

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

.
.
.

Representative Hasner offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Legislative findings and intent.--The
Legislature finds that advancing the development of renewable
energy technologies and energy efficiency is important for the
state's future, its energy stability, and the protection of its
citizens' public health and its environment. The Legislature
finds that the development of renewable energy technologies and
energy efficiency in the state will help to reduce demand for
foreign fuels, promote energy diversity, enhance system
reliability, reduce pollution, educate the public on the promise
of renewable energy technologies, and promote economic growth.
The Legislature finds that there is a need to assist in the
development of market demand that will advance the
commercialization and widespread application of renewable energy

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

18 technologies. The Legislature further finds that the state is
19 ideally positioned to stimulate economic development through
20 such renewable energy technologies due to its ongoing and
21 successful research and development track record in these areas,
22 an abundance of natural and renewable energy sources, an ability
23 to attract significant federal research and development funds,
24 and the need to find and secure renewable energy technologies
25 for the benefit of its citizens, visitors, and environment.

26 Section 2. Section 377.801, Florida Statutes, is created
27 to read:

28 377.801 Short title.--Sections 377.801-377.806 may be
29 cited as the "Florida Renewable Energy Technologies and Energy
30 Efficiency Act."

31 Section 3. Section 377.802, Florida Statutes, is created
32 to read:

33 377.802 Purpose.--This act is intended to provide matching
34 grants to stimulate capital investment in the state and to
35 enhance the market for and promote the statewide utilization of
36 renewable energy technologies. The targeted grants program is
37 designed to advance the already growing establishment of
38 renewable energy technologies in the state and encourage the use
39 of other incentives such as tax exemptions and regulatory
40 certainty to attract additional renewable energy technology
41 producers, developers, and users to the state. This act is also
42 intended to provide incentives for the purchase of energy-
43 efficient appliances and rebates for solar energy equipment
44 installations for residential and commercial buildings.

45 Section 4. Section 377.803, Florida Statutes, is created
46 to read:

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

47 377.803 Definitions.--As used in ss. 377.801-377.806, the
48 term:

49 (1) "Act" means the Florida Renewable Energy Technologies
50 and Energy Efficiency Act.

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

54 (3) "Commission" means the Florida Public Service
55 Commission.

56 (4) "Department" means the Department of Environmental
57 Protection.

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

61 (6) "Renewable energy" means electrical, mechanical, or
62 thermal energy produced from a method that uses one or more of
63 the following fuels or energy sources: hydrogen, biomass, solar
64 energy, geothermal energy, wind energy, ocean energy, waste
65 heat, or hydroelectric power.

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

68 (8) "Solar energy system" means equipment that provides
69 for the collection and use of incident solar energy for water
70 heating, space heating or cooling, or other applications that
71 would normally require a conventional source of energy such as
72 petroleum products, natural gas, or electricity that performs
73 primarily with solar energy. In other systems in which solar
74 energy is used in a supplemental way, only those components that

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

75 collect and transfer solar energy shall be included in this
76 definition.

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

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

81 Section 5. Section 377.804, Florida Statutes, is created
82 to read:

83 377.804 Renewable Energy Technologies Grants Program.--

84 (1) The Renewable Energy Technologies Grants Program is
85 established within the department to provide renewable energy
86 matching grants for demonstration, commercialization, research,
87 and development projects relating to renewable energy
88 technologies.

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

92 (a) Municipalities and county governments.

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

95 (c) Universities and colleges in the state.

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

97 (e) Not-for-profit organizations.

98 (f) Other qualified persons, as determined by the
99 department.

100 (3) The department may adopt rules pursuant to ss.
101 120.536(1) and 120.54 to provide for application requirements,
102 provide for ranking of applications, and administer the awarding
103 of grants under this program.

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

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

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

110 (b) The degree to which the project stimulates in-state
111 capital investment and economic development in metropolitan and
112 rural areas, including the creation of jobs and the future
113 development of a commercial market for renewable energy
114 technologies.

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

119 (d) The degree to which the project incorporates an
120 innovative new technology or an innovative application of an
121 existing technology.

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

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

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

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

130 (i) Project duration and timeline for expenditures.

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

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

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

134 (5) The department shall solicit the expertise of other
135 state agencies in evaluating project proposals. State agencies
136 shall cooperate with the Department of Environmental Protection
137 and provide such assistance as requested.

138 (6) The department shall coordinate and actively consult
139 with the Department of Agriculture and Consumer Services during
140 the review and approval process of grants relating to bioenergy
141 projects for renewable energy technology, and the departments
142 shall jointly determine the grant awards to these bioenergy
143 projects. No grant funding shall be awarded to any bioenergy
144 project without such joint approval. Factors for consideration
145 in awarding grants may include, but are not limited to, the
146 degree to which:

147 (a) The project stimulates in-state capital investment and
148 economic development in metropolitan and rural areas, including
149 the creation of jobs and the future development of a commercial
150 market for bioenergy.

151 (b) The project produces bioenergy from Florida-grown
152 crops or biomass.

153 (c) The project demonstrates efficient use of energy and
154 material resources.

155 (d) The project fosters overall understanding and
156 appreciation of bioenergy technologies.

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

159 (f) The project duration and the timeline for expenditures
160 are acceptable.

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

161 (g) The project has a reasonable assurance of enhancing
162 the value of agricultural products or will expand agribusiness
163 in the state.

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

167 Section 6. The period from 12:01 a.m., October 5, through
168 midnight, October 11, 2006, shall be designated "Energy
169 Efficient Week," and the tax levied under chapter 212 may not be
170 collected on the sale of a new energy-efficient product having a
171 selling price of \$1,500 or less per product during that period.
172 This exemption applies only when the energy-efficient product is
173 purchased for noncommercial home or personal use and does not
174 apply when the product is purchased for trade, business, or
175 resale. As used in this section, the term "energy-efficient
176 product" means a dishwasher, clothes washer, air conditioner,
177 ceiling fan, incandescent or florescent light bulb,
178 dehumidifier, programmable thermostat, or refrigerator that has
179 been designated by the United States Environmental Protection
180 Agency or by the United States Department of Energy as meeting
181 or exceeding the requirements under the Energy Star Program of
182 either agency. Purchases made under this section may not be made
183 using a business or company credit or debit card or check. Any
184 construction company, building contractor, or commercial
185 business or entity that purchases or attempts to purchase the
186 energy-efficient products as exempt under this section commits
187 an unfair method of competition in violation of s. 501.204,
188 punishable as provided in s. 501.2075. The Department of Revenue

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

189 may adopt rules under ss. 120.536(1) and 120.54 to administer
190 this section.

191 Section 7. Section 377.806, Florida Statutes, is created
192 to read:

193 377.806 Solar Energy System Incentives Program.--

194 (1) PURPOSE.--The Solar Energy System Incentives Program
195 is established within the department to provide financial
196 incentives for the purchase and installation of solar energy
197 systems. Any resident of the state who purchases and installs a
198 new solar energy system of 2 kilowatts or larger for a solar
199 photovoltaic system, a solar energy system that provides at
200 least 50 percent of a building's hot water consumption for a
201 solar thermal system, or a solar thermal pool heater, from July
202 1, 2006, through June 30, 2010, is eligible for a rebate on a
203 portion of the purchase price of that solar energy system.

204 (2) SOLAR PHOTOVOLTAIC SYSTEM INCENTIVE.--

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

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

209 2. The system complies with state interconnection
210 standards as provided by the commission.

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

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

217 1. Twenty thousand dollars for a residence.

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

218 2. One hundred thousand dollars for a place of business, a
219 publicly owned or operated facility, or a facility owned or
220 operated by a private, not-for-profit organization, including
221 condominiums or apartment buildings.

222 (3) SOLAR THERMAL SYSTEM INCENTIVE.--

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

225 1. The system is installed by a state-licensed solar or
226 plumbing contractor.

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

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

231 1. Five hundred dollars for a residence.

232 2. Fifteen dollars per 1,000 Btu up to a maximum of \$5,000
233 for a place of business, a publicly owned or operated facility,
234 or a facility owned or operated by a private, not-for-profit
235 organization, including condominiums or apartment buildings. Btu
236 must be verified by approved metering equipment.

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

238 (a) Eligibility requirements.--A solar thermal pool heater
239 qualifies for a rebate if the system is installed by a state-
240 licensed solar or plumbing contractor and the system complies
241 with all applicable building codes as defined by the local
242 jurisdictional authority.

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

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

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

247 (6) REBATE AVAILABILITY.--The department shall determine
248 and publish on a regular basis the amount of rebate funds
249 remaining in each fiscal year. The total dollar amount of all
250 rebates issued by the department is subject to the total amount
251 of appropriations in any fiscal year for this program. If funds
252 are insufficient during the current fiscal year, any requests
253 for rebates received during that fiscal year may be processed
254 during the following fiscal year. Requests for rebates received
255 in a fiscal year that are processed during the following fiscal
256 year shall be given priority over requests for rebates received
257 during the following fiscal year.

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

261 Section 8. Section 377.901, Florida Statutes, is created
262 to read:

263 377.901 Florida Energy Council.--

264 (1) The Florida Energy Council is created within the
265 Department of Environmental Protection to provide advice and
266 counsel to the Governor, the President of the Senate, and the
267 Speaker of the House of Representatives on the energy policy of
268 the state. The council shall advise the state on current and
269 projected energy issues, including, but not limited to,
270 transportation, generation, transmission, distributed
271 generation, fuel supply issues, emerging technologies,
272 efficiency, and conservation. In developing its recommendations,
273 the council shall be guided by the principles of reliability,
274 efficiency, affordability, and diversity.

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

275 (2) (a) The council shall be comprised of a diversity of
276 stakeholders and may include utility providers, alternative
277 energy providers, researchers, environmental scientists, fuel
278 suppliers, technology manufacturers, persons representing
279 environmental, consumer, and public health interests, and
280 others.

281 (b) The council shall consist of nine voting members as
282 follows:

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

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

287 3. One member shall be the Commissioner of Agriculture, or
288 his or her designee.

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

290 5. Two members who shall be appointed by the President of
291 the Senate.

292 6. Two members who shall be appointed by the Speaker of
293 the House of Representatives.

294 (c) All initial members shall be appointed prior to
295 September 1, 2006. Appointments made by the Governor, the
296 President of the Senate, and the Speaker of the House of
297 Representatives shall be for terms of 2 years each. Members
298 shall serve until their successors are appointed. Vacancies
299 shall be filled in the manner of the original appointment for
300 the remainder of the term that is vacated.

301 (d) Members shall serve without compensation but are
302 entitled to reimbursement for travel expenses and per diem

Amendment No. (for drafter's use only)

303 related to council duties and responsibilities pursuant to s.
304 112.061.

305 (3) The Department of Environmental Protection shall
306 provide primary staff support to the council and shall ensure
307 that council meetings are electronically recorded. Such
308 recording shall be preserved pursuant to chapters 119 and 257.

309 (4) The Department of Environmental Protection may adopt
310 rules pursuant to ss. 120.536(1) and 120.54 to implement the
311 provisions of this section.

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

314 212.08 Sales, rental, use, consumption, distribution, and
315 storage tax; specified exemptions.--The sale at retail, the
316 rental, the use, the consumption, the distribution, and the
317 storage to be used or consumed in this state of the following
318 are hereby specifically exempt from the tax imposed by this
319 chapter.

320 (7) MISCELLANEOUS EXEMPTIONS.--Exemptions provided to any
321 entity by this chapter do not inure to any transaction that is
322 otherwise taxable under this chapter when payment is made by a
323 representative or employee of the entity by any means,
324 including, but not limited to, cash, check, or credit card, even
325 when that representative or employee is subsequently reimbursed
326 by the entity. In addition, exemptions provided to any entity by
327 this subsection do not inure to any transaction that is
328 otherwise taxable under this chapter unless the entity has
329 obtained a sales tax exemption certificate from the department
330 or the entity obtains or provides other documentation as
331 required by the department. Eligible purchases or leases made

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

332 with such a certificate must be in strict compliance with this
333 subsection and departmental rules, and any person who makes an
334 exempt purchase with a certificate that is not in strict
335 compliance with this subsection and the rules is liable for and
336 shall pay the tax. The department may adopt rules to administer
337 this subsection.

338 (ccc) Equipment, machinery, and other materials for
339 renewable energy technologies.--

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

341 a. "Biodiesel" means the mono-alkyl esters of long-chain
342 fatty acids derived from plant or animal matter for use as a
343 source of energy and meeting the specifications for biodiesel
344 and biodiesel blends with petroleum products as adopted by the
345 Department of Agriculture and Consumer Services. Biodiesel may
346 refer to biodiesel blends designated BXX, where XX represents
347 the volume percentage of biodiesel fuel in the blend.

348 b. "Ethanol" means nominally anhydrous denatured alcohol
349 produced by the fermentation of plant sugars meeting the
350 specifications for fuel ethanol and fuel ethanol blends with
351 petroleum products as adopted by the Department of Agriculture
352 and Consumer Services. Ethanol may refer to fuel ethanol blends
353 designated EXX, where XX represents the volume percentage of
354 fuel ethanol in the blend.

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

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

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

360 a. Hydrogen-powered vehicles, materials incorporated into
361 hydrogen-powered vehicles, and hydrogen-fueling stations, up to
362 a limit of \$2 million in tax each state fiscal year for all
363 taxpayers.

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

367 c. Materials used in the distribution of biodiesel (B10-
368 B100) and ethanol (E10-100), including fueling infrastructure,
369 transportation, and storage, up to a limit of \$1 million in tax
370 each state fiscal year for all taxpayers. Gasoline fueling
371 station pump retrofits for ethanol (E10-E100) distribution
372 qualify for the exemption provided in this sub-subparagraph.

373 3. The Department of Environmental Protection shall
374 provide to the department a list of items eligible for the
375 exemption provided in this paragraph.

376 4.a. The exemption provided in this paragraph shall be
377 available to a purchaser only through a refund of previously
378 paid taxes.

379 b. To be eligible to receive the exemption provided in
380 this paragraph, a purchaser shall file an application with the
381 Department of Environmental Protection. The application shall be
382 developed by the Department of Environmental Protection, in
383 consultation with the department, and shall require:

384 (I) The name and address of the person claiming the
385 refund.

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

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

389 (III) The sales invoice or other proof of purchase showing
390 the amount of sales tax paid, the date of purchase, and the name
391 and address of the sales tax dealer from whom the property was
392 purchased.

393 (IV) A sworn statement that the information provided is
394 accurate and that the requirements of this paragraph have been
395 met.

396 c. Within 30 days after receipt of an application, the
397 Department of Environmental Protection shall review the
398 application and shall notify the applicant of any deficiencies.
399 Upon receipt of a completed application, the Department of
400 Environmental Protection shall evaluate the application for
401 exemption and issue a written certification that the applicant
402 is eligible for a refund or issue a written denial of such
403 certification within 60 days after receipt of the application.
404 The Department of Environmental Protection shall provide the
405 department with a copy of each certification issued upon
406 approval of an application.

407 d. Each certified applicant shall be responsible for
408 forwarding a certified copy of the application and copies of all
409 required documentation to the department within 6 months after
410 certification by the Department of Environmental Protection.

411 e. The provisions of s. 212.095 do not apply to any refund
412 application made pursuant to this paragraph. A refund approved
413 pursuant to this paragraph shall be made within 30 days after
414 formal approval by the department.

415 f. The department may adopt all rules pursuant to ss.
416 120.536(1) and 120.54 to administer this paragraph, including

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

417 rules establishing forms and procedures for claiming this
418 exemption.

419 g. The Department of Environmental Protection shall be
420 responsible for ensuring that the total amounts of the
421 exemptions authorized do not exceed the limits as specified in
422 subparagraph 2.

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

426 6. This paragraph expires July 1, 2010.

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

429 213.053 Confidentiality and information sharing.--

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

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

435
436 Disclosure of information under this subsection shall be
437 pursuant to a written agreement between the executive director
438 and the agency. Such agencies, governmental or nongovernmental,
439 shall be bound by the same requirements of confidentiality as
440 the Department of Revenue. Breach of confidentiality is a
441 misdemeanor of the first degree, punishable as provided by s.
442 775.082 or s. 775.083.

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

445 220.02 Legislative intent.--
413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

446 (8) It is the intent of the Legislature that credits
447 against either the corporate income tax or the franchise tax be
448 applied in the following order: those enumerated in s. 631.828,
449 those enumerated in s. 220.191, those enumerated in s. 220.181,
450 those enumerated in s. 220.183, those enumerated in s. 220.182,
451 those enumerated in s. 220.1895, those enumerated in s. 221.02,
452 those enumerated in s. 220.184, those enumerated in s. 220.186,
453 those enumerated in s. 220.1845, those enumerated in s. 220.19,
454 those enumerated in s. 220.185, ~~and~~ those enumerated in s.
455 220.187, and those enumerated in ss. 220.192.

456 Section 12. Section 220.192, Florida Statutes, is created
457 to read:

458 220.192 Renewable energy technologies investment tax
459 credit.--

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

461 (a) "Biodiesel" means biodiesel as defined in s.
462 212.08(7)(ccc).

463 (b) "Eligible costs" means:

464 1. Seventy-five percent of all capital costs, operation
465 and maintenance costs, and research and development costs
466 incurred between July 1, 2006, and June 30, 2010, up to a limit
467 of \$3 million per state fiscal year for all taxpayers, in
468 connection with an investment in hydrogen-powered vehicles and
469 hydrogen vehicle fueling stations in the state, including, but
470 not limited to, the costs of constructing, installing, and
471 equipping such technologies in the state.

472 2. Seventy-five percent of all capital costs, operation
473 and maintenance costs, and research and development costs
474 incurred between July 1, 2006, and June 30, 2010, up to a limit

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

475 of \$1.5 million per state fiscal year for all taxpayers, and
476 limited to a maximum of \$12,000 per fuel cell, in connection
477 with an investment in commercial stationary hydrogen fuel cells
478 in the state, including, but not limited to, the costs of
479 constructing, installing, and equipping such technologies in the
480 state.

481 3. Seventy-five percent of all capital costs, operation
482 and maintenance costs, and research and development costs
483 incurred between July 1, 2006, and June 30, 2010, up to a limit
484 of \$6.5 million per state fiscal year for all taxpayers, in
485 connection with an investment in the production, storage, and
486 distribution of biodiesel (B10-B100) and ethanol (E10-E100) in
487 the state, including the costs of constructing, installing, and
488 equipping such technologies in the state. Gasoline fueling
489 station pump retrofits for ethanol (E10-E100) distribution
490 qualify as an eligible cost under this subparagraph.

491 (c) "Ethanol" means ethanol as defined in s.
492 212.08(7)(ccc).

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

495 (2) TAX CREDIT.--For tax years beginning on or after
496 January 1, 2007, a credit against the tax imposed by this
497 chapter shall be granted in an amount equal to the eligible
498 costs. Credits may be used in tax years beginning January 1,
499 2007, and ending December 31, 2010, after which the credit shall
500 expire. If the credit is not fully used in any one tax year
501 because of insufficient tax liability on the part of the
502 corporation, the unused amount may be carried forward and used
503 in tax years beginning January 1, 2007, and ending December 31,

413029
5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

504 2012, after which the credit carryover expires and may not be
505 used. A taxpayer that files a consolidated return in this state
506 as a member of an affiliated group under s. 220.131(1) may be
507 allowed the credit on a consolidated return basis up to the
508 amount of tax imposed upon the consolidated group. Any eligible
509 cost for which a credit is claimed and which is deducted or
510 otherwise reduces federal taxable income shall be added back in
511 computing adjusted federal income under s. 220.13.

512 (3) CORPORATE APPLICATION PROCESS.--Any corporation
513 wishing to obtain tax credits available under this section must
514 submit to the Department of Environmental Protection an
515 application for tax credit that includes a complete description
516 of all eligible costs for which the corporation is seeking a
517 credit and a description of the total amount of credits sought.
518 The Department of Environmental Protection shall make a
519 determination on the eligibility of the applicant for the
520 credits sought and certify the determination to the applicant
521 and the Department of Revenue. The corporation must attach the
522 Department of Environmental Protection's certification to the
523 tax return on which the credit is claimed. The Department of
524 Environmental Protection shall be responsible for ensuring that
525 the corporate income tax credits granted in each fiscal year do
526 not exceed the limits provided for in this section. The
527 Department of Environmental Protection is authorized to adopt
528 the necessary rules, guidelines, and application materials for
529 the application process.

530 (4) TAXPAYER APPLICATION PROCESS.--To claim a credit under
531 this section, each taxpayer must apply to the Department of
532 Environmental Protection for an allocation of each type of

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

533 annual credit by the date established by the Department of
534 Environmental Protection. The application form may be
535 established by the Department of Environmental Protection and
536 shall include an affidavit from each taxpayer certifying that
537 all information contained in the application, including all
538 records of eligible costs claimed as the basis for the tax
539 credit, are true and correct. Approval of the credits under this
540 section shall be accomplished on a first-come, first-served
541 basis, based upon the date complete applications are received by
542 the Department of Environmental Protection. A taxpayer shall
543 submit only one complete application based upon eligible costs
544 incurred within a particular state fiscal year. Incomplete
545 placeholder applications will not be accepted and will not
546 secure a place in the first-come, first-served application line.
547 If a taxpayer does not receive a tax credit allocation due to
548 the exhaustion of the annual tax credit authorizations, then
549 such taxpayer may reapply in the following year for those
550 eligible costs and will have priority over other applicants for
551 the allocation of credits.

552 (5) ADMINISTRATION; AUDIT AUTHORITY; RECAPTURE OF
553 CREDITS.--

554 (a) In addition to its existing audit and investigation
555 authority, the Department of Revenue may perform any additional
556 financial and technical audits and investigations, including
557 examining the accounts, books, and records of the tax credit
558 applicant, that are necessary to verify the eligible costs
559 included in the tax credit return and to ensure compliance with
560 this section. The Department of Environmental Protection shall
561 provide technical assistance when requested by the Department of

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

562 Revenue on any technical audits or examinations performed
563 pursuant to this section.

564 (b) It is grounds for forfeiture of previously claimed and
565 received tax credits if the Department of Revenue determines, as
566 a result of either an audit or examination or from information
567 received from the Department of Environmental Protection, that a
568 taxpayer received tax credits pursuant to this section to which
569 the taxpayer was not entitled. The taxpayer is responsible for
570 returning forfeited tax credits to the Department of Revenue,
571 and such funds shall be paid into the General Revenue Fund of
572 the state.

573 (c) The Department of Environmental Protection may revoke
574 or modify any written decision granting eligibility for tax
575 credits under this section if it is discovered that the tax
576 credit applicant submitted any false statement, representation,
577 or certification in any application, record, report, plan, or
578 other document filed in an attempt to receive tax credits under
579 this section. The Department of Environmental Protection shall
580 immediately notify the Department of Revenue of any revoked or
581 modified orders affecting previously granted tax credits.
582 Additionally, the taxpayer must notify the Department of Revenue
583 of any change in its tax credit claimed.

584 (d) The taxpayer shall file with the Department of Revenue
585 an amended return or such other report as the Department of
586 Revenue prescribes by rule and shall pay any required tax and
587 interest within 60 days after the taxpayer receives notification
588 from the Department of Environmental Protection that previously
589 approved tax credits have been revoked or modified. If the
590 revocation or modification order is contested, the taxpayer

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

591 shall file an amended return or other report as provided in this
592 paragraph within 60 days after a final order is issued following
593 proceedings.

594 (e) A notice of deficiency may be issued by the Department
595 of Revenue at any time within 3 years after the taxpayer
596 receives formal notification from the Department of
597 Environmental Protection that previously approved tax credits
598 have been revoked or modified. If a taxpayer fails to notify the
599 Department of Revenue of any changes to its tax credit claimed,
600 a notice of deficiency may be issued at any time.

601 (6) RULES.--The Department of Revenue shall have the
602 authority to adopt rules relating to the forms required to claim
603 a tax credit under this section, the requirements and basis for
604 establishing an entitlement to a credit, and the examination and
605 audit procedures required to administer this section.

606 (7) PUBLICATION.--The Department of Environmental
607 Protection shall determine and publish on a regular basis the
608 amount of available tax credits remaining in each fiscal year.

609 Section 13. Section 220.193, Florida Statutes, is created
610 to read:

611 220.193 Florida renewable energy production credit.--

612 (1) The purpose of this section is to encourage the
613 development and expansion of facilities that produce renewable
614 energy in Florida.

615 (2) As used in this section, the term:

616 (a) "Commission" shall mean the Public Service Commission.

617 (b) "Department" shall mean the Department of Revenue.

618 (c) "Expanded facility" shall mean a Florida renewable
619 energy facility that increases its electrical production and

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

620 sale by more than 5 percent above the facility's electrical
621 production and sale during the 2005 calendar year.

622 (d) "Florida renewable energy facility" shall mean a
623 facility in the state that produces electricity for sale from
624 renewable energy, as defined in s. 377.803.

625 (e) "New facility" shall mean a Florida renewable energy
626 facility that is operationally placed in service after May 1,
627 2006.

628 (3) An annual credit against the tax imposed by this
629 section shall be allowed to a taxpayer, based on the taxpayer's
630 production and sale of electricity from a new or expanded
631 Florida renewable energy facility. For a new facility, the
632 credit shall be based on the taxpayer's sale of the facility's
633 entire electrical production. For an expanded facility, the
634 credit shall be based on the increases in the facility's
635 electrical production that are achieved after May 1, 2006.

636 (a) The credit shall be \$0.01 for each kilowatt-hour of
637 electricity produced and sold by the taxpayer to an unrelated
638 party during a given tax year.

639 (b) The credit may be claimed for electricity produced and
640 sold on or after January 1, 2007. Beginning in 2008 and
641 continuing until 2011, each taxpayer claiming a credit under
642 this section must first apply to the department by February 1 of
643 each year for an allocation of available credit. The department,
644 in consultation with the Department of Environmental Protection
645 and the Commission, shall develop an application form. The
646 application form shall, at a minimum, require a sworn affidavit
647 from each taxpayer certifying the increase in production and
648 sales that form the basis of the application and certifying that

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

649 all information contained in the application is true and
650 correct.

651 (c) If the amount of credits applied for each year exceeds
652 \$5 million, the department shall award to each applicant a
653 prorated amount based on each applicant's increased production
654 and sales and the increased production and sales of all
655 applicants.

656 (d) If the credit granted pursuant to this section is not
657 fully used in one year because of insufficient tax liability on
658 the part of the taxpayer, the unused amount may be carried
659 forward for a period not to exceed 5 years. The carryover credit
660 may be used in a subsequent year when the tax imposed by this
661 chapter for such year exceeds the credit for such year, after
662 applying the other credits and unused credit carryovers in the
663 order provided in s. 220.02(8).

664 (e) A taxpayer that files a consolidated return in this
665 state as a member of an affiliated group under s. 220.131(1) may
666 be allowed the credit on a consolidated return basis up to the
667 amount of tax imposed upon the consolidated group.

668 (f)1. Tax credits that may be available under this section
669 to an entity eligible under this section may be transferred
670 after a merger or acquisition to the surviving or acquiring
671 entity and used in the same manner with the same limitations.

672 2. The entity or its surviving or acquiring entity as
673 described in subparagraph 1. may transfer any unused credit in
674 whole or in units of no less than 25 percent of the remaining
675 credit. The entity acquiring such credit may use it in the same
676 manner and with the same limitations under this section. Such
677 transferred credits may not be transferred again although they

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

678 may succeed to a surviving or acquiring entity subject to the
679 same conditions and limitations as described in this section.

