the change would
18 require a modification of the conditions of certification, the
19 department shall notify the licensee that the proposed change
20 to the application requires a request for modification under
21 s. 403.5315.

22 (2) Postcertification submittals filed by a licensee
23 with one or more agencies are for the purpose of monitoring
24 for compliance with the issued certification. Each submittal
25 must be reviewed by each agency on an expedited and priority
26 basis because each facility certified under this act is a
27 critical infrastructure facility. Postcertification review may
28 not be completed more than 90 days after complete information
29 for a segment of the certified transmission line is submitted
30 to the reviewing agencies.

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1 Section 19. Subsection (3) of section 403.5363,
2 Florida Statutes, is amended to read:

3 403.5363 Public notices; requirements.--

4 (3) The department shall arrange for the publication
5 of the following notices in the manner specified by chapter
6 120:

7 (a) The notice of the filing of an application and the
8 date by which a person intending to become a party must file a
9 petition to intervene or a notice of intent to be a party. The
10 notice must be published no later than 21 days after the
11 application has been filed.

12 (b) The notice of any administrative hearing for
13 certification, if applicable. The notice must be published not
14 less than 65 days before the date set for a hearing, except
15 that notice for a rescheduled certification hearing after
16 acceptance of an alternative corridor must be published not
17 less than 50 days before the date set for the hearing.

18 (c) The notice of the cancellation of a certification
19 hearing, if applicable. The notice must be published not later
20 than 37 days before the date of the originally scheduled
21 certification hearing.

22 (d) The notice of the hearing before the siting board,
23 if applicable.

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

26 Section 20. Sections 325.221, 325.222, 325.223, and
27 403.0875, Florida Statutes, are repealed.

28 Section 21. This act shall take effect July 1, 2007.
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SENATE SUMMARY

Revises various provisions of law administered by the Department of Environmental Protection. Clarifies the tax exemption for renewable energy technologies. Revises the water quality standards in the Northwest Florida Water Management District. Ratifies a wetland rule and includes additional plant species. Provides for a tax holiday for the purchase of certain energy-efficient products. Revises and clarifies the hearing and notice requirements for the siting of electric transmission lines. Repeals provisions of law governing air conditioning refrigerants for motor vehicles and relating to citrus processing facilities. (See bill for details.)

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