680 3. In the event the credit provided for under this section
681 is reduced as a result of an examination or audit by the
682 department, such tax deficiency shall be recovered from the
683 first entity or the surviving or acquiring entity to have
684 claimed such credit up to the amount of credit taken. Any
685 subsequent deficiencies shall be assessed against any entity
686 acquiring and claiming such credit, or in the case of multiple
687 succeeding entities in the order of credit succession.

688 (g) Notwithstanding any other provision of this section,
689 credits for the production and sale of electricity from a new or
690 expanded Florida renewable energy facility may be earned between
691 January 1, 2007 and June 30, 2010. The combined total amount of
692 tax credits which may be granted for all taxpayers under this
693 section is limited to \$5 million per state fiscal year.

694 (h) A taxpayer claiming a credit under this section shall
695 be required to add back to net income that portion of its
696 business deductions claimed on its federal return paid or
697 incurred for the taxable year which is equal to the amount of
698 the credit allowable for the taxable year under this section.

699 (i) A taxpayer claiming credit under this section may not
700 claim a credit under s. 220.192. A taxpayer claiming credit
701 under s. 220.192 may not claim a credit under this section.

702 (4) The department may adopt rules to implement and
703 administer this section, including rules prescribing forms, the
704 documentation needed to substantiate a claim for the tax credit,
705 and the specific procedures and guidelines for claiming the
706 credit.

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

707 (5) This section shall take effect upon becoming law and
708 shall apply to tax years beginning on and after January 1, 2007.

709 Section 14. Paragraph (a) of subsection (1) of section
710 220.13, Florida Statutes, is amended to read:

711 220.13 "Adjusted federal income" defined.--

712 (1) The term "adjusted federal income" means an amount
713 equal to the taxpayer's taxable income as defined in subsection
714 (2), or such taxable income of more than one taxpayer as
715 provided in s. 220.131, for the taxable year, adjusted as
716 follows:

717 (a) Additions.--There shall be added to such taxable
718 income:

719 1. The amount of any tax upon or measured by income,
720 excluding taxes based on gross receipts or revenues, paid or
721 accrued as a liability to the District of Columbia or any state
722 of the United States which is deductible from gross income in
723 the computation of taxable income for the taxable year.

724 2. The amount of interest which is excluded from taxable
725 income under s. 103(a) of the Internal Revenue Code or any other
726 federal law, less the associated expenses disallowed in the
727 computation of taxable income under s. 265 of the Internal
728 Revenue Code or any other law, excluding 60 percent of any
729 amounts included in alternative minimum taxable income, as
730 defined in s. 55(b)(2) of the Internal Revenue Code, if the
731 taxpayer pays tax under s. 220.11(3).

732 3. In the case of a regulated investment company or real
733 estate investment trust, an amount equal to the excess of the
734 net long-term capital gain for the taxable year over the amount
735 of the capital gain dividends attributable to the taxable year.

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

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

740 5. That portion of the ad valorem school taxes paid or
741 incurred for the taxable year which is equal to the amount of
742 the credit allowable for the taxable year under s. 220.182. The
743 provisions of this subparagraph shall expire and be void on June
744 30, 2005.

745 6. The amount of emergency excise tax paid or accrued as a
746 liability to this state under chapter 221 which tax is
747 deductible from gross income in the computation of taxable
748 income for the taxable year.

749 7. That portion of assessments to fund a guaranty
750 association incurred for the taxable year which is equal to the
751 amount of the credit allowable for the taxable year.

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

757 9. The amount taken as a credit for the taxable year under
758 s. 220.1895.

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

762 11. The amount taken as a credit for the taxable year
763 under s. 220.187.

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

764 12. The amount taken as a credit for the taxable year
765 under ss. 220.192.

766 Section 15. Subsection (2) of section 186.801, Florida
767 Statutes, is amended to read:

768 186.801 Ten-year site plans.--

769 (2) Within 9 months after the receipt of the proposed
770 plan, the commission shall make a preliminary study of such plan
771 and classify it as "suitable" or "unsuitable." The commission
772 may suggest alternatives to the plan. All findings of the
773 commission shall be made available to the Department of
774 Environmental Protection for its consideration at any subsequent
775 electrical power plant site certification proceedings. It is
776 recognized that 10-year site plans submitted by an electric
777 utility are tentative information for planning purposes only and
778 may be amended at any time at the discretion of the utility upon
779 written notification to the commission. A complete application
780 for certification of an electrical power plant site under
781 chapter 403, when such site is not designated in the current 10-
782 year site plan of the applicant, shall constitute an amendment
783 to the 10-year site plan. In its preliminary study of each 10-
784 year site plan, the commission shall consider such plan as a
785 planning document and shall review:

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

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

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

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

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

792 (e)~~(d)~~ The views of appropriate local, state, and federal
793 agencies, including the views of the appropriate water
794 management district as to the availability of water and its
795 recommendation as to the use by the proposed plant of salt water
796 or fresh water for cooling purposes.

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

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

801 Section 16. Subsection (6) of section 366.04, Florida
802 Statutes, is amended to read:

803 366.04 Jurisdiction of commission.--

804 (6) The commission shall further have exclusive
805 jurisdiction to prescribe and enforce safety standards for
806 transmission and distribution facilities of all public electric
807 utilities, cooperatives organized under the Rural Electric
808 Cooperative Law, and electric utilities owned and operated by
809 municipalities. In adopting safety standards, the commission
810 shall, at a minimum:

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

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

815
816 The standards prescribed by the current 1984 edition of the
817 National Electrical Safety Code (ANSI C2) shall constitute
818 acceptable and adequate requirements for the protection of the
819 safety of the public, and compliance with the minimum
820 requirements of that code shall constitute good engineering

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

821 practice by the utilities. The administrative authority referred
822 to in the 1984 edition of the National Electrical Safety Code is
823 the commission. However, nothing herein shall be construed as
824 superseding, repealing, or amending the provisions of s.
825 403.523(1) and (10).

826 Section 17. Subsections (1) and (8) of section 366.05,
827 Florida Statutes, are amended to read:

828 366.05 Powers.--

829 (1) In the exercise of such jurisdiction, the commission
830 shall have power to prescribe fair and reasonable rates and
831 charges, classifications, standards of quality and measurements,
832 including the ability to adopt construction standards that
833 exceed the National Electrical Safety Code, for purposes of
834 ensuring the reliable provision of service, and service rules
835 and regulations to be observed by each public utility; to
836 require repairs, improvements, additions, replacements, and
837 extensions to the plant and equipment of any public utility when
838 reasonably necessary to promote the convenience and welfare of
839 the public and secure adequate service or facilities for those
840 reasonably entitled thereto; to employ and fix the compensation
841 for such examiners and technical, legal, and clerical employees
842 as it deems necessary to carry out the provisions of this
843 chapter; and to adopt rules pursuant to ss. 120.536(1) and
844 120.54 to implement and enforce the provisions of this chapter.

845 (8) If the commission determines that there is probable
846 cause to believe that inadequacies exist with respect to the
847 energy grids developed by the electric utility industry,
848 including inadequacies in fuel diversity or fuel supply
849 reliability, it shall have the power, after proceedings as

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

850 provided by law, and after a finding that mutual benefits will
851 accrue to the electric utilities involved, to require
852 installation or repair of necessary facilities, including
853 generating plants and transmission facilities, with the costs to
854 be distributed in proportion to the benefits received, and to
855 take all necessary steps to ensure compliance. The electric
856 utilities involved in any action taken or orders issued pursuant
857 to this subsection shall have full power and authority,
858 notwithstanding any general or special laws to the contrary, to
859 jointly plan, finance, build, operate, or lease generating and
860 transmission facilities and shall be further authorized to
861 exercise the powers granted to corporations in chapter 361. This
862 subsection shall not supersede or control any provision of the
863 Florida Electrical Power Plant Siting Act, ss. 403.501-403.518.

864 Section 18. Section 366.92, Florida Statutes, is created
865 to read:

866 366.92 Florida renewable energy policy.--

867 (1) It is the intent of the Legislature to promote the
868 development of renewable energy; protect the economic viability
869 of Florida's existing renewable energy facilities; diversify the
870 types of fuel used to generate electricity in Florida; lessen
871 Florida's dependence on natural gas and fuel oil for the
872 production of electricity; minimize the volatility of fuel
873 costs; encourage investment within the state; improve
874 environmental conditions; and at the same time, minimize the
875 costs of power supply to electric utilities and their customers.

876 (2) For the purposes of this section, "Florida renewable
877 energy resources" shall mean renewable energy, as defined in s.
878 377.803, that is produced in Florida.

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

879 (3) The commission shall adopt appropriate goals for
880 increasing the use of existing, expanded, and new Florida
881 renewable energy resources. The commission may change the goals.
882 The commission shall review and reestablish the goals at least
883 once every five years.

884 (4) The commission may adopt rules to administer and
885 implement the provisions of this section.

886 Section 19. (1) The Florida Public Service Commission
887 shall direct a study of the electric transmission grid in the
888 state. The study shall look at electric system reliability to
889 examine the efficiency and reliability of power transfer and
890 emergency contingency conditions. In addition, the study shall
891 examine the hardening of infrastructure to address issues
892 arising from the 2004 and 2005 hurricane seasons. A report of
893 the results of the study shall be provided to the Governor, the
894 President of the Senate, and the Speaker of the House of
895 Representatives by March 1, 2007.

896 (2) The commission shall conduct a review to determine
897 what should be done to enhance the reliability of Florida's
898 transmission and distribution grids during extreme weather
899 events, including the strengthening of distribution and
900 transmission facilities. Considerations may include:

901 (a) Recommendations for promoting and encouraging
902 underground electric distribution for new service or
903 construction provided by public utilities.

904 (b) Recommendations for promoting and encouraging the
905 conversion of existing overhead distribution facilities to
906 underground facilities, including any recommended incentives to
907 local governments for local-government-sponsored conversions.

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

908 (c) Recommendations as to whether incentives for local-
909 government-sponsored conversions should include participation by
910 a public utility in the conversion costs as an investment in the
911 reliability of the grid in total, with such investment
912 recognized as a new plant in service for regulatory purposes.

913 (d) Recommendations for promoting and encouraging the use
914 of road rights-of-way for the location of underground facilities
915 in any local-government-sponsored conversion project, provided
916 the customers of the public utility do not incur increased
917 liability and future relocation costs.

918 (3) The commission shall submit its review and
919 recommendations to the Governor, the President of the Senate,
920 and the Speaker of the House of Representatives by July 1, 2007.

921 (4) This section does not limit the existing jurisdiction
922 or powers of the commission. It may not be construed to delay or
923 defer any activities that are currently docketed which relate to
924 matters to be addressed by the study required by this section,
925 nor may it be construed to delay or defer any case or proceeding
926 that may be initiated before the commission pursuant to current
927 statutory powers of the commission.

928 Section 20. Subsections (5), (8), (9), (12), (18), (24),
929 and (27) of section 403.503, Florida Statutes, are amended,
930 subsections (6) through (28) are renumbered as (7) through (29),
931 respectively, and new subsections (6) and (16) are added to that
932 section, to read:

933 403.503 Definitions relating to Florida Electrical Power
934 Plant Siting Act.--As used in this act:

935 (5) "Application" means the documents required by the
936 department to be filed to initiate a certification review and

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

937 evaluation, including the initial document filing, amendments,
938 and responses to requests from the department for additional
939 data and information ~~proceeding and shall include the documents~~
940 ~~necessary for the department to render a decision on any permit~~
941 ~~required pursuant to any federally delegated or approved permit~~
942 ~~program.~~

943 (6) "Associated facilities" means, for the purpose of
944 certification, those facilities which directly support the
945 construction and operation of the electrical power plant such as
946 fuel unloading facilities; pipelines necessary for transporting
947 fuel for the operation of the facility or other fuel
948 transportation facilities; water or wastewater transport
949 pipelines; construction, maintenance, and access roads; and
950 railway lines necessary for transport of construction equipment
951 or fuel for the operation of the facility.

952 (8) "Completeness" means that the application has
953 addressed all applicable sections of the prescribed application
954 format, and ~~but does not mean~~ that those sections are sufficient
955 in comprehensiveness of data or in quality of information
956 provided to allow the department to determine whether the
957 application provides the reviewing agencies adequate information
958 to prepare the reports required by s. 403.507.

959 (9) "Corridor" means the proposed area within which an
960 associated linear facility right-of-way is to be located. The
961 width of the corridor proposed for certification as an
962 associated facility, at the option of the applicant, may be the
963 width of the right-of-way or a wider boundary, not to exceed a
964 width of 1 mile. The area within the corridor in which a right-
965 of-way may be located may be further restricted by a condition

413029
5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

966 of certification. After all property interests required for the
967 right-of-way have been acquired by the licensee applicant, the
968 boundaries of the area certified shall narrow to only that land
969 within the boundaries of the right-of-way.

970 (12) "Electrical power plant" means, for the purpose of
971 certification, any steam or solar electrical generating facility
972 using any process or fuel, including nuclear materials, ~~and~~
973 ~~includes associated facilities which directly support the~~
974 ~~construction and operation of the electrical power plant and~~
975 ~~those associated transmission lines which connect the electrical~~
976 ~~power plant to an existing transmission network or rights of way~~
977 ~~to which the applicant intends to connect~~, except that this term
978 does not include any steam or solar electrical generating
979 facility of less than 75 megawatts in capacity unless the
980 applicant for such a facility elects to apply for certification
981 under this act. This term includes associated facilities to be
982 owned by the applicant which are physically connected to the
983 electrical power plant site or which are directly connected to
984 the electrical power plant site by other proposed associated
985 facilities to be owned by the applicant, and associated
986 transmission lines to be owned by the applicant which connect
987 the electrical power plant to an existing transmission network
988 or rights-of-way of which the applicant intends to connect. ~~An~~
989 ~~associated transmission line may include~~, At the applicant's
990 option, this term may include, any offsite associated facilities
991 which will not be owned by the applicant; offsite associated
992 facilities which are owned by the applicant but which are not
993 directly connected to the electrical power plant site; any
994 proposed terminal or intermediate substations or substation

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

995 expansions connected to the associated transmission line; or new
996 transmission lines, upgrades, or improvements of an existing
997 transmission line on any portion of the applicant's electrical
998 transmission system necessary to support the generation injected
999 into the system from the proposed electrical power plant.

1000 (16) "Licensee" means an applicant that has obtained a
1001 certification order for the subject project.

1002 ~~(19)~~(18) "Nonprocedural requirements of agencies" means
1003 any agency's regulatory requirements established by statute,
1004 rule, ordinance, zoning ordinance, land development code, or
1005 comprehensive plan, excluding any provisions prescribing forms,
1006 fees, procedures, or time limits for the review or processing of
1007 information submitted to demonstrate compliance with such
1008 regulatory requirements.

1009 ~~(25)~~(24) "Right-of-way" means land necessary for the
1010 construction and maintenance of a connected associated linear
1011 facility, such as a railroad line, pipeline, or transmission
1012 line as owned by or proposed to be certified by the applicant.
1013 The typical width of the right-of-way shall be identified in the
1014 application. The right-of-way shall be located within the
1015 certified corridor and shall be identified by the applicant
1016 subsequent to certification in documents filed with the
1017 department prior to construction.

1018 ~~(28)~~(27) "Ultimate site capacity" means the maximum
1019 generating capacity for a site as certified by the board.

1020 ~~"Sufficiency" means that the application is not only complete~~
1021 ~~but that all sections are sufficient in the comprehensiveness of~~
1022 ~~data or in the quality of information provided to allow the~~
1023 ~~department to determine whether the application provides the~~
413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

1024 ~~reviewing agencies adequate information to prepare the reports~~
1025 ~~required by s. 403.507.~~

1026 Section 21. Subsections (1), (7), (9), and (10) of section
1027 403.504, Florida Statutes, are amended, and new subsections (9),
1028 (10), (11), and (12) are added to that section, to read:

1029 403.504 Department of Environmental Protection; powers and
1030 duties enumerated.--The department shall have the following
1031 powers and duties in relation to this act:

1032 (1) To adopt rules pursuant to ss. 120.536(1) and 120.54
1033 to implement the provisions of this act, including rules setting
1034 forth environmental precautions to be followed in relation to
1035 the location, construction, and operation of electrical power
1036 plants.

1037 (7) To conduct studies and prepare a project written
1038 analysis under s. 403.507.

1039 (9) To issue final orders after receipt of the
1040 administrative law judge's order relinquishing jurisdiction
1041 pursuant to s. 403.508(6).

1042 (10) To act as clerk for the siting board.

1043 (11) To administer and manage the terms and conditions of
1044 the certification order and supporting documents and records for
1045 the life of the facility.

1046 (12) To issue emergency orders on behalf of the board for
1047 facilities licensed under this act.

1048 ~~(9) To notify all affected agencies of the filing of a~~
1049 ~~notice of intent within 15 days after receipt of the notice.~~

1050 ~~(10) To issue, with the electrical power plant~~
1051 ~~certification, any license required pursuant to any federally~~
1052 ~~delegated or approved permit program.~~

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

1053 Section 22. Section 403.5055, Florida Statutes, is amended
1054 to read:

1055 403.5055 Application for permits pursuant to s.
1056 403.0885.--In processing applications for permits pursuant to s.
1057 403.0885 that are associated with applications for electrical
1058 power plant certification:

1059 (1) The procedural requirements set forth in 40 C.F.R. s.
1060 123.25, including public notice, public comments, and public
1061 hearings, shall be closely coordinated with the certification
1062 process established under this part. In the event of a conflict
1063 between the certification process and federally required
1064 procedures for NPDES permit issuance, the applicable federal
1065 requirements shall control.

1066 ~~(2) The department's proposed action pursuant to 40 C.F.R.~~
1067 ~~s. 124.6, including any draft NPDES permit (containing the~~
1068 ~~information required under 40 C.F.R. s. 124.6(d)), shall within~~
1069 ~~130 days after the submittal of a complete application be~~
1070 ~~publicly noticed and transmitted to the United States~~
1071 ~~Environmental Protection Agency for its review pursuant to 33~~
1072 ~~U.S.C. s. 1342(d).~~

1073 (2)(3) If available at the time the department issues its
1074 project analysis pursuant to s. 403.507(5), the department shall
1075 include in its project analysis ~~written analysis pursuant to s.~~
1076 ~~403.507(3) copies of the department's proposed action pursuant~~
1077 ~~to 40 C.F.R. s. 124.6 on any application for a NPDES permit; any~~
1078 ~~corresponding comments received from the United States~~
1079 ~~Environmental Protection Agency, the applicant, or the general~~
1080 ~~public; and the department's response to those comments.~~

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

1081 ~~(3)(4)~~ The department shall not issue or deny the permit
1082 pursuant to s. 403.0885 in advance of the issuance of the
1083 electrical electric power plant certification under this part
1084 unless required to do so by the provisions of federal law. When
1085 possible, any hearing on a permit issued pursuant to s. 403.0885
1086 shall be conducted in conjunction with the certification hearing
1087 held pursuant to this act. The department's actions on an NPDES
1088 permit shall be based on the record and recommended order of the
1089 certification hearing, if the hearing on the NPDES was conducted
1090 in conjunction with the certification hearing, and of any other
1091 proceeding held in connection with the application for an NPDES
1092 permit, timely public comments received with respect to the
1093 application, and the provisions of federal law. The department's
1094 action on an NPDES permit, if issued, shall differ from the
1095 actions taken by the siting board regarding the certification
1096 order if federal laws and regulations require different action
1097 to be taken to ensure compliance with the Clean Water Act, as
1098 amended, and implementing regulations. Nothing in this part
1099 shall be construed to displace the department's authority as the
1100 final permitting entity under the federally approved state NPDES
1101 program. Nothing in this part shall be construed to authorize
1102 the issuance of a state NPDES permit which does not conform to
1103 the requirements of the federally approved state NPDES program.
1104 ~~The permit, if issued, shall be valid for no more than 5 years.~~

1105 ~~(5) The department's action on an NPDES permit renewal, if~~
1106 ~~issued, shall differ from the actions taken by the siting board~~
1107 ~~regarding the certification order if federal laws and~~
1108 ~~regulations require different action to be taken to ensure~~

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

1109 ~~compliance with the Clean Water Act, as amended, and~~
1110 ~~implementing regulations.~~

1111 Section 23. Section 403.506, Florida Statutes, is amended
1112 to read:

1113 403.506 Applicability, thresholds, and certification.--

1114 (1) The provisions of this act shall apply to any
1115 electrical power plant as defined herein, except that the
1116 provisions of this act shall not apply to any electrical power
1117 plant or steam generating plant of less than 75 megawatts in
1118 capacity or to any substation to be constructed as part of an
1119 associated transmission line unless the applicant has elected to
1120 apply for certification of such plant or substation under this
1121 act. The provisions of this act shall not apply to any unit
1122 capacity expansion of 35 megawatts or less of an existing
1123 exothermic reaction cogeneration unit that was exempt from this
1124 act when it was originally built; however, this exemption shall
1125 not apply if the unit uses oil or natural gas for purposes other
1126 than unit startup. No construction of any new electrical power
1127 plant or expansion in steam generating capacity as measured by
1128 an increase in the maximum electrical generator rating of any
1129 existing electrical power plant may be undertaken after October
1130 1, 1973, without first obtaining certification in the manner as
1131 herein provided, except that this act shall not apply to any
1132 such electrical power plant which is presently operating or
1133 under construction or which has, upon the effective date of
1134 chapter 73-33, Laws of Florida, applied for a permit or
1135 certification under requirements in force prior to the effective
1136 date of such act.

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

1137 (2) Except as provided in the certification, modification
1138 of nonnuclear fuels, internal related hardware, including
1139 increases in steam turbine efficiency, or operating conditions
1140 not in conflict with certification which increase the electrical
1141 output of a unit to no greater capacity than the maximum
1142 electrical generator rating ~~operating capacity~~ of the existing
1143 generator shall not constitute an alteration or addition to
1144 generating capacity which requires certification pursuant to
1145 this act.

1146 ~~(3) The application for any related department license~~
1147 ~~which is required pursuant to any federally delegated or~~
1148 ~~approved permit program shall be processed within the time~~
1149 ~~periods allowed by this act, in lieu of those specified in s.~~
1150 ~~120.60. However, permits issued pursuant to s. 403.0885 shall be~~
1151 ~~processed in accordance with 40 C.F.R. part 123.~~

1152 Section 24. Section 403.5064, Florida Statutes, is amended
1153 to read:

1154 403.5064 Application ~~Distribution of application~~;
1155 schedules.--

1156 (1) The formal date of filing of a certification
1157 application and commencement of the certification review process
1158 shall be when the applicant submits:

1159 (a) Copies of the certification application in a quantity
1160 and format as prescribed by rule to the department and other
1161 agencies identified in s. 403.507(2)(a).

1162 (b) The application fee specified under s. 403.518 to the
1163 department.

1164 (2) ~~(1)~~ Within 7 days after the filing of an application,
1165 the department shall provide to the applicant and the Division
413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

1166 of Administrative Hearings the names and addresses of any
1167 additional those affected or other agencies or persons entitled
1168 to notice and copies of the application and any amendments.
1169 Copies of the application shall be distributed within 5 days by
1170 the applicant to these additional agencies. This distribution
1171 shall not be a basis for altering the schedule of dates for the
1172 certification process.

1173 (3) Any amendment to the application made prior to
1174 certification shall be disposed of as part of the original
1175 certification proceeding. Amendment of the application may be
1176 considered good cause for alteration of time limits pursuant to
1177 s. 403.5095.

1178 (4)-(2) Within 7 days after the filing of an application
1179 completeness has been determined, the department shall prepare a
1180 proposed schedule of dates for determination of completeness,
1181 submission of statements of issues, determination of
1182 sufficiency, and submittal of final reports, from affected and
1183 other agencies and other significant dates to be followed during
1184 the certification process, including dates for filing notices of
1185 appearance to be a party pursuant to s. 403.508(3)-(4). This
1186 schedule shall be timely provided by the department to the
1187 applicant, the administrative law judge, all agencies identified
1188 pursuant to subsection (2) -(1), and all parties. Within 7 days
1189 after the filing of the proposed schedule, the administrative
1190 law judge shall issue an order establishing a schedule for the
1191 matters addressed in the department's proposed schedule and
1192 other appropriate matters, if any.

1193 (5)-(3) Within 7 days after completeness has been
1194 determined, the applicant shall distribute copies of the

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

1195 ~~application to all agencies identified by the department~~
1196 ~~pursuant to subsection (1).~~ Copies of changes and amendments to
1197 the application shall be timely distributed by the applicant to
1198 all ~~affected~~ agencies and parties who have received a copy of
1199 the application.

1200 (6) Notice of the filing of the application shall be
1201 published in accordance with the requirements of s. 403.5115.

1202 Section 25. Section 403.5065, Florida Statutes, is amended
1203 to read:

1204 403.5065 Appointment of administrative law judge; powers
1205 and duties.--

1206 (1) Within 7 days after receipt of an application, ~~whether~~
1207 ~~complete or not,~~ the department shall request the Division of
1208 Administrative Hearings to designate an administrative law judge
1209 to conduct the hearings required by this act. The division
1210 director shall designate an administrative law judge within 7
1211 days after receipt of the request from the department. In
1212 designating an administrative law judge for this purpose, the
1213 division director shall, whenever practicable, assign an
1214 administrative law judge who has had prior experience or
1215 training in electrical power plant site certification
1216 proceedings. Upon being advised that an administrative law judge
1217 has been appointed, the department shall immediately file a copy
1218 of the application and all supporting documents with the
1219 designated administrative law judge, who shall docket the
1220 application.

1221 (2) The administrative law judge shall have all powers and
1222 duties granted to administrative law judges by chapter 120 and
1223 by the laws and rules of the department.

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

1224 Section 26. Section 403.5066, Florida Statutes, is amended
1225 to read:

1226 403.5066 Determination of completeness.--

1227 (1) (a) Within 30 days after the filing of an application,
1228 affected agencies shall file a statement with the department
1229 containing each agency's recommendations on the completeness of
1230 the application.

1231 (b) Within 40 ~~15~~ days after the filing receipt of an
1232 application, the department shall file a statement with the
1233 Division of Administrative Hearings, ~~and~~ with the applicant, ~~and~~
1234 with all parties declaring its position with regard to the
1235 completeness, ~~not the sufficiency,~~ of the application. The
1236 department's statement shall be based upon consultation with the
1237 affected agencies.

1238 (2) ~~(1)~~ If the department declares the application to be
1239 incomplete, the applicant, within 15 days after the filing of
1240 the statement by the department, shall file with the Division of
1241 Administrative Hearings, ~~and~~ with the department, ~~and all~~
1242 parties a statement:

1243 (a) A withdrawal of ~~Agreeing with the statement of the~~
1244 department and withdrawing the application;

1245 (b) A statement agreeing to supply the additional
1246 information necessary to make the application complete. Such
1247 additional information shall be provided within 30 days after
1248 the issuance of the department's statement on completeness of
1249 the application. The time schedules under this act shall not be
1250 tolled if the applicant makes the application complete within 30
1251 days after the issuance of the department's statement on
1252 completeness of the application. A subsequent finding by the

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

1253 department that the application remains incomplete, based upon
1254 the additional information submitted by the applicant or upon
1255 the failure of the applicant to timely submit the additional
1256 information, tolls the time schedules under this act until the
1257 application is determined complete; ~~Agreeing with the statement~~
1258 of the department and agreeing to amend the application without
1259 withdrawing it. The time schedules referencing a complete
1260 application under this act shall not commence until the
1261 application is determined complete; or

1262 (c) A statement contesting the department's determination
1263 of incompleteness; or ~~contesting the statement of the~~
1264 department.

1265 (d) A statement agreeing with the department and
1266 requesting additional time beyond 30 days to provide the
1267 information necessary to make the application complete. If the
1268 applicant exercises this option, the time schedules under this
1269 act are tolled until the application is determined complete.

1270 (3) (a) ~~(2)~~ If the applicant contests the determination by
1271 the department that an application is incomplete, the
1272 administrative law judge shall schedule a hearing on the
1273 statement of completeness. The hearing shall be held as
1274 expeditiously as possible, but not later than 21 ~~30~~ days after
1275 the filing of the statement by the department. The
1276 administrative law judge shall render a decision within 7 ~~10~~
1277 days after the hearing.

1278 (b) Parties to a hearing on the issue of completeness
1279 shall include the applicant, the department, and any agency that
1280 has jurisdiction over the matter in dispute.

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

1281 (c)-(a) If the administrative law judge determines that the
1282 application was not complete ~~as filed~~, the applicant shall
1283 withdraw the application or make such additional submittals as
1284 necessary to complete it. The time schedules referencing a
1285 complete application under this act shall not commence until the
1286 application is determined complete.

1287 (d)-(b) If the administrative law judge determines that the
1288 application was complete at the time it was declared incomplete
1289 ~~filed~~, the time schedules referencing a complete application
1290 under this act shall commence upon such determination.

1291 (4) If the applicant provides additional information to
1292 address the issues identified in the determination of
1293 incompleteness, each affected agency may submit to the
1294 department, no later than 15 days after the applicant files the
1295 additional information, a recommendation on whether the agency
1296 believes the application is complete. Within 22 days after
1297 receipt of the additional information from the applicant
1298 submitted under paragraph (2)(b), paragraph (2)(d), or paragraph
1299 (3)(c), the department shall determine whether the additional
1300 information supplied by an applicant makes the application
1301 complete. If the department finds that the application is still
1302 incomplete, the applicant may exercise any of the options
1303 specified in subsection (2) as often as is necessary to resolve
1304 the dispute.

1305 Section 27. Section 403.50663, Florida Statutes, is
1306 created to read:

1307 403.50663 Informational public meetings.--

1308 (1) A local government within whose jurisdiction the power
1309 plant is proposed to be sited may hold one informational public

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

1310 meeting in addition to the hearings specifically authorized by
1311 this act on any matter associated with the electrical power
1312 plant proceeding. Such informational public meetings shall be
1313 held by the local government or by the regional planning council
1314 if the local government does not hold such meeting within 70
1315 days after the filing of the application. The purpose of an
1316 informational public meeting is for the local government or
1317 regional planning council to further inform the public about the
1318 proposed electrical power plant or associated facilities, obtain
1319 comments from the public, and formulate its recommendation with
1320 respect to the proposed electrical power plant.

1321 (2) Informational public meetings shall be held solely at
1322 the option of each local government or regional planning council
1323 if a public meeting is not held by the local government. It is
1324 the legislative intent that local governments or regional
1325 planning councils attempt to hold such public meetings. Parties
1326 to the proceedings under this act shall be encouraged to attend;
1327 however, no party other than the applicant and the department
1328 shall be required to attend such informational public meetings.

1329 (3) A local government or regional planning council that
1330 intends to conduct an informational public meeting must provide
1331 notice of the meeting to all parties not less than 5 days prior
1332 to the meeting.

1333 (4) The failure to hold an informational public meeting or
1334 the procedure used for the informational public meeting are not
1335 grounds for the alteration of any time limitation in this act
1336 under s. 403.5095 or grounds to deny or condition certification.

1337 Section 28. Section 403.50665, Florida Statutes, is
1338 created to read:

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

1339 403.50665 Land use consistency.--

1340 (1) The applicant shall include in the application a
1341 statement on the consistency of the site or any directly
1342 associated facilities with existing land use plans and zoning
1343 ordinances that were in effect on the date the application was
1344 filed and a full description of such consistency.

1345 (2) Within 45 days after the filing of the application,
1346 each local government shall file a determination with the
1347 department, the applicant, the administrative law judge, and all
1348 parties on the consistency of the site or any directly
1349 associated facilities with existing land use plans and zoning
1350 ordinances that were in effect on the date the application was
1351 filed, based on the information provided in the application. The
1352 local government may issue its determination up to 35 days later
1353 if the local government has requested additional information on
1354 land use and zoning consistency as part of the local
1355 government's statement on completeness of the application
1356 submitted pursuant to s. 403.5066(1)(a). Notice of the
1357 consistency determination shall be published in accordance with
1358 the requirements of s. 403.5115.

1359 (3) If the local government issues a determination that
1360 the proposed electrical power plant is not consistent or in
1361 compliance with local land use plans and zoning ordinances, the
1362 applicant may apply to the local government for the necessary
1363 local approval to address the inconsistencies in the local
1364 government's determination. If the applicant makes such an
1365 application to the local government, the time schedules under
1366 this act shall be tolled until the local government issues its
1367 revised determination on land use and zoning or the applicant

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

1368 otherwise withdraws its application to the local government. If
1369 the applicant applies to the local government for necessary
1370 local land use or zoning approval, the local government shall
1371 issue a revised determination within 30 days following the
1372 conclusion of that local proceeding, and the time schedules and
1373 notice requirements under this act shall apply to such revised
1374 determination.

1375 (4) If any substantially affected person wishes to dispute
1376 the local government's determination, he or she shall file a
1377 petition with the department within 21 days after the
1378 publication of notice of the local government's determination.
1379 If a hearing is requested, the provisions of s. 403.508(1) shall
1380 apply.

1381 (5) The dates in this section may be altered upon
1382 agreement between the applicant, the local government, and the
1383 department pursuant to s. 403.5095.

1384 (6) If it is determined by the local government that the
1385 proposed site or directly associated facility does conform with
1386 existing land use plans and zoning ordinances in effect as of
1387 the date of the application and no petition has been filed, the
1388 responsible zoning or planning authority shall not thereafter
1389 change such land use plans or zoning ordinances so as to
1390 foreclose construction and operation of the proposed site or
1391 directly associated facilities unless certification is
1392 subsequently denied or withdrawn.

1393 Section 29. Section 403.5067, Florida Statutes, is
1394 repealed.

1395 Section 30. Section 403.507, Florida Statutes, is amended
1396 to read:

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

1397 403.507 Preliminary statements of issues, reports, project
1398 analyses, and studies.--

1399 (1) Each affected agency identified in paragraph (2)(a)
1400 shall submit a preliminary statement of issues to the
1401 department, ~~and~~ the applicant, and all parties no later than 40
1402 ~~60~~ days after the certification application has been determined
1403 ~~distribution of the complete application~~. The failure to raise
1404 an issue in this statement shall not preclude the issue from
1405 being raised in the agency's report.

1406 (2)(a) No later than 100 days after the certification
1407 application has been determined complete, the following agencies
1408 shall prepare reports as provided below and shall submit them to
1409 the department and the applicant ~~within 150 days after~~
1410 ~~distribution of the complete application~~:

1411 1. The Department of Community Affairs shall prepare a
1412 report containing recommendations which address the impact upon
1413 the public of the proposed electrical power plant, based on the
1414 degree to which the electrical power plant is consistent with
1415 the applicable portions of the state comprehensive plan,
1416 emergency management, and other such matters within its
1417 jurisdiction. The Department of Community Affairs may also
1418 comment on the consistency of the proposed electrical power
1419 plant with applicable strategic regional policy plans or local
1420 comprehensive plans and land development regulations.

1421 ~~2. The Public Service Commission shall prepare a report as~~
1422 ~~to the present and future need for the electrical generating~~
1423 ~~capacity to be supplied by the proposed electrical power plant.~~
1424 ~~The report shall include the commission's determination pursuant~~

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

1425 ~~to s. 403.519 and may include the commission's comments with~~
1426 ~~respect to any other matters within its jurisdiction.~~

1427 2.3. The water management district shall prepare a report
1428 as to matters within its jurisdiction, including but not limited
1429 to, the impact of the proposed electrical power plant on water
1430 resources, regional water supply planning, and district-owned
1431 lands and works.

1432 3.4. Each local government in whose jurisdiction the
1433 proposed electrical power plant is to be located shall prepare a
1434 report as to the consistency of the proposed electrical power
1435 plant with all applicable local ordinances, regulations,
1436 standards, or criteria that apply to the proposed electrical
1437 power plant, including ~~adopted local comprehensive plans, land~~
1438 ~~development regulations, and any applicable local environmental~~
1439 regulations adopted pursuant to s. 403.182 or by other means.

1440 4.5. The Fish and Wildlife Conservation Commission shall
1441 prepare a report as to matters within its jurisdiction.

1442 5.6. ~~Each~~ The regional planning council shall prepare a
1443 report containing recommendations that address the impact upon
1444 the public of the proposed electrical power plant, based on the
1445 degree to which the electrical power plant is consistent with
1446 the applicable provisions of the strategic regional policy plan
1447 adopted pursuant to chapter 186 and other matters within its
1448 jurisdiction.

1449 6. The Department of Transportation shall address the
1450 impact of the proposed electrical power plant on matters within
1451 its jurisdiction.

1452 (b)7. Any other agency, if requested by the department,
1453 shall also perform studies or prepare reports as to matters

413029
5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

1454 within that agency's jurisdiction which may potentially be
1455 affected by the proposed electrical power plant.

1456 ~~(b) As needed to verify or supplement the studies made by~~
1457 ~~the applicant in support of the application, it shall be the~~
1458 ~~duty of the department to conduct, or contract for, studies of~~
1459 ~~the proposed electrical power plant and site, including, but not~~
1460 ~~limited to, the following, which shall be completed no later~~
1461 ~~than 210 days after the complete application is filed with the~~
1462 ~~department:~~

- 1463 ~~1. Cooling system requirements.~~
- 1464 ~~2. Construction and operational safeguards.~~
- 1465 ~~3. Proximity to transportation systems.~~
- 1466 ~~4. Soil and foundation conditions.~~
- 1467 ~~5. Impact on suitable present and projected water supplies~~
1468 ~~for this and other competing uses.~~
- 1469 ~~6. Impact on surrounding land uses.~~
- 1470 ~~7. Accessibility to transmission corridors.~~
- 1471 ~~8. Environmental impacts.~~
- 1472 ~~9. Requirements applicable under any federally delegated~~
1473 ~~or approved permit program.~~

1474 (3)(e) Each report described in subsection (2) paragraphs
1475 (a) and (b) shall contain:

1476 (a) A notice of any nonprocedural requirements not
1477 specifically listed in the application from which a variance,
1478 exemption, exception all information on variances, exemptions,
1479 exceptions, or other relief is necessary in order for the
1480 proposed electrical power plant to be certified. Failure of such
1481 notification by an agency shall be treated as a waiver from
1482 nonprocedural requirements of that agency. However, no variance

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

1483 shall be granted from standards or regulations of the department
1484 applicable under any federally delegated or approved permit
1485 program, except as expressly allowed in such program. ~~which may~~
1486 be required by s. 403.511(2) and

1487 (b) A recommendation for approval or denial of the
1488 application.

1489 (c) Any proposed conditions of certification on matters
1490 within the jurisdiction of such agency. For each condition
1491 proposed by an agency in its report, the agency shall list the
1492 specific statute, rule, or ordinance which authorizes the
1493 proposed condition.

1494 (d) The agencies shall initiate the activities required by
1495 this section no later than 15 ~~30~~ days after the ~~complete~~
1496 application is distributed. The agencies shall keep the
1497 applicant and the department informed as to the progress of the
1498 studies and any issues raised thereby.

1499 ~~(3) No later than 60 days after the application for a~~
1500 ~~federally required new source review or prevention of~~
1501 ~~significant deterioration permit for the electrical power plant~~
1502 ~~is complete and sufficient, the department shall issue its~~
1503 ~~preliminary determination on such permit. Notice of such~~
1504 ~~determination shall be published as required by the department's~~
1505 ~~rules for notices of such permits. The department shall receive~~
1506 ~~public comments and comments from the United States~~
1507 ~~Environmental Protection Agency and other affected agencies on~~
1508 ~~the preliminary determination as provided for in the federally~~
1509 ~~approved state implementation plan. The department shall~~
1510 ~~maintain a record of all comments received and considered in~~
1511 ~~taking action on such permits. If a petition for an~~

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

1512 ~~administrative hearing on the department's preliminary~~
1513 ~~determination is filed by a substantially affected person, that~~
1514 ~~hearing shall be consolidated with the certification hearing.~~

1515 (4) (a) No later than 150 days after the application is
1516 filed, the Public Service Commission shall prepare a report as
1517 to the present and future need for electrical generating
1518 capacity to be supplied by the proposed electrical power plant.
1519 The report shall include the commission's determination pursuant
1520 to s. 403.519 and may include the commission's comments with
1521 respect to any other matters within its jurisdiction.

1522 (b) Receipt of an affirmative determination of need by the
1523 submittal deadline under paragraph (a) shall be a condition
1524 precedent to issuance of the department's project analysis and
1525 conduct of the certification hearing.

1526 (5) (4) The department shall prepare a project written
1527 analysis, which shall be filed with the designated
1528 administrative law judge and served on all parties no later than
1529 130 240 days after the complete application is determined
1530 complete filed with the department, but no later than 60 days
1531 prior to the hearing, and which shall include:

1532 (a) A statement indicating whether the proposed electrical
1533 power plant and proposed ultimate site capacity will be in
1534 compliance and consistent with matters within the department's
1535 standard jurisdiction, including with the rules of the
1536 department, as well as whether the proposed electrical power
1537 plant and proposed ultimate site capacity will be in compliance
1538 with the nonprocedural requirements of the affected agencies.

1539 (b) Copies of the studies and reports required by this
1540 section and s. 403.519.

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

1541 (c) The comments received by the department from any other
1542 agency or person.

1543 (d) The recommendation of the department as to the
1544 disposition of the application, of variances, exemptions,
1545 exceptions, or other relief identified by any party, and of any
1546 proposed conditions of certification which the department
1547 believes should be imposed.

1548 (e) If available, the recommendation of the department
1549 regarding the issuance of any license required pursuant to a
1550 federally delegated or approved permit program.

1551 ~~(f) Copies of the department's draft of the operation~~
1552 ~~permit for a major source of air pollution, which must also be~~
1553 ~~provided to the United States Environmental Protection Agency~~
1554 ~~for review within 5 days after issuance of the written analysis.~~

1555 (6)-(5) Except when good cause is shown, the failure of any
1556 agency to submit a preliminary statement of issues or a report,
1557 or to submit its preliminary statement of issues or report
1558 within the allowed time, shall not be grounds for the alteration
1559 of any time limitation in this act. Neither the failure to
1560 submit a preliminary statement of issues or a report nor the
1561 inadequacy of the preliminary statement of issues or report are
1562 ~~shall be~~ grounds to deny or condition certification.

1563 Section 31. Section 403.508, Florida Statutes, is amended
1564 to read:

1565 403.508 Land use and certification hearings ~~proceedings~~,
1566 parties, participants.--

1567 (1) (a) If a petition for a hearing on land use has been
1568 filed pursuant to s. 403.50665, the designated administrative
1569 law judge shall conduct a land use hearing in the county of the
413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

1570 proposed site or directly associated facility, as applicable, as
1571 expeditiously as possible, but not later than 30 ~~within 90~~ days
1572 after the department's receipt of the petition a complete
1573 application for electrical power plant site certification by the
1574 department. The place of such hearing shall be as close as
1575 possible to the proposed site or directly associated facility.
1576 If a petition is filed, the hearing shall be held regardless of
1577 the status of the completeness of the application. However,
1578 incompleteness of information necessary for a local government
1579 to evaluate an application may be claimed by the local
1580 government as cause for a statement of inconsistency with
1581 existing land use plans and zoning ordinances under s.
1582 403.50665.

1583 (b) Notice of the land use hearing shall be published in
1584 accordance with the requirements of s. 403.5115.

1585 (c) ~~(2)~~ The sole issue for determination at the land use
1586 hearing shall be whether or not the proposed site is consistent
1587 and in compliance with existing land use plans and zoning
1588 ordinances. If the administrative law judge concludes that the
1589 proposed site is not consistent or in compliance with existing
1590 land use plans and zoning ordinances, the administrative law
1591 judge shall receive at the hearing evidence on, and address in
1592 the recommended order any changes to or approvals or variances
1593 under, the applicable land use plans or zoning ordinances which
1594 will render the proposed site consistent and in compliance with
1595 the local land use plans and zoning ordinances.

1596 (d) The designated administrative law judge's recommended
1597 order shall be issued within 30 days after completion of the

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

1598 hearing and shall be reviewed by the board within 60 ~~45~~ days
1599 after receipt of the recommended order by the board.

1600 (e) If it is determined by the board that the proposed
1601 site does conform with existing land use plans and zoning
1602 ordinances in effect as of the date of the application, or as
1603 otherwise provided by this act, the responsible zoning or
1604 planning authority shall not thereafter change such land use
1605 plans or zoning ordinances so as to foreclose construction and
1606 operation of ~~affect~~ the proposed electrical power plant on the
1607 proposed site or directly associated facilities unless
1608 certification is subsequently denied or withdrawn.

1609 (f) If it is determined by the board that the proposed
1610 site does not conform with existing land use plans and zoning
1611 ordinances, ~~it shall be the responsibility of the applicant to~~
1612 ~~make the necessary application for rezoning. Should the~~
1613 ~~application for rezoning be denied, the applicant may appeal~~
1614 ~~this decision to the board, which may, if it determines after~~
1615 ~~notice and hearing~~ and upon consideration of the recommended
1616 order on land use and zoning issues that it is in the public
1617 interest to authorize the use of the land as a site for an
1618 electrical power plant, authorize a variance or other necessary
1619 approval to the adopted land use plan and zoning ordinances
1620 required to render the proposed site consistent with local land
1621 use plans and zoning ordinances. The board's action shall not be
1622 controlled by any other procedural requirements of law. In the
1623 event a variance or other approval is denied by the board, it
1624 shall be the responsibility of the applicant to make the
1625 necessary application for any approvals determined by the board
1626 as required to make the proposed site consistent and in

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

1627 compliance with local land use plans and zoning ordinances. No
1628 further action may be taken on the complete application ~~by the~~
1629 ~~department~~ until the proposed site conforms to the adopted land
1630 use plan or zoning ordinances or the board grants relief as
1631 provided under this act.

1632 (2) (a) (3) A certification hearing shall be held by the
1633 designated administrative law judge no later than 265 ~~300~~ days
1634 after the ~~complete~~ application is filed with the department,
1635 ~~however, an affirmative determination of need by the Public~~
1636 ~~Service Commission pursuant to s. 403.519 shall be a condition~~
1637 ~~precedent to the conduct of the certification hearing. The~~
1638 certification hearing shall be held at a location in proximity
1639 to the proposed site. ~~The certification hearing shall also~~
1640 ~~constitute the sole hearing allowed by chapter 120 to determine~~
1641 ~~the substantial interest of a party regarding any required~~
1642 ~~agency license or any related permit required pursuant to any~~
1643 ~~federally delegated or approved permit program. At the~~
1644 conclusion of the certification hearing, the designated
1645 administrative law judge shall, after consideration of all
1646 evidence of record, submit to the board a recommended order no
1647 later than 45 ~~60~~ days after the filing of the hearing
1648 transcript. ~~In the event the administrative law judge fails to~~
1649 ~~issue a recommended order within 60 days after the filing of the~~
1650 ~~hearing transcript, the administrative law judge shall submit a~~
1651 ~~report to the board with a copy to all parties within 60 days~~
1652 ~~after the filing of the hearing transcript to advise the board~~
1653 ~~of the reason for the delay in the issuance of the recommended~~
1654 ~~order and of the date by which the recommended order will be~~
1655 ~~issued.~~

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

1656 (b) Notice of the certification hearing and notice of the
1657 deadline for filing of notice of intent to be a party shall be
1658 made in accordance with the requirements of s. 403.5115.

1659 (3) (a)-(4)-(a) Parties to the proceeding shall include:

- 1660 1. The applicant.
- 1661 2. The Public Service Commission.
- 1662 3. The Department of Community Affairs.
- 1663 4. The Fish and Wildlife Conservation Commission.
- 1664 5. The water management district.
- 1665 6. The department.
- 1666 7. The regional planning council.
- 1667 8. The local government.
- 1668 9. The Department of Transportation.

1669 (b) Any party listed in paragraph (a) other than the
1670 department or the applicant may waive its right to participate
1671 in these proceedings. If such listed party fails to file a
1672 notice of its intent to be a party on or before the 90th day
1673 prior to the certification hearing, such party shall be deemed
1674 to have waived its right to be a party.

1675 (c) Notwithstanding the provisions of chapter 120, upon
1676 the filing with the administrative law judge of a notice of
1677 intent to be a party no later than 75 days after the application
1678 is filed ~~at least 15 days prior to the date of the land use~~
1679 ~~hearing,~~ the following shall also be parties to the proceeding:

- 1680 1. Any agency not listed in paragraph (a) as to matters
1681 within its jurisdiction.
- 1682 2. Any domestic nonprofit corporation or association
1683 formed, in whole or in part, to promote conservation or natural
1684 beauty; to protect the environment, personal health, or other

413029
5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

1685 biological values; to preserve historical sites; to promote
1686 consumer interests; to represent labor, commercial, or
1687 industrial groups; or to promote comprehensive planning or
1688 orderly development of the area in which the proposed electrical
1689 power plant is to be located.

1690 (d) Notwithstanding paragraph (e), failure of an agency
1691 described in subparagraph (c)1. to file a notice of intent to be
1692 a party within the time provided herein shall constitute a
1693 waiver of the right of that agency to participate as a party in
1694 the proceeding.

1695 (e) Other parties may include any person, including those
1696 persons enumerated in paragraph (c) who have failed to timely
1697 file a notice of intent to be a party, whose substantial
1698 interests are affected and being determined by the proceeding
1699 and who timely file a motion to intervene pursuant to chapter
1700 120 and applicable rules. Intervention pursuant to this
1701 paragraph may be granted at the discretion of the designated
1702 administrative law judge and upon such conditions as he or she
1703 may prescribe any time prior to 30 days before the commencement
1704 of the certification hearing.

1705 (f) Any agency, including those whose properties or works
1706 are being affected pursuant to s. 403.509(4), shall be made a
1707 party upon the request of the department or the applicant.

1708 (4) (a) The order of presentation at the certification
1709 hearing, unless otherwise changed by the administrative law
1710 judge to ensure the orderly presentation of witnesses and
1711 evidence, shall be:

1712 1. The applicant.

1713 2. The department.

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

- 1714 3. State agencies.
1715 4. Regional agencies, including regional planning councils
1716 and water management districts.
1717 5. Local governments.
1718 6. Other parties.

1719 ~~(b)(5)~~ When appropriate, any person may be given an
1720 opportunity to present oral or written communications to the
1721 designated administrative law judge. If the designated
1722 administrative law judge proposes to consider such
1723 communications, then all parties shall be given an opportunity
1724 to cross-examine or challenge or rebut such communications.

1725 (5) At the conclusion of the certification hearing, the
1726 designated administrative law judge shall, after consideration
1727 of all evidence of record, submit to the board a recommended
1728 order no later than 45 days after the filing of the hearing
1729 transcript.

1730 (6) (a) No earlier than 29 days prior to the conduct of the
1731 certification hearing, the department or the applicant may
1732 request that the administrative law judge cancel the
1733 certification hearing and relinquish jurisdiction to the
1734 department if all parties to the proceeding stipulate that there
1735 are no disputed issues of fact or law to be raised at the
1736 certification hearing, and if sufficient time remains for the
1737 applicant and the department to publish public notices of the
1738 cancellation of the hearing at least 3 days prior to the
1739 scheduled date of the hearing.

1740 (b) The administrative law judge shall issue an order
1741 granting or denying the request within 5 days after receipt of
1742 the request.

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

1743 (c) If the administrative law judge grants the request,
1744 the department and the applicant shall publish notices of the
1745 cancellation of the certification hearing, in accordance with s.
1746 403.5115.

1747 (d)1. If the administrative law judge grants the request,
1748 the department shall prepare and issue a final order in
1749 accordance with s. 403.509(1) (a).

1750 2. Parties may submit proposed recommended orders to the
1751 department no later than 10 days after the administrative law
1752 judge issues an order relinquishing jurisdiction.

1753 (7) The applicant shall pay those expenses and costs
1754 associated with the conduct of the hearings and the recording
1755 and transcription of the proceedings.

1756 ~~(6) The designated administrative law judge shall have all~~
1757 ~~powers and duties granted to administrative law judges by~~
1758 ~~chapter 120 and this chapter and by the rules of the department~~
1759 ~~and the Administration Commission, including the authority to~~
1760 ~~resolve disputes over the completeness and sufficiency of an~~
1761 ~~application for certification.~~

1762 ~~(7) The order of presentation at the certification~~
1763 ~~hearing, unless otherwise changed by the administrative law~~
1764 ~~judge to ensure the orderly presentation of witnesses and~~
1765 ~~evidence, shall be:~~

1766 ~~(a) The applicant.~~

1767 ~~(b) The department.~~

1768 ~~(c) State agencies.~~

1769 ~~(d) Regional agencies, including regional planning~~
1770 ~~councils and water management districts.~~

1771 ~~(e) Local governments.~~

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

1772 ~~(f) Other parties.~~
1773 (8) In issuing permits under the federally approved new
1774 source review or prevention of significant deterioration permit
1775 program, the department shall observe the procedures specified
1776 under the federally approved state implementation plan,
1777 including public notice, public comment, public hearing, and
1778 notice of applications and amendments to federal, state, and
1779 local agencies, to assure that all such permits issued in
1780 coordination with the certification of a power plant under this
1781 act are federally enforceable and are issued after opportunity
1782 for informed public participation regarding the terms and
1783 conditions thereof. When possible, any hearing on a federally
1784 approved or delegated program permit such as new source review,
1785 prevention of significant deterioration permit, or NPDES permit
1786 shall be conducted in conjunction with the certification hearing
1787 held under this act. The department shall accept written comment
1788 with respect to an application for, or the department's
1789 preliminary determination on, a new source review or prevention
1790 of significant deterioration permit for a period of no less than
1791 30 days from the date notice of such action is published. Upon
1792 request submitted within 30 days after published notice, the
1793 department shall hold a public meeting, in the area affected,
1794 for the purpose of receiving public comment on issues related to
1795 the new source review or prevention of significant deterioration
1796 permit. If requested following notice of the department's
1797 preliminary determination, the public meeting to receive public
1798 comment shall be held prior to the scheduled certification
1799 hearing. The department shall also solicit comments from the
1800 United States Environmental Protection Agency and other affected

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

1801 ~~federal agencies regarding the department's preliminary~~
1802 ~~determination for any federally required new source review or~~
1803 ~~prevention of significant deterioration permit. It is the intent~~
1804 of the Legislature that the review, processing, and issuance of
1805 such federally delegated or approved permits be closely
1806 coordinated with the certification process established under
1807 this part. In the event of a conflict between the certification
1808 process and federally required procedures ~~contained in the state~~
1809 ~~implementation plan,~~ the applicable federal requirements ~~of the~~
1810 ~~implementation plan~~ shall control.

1811 Section 32. Section 403.509, Florida Statutes, is amended
1812 to read:

1813 403.509 Final disposition of application.--

1814 (1) (a) If the administrative law judge has granted a
1815 request to cancel the certification hearing and has relinquished
1816 jurisdiction to the department under the provisions of s.
1817 403.508(6), within 40 days thereafter, the secretary of the
1818 department shall act upon the application by written order in
1819 accordance with the terms of this act and the stipulation of the
1820 parties in requesting cancellation of the certification hearing.

1821 (b) If the administrative law judge has not granted a
1822 request to cancel the certification hearing under the provisions
1823 of s. 403.508(6), within 60 days after receipt of the designated
1824 administrative law judge's recommended order, the board shall
1825 act upon the application by written order, approving
1826 certification or denying certification the issuance of a
1827 certificate, in accordance with the terms of this act, and
1828 stating the reasons for issuance or denial. If certification the
1829 certificate is denied, the board shall set forth in writing the

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

1830 action the applicant would have to take to secure the board's
1831 approval of the application.

1832 (2) The issues that may be raised in any hearing before
1833 the board shall be limited to those matters raised in the
1834 certification proceeding before the administrative law judge or
1835 raised in the recommended order. All parties, or their
1836 representatives, or persons who appear before the board shall be
1837 subject to the provisions of s. 120.66.

1838 (3) In determining whether an application should be
1839 approved in whole, approved with modifications or conditions, or
1840 denied, the board, or secretary when applicable, shall consider
1841 whether, and the extent to which, the location of the electrical
1842 power plant and directly associated facilities and their
1843 construction and operation will:

1844 (a) Provide reasonable assurance that operational
1845 safeguards are technically sufficient for the public welfare and
1846 protection.

1847 (b) Comply with applicable nonprocedural requirements of
1848 agencies.

1849 (c) Be consistent with applicable local government
1850 comprehensive plans and land development regulations.

1851 (d) Meet the electrical energy needs of the state in an
1852 orderly and timely fashion.

1853 (e) Effect a reasonable balance between the need for the
1854 facility as established pursuant to s. 403.519, and the impacts
1855 upon air and water quality, fish and wildlife, water resources,
1856 and other natural resources of the state resulting from the
1857 construction and operation of the facility.

1858 (f) Minimize, through the use of reasonable and available

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

1859 methods, the adverse effects on human health, the environment,
1860 and the ecology of the land and its wildlife and the ecology of
1861 state waters and their aquatic life.

1862 (g) Serve and protect the broad interests of the public.

1863 ~~(3) Within 30 days after issuance of the certification,~~
1864 ~~the department shall issue and forward to the United States~~
1865 ~~Environmental Protection Agency a proposed operation permit for~~
1866 ~~a major source of air pollution and must issue or deny any other~~
1867 ~~license required pursuant to any federally delegated or approved~~
1868 ~~permit program. The department's action on the license and its~~
1869 ~~action on the proposed operation permit for a major source of~~
1870 ~~air pollution shall be based upon the record and recommended~~
1871 ~~order of the certification hearing. The department's actions on~~
1872 ~~a federally required new source review or prevention of~~
1873 ~~significant deterioration permit shall be based on the record~~
1874 ~~and recommended order of the certification hearing and of any~~
1875 ~~other proceeding held in connection with the application for a~~
1876 ~~new source review or prevention of significant deterioration~~
1877 ~~permit, on timely public comments received with respect to the~~
1878 ~~application or preliminary determination for such permit, and on~~
1879 ~~the provisions of the state implementation plan.~~

1880 (4) The department's action on a federally required new
1881 source review or prevention of significant deterioration permit
1882 shall differ from the actions taken by the siting board
1883 regarding the certification if the federally approved state
1884 implementation plan requires such a different action to be taken
1885 by the department. Nothing in this part shall be construed to
1886 displace the department's authority as the final permitting
1887 entity under the federally approved permit program. Nothing in

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

1888 this part shall be construed to authorize the issuance of a new
1889 source review or prevention of significant deterioration permit
1890 which does not conform to the requirements of the federally
1891 approved state implementation plan. ~~Any final operation permit
1892 for a major source of air pollution must be issued in accordance
1893 with the provisions of s. 403.0872. Unless the federally
1894 delegated or approved permit program provides otherwise,
1895 licenses issued by the department under this subsection shall be
1896 effective for the term of the certification issued by the board.
1897 If renewal of any license issued by the department pursuant to a
1898 federally delegated or approved permit program is required, such
1899 renewal shall not affect the certification issued by the board,
1900 except as necessary to resolve inconsistencies pursuant to s.
1901 403.516(1)(a).~~

1902 (5)(4) In regard to the properties and works of any agency
1903 which is a party to the certification hearing, the board shall
1904 have the authority to decide issues relating to the use, the
1905 connection thereto, or the crossing thereof, for the electrical
1906 power plant and directly associated facilities ~~site~~ and to
1907 direct any such agency to execute, within 30 days after the
1908 entry of certification, the necessary license or easement for
1909 such use, connection, or crossing, subject only to the
1910 conditions set forth in such certification.

1911 (6)(5) ~~Except for the issuance of any operation permit for
1912 a major source of air pollution pursuant to s. 403.0872, The
1913 issuance or denial of the certification by the board or
1914 secretary of the department and the issuance or denial of any
1915 related department license required pursuant to any federally~~

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

1916 ~~delegated or approved permit program shall be the final~~
1917 ~~administrative action required as to that application.~~

1918 ~~(6) All certified electrical power plants must apply for~~
1919 ~~and obtain a major source air operation permit pursuant to s.~~
1920 ~~403.0872. Major source air operation permit applications for~~
1921 ~~certified electrical power plants must be submitted pursuant to~~
1922 ~~a schedule developed by the department. To the extent that any~~
1923 ~~conflicting provision, limitation, or restriction under any~~
1924 ~~rule, regulation, or ordinance imposed by any political~~
1925 ~~subdivision of the state, or by any local pollution control~~
1926 ~~program, was superseded during the certification process~~
1927 ~~pursuant to s. 403.510(1), such rule, regulation, or ordinance~~
1928 ~~shall continue to be superseded for purposes of the major source~~
1929 ~~air operation permit program under s. 403.0872.~~

1930 Section 33. Section 403.511, Florida Statutes, is amended
1931 to read:

1932 403.511 Effect of certification.--

1933 (1) Subject to the conditions set forth therein, any
1934 certification ~~signed by the Governor~~ shall constitute the sole
1935 license of the state and any agency as to the approval of the
1936 site and the construction and operation of the proposed
1937 electrical power plant, except for the issuance of department
1938 licenses required under any federally delegated or approved
1939 permit program and except as otherwise provided in subsection
1940 (4).

1941 (2)(a) The certification shall authorize the licensee
1942 ~~applicant~~ named therein to construct and operate the proposed
1943 electrical power plant, subject only to the conditions of
1944 certification set forth in such certification, and except for

413029
5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

1945 the issuance of department licenses or permits required under
1946 any federally delegated or approved permit program.

1947 (b)1. Except as provided in subsection (4), the
1948 certification may include conditions which constitute variances,
1949 exemptions, or exceptions from nonprocedural requirements of the
1950 department or any agency which were expressly considered during
1951 the proceeding, including, but not limited to, any site specific
1952 criteria, standards, or limitations under local land use and
1953 zoning approvals which affect the proposed electrical power
1954 plant or its site, unless waived by the agency ~~as provided below~~
1955 and which otherwise would be applicable to the construction and
1956 operation of the proposed electrical power plant.

1957 2. No variance, exemption, exception, or other relief
1958 shall be granted from a state statute or rule for the protection
1959 of endangered or threatened species, aquatic preserves,
1960 Outstanding National Resource Waters, or Outstanding Florida
1961 Waters or for the disposal of hazardous waste, except to the
1962 extent authorized by the applicable statute or rule or except
1963 upon a finding in the certification order ~~by the siting board~~
1964 that the public interests set forth in s. 403.509(3) ~~403.502~~ in
1965 certifying the electrical power plant at the site proposed by
1966 the applicant overrides the public interest protected by the
1967 statute or rule from which relief is sought. ~~Each party shall~~
1968 ~~notify the applicant and other parties at least 60 days prior to~~
1969 ~~the certification hearing of any nonprocedural requirements not~~
1970 ~~specifically listed in the application from which a variance,~~
1971 ~~exemption, exception, or other relief is necessary in order for~~
1972 ~~the board to certify any electrical power plant proposed for~~
1973 ~~certification. Failure of such notification by an agency shall~~
413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

1974 ~~be treated as a waiver from nonprocedural requirements of the~~
1975 ~~department or any other agency. However, no variance shall be~~
1976 ~~granted from standards or regulations of the department~~
1977 ~~applicable under any federally delegated or approved permit~~
1978 ~~program, except as expressly allowed in such program.~~

1979 (3) The certification and any order on land use and zoning
1980 issued under this act shall be in lieu of any license, permit,
1981 certificate, or similar document required by any state,
1982 regional, or local agency pursuant to, but not limited to,
1983 chapter 125, chapter 161, chapter 163, chapter 166, chapter 186,
1984 chapter 253, chapter 298, chapter 370, chapter 373, chapter 376,
1985 chapter 380, chapter 381, chapter 387, chapter 403, except for
1986 permits issued pursuant to any federally delegated or approved
1987 permit program s. 403.0885 and except as provided in ~~s.~~
1988 ~~403.509(3) and (6),~~ chapter 404, or the Florida Transportation
1989 Code, or 33 U.S.C. s. 1341.

1990 (4) This act shall not affect in any way the ratemaking
1991 powers of the Public Service Commission under chapter 366; nor
1992 shall this act in any way affect the right of any local
1993 government to charge appropriate fees or require that
1994 construction be in compliance with applicable building
1995 construction codes.

1996 (5) (a) An electrical power plant certified pursuant to
1997 this act shall comply with rules adopted by the department
1998 subsequent to the issuance of the certification which prescribe
1999 new or stricter criteria, to the extent that the rules are
2000 applicable to electrical power plants. Except when express
2001 variances, exceptions, exemptions, or other relief have been
2002 granted, subsequently adopted rules which prescribe new or

413029
5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

2003 stricter criteria shall operate as automatic modifications to
2004 certifications.

2005 (b) Upon written notification to the department, any
2006 holder of a certification issued pursuant to this act may choose
2007 to operate the certified electrical power plant in compliance
2008 with any rule subsequently adopted by the department which
2009 prescribes criteria more lenient than the criteria required by
2010 the terms and conditions in the certification which are not
2011 site-specific.

2012 (c) No term or condition of certification shall be
2013 interpreted to preclude the postcertification exercise by any
2014 party of whatever procedural rights it may have under chapter
2015 120, including those related to rulemaking proceedings. This
2016 subsection shall apply to previously issued certifications.

2017 (6) No term or condition of a site certification shall be
2018 interpreted to supersede or control the provisions of a final
2019 operation permit for a major source of air pollution issued by
2020 the department pursuant to s. 403.0872 to a ~~such~~ facility
2021 certified under this part.

2022 (7) Pursuant to s. 380.23, electrical power plants are
2023 subject to the federal coastal consistency review program.
2024 Issuance of certification shall constitute the state's
2025 certification of coastal zone consistency.

2026 Section 34. Section 403.5112, Florida Statutes, is created
2027 to read:

2028 403.5112 Filing of notice of certified corridor route.--

2029 (1) Within 60 days after certification of a directly
2030 associated linear facility pursuant to this act, the applicant
2031 shall file, in accordance with s. 28.222, with the department
413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

2032 and the clerk of the circuit court for each county through which
2033 the corridor will pass, a notice of the certified route.

2034 (2) The notice shall consist of maps or aerial photographs
2035 in the scale of 1:24,000 which clearly show the location of the
2036 certified route and shall state that the certification of the
2037 corridor will result in the acquisition of rights-of-way within
2038 the corridor. Each clerk shall record the filing in the official
2039 record of the county for the duration of the certification or
2040 until such time as the applicant certifies to the department and
2041 the clerk that all lands required for the transmission line
2042 rights-of-way within the corridor have been acquired within such
2043 county, whichever is sooner.

2044 Section 35. Section 403.5113, Florida Statutes, is created
2045 to read:

2046 403.5113 Postcertification amendments.--

2047 (1) If, subsequent to certification by the board, a
2048 licensee proposes any material change to the application and
2049 revisions or amendments thereto, as certified, the licensee
2050 shall submit a written request for amendment and a description
2051 of the proposed change to the application to the department.
2052 Within 30 days after the receipt of the request for the
2053 amendment, the department shall determine whether the proposed
2054 change to the application requires a modification of the
2055 conditions of certification.

2056 (2) If the department concludes that the change would not
2057 require a modification of the conditions of certification, the
2058 department shall provide written notification of the approval of
2059 the proposed amendment to the licensee, all agencies, and all
2060 other parties.

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

2061 (3) If the department concludes that the change would
2062 require a modification of the conditions of certification, the
2063 department shall provide written notification to the licensee
2064 that the proposed change to the application requires a request
2065 for modification pursuant to s. 403.516.

2066 (4) Postcertification submittals filed by the licensee
2067 with one or more agencies are for the purpose of monitoring for
2068 compliance with the issued certification and must be reviewed by
2069 the agencies on an expedited and priority basis because each
2070 facility certified under this act is a critical infrastructure
2071 facility. In no event shall a postcertification review be
2072 completed in more than 90 days after complete information is
2073 submitted to the reviewing agencies.

2074 Section 36. Section 403.5115, Florida Statutes, is amended
2075 to read:

2076 403.5115 Public notice; costs of proceeding.--

2077 (1) The following notices are to be published by the
2078 applicant:

2079 (a) Notice ~~A notice~~ of the filing of a notice of intent
2080 under s. 403.5063, which shall be published within 21 days after
2081 the filing of the notice. The notice shall be published as
2082 specified by subsection (2), except that the newspaper notice
2083 shall be one-fourth page in size in a standard size newspaper or
2084 one-half page in size in a tabloid size newspaper.

2085 (b) Notice ~~A notice~~ of filing of the application, which
2086 shall include a description of the proceedings required by this
2087 act, within 21 days after the date of the application filing be
2088 ~~published as specified in subsection (2), within 15 days after~~
2089 ~~the application has been determined complete.~~ Such notice shall
413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

2090 give notice of the provisions of s. 403.511(1) and (2) ~~and that~~
2091 ~~the application constitutes a request for a federally required~~
2092 ~~new source review or prevention of significant deterioration~~
2093 ~~permit.~~

2094 (c) Notice of the land use determination made pursuant to
2095 s. 403.50665(1) within 21 days after the determination is filed.

2096 (d) Notice of the land use hearing, which shall be
2097 published as specified in subsection (2), no later than 15 ~~45~~
2098 days before the hearing.

2099 (e) ~~(d)~~ Notice of the certification hearing and notice of
2100 the deadline for filing notice of intent to be a party, which
2101 shall be published as specified in subsection (2), at least 65
2102 days before the date set for the certification ~~no later than 45~~
2103 ~~days before the hearing.~~

2104 (f) Notice of the cancellation of the certification
2105 hearing, if applicable, no later than 3 days before the date of
2106 the originally scheduled certification hearing.

2107 (g) ~~(e)~~ Notice of modification when required by the
2108 department, based on whether the requested modification of
2109 certification will significantly increase impacts to the
2110 environment or the public. Such notice shall be published as
2111 specified under subsection (2):

2112 1. Within 21 days after receipt of a request for
2113 modification, ~~except that~~ The newspaper notice shall be of a
2114 size as directed by the department commensurate with the scope
2115 of the modification.

2116 2. If a hearing is to be conducted in response to the
2117 request for modification, then notice shall be published no

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

2118 ~~later than 30 days before the hearing provided as specified in~~
2119 ~~paragraph (d).~~

2120 ~~(h) (f)~~ Notice of a supplemental application, which shall
2121 be published as specified in paragraph (b) and subsection
2122 (2) . follows:

2123 ~~1. Notice of receipt of the supplemental application shall~~
2124 ~~be published as specified in paragraph (b).~~

2125 ~~2. Notice of the certification hearing shall be published~~
2126 ~~as specified in paragraph (d).~~

2127 (i) Notice of existing site certification pursuant to s.
2128 403.5175. Notices shall be published as specified in paragraph
2129 (b) and subsection (2).

2130 (2) Notices provided by the applicant shall be published
2131 in newspapers of general circulation within the county or
2132 counties in which the proposed electrical power plant will be
2133 located. The newspaper notices shall be at least one-half page
2134 in size in a standard size newspaper or a full page in a tabloid
2135 size newspaper ~~and published in a section of the newspaper other~~
2136 ~~than the legal notices section.~~ These notices shall include a
2137 map generally depicting the project and all associated
2138 facilities corridors. A newspaper of general circulation shall
2139 be the newspaper which has the largest daily circulation in that
2140 county and has its principal office in that county. If the
2141 newspaper with the largest daily circulation has its principal
2142 office outside the county, the notices shall appear in both the
2143 newspaper having the largest circulation in that county and in a
2144 newspaper authorized to publish legal notices in that county.

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

2145 (3) All notices published by the applicant shall be paid
2146 for by the applicant and shall be in addition to the application
2147 fee.

2148 (4) The department shall arrange for publication of the
2149 following notices in the manner specified by chapter 120 and
2150 provide copies of those notices to any persons who have
2151 requested to be placed on the departmental mailing list for this
2152 purpose:

2153 (a) Notice Publish in the Florida Administrative Weekly
2154 notices of the filing of the notice of intent within 15 days
2155 after receipt of the notice.†

2156 (b) Notice of the filing of the application, no later than
2157 21 days after the application filing.†

2158 (c) Notice of the land use determination made pursuant to
2159 s. 403.50665(1) within 21 days after the determination is filed.

2160 (d) Notice of the land use hearing before the
2161 administrative law judge, if applicable, no later than 15 days
2162 before the hearing.†

2163 (e) Notice of the land use hearing before the board, if
2164 applicable.

2165 (f) Notice of the certification hearing at least 45 days
2166 before the date set for the certification hearing.†

2167 (g) Notice of the cancellation of the certification
2168 hearing, if applicable, no later than 3 days prior to the date
2169 of the originally scheduled certification hearing.

2170 (h) Notice of the hearing before the board, if
2171 applicable.†

2172 (i) Notice and of stipulations, proposed agency action, or
2173 petitions for modification.† ~~and~~

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

2174 ~~(b) Provide copies of those notices to any persons who~~
2175 ~~have requested to be placed on the departmental mailing list for~~
2176 ~~this purpose.~~

2177 ~~(5) The applicant shall pay those expenses and costs~~
2178 ~~associated with the conduct of the hearings and the recording~~
2179 ~~and transcription of the proceedings.~~

2180 Section 37. Section 403.513, Florida Statutes, is amended
2181 to read:

2182 403.513 Review.--Proceedings under this act shall be
2183 subject to judicial review as provided in chapter 120. When
2184 possible, separate appeals of the certification order issued by
2185 the board and of any department permit issued pursuant to a
2186 federally delegated or approved permit program may ~~shall~~ be
2187 consolidated for purposes of judicial review.

2188 Section 38. Section 403.516, Florida Statutes, is amended
2189 to read:

2190 403.516 Modification of certification.--

2191 (1) A certification may be modified after issuance in any
2192 one of the following ways:

2193 (a) The board may delegate to the department the authority
2194 to modify specific conditions in the certification.

2195 (b)1. The department may modify specific conditions of a
2196 site certification which are inconsistent with the terms of any
2197 federally delegated or approved ~~final air pollution operation~~
2198 ~~permit for the certified electrical power plant issued by the~~
2199 ~~United States Environmental Protection Agency under the terms of~~
2200 ~~42 U.S.C. s. 7661d.~~

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

2201 2. Such modification may be made without further notice if
2202 the matter has been previously noticed under the requirements
2203 for any federally delegated or approved permit program.

2204 (c) The licensee may file a petition for modification with
2205 the department, or the department may initiate the modification
2206 upon its own initiative.

2207 1. A petition for modification must set forth:

2208 a. The proposed modification.

2209 b. The factual reasons asserted for the modification.

2210 c. The anticipated environmental effects of the proposed
2211 modification.

2212 2. ~~(b)~~ The department may modify the terms and conditions
2213 of the certification if no party to the certification hearing
2214 objects in writing to such modification within 45 days after
2215 notice by mail to such party's last address of record, and if no
2216 other person whose substantial interests will be affected by the
2217 modification objects in writing within 30 days after issuance of
2218 public notice.

2219 3. If objections are raised or the department denies the
2220 request, the applicant or department may file a request ~~petition~~
2221 for a hearing on the modification with the department. Such
2222 request shall be handled pursuant to chapter 120 ~~paragraph (e).~~

2223 ~~(c) A petition for modification may be filed by the~~
2224 ~~applicant or the department setting forth:~~

2225 ~~1. The proposed modification,~~

2226 ~~2. The factual reasons asserted for the modification, and~~

2227 ~~3. The anticipated effects of the proposed modification on~~
2228 ~~the applicant, the public, and the environment.~~

2229

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

2230 ~~The petition for modification shall be filed with the department~~
2231 ~~and the Division of Administrative Hearings.~~

2232 4. Requests referred to the Division of Administrative
2233 Hearings shall be disposed of in the same manner as an
2234 application, but with time periods established by the
2235 administrative law judge commensurate with the significance of
2236 the modification requested.

2237 (d) As required by s. 403.511(5).

2238 ~~(2) Petitions filed pursuant to paragraph (1)(c) shall be~~
2239 ~~disposed of in the same manner as an application, but with time~~
2240 ~~periods established by the administrative law judge commensurate~~
2241 ~~with the significance of the modification requested.~~

2242 ~~(2)(3)~~ Any agreement or modification under this section
2243 must be in accordance with the terms of this act. No
2244 modification to a certification shall be granted that
2245 constitutes a variance from standards or regulations of the
2246 department applicable under any federally delegated or approved
2247 permit program, except as expressly allowed in such program.

2248 Section 39. Section 403.517, Florida Statutes, is amended
2249 to read:

2250 403.517 Supplemental applications for sites certified for
2251 ultimate site capacity.--

2252 (1)(a) Supplemental ~~The department shall adopt rules~~
2253 ~~governing the processing of supplemental applications~~ may be
2254 submitted for certification of the construction and operation of
2255 electrical power plants to be located at sites which have been
2256 previously certified for an ultimate site capacity pursuant to
2257 this act. Supplemental applications shall be limited to
2258 electrical power plants using the fuel type previously certified

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

2259 for that site. Such applications shall include all new directly
2260 associated facilities that support the construction and
2261 operation of the electrical power plant. ~~The rules adopted~~
2262 ~~pursuant to this section shall include provisions for:~~

2263 ~~1. Prompt appointment of a designated administrative law~~
2264 ~~judge.~~

2265 ~~2. The contents of the supplemental application.~~

2266 ~~3. Resolution of disputes as to the completeness and~~
2267 ~~sufficiency of supplemental applications by the designated~~
2268 ~~administrative law judge.~~

2269 ~~4. Public notice of the filing of the supplemental~~
2270 ~~applications.~~

2271 ~~5. Time limits for prompt processing of supplemental~~
2272 ~~applications.~~

2273 ~~6. Final disposition by the board within 215 days of the~~
2274 ~~filing of a complete supplemental application.~~

2275 (b) The review shall use the same procedural steps and
2276 notices as for an initial application.

2277 (c) The time limits for the processing of a complete
2278 supplemental application shall be designated by the department
2279 commensurate with the scope of the supplemental application, but
2280 shall not exceed any time limitation governing the review of
2281 initial applications for site certification pursuant to this
2282 act, it being the legislative intent to provide shorter time
2283 limitations for the processing of supplemental applications for
2284 electrical power plants to be constructed and operated at sites
2285 which have been previously certified for an ultimate site
2286 capacity.

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

2287 ~~(d)(e)~~ Any time limitation in this section or in rules
2288 adopted pursuant to this section may be altered pursuant to s.
2289 403.5095 ~~by the designated administrative law judge upon~~
2290 ~~stipulation between the department and the applicant, unless~~
2291 ~~objected to by any party within 5 days after notice, or for good~~
2292 ~~cause shown by any party. The parties to the proceeding shall~~
2293 ~~adhere to the provisions of chapter 120 and this act in~~
2294 ~~considering and processing such supplemental applications.~~

2295 ~~(2) Supplemental applications shall be reviewed as~~
2296 ~~provided in ss. 403.507-403.511, except that the time limits~~
2297 ~~provided in this section shall apply to such supplemental~~
2298 ~~applications.~~

2299 ~~(3) The land use and zoning consistency determination of~~
2300 ~~s. 403.50665 hearing requirements of s. 403.508(1) and (2) shall~~
2301 ~~not be applicable to the processing of supplemental applications~~
2302 ~~pursuant to this section so long as:~~

2303 ~~(a) The previously certified ultimate site capacity is not~~
2304 ~~exceeded; and~~

2305 ~~(b) The lands required for the construction or operation~~
2306 ~~of the electrical power plant which is the subject of the~~
2307 ~~supplemental application are within the boundaries of the~~
2308 ~~previously certified site.~~

2309 ~~(4) For the purposes of this act, the term "ultimate site~~
2310 ~~capacity" means the maximum generating capacity for a site as~~
2311 ~~certified by the board.~~

2312 Section 40. Section 403.5175, Florida Statutes, is amended
2313 to read:

2314 403.5175 Existing electrical power plant site
2315 certification.--

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

2316 (1) An electric utility that owns or operates an existing
2317 electrical power plant as defined in s. 403.503(12) may apply
2318 for certification of an existing power plant and its site in
2319 order to obtain all agency licenses necessary to ensure ~~assure~~
2320 compliance with federal or state environmental laws and
2321 regulation using the centrally coordinated, one-stop licensing
2322 process established by this part. An application for site
2323 certification under this section must be in the form prescribed
2324 by department rule. Applications must be reviewed and processed
2325 using the same procedural steps and notices as for an
2326 application for a new facility ~~in accordance with ss. 403.5064-~~
2327 ~~403.5115~~, except that a determination of need by the Public
2328 Service Commission is not required.

2329 (2) An application for certification under this section
2330 must include:

2331 (a) A description of the site and existing power plant
2332 installations;

2333 (b) A description of all proposed changes or alterations
2334 to the site or electrical power plant, including all new
2335 associated facilities that are the subject of the application;

2336 (c) A description of the environmental and other impacts
2337 caused by the existing utilization of the site and directly
2338 associated facilities, and the operation of the electrical power
2339 plant that is the subject of the application, and of the
2340 environmental and other benefits, if any, to be realized as a
2341 result of the proposed changes or alterations if certification
2342 is approved and such other information as is necessary for the
2343 reviewing agencies to evaluate the proposed changes and the
2344 expected impacts;

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

2345 (d) The justification for the proposed changes or
2346 alterations;

2347 (e) Copies of all existing permits, licenses, and
2348 compliance plans authorizing utilization of the site and
2349 directly associated facilities or operation of the electrical
2350 power plant that is the subject of the application.

2351 (3) The land use and zoning determination hearing
2352 requirements of s. 403.50665 ~~s. 403.508(1) and (2)~~ do not apply
2353 to an application under this section if the applicant does not
2354 propose to expand the boundaries of the existing site. If the
2355 applicant proposes to expand the boundaries of the existing site
2356 to accommodate portions of the plant or associated facilities, a
2357 land use and zoning determination shall be made ~~hearing must be~~
2358 ~~held~~ as specified in s. 403.50665 ~~s. 403.508(1) and (2)~~;
2359 provided, however, that the sole issue for determination ~~through~~
2360 ~~the land use hearing~~ is whether the proposed site expansion is
2361 consistent and in compliance with the existing land use plans
2362 and zoning ordinances.

2363 (4) In considering whether an application submitted under
2364 this section should be approved in whole, approved with
2365 appropriate conditions, or denied, the board shall consider
2366 whether, and to the extent to which the proposed changes to the
2367 electrical power plant and its continued operation under
2368 certification will:

2369 (a) Comply with the provisions of s. 403.509(3).
2370 ~~applicable nonprocedural requirements of agencies;~~

2371 (b) Result in environmental or other benefits compared to
2372 current utilization of the site and operations of the electrical

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

2373 power plant if the proposed changes or alterations are
2374 undertaken.

2375 ~~(c) Minimize, through the use of reasonable and available~~
2376 ~~methods, the adverse effects on human health, the environment,~~
2377 ~~and the ecology of the land and its wildlife and the ecology of~~
2378 ~~state waters and their aquatic life; and~~

2379 ~~(d) Serve and protect the broad interests of the public.~~

2380 (5) An applicant's failure to receive approval for
2381 certification of an existing site or an electrical power plant
2382 under this section is without prejudice to continued operation
2383 of the electrical power plant or site under existing agency
2384 licenses.

2385 Section 41. Section 403.518, Florida Statutes, is amended
2386 to read:

2387 403.518 Fees; disposition.--

2388 ~~(1)~~ The department shall charge the applicant the
2389 following fees, as appropriate, which, unless otherwise
2390 specified, shall be paid into the Florida Permit Fee Trust Fund:

2391 (1)(a) A fee for a notice of intent pursuant to s.
2392 403.5063, in the amount of \$2,500, to be submitted to the
2393 department at the time of filing of a notice of intent. The
2394 notice-of-intent fee shall be used and disbursed in the same
2395 manner as the application fee.

2396 (2)(b) An application fee, which shall not exceed
2397 \$200,000. The fee shall be fixed by rule on a sliding scale
2398 related to the size, type, ultimate site capacity, or increase
2399 in electrical generating capacity proposed by the application,
2400 ~~or the number and size of local governments in whose~~
2401 ~~jurisdiction the electrical power plant is located.~~

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

2402 (a)1- Sixty percent of the fee shall go to the department
2403 to cover any costs associated with coordinating the review
2404 ~~reviewing~~ and acting upon the application, to cover any field
2405 services associated with monitoring construction and operation
2406 of the facility, and to cover the costs of the public notices
2407 published by the department.

2408 (b)2- The following percentages ~~Twenty percent of the fee~~
2409 ~~or \$25,000, whichever is greater,~~ shall be transferred to the
2410 Administrative Trust Fund of the Division of Administrative
2411 Hearings of the Department of Management Services:-

2412 1. Five percent to compensate expenses from the initial
2413 exercise of duties associated with the filing of an application.

2414 2. An additional 5 percent if a land use hearing is held
2415 pursuant to s. 403.508.

2416 3. An additional 10 percent if a certification hearing is
2417 held pursuant to s. 403.508.

2418 (c)1.3- Upon written request with proper itemized
2419 accounting within 90 days after final agency action by the board
2420 or withdrawal of the application, the agencies that prepared
2421 reports pursuant to s. 403.507 or participated in a hearing
2422 pursuant to s. 403.508 may submit a written request to the
2423 department for reimbursement of expenses incurred during the
2424 certification proceedings. The request shall contain an
2425 accounting of expenses incurred which may include time spent
2426 reviewing the application, the department shall reimburse the
2427 ~~Department of Community Affairs, the Fish and Wildlife~~
2428 ~~Conservation Commission, and any water management district~~
2429 ~~created pursuant to chapter 373, regional planning council, and~~
2430 ~~local government in the jurisdiction of which the proposed~~
413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

2431 ~~electrical power plant is to be located, and any other agency~~
2432 ~~from which the department requests special studies pursuant to~~
2433 ~~s. 403.507(2)(a)7. Such reimbursement shall be authorized for~~
2434 the preparation of any studies required of the agencies by this
2435 act, ~~and for~~ agency travel and per diem to attend any hearing
2436 held pursuant to this act, and for any agency or local
2437 government's provision of notice of public meetings or hearings
2438 required as a result of the application for certification
2439 governments to participate in the proceedings. The department
2440 shall review the request and verify that the expenses are valid.
2441 Valid expenses shall be reimbursed; however, in the event the
2442 amount of funds available for reimbursement allocation is
2443 insufficient to provide for full compensation complete
2444 reimbursement to the agencies requesting reimbursement,
2445 reimbursement shall be on a prorated basis.

2446 2. If the application review is held in abeyance for more
2447 than 1 year, the agencies may submit a request for
2448 reimbursement.

2449 (d)4. If any sums are remaining, the department shall
2450 retain them for its use in the same manner as is otherwise
2451 authorized by this act; provided, however, that if the
2452 certification application is withdrawn, the remaining sums shall
2453 be refunded to the applicant within 90 days after withdrawal.

2454 (3)(a)-(e) A certification modification fee, which shall
2455 not exceed \$30,000. The department shall establish rules for
2456 determining such a fee based on the equipment redesign, change
2457 in site size, type, increase in generating capacity proposed, or
2458 change in an associated linear facility location.

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

2459 **(b)** The fee shall be submitted to the department with a
2460 ~~formal~~ petition for modification ~~to the department~~ pursuant to
2461 s. 403.516. This fee shall be established, disbursed, and
2462 processed in the same manner as the application fee in
2463 subsection (2) ~~paragraph (b)~~, except that the Division of
2464 Administrative Hearings shall not receive a portion of the fee
2465 unless the petition for certification modification is referred
2466 to the Division of Administrative Hearings for hearing. If the
2467 petition is so referred, only \$10,000 of the fee shall be
2468 transferred to the Administrative Trust Fund of the Division of
2469 Administrative Hearings of the Department of Management
2470 Services. ~~The fee for a modification by agreement filed pursuant~~
2471 ~~to s. 403.516(1)(b) shall be \$10,000 to be paid upon the filing~~
2472 ~~of the request for modification. Any sums remaining after~~
2473 ~~payment of authorized costs shall be refunded to the applicant~~
2474 ~~within 90 days of issuance or denial of the modification or~~
2475 ~~withdrawal of the request for modification.~~

2476 **(4)(d)** A supplemental application fee, not to exceed
2477 \$75,000, to cover all reasonable expenses and costs of the
2478 review, processing, and proceedings of a supplemental
2479 application. This fee shall be established, disbursed, and
2480 processed in the same manner as the certification application
2481 fee in subsection (2) ~~paragraph (b)~~, ~~except that only \$20,000 of~~
2482 ~~the fee shall be transferred to the Administrative Trust Fund of~~
2483 ~~the Division of Administrative Hearings of the Department of~~
2484 ~~Management Services.~~

2485 **(5)(e)** An existing site certification application fee, not
2486 to exceed \$200,000, to cover all reasonable costs and expenses
2487 of the review processing and proceedings for certification of an
413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

2488 existing power plant site under s. 403.5175. This fee must be
2489 established, disbursed, and processed in the same manner as the
2490 certification application fee in subsection (2) paragraph (b).

2491 ~~(2) Effective upon the date commercial operation begins,~~
2492 ~~the operator of an electrical power plant certified under this~~
2493 ~~part is required to pay to the department an annual operation~~
2494 ~~license fee as specified in s. 403.0872(11) to be deposited in~~
2495 ~~the Air Pollution Control Trust Fund.~~

2496 Section 42. Any application for electrical power plant
2497 certification filed pursuant to ss. 403.501-403.518, Florida
2498 Statutes, shall be processed under the provisions of the law
2499 applicable at the time the application was filed, except that
2500 the provisions relating to cancellation of the certification
2501 hearing under s. 403.508(6), Florida Statutes, the provisions
2502 relating to the final disposition of the application and
2503 issuance of the written order by the secretary under s.
2504 403.509(1)(a), Florida Statutes, and notice of the cancellation
2505 of the certification hearing under s. 403.5115, Florida
2506 Statutes, may apply to any application for electrical power
2507 plant certification.

2508 Section 43. Section 403.519, Florida Statutes, is amended
2509 to read:

2510 403.519 Exclusive forum for determination of need.--

2511 (1) On request by an applicant or on its own motion, the
2512 commission shall begin a proceeding to determine the need for an
2513 electrical power plant subject to the Florida Electrical Power
2514 Plant Siting Act.

2515 (2) The applicant ~~commission~~ shall publish a notice of the
2516 proceeding in a newspaper of general circulation in each county

413029
5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

2517 in which the proposed electrical power plant will be located.
2518 The notice shall be at least one-quarter of a page and published
2519 at least 21 ~~45~~ days prior to the scheduled date for the
2520 proceeding. The commission shall publish notice of the
2521 proceeding in the manner specified by chapter 120 at least 21
2522 days prior to the scheduled date for the proceeding.

2523 (3) The commission shall be the sole forum for the
2524 determination of this matter, which accordingly shall not be
2525 raised in any other forum or in the review of proceedings in
2526 such other forum. In making its determination, the commission
2527 shall take into account the need for electric system reliability
2528 and integrity, the need for adequate electricity at a reasonable
2529 cost, the need for fuel diversity and supply reliability, and
2530 whether the proposed plant is the most cost-effective
2531 alternative available. The commission shall also expressly
2532 consider the conservation measures taken by or reasonably
2533 available to the applicant or its members which might mitigate
2534 the need for the proposed plant and other matters within its
2535 jurisdiction which it deems relevant. The commission's
2536 determination of need for an electrical power plant shall create
2537 a presumption of public need and necessity and shall serve as
2538 the commission's report required by s. 403.507(4)
2539 ~~403.507(2)(a)2~~. An order entered pursuant to this section
2540 constitutes final agency action.

2541 (4) In making its determination on a proposed electrical
2542 power plant using nuclear materials as fuel, the commission
2543 shall hold a hearing within 90 days after the filing of the
2544 petition to determine need and shall issue an order granting or
2545 denying the petition within 135 days after the date of the

413029
5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

2546 filing of the petition. The commission shall be the sole forum
2547 for the determination of this matter and the issues addressed in
2548 the petition, which accordingly shall not be reviewed in any
2549 other forum, or in the review of proceedings in such other
2550 forum. In making its determination to either grant or deny the
2551 petition, the commission shall consider the need for electric
2552 system reliability and integrity, including fuel diversity, the
2553 need for base-load generating capacity, and the need for
2554 adequate electricity at a reasonable cost.

2555 (a) The applicant's petition shall include:

2556 1. A description of the need for the generation capacity.

2557 2. A description of how the proposed nuclear power plant
2558 will enhance the reliability of electric power production within
2559 the state by improving the balance of power plant fuel diversity
2560 and reducing Florida's dependence on fuel oil and natural gas.

2561 3. A description of and a nonbinding estimate of the cost
2562 of the nuclear power plant.

2563 4. The annualized base revenue requirement for the first
2564 12 months of operation of the nuclear power plant.

2565 5. Information on whether there were any discussions with
2566 any electric utilities regarding ownership of a portion of the
2567 plant by such electric utilities.

2568 (b) In making its determination, the commission shall take
2569 into account matters within its jurisdiction, which it deems
2570 relevant, including whether the nuclear power plant will:

2571 1. Provide needed base-load capacity.

2572 2. Enhance the reliability of electric power production
2573 within the state by improving the balance of power plant fuel

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

2574 diversity and reducing Florida's dependence on fuel oil and
2575 natural gas.

2576 3. Provide the most cost-effective source of power, taking
2577 into account the need to improve the balance of fuel diversity,
2578 reduce Florida's dependence on fuel oil and natural gas, reduce
2579 air emission compliance costs, and contribute to the long-term
2580 stability and reliability of the electric grid.

2581 (c) No provision of rule 25-22.082, Florida Administrative
2582 Code, shall be applicable to a nuclear power plant sited under
2583 this act, including provisions for cost recovery, and an
2584 applicant shall not otherwise be required to secure competitive
2585 proposals for power supply prior to making application under
2586 this act or receiving a determination of need from the
2587 commission.

2588 (d) The commission's determination of need for a nuclear
2589 power plant shall create a presumption of public need and
2590 necessity and shall serve as the commission's report required by
2591 s. 403.507(4) (a). An order entered pursuant to this section
2592 constitutes final agency action. Any petition for
2593 reconsideration of a final order on a petition for need
2594 determination shall be filed within 5 days after the date of
2595 such order. The commission's final order, including any order on
2596 reconsideration, shall be reviewable on appeal in the Florida
2597 Supreme Court. Inasmuch as delay in the determination of need
2598 will delay siting of a nuclear power plant or diminish the
2599 opportunity for savings to customers under the federal Energy
2600 Policy Act of 2005, the Supreme Court shall proceed to hear and
2601 determine the action as expeditiously as practicable and give

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

2602 the action precedence over matters not accorded similar
2603 precedence by law.

2604 (e) After a petition for determination of need for a
2605 nuclear power plant has been granted, the right of a utility to
2606 recover any costs incurred prior to commercial operation,
2607 including, but not limited to, costs associated with the siting,
2608 design, licensing, or construction of the plant, shall not be
2609 subject to challenge unless and only to the extent the
2610 commission finds, based on a preponderance of the evidence
2611 adduced at a hearing before the commission under s. 120.57, that
2612 certain costs were imprudently incurred. Proceeding with the
2613 construction of the nuclear power plant following an order by
2614 the commission approving the need for the nuclear power plant
2615 under this act shall not constitute or be evidence of
2616 imprudence. Imprudence shall not include any cost increases due
2617 to events beyond the utility's control. Further, a utility's
2618 right to recover costs associated with a nuclear power plant may
2619 not be raised in any other forum or in the review of proceedings
2620 in such other forum. Costs incurred prior to commercial
2621 operation shall be recovered pursuant to chapter 366.

2622 Section 44. Section 366.93, Florida Statutes, is created
2623 to read:

2624 366.93 Cost recovery for the siting, design, licensing,
2625 and construction of nuclear power plants.--

2626 (1) As used in this section, the term:

2627 (a) "Cost" includes, but is not limited to, all capital
2628 investments, including rate of return, any applicable taxes, and
2629 all expenses, including operation and maintenance expenses,

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

2630 related to or resulting from the siting, licensing, design,
2631 construction, or operation of the nuclear power plant.

2632 (b) "Electric utility" or "utility" has the same meaning
2633 as that provided in s. 366.8255(1)(a).

2634 (c) "Nuclear power plant" or "plant" is an electrical
2635 power plant as defined in s. 403.503(12) that uses nuclear
2636 materials for fuel.

2637 (d) "Preconstruction" is that period of time after a site
2638 has been selected through and including the date the utility
2639 completes site clearing work. Preconstruction costs shall be
2640 afforded deferred accounting treatment and shall accrue a
2641 carrying charge equal to the utility's allowance for funds
2642 during construction (AFUDC) rate until recovered in rates.

2643 (2) Within 6 months after the enactment of this act, the
2644 commission shall establish, by rule, alternative cost recovery
2645 mechanisms for the recovery of costs incurred in the siting,
2646 design, licensing, and construction of a nuclear power plant.
2647 Such mechanisms shall be designed to promote utility investment
2648 in nuclear power plants and allow for the recovery in rates all
2649 prudently incurred costs, and shall include, but are not limited
2650 to:

2651 (a) Recovery through the capacity cost recovery clause of
2652 any preconstruction costs.

2653 (b) Recovery through an incremental increase in the
2654 utility's capacity cost recovery clause rates of the carrying
2655 costs on the utility's projected construction cost balance
2656 associated with the nuclear power plant. To encourage investment
2657 and provide certainty, for nuclear power plant need petitions
2658 submitted on or before December 31, 2010, associated carrying

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

2659 costs shall be equal to the pretax AFUDC in effect upon this act
2660 becoming law. For nuclear power plants for which need petitions
2661 are submitted after December 31, 2010, the utility's existing
2662 pretax AFUDC rate is presumed to be appropriate unless
2663 determined otherwise by the commission in the determination of
2664 need for the nuclear power plant.

2665 (3) After a petition for determination of need is granted,
2666 a utility may petition the commission for cost recovery as
2667 permitted by this section and commission rules.

2668 (4) When the nuclear power plant is placed in commercial
2669 service, the utility shall be allowed to increase its base rate
2670 charges by the projected annual revenue requirements of the
2671 nuclear power plant based on the jurisdictional annual revenue
2672 requirements of the plant for the first 12 months of operation.
2673 The rate of return on capital investments shall be calculated
2674 using the utility's rate of return last approved by the
2675 commission prior to the commercial inservice date of the nuclear
2676 power plant. If any existing generating plant is retired as a
2677 result of operation of the nuclear power plant, the commission
2678 shall allow for the recovery, through an increase in base rate
2679 charges, of the net book value of the retired plant over a
2680 period not to exceed 5 years.

2681 (5) The utility shall report to the commission annually
2682 the budgeted and actual costs as compared to the estimated
2683 inservice cost of the nuclear power plant provided by the
2684 utility pursuant to s. 403.519(4), until the commercial
2685 operation of the nuclear power plant. The utility shall provide
2686 such information on an annual basis following the final order by
2687 the commission approving the determination of need for the

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

2688 nuclear power plant, with the understanding that some costs may
2689 be higher than estimated and other costs may be lower.

2690 (6) In the event the utility elects not to complete or is
2691 precluded from completing construction of the nuclear power
2692 plant, the utility shall be allowed to recover all prudent
2693 preconstruction and construction costs incurred following the
2694 commission's issuance of a final order granting a determination
2695 of need for the nuclear power plant. The utility shall recover
2696 such costs through the capacity cost recovery clause over a
2697 period equal to the period during which the costs were incurred
2698 or 5 years, whichever is greater. The unrecovered balance during
2699 the recovery period will accrue interest at the utility's
2700 weighted average cost of capital as reported in the commission's
2701 earnings surveillance reporting requirement for the prior year.

2702 Section 45. Section 403.52, Florida Statutes, is amended
2703 to read:

2704 403.52 Short title.--Sections 403.52-403.5365 may be cited
2705 as the "Florida Electric Transmission Line Siting Act."

2706 Section 46. Section 403.521, Florida Statutes, is amended
2707 to read:

2708 403.521 Legislative intent.--The legislative intent of
2709 this act is to establish a centralized and coordinated licensing
2710 ~~permitting~~ process for the location of electric transmission
2711 line corridors and the construction, operation, and maintenance
2712 of electric transmission lines, which are critical
2713 infrastructure facilities. This necessarily involves several
2714 broad interests of the public addressed through the subject
2715 matter jurisdiction of several agencies. The Legislature
2716 recognizes that electric transmission lines will have an effect

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

2717 upon the reliability of the electric power system, the
2718 environment, land use, and the welfare of the population.
2719 Recognizing the need to ensure electric power system reliability
2720 and integrity, and in order to meet electric ~~electrical~~ energy
2721 needs in an orderly and timely fashion, the centralized and
2722 coordinated licensing ~~permitting~~ process established by this act
2723 is intended to further the legislative goal of ensuring through
2724 available and reasonable methods that the location of
2725 transmission line corridors and the construction, operation, and
2726 maintenance of electric transmission lines produce minimal
2727 adverse effects on the environment and public health, safety,
2728 and welfare ~~while not unduly conflicting with the goals~~
2729 ~~established by the applicable local comprehensive plan.~~ It is
2730 the intent of this act to fully balance the need for
2731 transmission lines with the broad interests of the public in
2732 order to effect a reasonable balance between the need for the
2733 facility as a means of providing reliable, economical, and
2734 efficient electric ~~abundant low-cost electrical~~ energy and the
2735 impact on the public and the environment resulting from the
2736 location of the transmission line corridor and the construction,
2737 operation, and maintenance of the transmission lines. The
2738 Legislature intends that the provisions of chapter 120 apply to
2739 this act and to proceedings under ~~pursuant to~~ it except as
2740 otherwise expressly exempted by other provisions of this act.

2741 Section 47. Section 403.522, Florida Statutes, is amended
2742 to read:

2743 403.522 Definitions relating to the Florida Electric
2744 Transmission Line Siting Act.--As used in this act:

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

2745 (1) "Act" means the Florida Electric Transmission Line
2746 Siting Act.

2747 (2) "Agency," as the context requires, means an official,
2748 officer, commission, authority, council, committee, department,
2749 division, bureau, board, section, or other unit or entity of
2750 government, including a county, municipality, or other regional
2751 or local governmental entity.

2752 (3) "Amendment" means a material change in information
2753 provided by the applicant to the application for certification
2754 made after the initial application filing.

2755 (4) "Applicant" means any electric utility that ~~which~~
2756 applies for certification under ~~pursuant to the provisions of~~
2757 this act.

2758 (5) "Application" means the documents required by the
2759 department to be filed to initiate and support a certification
2760 review and evaluation, including the initial document filing,
2761 amendments, and responses to requests from the department for
2762 additional data and information ~~preceeding~~. An electric utility
2763 may file a comprehensive application encompassing all or a part
2764 of one or more proposed transmission lines.

2765 (6) "Board" means the Governor and Cabinet sitting as the
2766 siting board.

2767 (7) "Certification" means the approval by the board of the
2768 license for a corridor proper for certification pursuant to
2769 subsection (10) and the construction, operation, and maintenance
2770 of transmission lines within the ~~such~~ corridor with the ~~such~~
2771 changes or conditions as the siting board deems appropriate.
2772 Certification shall be evidenced by a written order of the
2773 board.

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

2774 (8) "Commission" means the Florida Public Service
2775 Commission.

2776 (9) "Completeness" means that the application has
2777 addressed all applicable sections of the prescribed application
2778 format and, but does not mean that those sections are sufficient
2779 in comprehensiveness of data or in quality of information
2780 provided to allow the department to determine whether the
2781 application provides the reviewing agencies adequate information
2782 to prepare the reports required by s. 403.526.

2783 (10) "Corridor" means the proposed area within which a
2784 transmission line right-of-way, including maintenance and access
2785 roads, is to be located. The width of the corridor proposed for
2786 certification by an applicant or other party, at the option of
2787 the applicant, may be the width of the transmission line right-
2788 of-way, or a wider boundary, not to exceed a width of 1 mile.
2789 The area within the corridor in which a right-of-way may be
2790 located may be further restricted by a condition of
2791 certification. After all property interests required for the
2792 transmission line right-of-way and maintenance and access roads
2793 have been acquired by the applicant, the boundaries of the area
2794 certified shall narrow to only that land within the boundaries
2795 of the transmission line right-of-way. The corridors proper for
2796 certification shall be those addressed in the application, in
2797 amendments to the application filed under ~~pursuant to~~ s.
2798 403.5275, and in notices of acceptance of proposed alternate
2799 corridors filed by an applicant and the department pursuant to
2800 s. 403.5271 for which the required ~~sufficient~~ information for
2801 the preparation of agency supplemental reports was filed.

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

2802 (11) "Department" means the Department of Environmental
2803 Protection.

2804 (12) "Electric utility" means cities and towns, counties,
2805 public utility districts, regulated electric companies, electric
2806 cooperatives, regional transmission organizations, operators of
2807 independent transmission systems, or other transmission
2808 organizations approved by the Federal Energy Regulatory
2809 Commission or the commission for the operation of transmission
2810 facilities, and joint operating agencies, or combinations
2811 thereof, engaged in, or authorized to engage in, the business of
2812 generating, transmitting, or distributing electric energy.

2813 (13) "License" means a franchise, permit, certification,
2814 registration, charter, comprehensive plan amendment, development
2815 order, or permit as defined in chapters 163 and 380, or similar
2816 form of authorization required by law, but it does not include a
2817 license required primarily for revenue purposes when issuance of
2818 the license is merely a ministerial act.

2819 (14) "Licensee" means an applicant that has obtained a
2820 certification order for the subject project.

2821 ~~(15)~~ (14) "Local government" means a municipality or county
2822 in the jurisdiction of which the project is proposed to be
2823 located.

2824 (16) "Maintenance and access roads" mean roads constructed
2825 within the transmission line right-of-way. Nothing in this act
2826 prohibits an applicant from constructing a road to support
2827 construction, operation, or maintenance of the transmission line
2828 that lies outside the transmission line right-of-way.

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

2829 ~~(17)(15)~~ "Modification" means any change in the
2830 certification order after issuance, including a change in the
2831 conditions of certification.

2832 ~~(18)(16)~~ "Nonprocedural requirements of agencies" means
2833 any agency's regulatory requirements established by statute,
2834 rule, ordinance, or comprehensive plan, excluding any provisions
2835 prescribing forms, fees, procedures, or time limits for the
2836 review or processing of information submitted to demonstrate
2837 compliance with such regulatory requirements.

2838 ~~(19)(17)~~ "Person" means an individual, partnership, joint
2839 venture, private or public corporation, association, firm,
2840 public service company, political subdivision, municipal
2841 corporation, government agency, public utility district, or any
2842 other entity, public or private, however organized.

2843 ~~(20)(18)~~ "Preliminary statement of issues" means a listing
2844 and explanation of those issues within the agency's jurisdiction
2845 which are of major concern to the agency in relation to the
2846 proposed electric ~~electrical~~ transmission line corridor.

2847 ~~(21)(19)~~ "Regional planning council" means a regional
2848 planning council as defined in s. 186.503(4) in the jurisdiction
2849 of which the project is proposed to be located.

2850 ~~(20)~~ ~~"Sufficiency" means that the application is not only~~
2851 ~~complete but that all sections are adequate in the~~
2852 ~~comprehensiveness of data and in the quality of information~~
2853 ~~provided to allow the department to determine whether the~~
2854 ~~application provides the reviewing agencies adequate information~~
2855 ~~to prepare the reports authorized by s. 403.526.~~

2856 ~~(22)(21)~~ "Transmission line" or "electric transmission
2857 line" means structures, maintenance and access roads, and all
413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

2858 other facilities that need to be constructed, operated, or
2859 maintained for the purpose of conveying electric power any
2860 ~~electrical transmission line~~ extending from, but not including,
2861 an existing or proposed substation or power plant to, but not
2862 including, an existing or proposed transmission network or
2863 rights-of-way or substation to which the applicant intends to
2864 connect which defines the end of the proposed project and which
2865 is designed to operate at 230 kilovolts or more. ~~The starting~~
2866 ~~point and ending point of a transmission line must be~~
2867 ~~specifically defined by the applicant and must be verified by~~
2868 ~~the commission in its determination of need. A transmission line~~
2869 ~~includes structures and maintenance and access roads that need~~
2870 ~~to be constructed for the project to become operational. The~~
2871 transmission line may include, at the applicant's option, any
2872 proposed terminal or intermediate substations or substation
2873 expansions necessary to serve the transmission line.

2874 (23)-(22) "Transmission line right-of-way" means land
2875 necessary for the construction, operation, and maintenance of a
2876 transmission line. The typical width of the right-of-way shall
2877 be identified in the application. The right-of-way shall be
2878 located within the certified corridor and shall be identified by
2879 the applicant ~~subsequent to certification~~ in documents filed
2880 with the department before ~~prior to~~ construction.

2881 (24)-(23) "Water management district" means a water
2882 management district created pursuant to chapter 373 in the
2883 jurisdiction of which the project is proposed to be located.

2884 Section 48. Section 403.523, Florida Statutes, is amended
2885 to read:

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

2886 403.523 Department of Environmental Protection; powers and
2887 duties.--The department has ~~shall have~~ the following powers and
2888 duties:

2889 (1) To adopt procedural rules pursuant to ss. 120.536(1)
2890 and 120.54 to administer ~~implement the provisions of~~ this act
2891 and to adopt or amend rules to implement the provisions of
2892 subsection (10).

2893 (2) To prescribe the form and content of the public
2894 notices and the form, content, and necessary supporting
2895 documentation, and any required studies, for certification
2896 applications. All ~~such~~ data and studies shall be related to the
2897 jurisdiction of the agencies relevant to the application.

2898 (3) To receive applications for transmission line and
2899 corridor certifications and initially determine the completeness
2900 ~~and sufficiency~~ thereof.

2901 (4) To make or contract for studies of certification
2902 applications. All ~~such~~ studies shall be related to the
2903 jurisdiction of the agencies relevant to the application. For
2904 studies in areas outside the jurisdiction of the department and
2905 in the jurisdiction of another agency, the department may
2906 initiate such studies, but only with the consent of the ~~such~~
2907 agency.

2908 (5) To administer the processing of applications for
2909 certification and ensure that the applications, including
2910 postcertification reviews, are processed on an expeditious and
2911 priority basis ~~as expeditiously as possible~~.

2912 (6) To collect and process ~~require~~ such fees as allowed by
2913 this act.

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

2914 (7) To prepare a report and project ~~written~~ analysis as
2915 required by s. 403.526.

2916 (8) To prescribe the means for monitoring the effects
2917 arising from the location of the transmission line corridor and
2918 the construction, operation, and maintenance of the transmission
2919 lines to assure continued compliance with the terms of the
2920 certification.

2921 (9) To make a determination of acceptability of any
2922 alternate corridor proposed for consideration under ~~pursuant to~~
2923 s. 403.5271.

2924 (10) To set requirements that reasonably protect the
2925 public health and welfare from the electric and magnetic fields
2926 of transmission lines for which an application is filed under
2927 ~~after the effective date of this act.~~

2928 (11) To present rebuttal evidence on any issue properly
2929 raised at the certification hearing.

2930 (12) To issue final orders after receipt of the
2931 administrative law judge's order relinquishing jurisdiction
2932 pursuant to s. 403.527(6).

2933 (13) To act as clerk for the siting board.

2934 (14) To administer and manage the terms and conditions of
2935 the certification order and supporting documents and records for
2936 the life of the facility.

2937 (15) To issue emergency orders on behalf of the board for
2938 facilities licensed under this act.

2939 Section 49. Section 403.524, Florida Statutes, is amended
2940 to read:

2941 403.524 Applicability; ~~and~~ certification; exemptions.--

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

2942 (1) ~~The provisions of~~ This act applies ~~apply~~ to each
2943 transmission line, except a transmission line certified under
2944 ~~pursuant to~~ the Florida Electrical Power Plant Siting Act.

2945 (2) Except as provided in subsection (1), ~~no~~ construction
2946 of a any transmission line may not be undertaken without first
2947 obtaining certification under this act, but ~~the provisions of~~
2948 this act does ~~do~~ not apply to:

2949 (a) Transmission lines for which development approval has
2950 been obtained under ~~pursuant to~~ chapter 380.

2951 (b) Transmission lines that ~~which~~ have been exempted by a
2952 binding letter of interpretation issued under s. 380.06(4), or
2953 in which the Department of Community Affairs or its predecessor
2954 agency has determined the utility to have vested development
2955 rights within the meaning of s. 380.05(18) or s. 380.06(20).

2956 (c) Transmission line development in which all
2957 construction is limited to established rights-of-way.
2958 Established rights-of-way include ~~such~~ rights-of-way established
2959 at any time for roads, highways, railroads, gas, water, oil,
2960 electricity, or sewage and any other public purpose rights-of-
2961 way. If an established transmission line right-of-way is used to
2962 qualify for this exemption, the transmission line right-of-way
2963 must have been established at least 5 years before notice of the
2964 start of construction under subsection (4) of the proposed
2965 transmission line. If an established transmission line right-of-
2966 way is relocated to accommodate a public project, the date the
2967 original transmission line right-of-way was established applies
2968 to the relocated transmission line right-of-way for purposes of
2969 this exemption. ~~Except for transmission line rights-of-way,~~
2970 ~~established rights-of-way include rights-of-way created before~~
413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

2971 ~~er after October 1, 1983. For transmission line rights of way,~~
2972 ~~established rights of way include rights of way created before~~
2973 ~~October 1, 1983.~~

2974 (d) Unless the applicant has applied for certification
2975 under this act, transmission lines that ~~which~~ are less than 15
2976 miles in length or are located in a single ~~which do not cross a~~
2977 county within the state line, unless the applicant has elected
2978 ~~to apply for certification under the act.~~

2979 (3) The exemption of a transmission line under this act
2980 does not constitute an exemption for the transmission line from
2981 other applicable permitting processes under other provisions of
2982 law or local government ordinances.

2983 (4) An electric ~~A~~ utility shall notify the department in
2984 writing, before ~~prior to~~ the start of construction, of its
2985 intent to construct a transmission line exempted under ~~pursuant~~
2986 ~~to~~ this section. The ~~Such~~ notice is ~~shall be~~ only for
2987 information purposes, and ~~no~~ action by the department is not
2988 ~~shall be~~ required pursuant to the ~~such~~ notice. This notice may
2989 be included in any submittal filed with the department before
2990 the start of construction demonstrating that a new transmission
2991 line complies with the applicable electric and magnetic field
2992 standards.

2993 Section 50. Section 403.525, Florida Statutes, is amended
2994 to read:

2995 403.525 ~~Appointment of Administrative law judge;~~
2996 appointment; powers and duties.--

2997 (1) (a) Within 7 days after receipt of an application,
2998 whether complete or not, the department shall request the
2999 Division of Administrative Hearings to designate an

413029
5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

3000 administrative law judge to conduct the hearings required by
3001 this act.

3002 (b) The division director shall designate an
3003 administrative law judge to conduct the hearings required by
3004 this act within 7 days after receipt of the request from the
3005 department. Whenever practicable, the division director shall
3006 assign an administrative law judge who has had prior experience
3007 or training in this type of certification proceeding.

3008 (c) Upon being advised that an administrative law judge
3009 has been designated, the department shall immediately file a
3010 copy of the application and all supporting documents with the
3011 administrative law judge, who shall docket the application.

3012 (2) The administrative law judge has all powers and duties
3013 granted to administrative law judges under chapter 120 and by
3014 the laws and rules of the department.

3015 Section 51. Section 403.5251, Florida Statutes, is amended
3016 to read:

3017 403.5251 ~~Distribution of Application~~; schedules.--

3018 (1)(a) The formal date of the filing of the application
3019 for certification and commencement of the review process for
3020 certification is the date on which the applicant submits:

3021 1. Copies of the application for certification in a
3022 quantity and format, electronic or otherwise as prescribed by
3023 rule, to the department and other agencies identified in s.
3024 403.526(2).

3025 2. The application fee as specified under s. 403.5365 to
3026 the department.

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

3028 The department shall provide to the applicant and the Division
3029 of Administrative Hearings the names and addresses of any
3030 additional agencies or persons entitled to notice and copies of
3031 the application and amendments, if any, within 7 days after
3032 receiving the application for certification and the application
3033 fees.

3034 (b) In the application, the starting point and ending
3035 point of a transmission line must be specifically defined by the
3036 applicant. Within 7 days after the filing of an application, the
3037 department shall provide the applicant and the Division of
3038 Administrative Hearings the names and addresses of those
3039 affected or other agencies entitled to notice and copies of the
3040 application and any amendments.

3041 (2) Within 15 7 days after the formal date of the
3042 application filing ~~completeness has been determined~~, the
3043 department shall prepare a proposed schedule of dates for
3044 determination of completeness, submission of statements of
3045 issues, ~~determination of sufficiency, and~~ submittal of final
3046 reports, ~~from affected and other agencies~~ and other significant
3047 dates to be followed during the certification process, including
3048 dates for filing notices of appearances to be a party under s.
3049 403.527(2) pursuant to s. 403.527(4). This schedule shall be
3050 provided by the department to the applicant, the administrative
3051 law judge, and the agencies identified under ~~pursuant to~~
3052 subsection (1). Within 7 days after the filing of this proposed
3053 schedule, the administrative law judge shall issue an order
3054 establishing a schedule for the matters addressed in the
3055 department's proposed schedule and other appropriate matters, if
3056 any.

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

3057 (3) ~~Within 7 days after completeness has been determined,~~
3058 ~~the applicant shall distribute copies of the application to all~~
3059 ~~agencies identified by the department pursuant to subsection~~
3060 ~~(1).~~ Copies of changes and amendments to the application shall
3061 be timely distributed by the applicant to all agencies and
3062 parties who have received a copy of the application.

3063 (4) Notice of the filing of the application shall be made
3064 in accordance with the requirements of s. 403.5363.

3065 Section 52. Section 403.5252, Florida Statutes, is amended
3066 to read:

3067 403.5252 Determination of completeness.--

3068 (1) (a) Within 30 days after distribution of an
3069 application, the affected agencies shall file a statement with
3070 the department containing the recommendations of each agency
3071 concerning the completeness of the application for
3072 certification.

3073 (b) Within 7 ~~15~~ days after receipt of the completeness
3074 statements of each agency ~~an application~~, the department shall
3075 file a statement with the Division of Administrative Hearings,
3076 ~~and~~ with the applicant, and with all parties declaring its
3077 position with regard to the completeness, ~~not the sufficiency,~~
3078 of the application. The statement of the department shall be
3079 based upon its consultation with the affected agencies.

3080 (2)~~(1)~~ If the department declares the application to be
3081 incomplete, the applicant, within 14 ~~15~~ days after the filing of
3082 the statement by the department, shall file with the Division of
3083 Administrative Hearings, with all parties, and with the
3084 department ~~a statement~~:

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

3085 (a) A withdrawal of ~~Agreeing with the statement of the~~
3086 ~~department and withdrawing~~ the application;

3087 (b) Additional information necessary to make the
3088 application complete. After the department first determines the
3089 application to be incomplete, the time schedules under this act
3090 are not tolled if the applicant makes the application complete
3091 within the 14-day period. A subsequent finding by the department
3092 that the application remains incomplete tolls the time schedules
3093 under this act until the application is determined complete;
3094 ~~Agreeing with the statement of the department and agreeing to~~
3095 ~~amend the application without withdrawing it. The time schedules~~
3096 ~~referencing a complete application under this act shall not~~
3097 ~~commence until the application is determined complete; or~~

3098 (c) A statement contesting the department's determination
3099 of incompleteness; or ~~statement of the department.~~

3100 (d) A statement agreeing with the department and
3101 requesting additional time to provide the information necessary
3102 to make the application complete. If the applicant exercises
3103 this option, the time schedules under this act are tolled until
3104 the application is determined complete.

3105 ~~(3) (a)-(2)~~ If the applicant contests the determination by
3106 the department that an application is incomplete, the
3107 administrative law judge shall schedule a hearing on the
3108 statement of completeness. The hearing shall be held as
3109 expeditiously as possible, but not later than 21 ~~30~~ days after
3110 the filing of the statement by the department. The
3111 administrative law judge shall render a decision within 7 ~~10~~
3112 days after the hearing.

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

3113 (b) Parties to a hearing on the issue of completeness
3114 shall include the applicant, the department, and any agency that
3115 has jurisdiction over the matter in dispute. Any substantially
3116 affected person who wishes to become a party to the hearing on
3117 the issue of completeness must file a motion no later than 10
3118 days before the date of the hearing.

3119 (c)-(a) If the administrative law judge determines that the
3120 application was not complete as filed, the applicant shall
3121 withdraw the application or make such additional submittals as
3122 necessary to complete it. The time schedules referencing a
3123 complete application under this act do shall not commence until
3124 the application is determined complete.

3125 (d)-(b) If the administrative law judge determines that the
3126 application was complete at the time it was declared incomplete
3127 filed, the time schedules referencing a complete application
3128 under this act shall commence upon such determination.

3129 (4) If the applicant provides additional information to
3130 address the issues identified in the determination of
3131 incompleteness, each affected agency may submit to the
3132 department, no later than 14 days after the applicant files the
3133 additional information, a recommendation on whether the agency
3134 believes the application is complete. Within 21 days after
3135 receipt of the additional information from the applicant
3136 submitted under paragraphs (2) (b), (2) (d), or (3) (c) and
3137 considering the recommendations of the affected agencies, the
3138 department shall determine whether the additional information
3139 supplied by an applicant makes the application complete. If the
3140 department finds that the application is still incomplete, the

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

3141 applicant may exercise any of the options specified in
3142 subsection (2) as often as is necessary to resolve the dispute.

3143 Section 53. Section 403.526, Florida Statutes, is amended
3144 to read:

3145 403.526 Preliminary statements of issues, reports, and
3146 project analyses; and studies.--

3147 (1) Each affected agency that is required to file a report
3148 which received an application in accordance with this section ~~s.~~
3149 ~~403.5251(3)~~ shall submit a preliminary statement of issues to
3150 the department and all parties the applicant no later than 50 ~~60~~
3151 days after the filing distribution of the ~~complete~~ application.
3152 Such statements of issues shall be made available to each local
3153 government for use as information for public meetings held under
3154 ~~pursuant to~~ s. 403.5272. The failure to raise an issue in this
3155 preliminary statement of issues does shall not preclude the
3156 issue from being raised in the agency's report.

3157 (2)(a) The following affected agencies shall prepare
3158 reports as provided below and shall submit them to the
3159 department and the applicant no later than within 90 days after
3160 the filing distribution of the ~~complete~~ application:

3161 1. The department shall prepare a report as to the impact
3162 of each proposed transmission line or corridor as it relates to
3163 matters within its jurisdiction.

3164 2. Each water management district in the jurisdiction of
3165 which a proposed transmission line or corridor is to be located
3166 shall prepare a report as to the impact on water resources and
3167 other matters within its jurisdiction.

3168 3. The Department of Community Affairs shall prepare a
3169 report containing recommendations which address the impact upon
413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

3170 the public of the proposed transmission line or corridor, based
3171 on the degree to which the proposed transmission line or
3172 corridor is consistent with the applicable portions of the state
3173 comprehensive plan, emergency management, and other matters
3174 within its jurisdiction. The Department of Community Affairs may
3175 also comment on the consistency of the proposed transmission
3176 line or corridor with applicable strategic regional policy plans
3177 or local comprehensive plans and land development regulations.

3178 4. The Fish and Wildlife Conservation Commission shall
3179 prepare a report as to the impact of each proposed transmission
3180 line or corridor on fish and wildlife resources and other
3181 matters within its jurisdiction.

3182 5. Each local government shall prepare a report as to the
3183 impact of each proposed transmission line or corridor on matters
3184 within its jurisdiction, including the consistency of the
3185 proposed transmission line or corridor with all applicable local
3186 ordinances, regulations, standards, or criteria that apply to
3187 the proposed transmission line or corridor, including local
3188 comprehensive plans, zoning regulations, land development
3189 regulations, and any applicable local environmental regulations
3190 adopted pursuant to s. 403.182 or by other means. A ~~No~~ change by
3191 the responsible local government or local agency in local
3192 comprehensive plans, zoning ordinances, or other regulations
3193 made after the date required for the filing of the local
3194 government's report required by this section is not ~~shall be~~
3195 applicable to the certification of the proposed transmission
3196 line or corridor unless the certification is denied or the
3197 application is withdrawn.

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

3198 6. Each regional planning council shall present a report
3199 containing recommendations that address the impact upon the
3200 public of the proposed transmission line or corridor based on
3201 the degree to which the transmission line or corridor is
3202 consistent with the applicable provisions of the strategic
3203 regional policy plan adopted under ~~pursuant to~~ chapter 186 and
3204 other impacts of each proposed transmission line or corridor on
3205 matters within its jurisdiction.

3206 7. The Department of Transportation shall prepare a report
3207 as to the impact of the proposed transmission line or corridor
3208 on state roads, railroads, airports, aeronautics, seaports, and
3209 other matters within its jurisdiction.

3210 8. The commission shall prepare a report containing its
3211 determination under s. 403.537 and the report may include the
3212 comments from the commission with respect to any other subject
3213 within its jurisdiction.

3214 9. Any other agency, if requested by the department, shall
3215 also perform studies or prepare reports as to subjects within
3216 the jurisdiction of the agency which may potentially be affected
3217 by the proposed transmission line.

3218 (b) Each report must ~~shall~~ contain:

3219 1. A notice of any nonprocedural requirements not
3220 specifically listed in the application from which a variance,
3221 exemption, exception, or other relief is necessary in order for
3222 the proposed corridor to be certified. Failure to include the
3223 notice shall be treated as a waiver from the nonprocedural
3224 requirements of that agency.

3225 2. A recommendation for approval or denial of the
3226 application.

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

3227 3. ~~The information on variances required by s. 403.531(2)~~
3228 ~~and~~ proposed conditions of certification on matters within the
3229 jurisdiction of each agency. For each condition proposed by an
3230 agency, the agency shall list the specific statute, rule, or
3231 ordinance, as applicable, which authorizes the proposed
3232 condition.

3233 (c) Each reviewing agency shall initiate the activities
3234 required by this section no later than 15 days after the
3235 ~~complete~~ application is filed ~~distributed~~. Each agency shall
3236 keep the applicant and the department informed as to the
3237 progress of its studies and any issues raised thereby.

3238 (d) When an agency whose agency head is a collegial body,
3239 such as a commission, board, or council, is required to submit a
3240 report pursuant to this section and is required by its own
3241 internal procedures to have the report reviewed by its agency
3242 head prior to finalization, the agency may submit to the
3243 Department a draft version of the report by the deadline
3244 indicated in subsection (a), and shall submit a final version of
3245 the report after review by the agency head, and no later than 15
3246 days after the deadline indicated in subsection (a).

3247 (e) Receipt of an affirmative determination of need from
3248 the commission by the submittal deadline for agency reports
3249 under paragraph (a) is a condition precedent to further
3250 processing of the application.

3251 (3) The department shall prepare a project ~~written~~
3252 analysis containing ~~which contains~~ a compilation of agency
3253 reports and summaries of the material contained therein which
3254 shall be filed with the administrative law judge and served on
3255 all parties no later than 115 ~~135~~ days after the application is

413029
5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

3256 ~~filed complete application has been distributed to the affected~~
3257 ~~agencies, and which shall include:~~

3258 (a) A statement indicating whether the proposed electric
3259 transmission line will be in compliance with the rules of the
3260 department and affected agencies.

3261 (b)~~(a)~~ The studies and reports required by this section
3262 and s. 403.537.

3263 (c)~~(b)~~ Comments received from any other agency or person.

3264 (d)~~(e)~~ The recommendation of the department as to the
3265 disposition of the application, of variances, exemptions,
3266 exceptions, or other relief identified by any party, and of any
3267 proposed conditions of certification which the department
3268 believes should be imposed.

3269 (4) The failure of any agency to submit a preliminary
3270 statement of issues or a report, or to submit its preliminary
3271 statement of issues or report within the allowed time, is shall
3272 ~~not be~~ grounds for the alteration of any time limitation in this
3273 act under pursuant to s. 403.528. ~~Neither~~ The failure to submit
3274 a preliminary statement of issues or a report, or nor the
3275 inadequacy of the preliminary statement of issues or report, are
3276 not shall be grounds to deny or condition certification.

3277 Section 54. Section 403.527, Florida Statutes, is amended
3278 to read:

3279 (Substantial rewording of section. See
3280 s. 403.527, F.S., for present text.)

3281 403.527 Certification hearing, parties, participants.--

3282 (1) (a) No later than 145 days after the application is
3283 filed, the administrative law judge shall conduct a
3284 certification hearing pursuant to ss. 120.569 and 120.57 at a
413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

3285 central location in proximity to the proposed transmission line
3286 or corridor.

3287 (b) Notice of the certification hearing and other public
3288 hearings provided for in this section and notice of the deadline
3289 for filing of notice of intent to be a party shall be made in
3290 accordance with the requirements of s. 403.5363.

3291 (2)(a) Parties to the proceeding shall be:

3292 1. The applicant.

3293 2. The department.

3294 3. The commission.

3295 4. The Department of Community Affairs.

3296 5. The Fish and Wildlife Conservation Commission.

3297 6. The Department of Transportation.

3298 7. Each water management district in the jurisdiction of
3299 which the proposed transmission line or corridor is to be
3300 located.

3301 8. The local government.

3302 9. The regional planning council.

3303 (b) Any party listed in paragraph (a), other than the
3304 department or the applicant, may waive its right to participate
3305 in these proceedings. If any listed party fails to file a notice
3306 of its intent to be a party on or before the 30th day before the
3307 certification hearing, the party is deemed to have waived its
3308 right to be a party unless its participation would not prejudice
3309 the rights of any party to the proceeding.

3310 (c) Notwithstanding the provisions of chapter 120 to the
3311 contrary, upon the filing with the administrative law judge of a
3312 notice of intent to be a party by an agency, corporation, or
3313 association described in subparagraphs 1. and 2. or a petition

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

3314 for intervention by a person described in subparagraph 3. no
3315 later than 30 days before the date set for the certification
3316 hearing, the following shall also be parties to the proceeding:

3317 1. Any agency not listed in paragraph (a) as to matters
3318 within its jurisdiction.

3319 2. Any domestic nonprofit corporation or association
3320 formed, in whole or in part, to promote conservation of natural
3321 beauty; to protect the environment, personal health, or other
3322 biological values; to preserve historical sites; to promote
3323 consumer interests; to represent labor, commercial, or
3324 industrial groups; or to promote comprehensive planning or
3325 orderly development of the area in which the proposed
3326 transmission line or corridor is to be located.

3327 3. Any person whose substantial interests are affected and
3328 being determined by the proceeding.

3329 (d) Any agency whose properties or works may be affected
3330 shall be made a party upon the request of the agency or any
3331 party to this proceeding.

3332 (3) (a) The order of presentation at the certification
3333 hearing, unless otherwise changed by the administrative law
3334 judge to ensure the orderly presentation of witnesses and
3335 evidence, shall be:

3336 1. The applicant.

3337 2. The department.

3338 3. State agencies.

3339 4. Regional agencies, including regional planning councils
3340 and water management districts.

3341 5. Local governments.

3342 6. Other parties.

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

3343 (b) When appropriate, any person may be given an
3344 opportunity to present oral or written communications to the
3345 administrative law judge. If the administrative law judge
3346 proposes to consider such communications, all parties shall be
3347 given an opportunity to cross-examine, challenge, or rebut the
3348 communications.

3349 (4) One public hearing where members of the public who are
3350 not parties to the certification hearing may testify shall be
3351 held within the boundaries of each county, at the option of any
3352 local government.

3353 (a) A local government shall notify the administrative law
3354 judge and all parties not later than 21 days after the
3355 application has been determined complete as to whether the local
3356 government wishes to have a public hearing. If a filing for an
3357 alternate corridor is accepted for consideration under s.
3358 403.5271(1) by the department and the applicant, any newly
3359 affected local government must notify the administrative law
3360 judge and all parties not later than 10 days after the data
3361 concerning the alternate corridor has been determined complete
3362 as to whether the local government wishes to have such a public
3363 hearing. The local government is responsible for providing the
3364 location of the public hearing if held separately from the
3365 certification hearing.

3366 (b) Within 5 days after notification, the administrative
3367 law judge shall determine the date of the public hearing, which
3368 shall be held before or during the certification hearing. If two
3369 or more local governments within one county request a public
3370 hearing, the hearing shall be consolidated so that only one
3371 public hearing is held in any county. The location of a

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

3372 consolidated hearing shall be determined by the administrative
3373 law judge.

3374 (c) If a local government does not request a public
3375 hearing within 21 days after the application has been determined
3376 complete, persons residing within the jurisdiction of the local
3377 government may testify during that portion of the certification
3378 hearing at which public testimony is heard.

3379 (5) At the conclusion of the certification hearing, the
3380 administrative law judge shall, after consideration of all
3381 evidence of record, issue a recommended order disposing of the
3382 application no later than 45 days after the transcript of the
3383 certification hearing and the public hearings is filed with the
3384 Division of Administrative Hearings.

3385 (6) (a) No later than 25 days before the certification
3386 hearing, the department or the applicant may request that the
3387 administrative law judge cancel the certification hearing and
3388 relinquish jurisdiction to the department if all parties to the
3389 proceeding stipulate that there are no disputed issues of
3390 material fact to be raised at the certification hearing.

3391 (b) The administrative law judge shall issue an order
3392 granting or denying the request within 5 days.

3393 (c) If the administrative law judge grants the request,
3394 the department and the applicant shall publish notices of the
3395 cancellation of the certification hearing in accordance with s.
3396 403.5363.

3397 (d)1. If the administrative law judge grants the request,
3398 the department shall prepare and issue a final order in
3399 accordance with s. 403.529(1) (a).

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

3400 2. Parties may submit proposed final orders to the
3401 department no later than 10 days after the administrative law
3402 judge issues an order relinquishing jurisdiction.

3403 (7) The applicant shall pay those expenses and costs
3404 associated with the conduct of the hearing and the recording and
3405 transcription of the proceedings.

3406 Section 55. Section 403.5271, Florida Statutes, is amended
3407 to read:

3408 403.5271 Alternate corridors.--

3409 (1) No later than 45 ~~50~~ days before ~~prior to~~ the
3410 originally scheduled certification hearing, any party may
3411 propose alternate transmission line corridor routes for
3412 consideration under ~~pursuant to~~ the provisions of this act.

3413 (a) A notice of a ~~any such~~ proposed alternate corridor
3414 must ~~shall~~ be filed with the administrative law judge, all
3415 parties, and any local governments in whose jurisdiction the
3416 alternate corridor is proposed. The ~~Such~~ filing must ~~shall~~
3417 include the most recent United States Geological Survey 1:24,000
3418 quadrangle maps specifically delineating the corridor
3419 boundaries, a description of the proposed corridor, and a
3420 statement of the reasons the proposed alternate corridor should
3421 be certified.

3422 (b)1. Within 7 days after receipt of the ~~such~~ notice, the
3423 applicant and the department shall file with the administrative
3424 law judge and all parties a notice of acceptance or rejection of
3425 a proposed alternate corridor for consideration. If the
3426 alternate corridor is rejected ~~either~~ by the applicant or the
3427 department, the certification hearing and the public hearings
3428 shall be held as scheduled. If both the applicant and the

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

3429 department accept a proposed alternate corridor for
3430 consideration, the certification hearing and the public hearings
3431 shall be rescheduled, if necessary.

3432 2. If rescheduled, the certification hearing shall be held
3433 no more than 90 days after the previously scheduled
3434 certification hearing, unless the data submitted under paragraph
3435 (d) is determined to be incomplete, in which case the
3436 rescheduled certification hearing shall be held no more than 105
3437 days after the previously scheduled certification hearing. If
3438 additional time is needed due to the alternate corridor crossing
3439 a local government jurisdiction that was not previously
3440 affected, ~~in which case~~ the remainder of the schedule listed
3441 below shall be appropriately adjusted by the administrative law
3442 judge to allow that local government to prepare a report
3443 pursuant to s. 403.526(2)(a)5.

3444 (c) Notice of the filing of the alternate corridor, of the
3445 revised time schedules, of the deadline for newly affected
3446 persons and agencies to file notice of intent to become a party,
3447 of the rescheduled hearing date, and of the proceedings pursuant
3448 ~~to s. 403.527(1)(b) and (c)~~ shall be published in accordance
3449 with s. 403.5363.

3450 (d) Within 21 ~~25~~ days after acceptance of an alternate
3451 corridor by the department and the applicant, the party
3452 proposing an alternate corridor shall have the burden of
3453 providing all additional data to the agencies listed in s.
3454 403.526(2) and newly affected agencies ~~s. 403.526~~ necessary for
3455 the preparation of a supplementary report on the proposed
3456 alternate corridor.

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

3457 (e)1. Reviewing agencies shall advise the department of
3458 any issues concerning completeness no later than 15 days after
3459 the submittal of the data required by paragraph (d). Within 22
3460 days after receipt of the data, the department shall issue a
3461 determination of completeness.

3462 2. If the department determines that the data required by
3463 paragraph (d) is not complete, the party proposing the alternate
3464 corridor must file such additional data to correct the
3465 incompleteness. This additional data must be submitted within 14
3466 days after the determination by the department.

3467 3. If the department, within 14 days after receiving the
3468 additional data, determines that the data remains incomplete,
3469 the incompleteness of the data is deemed a withdrawal of the
3470 proposed alternate corridor. The department may make its
3471 determination based on recommendations made by other affected
3472 agencies. If the department determines within 15 days that this
3473 additional data is insufficient, the party proposing the
3474 alternate corridor shall file such additional data that corrects
3475 the insufficiency within 15 days after the filing of the
3476 department's determination. If such additional data is
3477 determined insufficient, such insufficiency of data shall be
3478 deemed a withdrawal of the proposed alternate corridor. The
3479 party proposing an alternate corridor shall have the burden of
3480 proof on the certifiability of the alternate corridor at the
3481 certification hearing pursuant to s. 403.529(4). Nothing in this
3482 act shall be construed as requiring the applicant or agencies
3483 not proposing the alternate corridor to submit data in support
3484 of such alternate corridor.

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

3485 (f) The agencies listed in s. 403.526(2) and any newly
3486 affected agencies s. 403.526 shall file supplementary reports
3487 with the applicant and the department which address ~~addressing~~
3488 the proposed alternate corridors no later than 24 60 days after
3489 the additional data is submitted pursuant to paragraph (d) or
3490 paragraph (e) is determined to be complete.

3491 (g) The agency reports on alternate corridors must include
3492 all information required by s. 403.526(2) agencies shall submit
3493 supplementary notice pursuant to s. 403.531(2) at the time of
3494 filing of their supplemental report.

3495 (h) When an agency whose agency head is a collegial body,
3496 such as a commission, board, or council, is required to submit a
3497 report pursuant to this section and is required by its own
3498 internal procedures to have the report reviewed by its agency
3499 head prior to finalization, the agency may submit to the
3500 Department a draft version of the report by the deadline
3501 indicated in subsection (f), and shall submit a final version of
3502 the report after review by the agency head, and no later than 7
3503 days after the deadline indicated in subsection (f).

3504 (i) ~~(h)~~ The department shall file with the administrative
3505 law judge, the applicant, and all parties a project prepare a
3506 written analysis consistent with s. 403.526(3) no more than 16
3507 at least 29 days after submittal of agency reports on prior to
3508 the rescheduled certification hearing addressing the proposed
3509 alternate corridor.

3510 (2) If the original certification hearing date is
3511 rescheduled, the rescheduling shall not provide the opportunity
3512 for parties to file additional alternate corridors to the
3513 applicant's proposed corridor or any accepted alternate

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

3514 corridor. However, an amendment to the application which changes
3515 the alignment of the applicant's proposed corridor shall require
3516 rescheduling of the certification hearing, if necessary, so as
3517 to allow time for a party to file alternate corridors to the
3518 realigned proposed corridor for which the application has been
3519 amended. Any ~~such~~ alternate corridor proposal shall have the
3520 same starting and ending points as the realigned portion of the
3521 corridor proposed by the applicant's amendment, provided that
3522 the administrative law judge for good cause shown may authorize
3523 another starting or ending point in the area of the applicant's
3524 amended corridor.

3525 (3) (a) Notwithstanding the rejection of a proposed
3526 alternate corridor by the applicant or the department, any party
3527 may present evidence at the certification hearing to show that a
3528 corridor proper for certification does not satisfy the criteria
3529 listed in s. 403.529 or that a rejected alternate corridor would
3530 meet the criteria set forth in s. 403.529. ~~No~~ Evidence may not
3531 ~~shall~~ be admitted at the certification hearing on any alternate
3532 corridor, unless the alternate corridor was proposed by the
3533 filing of a notice at least 45 ~~50~~ days before ~~prior to~~ the
3534 originally scheduled certification hearing pursuant to this
3535 section. Rejected alternate corridors shall be considered by the
3536 board as provided in s. 403.529(4) and (5).

3537 (b) The party proposing an alternate corridor has the
3538 burden to prove that the alternate corridor can be certified at
3539 the certification hearing. This act does not require an
3540 applicant or agency that is not proposing the alternate corridor
3541 to submit data in support of the alternate corridor.

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

3542 (4) If an alternate corridor is accepted by the applicant
3543 and the department pursuant to a notice of acceptance as
3544 provided in this subsection and the ~~such~~ corridor is ultimately
3545 determined to be the corridor that would meet the criteria set
3546 forth in s. 403.529(4) and (5), the board shall certify that
3547 corridor.

3548 Section 56. Section 403.5272, Florida Statutes, is amended
3549 to read:

3550 403.5272 ~~Local governments~~; Informational public
3551 meetings.--

3552 (1) A local government whose jurisdiction is to be crossed
3553 by a proposed corridor ~~governments~~ may hold one informational
3554 public meeting ~~meetings~~ in addition to the hearings specifically
3555 authorized by this act on any matter associated with the
3556 transmission line proceeding. The ~~Such~~ informational public
3557 meeting may be conducted by the local government or the regional
3558 planning council and shall ~~meetings should~~ be held no later than
3559 55 ~~80~~ days after the application is filed. The purpose of an
3560 informational public meeting is for the local government or
3561 regional planning council to further inform the ~~general~~ public
3562 about the transmission line proposed, obtain comments from the
3563 public, and formulate its recommendation with respect to the
3564 proposed transmission line.

3565 (2) Informational public meetings shall be held solely at
3566 the option of each local government or regional planning
3567 council. It is the legislative intent that local governments or
3568 regional planning councils attempt to hold such public meetings.
3569 Parties to the proceedings under this act shall be encouraged to
3570 attend; however, a ~~no~~ party other than the applicant and the

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

3571 department is not ~~shall be~~ required to attend the such
3572 informational public meetings ~~hearings~~.

3573 (3) A local government or regional planning council that
3574 intends to conduct an informational public meeting must provide
3575 notice of the meeting, with notice sent to all parties listed in
3576 s. 403.527(2)(a), not less than 5 days before the meeting.

3577 (4)~~(3)~~ The failure to hold an informational public meeting
3578 or the procedure used for the informational public meeting are
3579 ~~shall not be~~ grounds for the alteration of any time limitation
3580 in this act under ~~pursuant to~~ s. 403.528 or grounds to deny or
3581 condition certification.

3582 Section 57. Section 403.5275, Florida Statutes, is amended
3583 to read:

3584 403.5275 Amendment to the application.--

3585 (1) Any amendment made to the application before
3586 certification shall be sent by the applicant to the
3587 administrative law judge and to all parties to the proceeding.

3588 (2) Any amendment to the application made before ~~prior to~~
3589 certification shall be disposed of as part of the original
3590 certification proceeding. Amendment of the application may be
3591 considered "good cause" for alteration of time limits pursuant
3592 to s. 403.528.

3593 Section 58. Section 403.528, Florida Statutes, is amended
3594 to read:

3595 403.528 Alteration of time limits.--

3596 (1) Any time limitation in this act may be altered by the
3597 administrative law judge upon stipulation between the department
3598 and the applicant unless objected to by any party within 5 days
3599 after notice or for good cause shown by any party.

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

3600 (2) A comprehensive application encompassing more than one
3601 proposed transmission line may be good cause for alternation of
3602 time limits.

3603 Section 59. Section 403.529, Florida Statutes, is amended
3604 to read:

3605 403.529 Final disposition of application.--

3606 (1)(a) If the administrative law judge has granted a
3607 request to cancel the certification hearing and has relinquished
3608 jurisdiction to the department under s. 403.527(6), within 40
3609 days thereafter, the secretary of the department shall act upon
3610 the application by written order in accordance with the terms of
3611 this act and state the reasons for issuance or denial.

3612 (b) If the administrative law judge does not grant a
3613 request to cancel the certification hearing under the provisions
3614 of s. 403.527(6) within 60 ~~30~~ days after receipt of the
3615 administrative law judge's recommended order, the board shall
3616 act upon the application by written order, approving in whole,
3617 approving with such conditions as the board deems appropriate,
3618 or denying the certification and stating the reasons for
3619 issuance or denial.

3620 (2) The issues that may be raised in any hearing before
3621 the board shall be limited to matters raised in the
3622 certification proceeding before the administrative law judge or
3623 raised in the recommended order of the administrative law judge.
3624 All parties, or their representatives, or persons who appear
3625 before the board shall be subject to ~~the provisions of~~ s.
3626 120.66.

3627 (3) If certification is denied, the board, or secretary if
3628 applicable, shall set forth in writing the action the applicant

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

3629 would have to take to secure the approval of the application ~~by~~
3630 ~~the board.~~

3631 (4) In determining whether an application should be
3632 approved in whole, approved with modifications or conditions, or
3633 denied, the board, or secretary when applicable, shall consider
3634 whether, and the extent to which, the location of the
3635 transmission line corridor and the construction, operation, and
3636 maintenance of the transmission line will:

3637 (a) Ensure electric power system reliability and
3638 integrity;

3639 (b) Meet the electrical energy needs of the state in an
3640 orderly, economical, and timely fashion;

3641 (c) Comply with applicable nonprocedural requirements of
3642 agencies;

3643 (d) Be consistent with applicable provisions of local
3644 government comprehensive plans, if any; and

3645 (e) Effect a reasonable balance between the need for the
3646 transmission line as a means of providing reliable, economically
3647 efficient electric energy, as determined by the commission,
3648 under s. 403.537, abundant low-cost electrical energy and the
3649 impact upon the public and the environment resulting from the
3650 location of the transmission line corridor and the construction,
3651 operation, and maintenance of the transmission lines.

3652 (5) (a) Any transmission line corridor certified by the
3653 board, or secretary if applicable, shall meet the criteria of
3654 this section. When more than one transmission line corridor is
3655 proper for certification under ~~pursuant to~~ s. 403.522(10) and
3656 meets the criteria of this section, the board, or secretary if
3657 applicable, shall certify the transmission line corridor that

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

3658 has the least adverse impact regarding the criteria in
3659 subsection (4), including costs.

3660 (b) If the board, or secretary if applicable, finds that
3661 an alternate corridor rejected pursuant to s. 403.5271 meets the
3662 criteria of subsection (4) and has the least adverse impact
3663 regarding the criteria in subsection (4), including cost, of all
3664 corridors that meet the criteria of subsection (4), ~~then~~ the
3665 board, or secretary if applicable, shall deny certification or
3666 shall allow the applicant to submit an amended application to
3667 include the ~~such~~ corridor.

3668 (c) If the board, or secretary if applicable, finds that
3669 two or more of the corridors that comply with ~~the provisions of~~
3670 subsection (4) have the least adverse impacts regarding the
3671 criteria in subsection (4), including costs, and that the ~~such~~
3672 corridors are substantially equal in adverse impacts regarding
3673 the criteria in subsection (4), including costs, ~~then~~ the board,
3674 or secretary if applicable, shall certify the corridor preferred
3675 by the applicant if the corridor is one proper for certification
3676 under ~~pursuant to~~ s. 403.522(10).

3677 (6) The issuance or denial of the certification is ~~by the~~
3678 ~~board shall be~~ the final administrative action required as to
3679 that application.

3680 Section 60. Section 403.531, Florida Statutes, is amended
3681 to read:

3682 403.531 Effect of certification.--

3683 (1) Subject to the conditions set forth therein,
3684 certification shall constitute the sole license of the state and
3685 any agency as to the approval of the location of transmission
3686 line corridors and the construction, operation, and maintenance

413029
5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

3687 of transmission lines. The certification ~~is shall be~~ valid for
3688 the life of the transmission line, ~~if provided that~~ construction
3689 on, or condemnation or acquisition of, the right-of-way is
3690 commenced within 5 years after ~~of~~ the date of certification or
3691 such later date as may be authorized by the board.

3692 (2) (a) The certification authorizes ~~shall authorize~~ the
3693 licensee applicant to locate the transmission line corridor and
3694 to construct and maintain the transmission lines subject only to
3695 the conditions of certification set forth in the ~~such~~
3696 certification.

3697 (b) The certification may include conditions that ~~which~~
3698 constitute variances and exemptions from nonprocedural standards
3699 or rules regulations of the department or any other agency,
3700 which were expressly considered during the certification review
3701 ~~proceeding~~ unless waived by the agency as provided in s. 403.526
3702 ~~below~~ and which otherwise would be applicable to the location of
3703 the proposed transmission line corridor or the construction,
3704 operation, and maintenance of the transmission lines. ~~Each party~~
3705 ~~shall notify the applicant and other parties at the time~~
3706 ~~scheduled for the filing of the agency reports of any~~
3707 ~~nonprocedural requirements not specifically listed in the~~
3708 ~~application from which a variance, exemption, exception, or~~
3709 ~~other relief is necessary in order for the board to certify any~~
3710 ~~corridor proposed for certification. Failure of such~~
3711 ~~notification shall be treated as a waiver from the nonprocedural~~
3712 ~~requirements of that agency.~~

3713 (3) (a) The certification shall be in lieu of any license,
3714 permit, certificate, or similar document required by any state,
3715 regional, or local agency under ~~pursuant to,~~ but not limited to,
413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

3716 chapter 125, chapter 161, chapter 163, chapter 166, chapter 186,
3717 chapter 253, chapter 258, chapter 298, chapter 370, chapter 372,
3718 chapter 373, chapter 376, chapter 380, chapter 381, ~~chapter 387,~~
3719 chapter 403, chapter 404, the Florida Transportation Code, or 33
3720 U.S.C. s. 1341.

3721 (b) On certification, any license, easement, or other
3722 interest in state lands, except those the title of which is
3723 vested in the Board of Trustees of the Internal Improvement
3724 Trust Fund, shall be issued by the appropriate agency as a
3725 ministerial act. The applicant shall ~~be required to~~ seek any
3726 necessary interest in state lands the title to which is vested
3727 in the Board of Trustees of the Internal Improvement Trust Fund
3728 from the board of trustees before, during, or after the
3729 certification proceeding, and certification may be made
3730 contingent upon issuance of the appropriate interest in realty.
3731 However, ~~neither~~ the applicant and ~~nor~~ any party to the
3732 certification proceeding may not directly or indirectly raise or
3733 relitigate any matter that ~~which~~ was or could have been an issue
3734 in the certification proceeding in any proceeding before the
3735 Board of Trustees of the Internal Improvement Trust Fund wherein
3736 the applicant is seeking a necessary interest in state lands,
3737 but the information presented in the certification proceeding
3738 shall be available for review by the board of trustees and its
3739 staff.

3740 (4) This act does ~~shall~~ not in any way affect the
3741 ratemaking powers of the commission under chapter 366. This act
3742 does ~~shall also~~ not in any way affect the right of any local
3743 government to charge appropriate fees or require that

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

3744 construction be in compliance with the National Electrical
3745 Safety Code, as prescribed by the commission.

3746 (5) A ~~No~~ term or condition of certification may not ~~shall~~
3747 be interpreted to preclude the postcertification exercise by any
3748 party of whatever procedural rights it may have under chapter
3749 120, including those related to rulemaking proceedings.

3750 Section 61. Section 403.5312, Florida Statutes, is amended
3751 to read:

3752 403.5312 Filing ~~Recording~~ of notice of certified corridor
3753 route.--

3754 (1) Within 60 days after certification of a directly
3755 associated transmission line under ~~pursuant to~~ ss. 403.501-
3756 403.518 or a transmission line corridor under ~~pursuant to~~ ss.
3757 403.52-403.5365, the applicant shall file with the department
3758 and, in accordance with s. 28.222, with the clerk of the circuit
3759 court for each county through which the corridor will pass, a
3760 notice of the certified route.

3761 (2) The notice must ~~shall~~ consist of maps or aerial
3762 photographs in the scale of 1:24,000 which clearly show the
3763 location of the certified route and must ~~shall~~ state that the
3764 certification of the corridor will result in the acquisition of
3765 rights-of-way within the corridor. Each clerk shall record the
3766 filing in the official record of the county for the duration of
3767 the certification or until such time as the applicant certifies
3768 to the department and the clerk that all lands required for the
3769 transmission line rights-of-way within the corridor have been
3770 acquired within the ~~such~~ county, whichever is sooner.

3771 (3) The recording of this notice does ~~shall~~ not constitute
3772 a lien, cloud, or encumbrance on real property.

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

3773 Section 62. Section 403.5315, Florida Statutes, is amended
3774 to read:

3775 403.5315 Modification of certification.--A certification
3776 may be modified after issuance in any one of the following ways:

3777 (1) The board may delegate to the department the authority
3778 to modify specific conditions in the certification.

3779 (2) The licensee may file a petition for modification with
3780 the department or the department may initiate the modification
3781 upon its own initiative.

3782 (a) A petition for modification must set forth:

3783 1. The proposed modification;

3784 2. The factual reasons asserted for the modification; and

3785 3. The anticipated additional environmental effects of the
3786 proposed modification.

3787 (b) ~~(2)~~ The department may modify the terms and conditions
3788 of the certification if no party objects in writing to ~~the~~ such
3789 modification within 45 days after notice by mail to the last
3790 address of record in the certification proceeding, and if no
3791 other person whose substantial interests will be affected by the
3792 modification objects in writing within 30 days after issuance of
3793 public notice.

3794 (c) If objections are raised or the department denies the
3795 proposed modification, the licensee may file a request for
3796 hearing on the modification with the department. Such a request
3797 shall be handled pursuant to chapter 120.

3798 (d) A request for hearing referred to the Division of
3799 Administrative Hearings shall be disposed of in the same manner
3800 as an application but with time periods established by the
3801 administrative law judge commensurate with the significance of

413029
5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

3802 ~~the modification requested. If objections are raised, the~~
3803 ~~applicant may file a petition for modification pursuant to~~
3804 ~~subsection (3).~~

3805 ~~(3) The applicant or the department may file a petition~~
3806 ~~for modification with the department and the Division of~~
3807 ~~Administrative Hearings setting forth:~~

3808 ~~(a) The proposed modification;~~

3809 ~~(b) The factual reasons asserted for the modification; and~~

3810 ~~(c) The anticipated additional environmental effects of~~
3811 ~~the proposed modification.~~

3812 ~~(4) Petitions filed pursuant to subsection (3) shall be~~
3813 ~~disposed of in the same manner as an application but with time~~
3814 ~~periods established by the administrative law judge commensurate~~
3815 ~~with the significance of the modification requested.~~

3816 Section 63. Section 403.5317, Florida Statutes, is created
3817 to read:

3818 403.5317 Postcertification activities.--

3819 (1) (a) If, subsequent to certification, a licensee
3820 proposes any material change to the application or prior
3821 amendments, the licensee shall submit to the department a
3822 written request for amendment and description of the proposed
3823 change to the application. The department shall, within 30 days
3824 after the receipt of the request for the amendment, determine
3825 whether the proposed change to the application requires a
3826 modification of the conditions of certification.

3827 (b) If the department concludes that the change would not
3828 require a modification of the conditions of certification, the
3829 department shall notify, in writing, the licensee, all agencies,
3830 and all parties of the approval of the amendment.

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

3831 (c) If the department concludes that the change would
3832 require a modification of the conditions of certification, the
3833 department shall notify the licensee that the proposed change to
3834 the application requires a request for modification under s.
3835 403.5315.

3836 (2) Postcertification submittals filed by a licensee with
3837 one or more agencies are for the purpose of monitoring for
3838 compliance with the issued certification. Each submittal must be
3839 reviewed by each agency on an expedited and priority basis
3840 because each facility certified under this act is a critical
3841 infrastructure facility. Postcertification review may not be
3842 completed more than 90 days after complete information for a
3843 segment of the certified transmission line is submitted to the
3844 reviewing agencies.

3845 Section 64. Section 403.5363, Florida Statutes, is created
3846 to read:

3847 403.5363 Public notices; requirements.--

3848 (1) (a) The applicant shall arrange for the publication of
3849 the notices specified in paragraph (b).

3850 1. The notices shall be published in newspapers of general
3851 circulation within counties crossed by the transmission line
3852 corridors proper for certification. The required newspaper
3853 notices for filing of an application and for the certification
3854 hearing shall be one-half page in size in a standard-size
3855 newspaper or a full page in a tabloid-size newspaper and
3856 published in a section of the newspaper other than the section
3857 for legal notices. These two notices must include a map
3858 generally depicting all transmission corridors proper for
3859 certification. A newspaper of general circulation shall be the

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

3860 newspaper within a county crossed by a transmission line
3861 corridor proper for certification which newspaper has the
3862 largest daily circulation in that county and has its principal
3863 office in that county. If the newspaper having the largest daily
3864 circulation has its principal office outside the county, the
3865 notices must appear in both the newspaper having the largest
3866 circulation in that county and in a newspaper authorized to
3867 publish legal notices in that county.

3868 2. The department shall adopt rules specifying the content
3869 of the newspaper notices.

3870 3. All notices published by the applicant shall be paid
3871 for by the applicant and shall be in addition to the application
3872 fee.

3873 (b) Public notices that must be published under this
3874 section include:

3875 1. The notice of the filing of an application, which must
3876 include a description of the proceedings required by this act.
3877 The notice must describe the provisions of s. 403.531(1) and (2)
3878 and give the date by which notice of intent to be a party or a
3879 petition to intervene in accordance with s. 403.527(2) must be
3880 filed. This notice must be published no more than 21 days after
3881 the application is filed.

3882 2. The notice of the certification hearing and any other
3883 public hearing permitted under s. 403.527. The notice must
3884 include the date by which a person wishing to appear as a party
3885 must file the notice to do so. The notice of the certification
3886 hearing must be published at least 65 days before the date set
3887 for the certification hearing.

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

3888 3. The notice of the cancellation of the certification
3889 hearing, if applicable. The notice must be published at least 3
3890 days before the date of the originally scheduled certification
3891 hearing.

3892 4. The notice of the filing of a proposal to modify the
3893 certification submitted under s. 403.5315, if the department
3894 determines that the modification would require relocation or
3895 expansion of the transmission line right-of-way or a certified
3896 substation.

3897 (2) The proponent of an alternate corridor shall arrange
3898 for the publication of the filing of the proposal for an
3899 alternate corridor, the revised time schedules, the date by
3900 which newly affected persons or agencies may file the notice of
3901 intent to become a party, and the date of the rescheduled
3902 hearing. A notice listed in this subsection must be published in
3903 a newspaper of general circulation within the county or counties
3904 crossed by the proposed alternate corridor and comply with the
3905 content requirements set forth in paragraph (1) (a). The notice
3906 must be published not less than 50 days before the rescheduled
3907 certification hearing.

3908 (3) The department shall arrange for the publication of
3909 the following notices in the manner specified by chapter 120:

3910 (a) The notice of the filing of an application and the
3911 date by which a person intending to become a party must file a
3912 petition to intervene or a notice of intent to be a party. The
3913 notice must be published no later than 21 days after the
3914 application has been filed.

3915 (b) The notice of any administrative hearing for
3916 certification, if applicable. The notice must be published not
413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

3917 less than 65 days before the date set for a hearing, except that
3918 notice for a rescheduled certification hearing after acceptance
3919 of an alternative corridor must be published not less than 50
3920 days before the date set for the hearing.

3921 (c) The notice of the cancellation of a certification
3922 hearing, if applicable. The notice must be published not later
3923 than 7 days before the date of the originally scheduled
3924 certification hearing.

3925 (d) The notice of the hearing before the siting board, if
3926 applicable.

3927 (e) The notice of stipulations, proposed agency action, or
3928 a petition for modification.

3929 Section 65. Section 403.5365, Florida Statutes, is amended
3930 to read:

3931 403.5365 Fees; disposition.--The department shall charge
3932 the applicant the following fees, as appropriate, which, unless
3933 otherwise specified, shall be paid into the Florida Permit Fee
3934 Trust Fund:

3935 (1) An application fee.

3936 (a) The application fee shall be of \$100,000, plus \$750
3937 per mile for each mile of corridor in which the transmission
3938 line right-of-way is proposed to be located within an existing
3939 electric ~~electrical~~ transmission line right-of-way or within any
3940 existing right-of-way for any road, highway, railroad, or other
3941 aboveground linear facility, or \$1,000 per mile for each mile of
3942 electric transmission line corridor proposed to be located
3943 outside the ~~such~~ existing right-of-way.

3944 (b)-(a) Sixty percent of the fee shall go to the department
3945 to cover any costs associated with coordinating the review of
413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

3946 ~~reviewing~~ and acting upon the application and any costs for
3947 field services associated with monitoring construction and
3948 operation of the electric transmission line facility.

3949 ~~(c)(b) The following percentage Twenty percent of the fees~~
3950 ~~specified under this section, except postcertification fees,~~
3951 shall be transferred to the Administrative Trust Fund of the
3952 Division of Administrative Hearings of the Department of
3953 Management Services:-

3954 1. Five percent to compensate for expenses from the
3955 initial exercise of duties associated with the filing of an
3956 application.

3957 2. An additional 10 percent if an administrative hearing
3958 under s. 403.527 is held.

3959 ~~(d)1.(e)~~ Upon written request with proper itemized
3960 accounting within 90 days after final agency action by the
3961 siting board or the department or the withdrawal of the
3962 application, the agencies that prepared reports under s. 403.526
3963 or s. 403.5271 or participated in a hearing under s. 403.527 or
3964 s. 403.5271 may submit a written request to the department for
3965 reimbursement of expenses incurred during the certification
3966 proceedings. The request must contain an accounting of expenses
3967 incurred, which may include time spent reviewing the
3968 application, department shall reimburse the expenses and costs
3969 ~~of the Department of Community Affairs, the Fish and Wildlife~~
3970 ~~Conservation Commission, the water management district, regional~~
3971 ~~planning council, and local government in the jurisdiction of~~
3972 ~~which the transmission line is to be located. Such reimbursement~~
3973 ~~shall be authorized for the preparation of any studies required~~
3974 of the agencies by this act, ~~and for agency travel and per diem~~
413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

3975 to attend any hearing held under ~~pursuant to~~ this act, and for
3976 the local government or regional planning council providing
3977 additional notice of the informational public meeting. The
3978 department shall review the request and verify whether a claimed
3979 expense is valid. Valid expenses shall be reimbursed; however,
3980 if to participate in the proceedings. In the event the amount of
3981 funds available for reimbursement allocation is insufficient to
3982 provide for full compensation ~~complete reimbursement~~ to the
3983 agencies, reimbursement shall be on a prorated basis.

3984 2. If the application review is held in abeyance for more
3985 than 1 year, the agencies may submit a request for reimbursement
3986 under subparagraph 1.

3987 (e) ~~(d)~~ If any sums are remaining, the department shall
3988 retain them for its use in the same manner as is otherwise
3989 authorized by this section; ~~provided, however, that~~ if the
3990 certification application is withdrawn, the remaining sums shall
3991 be refunded to the applicant within 90 days after withdrawal.

3992 (2) An amendment fee.

3993 (a) If no corridor alignment change is proposed by the
3994 amendment, no amendment fee shall be charged.

3995 (b) If a corridor alignment change under s. 403.5275 is
3996 proposed by the applicant, an additional fee of a minimum of
3997 \$2,000 and \$750 per mile shall be submitted to the department
3998 for use in accordance with this act.

3999 (c) If an amendment is required to address issues,
4000 including alternate corridors under ~~pursuant to~~ s. 403.5271,
4001 raised by the department or other parties, no fee for the ~~such~~
4002 amendment shall be charged.

4003 (3) A certification modification fee.

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

4004 (a) If no corridor alignment change is proposed by the
4005 licensee applicant, the modification fee shall be \$4,000.

4006 (b) If a corridor alignment change is proposed by the
4007 licensee applicant, the fee shall be \$1,000 for each mile of
4008 realignment plus an amount not to exceed \$10,000 to be fixed by
4009 rule on a sliding scale based on the load-carrying capability
4010 and configuration of the transmission line for use in accordance
4011 with subsection (1) ~~(2)~~.

4012 Section 66. Subsection (1) of section 403.537, Florida
4013 Statutes, is amended to read:

4014 403.537 Determination of need for transmission line;
4015 powers and duties.--

4016 (1)(a) Upon request by an applicant or upon its own
4017 motion, the Florida Public Service Commission shall schedule a
4018 public hearing, after notice, to determine the need for a
4019 transmission line regulated by the Florida Electric Transmission
4020 Line Siting Act, ss. 403.52-403.5365. The ~~Such~~ notice shall be
4021 published at least 21 ~~45~~ days before the date set for the
4022 hearing and shall be published by the applicant in at least one-
4023 quarter page size notice in newspapers of general circulation,
4024 and by the commission in the manner specified in chapter 120 in
4025 ~~the Florida Administrative Weekly~~, by giving notice to counties
4026 and regional planning councils in whose jurisdiction the
4027 transmission line could be placed, and by giving notice to any
4028 persons who have requested to be placed on the mailing list of
4029 the commission for this purpose. Within 21 days after receipt of
4030 a request for determination by an applicant, the commission
4031 shall set a date for the hearing. The hearing shall be held
4032 pursuant to s. 350.01 within 45 days after the filing of the

413029
5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

4033 request, and a decision shall be rendered within 60 days after
4034 such filing.

4035 (b) The commission shall be the sole forum in which to
4036 determine the need for a transmission line. The need for a
4037 transmission line may not be raised or be the subject of review
4038 in another proceeding.

4039 (c)~~(b)~~ In the determination of need, the commission shall
4040 take into account the need for electric system reliability and
4041 integrity, the need for abundant, low-cost electrical energy to
4042 assure the economic well-being of the residents ~~citizens~~ of this
4043 state, the appropriate starting and ending point of the line,
4044 and other matters within its jurisdiction deemed relevant to the
4045 determination of need. The appropriate starting and ending
4046 points of the electric transmission line must be verified by the
4047 commission in its determination of need.

4048 (d)~~(e)~~ The determination by the commission of the need for
4049 the transmission line, as defined in s. 403.522(22) ~~s.~~
4050 ~~403.522(21)~~, is binding on all parties to any certification
4051 proceeding under ~~pursuant to~~ the Florida Electric Transmission
4052 Line Siting Act and is a condition precedent to the conduct of
4053 the certification hearing prescribed therein. An order entered
4054 pursuant to this section constitutes final agency action.

4055 Section 67. Subsection (3) of section 373.441, Florida
4056 Statutes, is amended to read:

4057 373.441 Role of counties, municipalities, and local
4058 pollution control programs in permit processing.--

4059 (3) The department shall review environmental resource
4060 permit applications for electrical distribution and transmission
4061 lines and other facilities related to the production,

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

4062 transmission, and distribution of electricity which are not
4063 certified under ss. 403.52-403.5365, the Florida Electric
4064 Transmission Line Siting Act, regulated under this part.

4065 Section 68. Subsection (30) of section 403.061, Florida
4066 Statutes, is amended to read:

4067 403.061 Department; powers and duties.--The department
4068 shall have the power and the duty to control and prohibit
4069 pollution of air and water in accordance with the law and rules
4070 adopted and promulgated by it and, for this purpose, to:

4071 (30) Establish requirements by rule that reasonably
4072 protect the public health and welfare from electric and magnetic
4073 fields associated with existing 230 kV or greater electrical
4074 transmission lines, new 230 kV and greater electrical
4075 transmission lines for which an application for certification
4076 under the Florida Electric Transmission Line Siting Act, ss.
4077 403.52-403.5365, is not filed, new or existing electrical
4078 transmission or distribution lines with voltage less than 230
4079 kV, and substation facilities. Notwithstanding any other
4080 provision in this chapter or any other law of this state or
4081 political subdivision thereof, the department shall have
4082 exclusive jurisdiction in the regulation of electric and
4083 magnetic fields associated with all electrical transmission and
4084 distribution lines and substation facilities. However, nothing
4085 herein shall be construed as superseding or repealing the
4086 provisions of s. 403.523(1) and (10).

4087
4088 The department shall implement such programs in conjunction with
4089 its other powers and duties and shall place special emphasis on

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

4090 reducing and eliminating contamination that presents a threat to
4091 humans, animals or plants, or to the environment.

4092 Section 69. Paragraph (a) of subsection (3) of section
4093 403.0876, Florida Statutes, is amended to read:

4094 403.0876 Permits; processing.--

4095 (3)(a) The department shall establish a special unit for
4096 permit coordination and processing to provide expeditious
4097 processing of department permits which the district offices are
4098 unable to process expeditiously and to provide accelerated
4099 processing of certain permits or renewals for economic and
4100 operating stability. The ability of the department to process
4101 applications under ~~pursuant to~~ this subsection in a more timely
4102 manner than allowed by subsections (1) and (2) is dependent upon
4103 the timely exchange of information between the applicant and the
4104 department and the intervention of outside parties as allowed by
4105 law. An applicant may request the processing of its permit
4106 application by the special unit if the application is from an
4107 area of high unemployment or low per capita income, is from a
4108 business or industry that is the primary employer within an
4109 area's labor market, or is in an industry with respect to which
4110 the complexities involved in the review of the application
4111 require special skills uniquely available in the headquarters
4112 office. The department may require the applicant to waive the
4113 90-day time limitation for department issuance or denial of the
4114 permit once for a period not to exceed 90 days. The department
4115 may require a special fee to cover the direct cost of processing
4116 special applications in addition to normal permit fees and
4117 costs. The special fee may not exceed \$10,000 per permit
4118 required. Applications for renewal permits, but not applications
413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

4119 for initial permits, required for facilities pursuant to the
4120 Electrical Power Plant Siting Act or the Florida Electric
4121 Transmission Line Siting Act may be processed under this
4122 subsection. Personnel staffing the special unit shall have
4123 lengthy experience in permit processing.

4124 Section 70. Paragraph (b) of subsection (3) of section
4125 403.809, Florida Statutes, is amended to read:

4126 403.809 Environmental districts; establishment; managers;
4127 functions.--

4128 (3)

4129 (b) The processing of all applications for permits,
4130 licenses, certificates, and exemptions shall be accomplished at
4131 the district center or the branch office, except for those
4132 applications specifically assigned elsewhere in the department
4133 under s. 403.805 or to the water management districts under s.
4134 403.812 and those applications assigned by interagency agreement
4135 as provided in this act. However, the secretary, as head of the
4136 department, may not delegate to district or subdistrict
4137 managers, water management districts, or any unit of local
4138 government the authority to act on the following types of permit
4139 applications:

4140 1. Permits issued under s. 403.0885, except such permit
4141 issuance may be delegated to district managers.

4142 2. Construction of major air pollution sources.

4143 3. Certifications under the Florida Electrical Power Plant
4144 Siting Act or the Florida Electric Transmission Line Siting Act
4145 and the associated permit issued under s. 403.0885, if
4146 applicable.

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

4147 4. Permits issued under s. 403.0885 to steam electric
4148 generating facilities regulated pursuant to 40 C.F.R. part 423.

4149 5. Permits issued under s. 378.901.

4150 Section 71. Sections 403.5253 and 403.5369, Florida
4151 Statutes, are repealed.

4152 Section 72. By November 1, 2006, the Department of
4153 Environmental Protection shall provide to the Governor, the
4154 President of the Senate, and the Speaker of the House of
4155 Representatives a report detailing the state's leadership by
4156 example in energy conservation and energy efficiency. The report
4157 must include a description of state programs designed to achieve
4158 energy conservation and energy efficiency at state-owned
4159 facilities, such as the guaranteed energy performance savings
4160 contracting pursuant to s. 489.145, Florida Statutes, and the
4161 inclusion of alternative fuel vehicles in state fleets. The
4162 report must describe the costs of implementation, details of the
4163 programs, and current and projected energy and cost savings.

4164 Section 73. Section 403.885, Florida Statutes, is amended
4165 to read:

4166 403.885 Water Projects ~~Stormwater management; wastewater~~
4167 ~~management; and Water Restoration Grant Program.--~~

4168 (1) The Department of Environmental Protection shall
4169 administer a grant program to use funds transferred pursuant to
4170 s. 212.20 to the Ecosystem Management and Restoration Trust Fund
4171 or other moneys as appropriated by the Legislature for water
4172 quality improvement, stormwater management, wastewater
4173 management, and water restoration and other water projects as
4174 specifically appropriated by the Legislature ~~project grants.~~

4175 Eligible recipients of such grants include counties,
413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

4176 municipalities, water management districts, and special
4177 districts that have legal responsibilities for water quality
4178 improvement, water management, stormwater management, wastewater
4179 management, lake and river water restoration projects, and-
4180 drinking water projects are not eligible for funding pursuant to
4181 this section.

4182 (2) The grant program shall provide for the evaluation of
4183 annual grant proposals. The department shall evaluate such
4184 proposals to determine if they:

4185 (a) Protect public health or ~~and~~ the environment.

4186 (b) Implement plans developed pursuant to the Surface
4187 Water Improvement and Management Act created in part IV of
4188 chapter 373, other water restoration plans required by law,
4189 management plans prepared pursuant to s. 403.067, or other plans
4190 adopted by local government for water quality improvement and
4191 water restoration.

4192 ~~(3) In addition to meeting the criteria in subsection (2),~~
4193 ~~annual grant proposals must also meet the following~~
4194 ~~requirements:~~

4195 ~~(a) An application for a stormwater management project may~~
4196 ~~be funded only if the application is approved by the water~~
4197 ~~management district with jurisdiction in the project area.~~
4198 ~~District approval must be based on a determination that the~~
4199 ~~project provides a benefit to a priority water body.~~

4200 ~~(b) Except as provided in paragraph (c), an application~~
4201 ~~for a wastewater management project may be funded only if:~~

4202 ~~1. The project has been funded previously through a line~~
4203 ~~item in the General Appropriations Act; and~~

4204 ~~2. The project is under construction.~~

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

4205 ~~(c) An application for a wastewater management project~~
4206 ~~that would qualify as a water pollution control project and~~
4207 ~~activity in s. 403.1838 may be funded only if the project~~
4208 ~~sponsor has submitted an application to the department for~~
4209 ~~funding pursuant to that section.~~

4210 ~~(4) All project applicants must provide local matching~~
4211 ~~funds as follows:~~

4212 ~~(a) An applicant for state funding of a stormwater~~
4213 ~~management project shall provide local matching funds equal to~~
4214 ~~at least 50 percent of the total cost of the project; and~~

4215 ~~(b) An applicant for state funding of a wastewater~~
4216 ~~management project shall provide matching funds equal to at~~
4217 ~~least 25 percent of the total cost of the project.~~

4218
4219 ~~The requirement for matching funds may be waived if the~~
4220 ~~applicant is a financially disadvantaged small local government~~
4221 ~~as defined in subsection (5).~~

4222 ~~(5) Each fiscal year, at least 20 percent of the funds~~
4223 ~~available pursuant to this section shall be used for projects to~~
4224 ~~assist financially disadvantaged small local governments. For~~
4225 ~~purposes of this section, the term "financially disadvantaged~~
4226 ~~small local government" means a municipality having a population~~
4227 ~~of 7,500 or less, a county having a population of 35,000 or~~
4228 ~~less, according to the latest decennial census and a per capita~~
4229 ~~annual income less than the state per capita annual income as~~
4230 ~~determined by the United States Department of Commerce, or a~~
4231 ~~county in an area designated by the Governor as a rural area of~~
4232 ~~critical economic concern pursuant to s. 288.0656. Grants made~~

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

4233 ~~to these eligible local governments shall not require matching~~
4234 ~~local funds.~~

4235 ~~(6) Each year, stormwater management and wastewater~~
4236 ~~management projects submitted for funding through the~~
4237 ~~legislative process shall be submitted to the department by the~~
4238 ~~appropriate fiscal committees of the House of Representatives~~
4239 ~~and the Senate. The department shall review the projects and~~
4240 ~~must provide each fiscal committee with a list of projects that~~
4241 ~~appear to meet the eligibility requirements under this grant~~
4242 ~~program.~~

4243 Section 74. For the 2006-2007 fiscal year, the sum of
4244 \$61,379 is appropriated from the General Revenue Fund to the
4245 Department of Revenue for the purpose of administering the
4246 energy-efficient products sales tax holiday.

4247 Section 75. For the 2006-2007 fiscal year, the sum of
4248 \$8,587,000 in nonrecurring funds is appropriated from the
4249 General Revenue Fund and \$6,413,000 in nonrecurring funds is
4250 appropriated from the Grants and Donations Trust Fund in the
4251 Department of Environmental Protection for the purpose of
4252 funding the Renewable Energy Technologies Grants program
4253 authorized in s. 377.804, Florida Statutes. From the General
4254 Revenue Funds, \$5,000,000 are contingent upon the coordination
4255 between the Department of Environmental Protection and the
4256 Department of Agriculture and Consumer Services pursuant to s.
4257 377.804(6), Florida Statutes.

4258 Section 76. For the 2006-2007 fiscal year, the sum of \$2.5
4259 million in nonrecurring funds is appropriated from the General
4260 Revenue Fund to the Department of Environmental Protection for

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

4261 the purpose of funding commercial and consumer solar incentives
4262 authorized in s. 377.806, Florida Statutes.

4263 Section 77. Except as otherwise expressly provided in this
4264 act, this act shall take effect upon becoming a law.

4265

4266 ===== T I T L E A M E N D M E N T =====

4267 Remove the entire title and insert:

4268 A bill to be entitled

4269 An act relating to energy; providing legislative findings
4270 and intent; creating s. 377.801, F.S.; creating the
4271 "Florida Renewable Energy Technologies and Energy
4272 Efficiency Act"; creating s. 377.802, F.S.; stating the
4273 purpose of the act; creating s. 377.803, F.S.; providing
4274 definitions; creating s. 377.804, F.S.; creating the
4275 Renewable Energy Technologies Grants Program; providing
4276 program requirements and procedures, including matching
4277 funds; requiring the Department of Environmental
4278 Protection to adopt rules and coordinate with the
4279 Department of Agriculture and Consumer Services; requiring
4280 joint departmental approval for the funding of any
4281 project; specifying a period during which the sale of
4282 energy-efficient products is exempt from certain tax;
4283 providing a limitation; providing a definition;
4284 prohibiting purchase of products by certain payment
4285 methods; providing that certain purchases or attempts to
4286 purchase are unfair methods of competition and punishable
4287 as such; authorizing the Department of Revenue to adopt
4288 rules; creating s. 377.806, F.S.; creating the Solar
4289 Energy System Incentives Program; providing program

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

4290 requirements, procedures, and limitations; requiring the
4291 Department of Environmental Protection to adopt rules;
4292 creating s. 377.901, F.S.; creating the Florida Energy
4293 Council within the Department of Environmental Protection;
4294 providing purpose and composition; providing for
4295 appointment of members and terms; providing for
4296 reimbursement for travel expenses and per diem; requiring
4297 the department to provide certain services to the council;
4298 providing rulemaking authority; amending s. 212.08, F.S.;
4299 providing definitions for the terms "biodiesel,"
4300 "ethanol," and "hydrogen fuel cells"; providing tax
4301 exemptions in the form of a rebate for the sale or use of
4302 certain equipment, machinery, and other materials for
4303 renewable energy technologies; providing eligibility
4304 requirements and tax credit limits; authorizing the
4305 Department of Revenue to adopt rules; directing the
4306 Department of Environmental Protection to determine and
4307 publish certain information relating to such exemptions;
4308 providing for expiration of the exemption; amending s.
4309 213.053, F.S.; authorizing the Department of Revenue to
4310 share certain information with the Department of
4311 Environmental Protection for specified purposes; amending
4312 s. 220.02, F.S.; providing the order of application of the
4313 renewable energy technologies investment tax credit;
4314 creating s. 220.192, F.S.; providing definitions;
4315 establishing a corporate tax credit for certain costs
4316 related to renewable energy technologies; providing
4317 eligibility requirements and credit limits; providing
4318 certain authority to the Department of Environmental

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

4319 Protection and the Department of Revenue; directing the
4320 Department of Environmental Protection to determine and
4321 publish certain information; providing for expiration of
4322 the tax credit; creating s. 220.193, F.S.; creating the
4323 Florida renewable energy production credit; providing
4324 definitions; providing a tax credit for the production and
4325 sale of renewable Florida energy; providing for the use
4326 and transfer of the tax credit; authorizing the Department
4327 of Revenue to adopt rules concerning the tax credit;
4328 amending s. 220.13, F.S.; providing an addition to the
4329 definition of "adjusted federal income"; amending s.
4330 186.801, F.S.; revising the provisions of electric utility
4331 10-year site plans to include the effect on fuel
4332 diversity; amending s. 366.04, F.S.; revising the safety
4333 standards for public utilities; amending s. 366.05, F.S.;
4334 authorizing the Public Service Commission to adopt certain
4335 construction standards and make certain determinations;
4336 directing the commission to conduct a study and provide a
4337 report by a certain date; creating s. 366.92, F.S.;
4338 relating to the Florida renewable energy policy; providing
4339 intent; providing definitions; directing the Florida
4340 Public Service Commission to adopt goals for increasing
4341 the use of Florida renewable energy resources; authorizing
4342 the commission to adopt rules; requiring the commission to
4343 conduct a study and review; providing criteria for such
4344 study and a review; requiring the commission to provide a
4345 review and recommendations to the Governor and Legislature
4346 by a certain date; amending s. 403.503, F.S.; revising and
4347 providing definitions applicable to the Florida Electrical

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

4348 Power Plant Siting Act; amending s. 403.504, F.S.;

4349 providing the Department of Environmental Protection with

4350 additional powers and duties relating to the Florida

4351 Electrical Power Plant Siting Act; amending s. 403.5055,

4352 F.S.; revising provisions for certain permits associated

4353 with applications for electrical power plant

4354 certification; amending s. 403.506, F.S.; revising

4355 provisions relating to applicability and certification of

4356 certain power plants; amending s. 403.5064, F.S.; revising

4357 provisions for distribution of applications and schedules

4358 relating to certification; amending s. 403.5065, F.S.;

4359 revising provisions relating to the appointment of

4360 administrative law judges and specifying their powers and

4361 duties; amending s. 403.5066, F.S.; revising provisions

4362 relating to the determination of completeness for certain

4363 applications; creating s. 403.50663, F.S.; authorizing

4364 certain local governments and regional planning councils

4365 to hold an informational public meeting about a proposed

4366 electrical power plant or associated facilities; providing

4367 requirements and procedures therefor; creating s.

4368 403.50665, F.S.; requiring local governments to file

4369 certain land use determinations; providing requirements

4370 and procedures therefor; repealing s. 403.5067, F.S.,

4371 relating to the determination of sufficiency for certain

4372 applications; amending s. 403.507, F.S.; revising required

4373 preliminary statement provisions for affected agencies;

4374 requiring a report as a condition precedent to the project

4375 analysis and certification hearing; amending s. 403.508,

4376 F.S.; revising provisions relating to land use and

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

4377 certification hearings, including cancellation and
4378 responsibility for payment of expenses and costs;
4379 requiring certain notice; amending s. 403.509, F.S.;
4380 revising provisions relating to the final disposition of
4381 certain applications; providing requirements and
4382 provisions with respect thereto; amending s. 403.511,
4383 F.S.; revising provisions relating to the effect of
4384 certification for the construction and operation of
4385 proposed electrical power plants; providing that issuance
4386 of certification meets certain coastal zone consistency
4387 requirements; creating s. 403.5112, F.S.; requiring filing
4388 of notice for certified corridor routes; providing
4389 requirements and procedures with respect thereto; creating
4390 s. 403.5113, F.S.; authorizing postcertification
4391 amendments for power plant site certification
4392 applications; providing requirements and procedures with
4393 respect thereto; amending s. 403.5115, F.S.; requiring
4394 certain public notice for activities relating to
4395 electrical power plant site application, certification,
4396 and land use determination; providing requirements and
4397 procedures with respect thereto; directing the Department
4398 of Environmental Protection to maintain certain lists and
4399 provide copies of certain publications; amending s.
4400 403.513, F.S.; revising provisions for judicial review of
4401 appeals relating to electrical power plant site
4402 certification; amending s. 403.516, F.S.; revising
4403 provisions relating to modification of certification for
4404 electrical power plant sites; amending s. 403.517, F.S.;

4405 revising provisions relating to supplemental applications

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

4406 for sites certified for ultimate site capacity; amending
4407 s. 403.5175, F.S.; revising provisions relating to
4408 existing electrical power plant site certification;
4409 revising the procedure for reviewing and processing
4410 applications; requiring additional information to be
4411 included in certain applications; amending s. 403.518,
4412 F.S.; revising the allocation of proceeds from certain
4413 fees collected; providing for reimbursement of certain
4414 expenses; directing the Department of Environmental
4415 Protection to establish rules for determination of certain
4416 fees; eliminating certain operational license fees;
4417 providing for the application, processing, approval, and
4418 cancellation of electrical power plant certification;
4419 amending s. 403.519, F.S.; directing the Public Service
4420 Commission to consider fuel diversity and reliability in
4421 certain determinations; providing requirements and
4422 procedures for determination of need for certain power
4423 plants; providing an exemption from purchased power supply
4424 bid rules under certain circumstances; creating s. 366.93,
4425 F.S.; providing definitions; requiring the Public Service
4426 Commission to implement rules related to nuclear power
4427 plant cost recovery; requiring a report; amending s.
4428 403.52, F.S.; changing the short title to the "Florida
4429 Electric Transmission Line Siting Act"; amending s.
4430 403.521, F.S.; revising legislative intent; amending s.
4431 403.522, F.S.; revising definitions; defining the terms
4432 "licensee" and "maintenance and access roads"; amending s.
4433 403.523, F.S.; revising powers and duties of the
4434 Department of Environmental Protection; requiring the

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

4435 department to collect and process fees, to prepare a
4436 project analysis, to act as clerk for the siting board,
4437 and to administer and manage the terms and conditions of
4438 the certification order and supporting documents and
4439 records; amending s. 403.524, F.S.; revising provisions
4440 for applicability, certification, and exemptions under the
4441 act; revising provisions for notice by an electric utility
4442 of its intent to construct an exempt transmission line;
4443 amending s. 403.525, F.S.; providing for powers and duties
4444 of the administrative law judge designated by the Division
4445 of Administrative Hearings to conduct the required
4446 hearings; amending s. 403.5251, F.S.; revising application
4447 procedures and schedules; providing for the formal date of
4448 filing an application for certification and commencement
4449 of the certification review process; requiring the
4450 department to prepare a proposed schedule of dates for
4451 determination of completeness and other significant dates
4452 to be followed during the certification process; providing
4453 for the formal date of application distribution; requiring
4454 the applicant to provide notice of filing the application;
4455 amending s. 403.5252, F.S.; revising timeframes and
4456 procedures for determination of completeness of the
4457 application; requiring the department to consult with
4458 affected agencies; revising requirements for the
4459 department to file a statement of its determination of
4460 completeness with the Division of Administrative Hearings,
4461 the applicant, and all parties within a certain time after
4462 distribution of the application; revising requirements for
4463 the applicant to file a statement with the department, the

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

4464 division, and all parties, if the department determines
4465 the application is not complete; providing for the
4466 statement to notify the department whether the information
4467 will be provided; revising timeframes and procedures for
4468 contests of the determination by the department; providing
4469 for parties to a hearing on the issue of completeness;
4470 amending s. 403.526, F.S.; revising criteria and
4471 procedures for preliminary statements of issues, reports,
4472 and studies; revising timeframes; requiring that the
4473 preliminary statement of issues from each affected agency
4474 be submitted to the department and the applicant; revising
4475 criteria for the Department of Community Affairs' report;
4476 requiring the Department of Transportation, the Public
4477 Service Commission, and any other affected agency to
4478 prepare a project report; revising required content of the
4479 report; providing for notice of any nonprocedural
4480 requirements not listed in the application; providing for
4481 failure to provide such notification; providing for a
4482 recommendation for approval or denial of the application;
4483 providing that receipt of an affirmative determination of
4484 need is a condition precedent to further processing of the
4485 application; requiring that the department prepare a
4486 project analysis to be filed with the administrative law
4487 judge and served on all parties within a certain time;
4488 amending s. 403.527, F.S.; revising procedures and
4489 timeframes for the certification hearing conducted by the
4490 administrative law judge; revising provisions for notices
4491 and publication of notices, public hearings held by local
4492 governments, testimony at the public-hearing portion of

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

4493 the certification hearing, the order of presentations at
4494 the hearing, and consideration of certain communications
4495 by the administrative law judge; requiring the applicant
4496 to pay certain expenses and costs; requiring the
4497 administrative law judge to issue a recommended order
4498 disposing of the application; requiring that certain
4499 notices be made in accordance with specified requirements
4500 and within a certain time; requiring the Department of
4501 Transportation to be a party to the proceedings; providing
4502 for the administrative law judge to cancel the
4503 certification hearing and relinquish jurisdiction to the
4504 Department of Environmental Protection upon request by the
4505 applicant or the department; requiring the department and
4506 the applicant to publish notice of such cancellation;
4507 providing for parties to submit proposed recommended
4508 orders to the department when the certification hearing
4509 has been canceled; providing that the department prepare a
4510 recommended order for final action by the siting board
4511 when the hearing has been canceled; amending s. 403.5271,
4512 F.S.; revising procedures and timeframes for consideration
4513 of proposed alternate corridors; revising notice
4514 requirements; providing for notice of the filing of the
4515 alternate corridor and revised time schedules; providing
4516 for notice to agencies newly affected by the proposed
4517 alternate corridor; requiring the person proposing the
4518 alternate corridor to provide all data to the agencies
4519 within a certain time; providing for a determination by
4520 the department that the data is not complete; providing
4521 for withdrawal of the proposed alternate corridor upon

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

4522 such determination; requiring that agencies file reports
4523 with the applicant and the department which address the
4524 proposed alternate corridor; requiring that the department
4525 file with the administrative law judge, the applicant, and
4526 all parties a project analysis of the proposed alternate
4527 corridor; providing that the party proposing an alternate
4528 corridor has the burden of proof concerning the
4529 certifiability of the alternate corridor; amending s.
4530 403.5272, F.S.; revising procedures for informational
4531 public meetings; providing for informational public
4532 meetings held by regional planning councils; revising
4533 timeframes; amending s. 403.5275, F.S.; revising
4534 provisions for amendment to the application prior to
4535 certification; amending s. 403.528, F.S.; providing that a
4536 comprehensive application encompassing more than one
4537 proposed transmission line may be good cause for altering
4538 established time limits; amending s. 403.529, F.S.;
4539 revising provisions for final disposition of the
4540 application by the siting board; providing for the
4541 administrative law judge's or department's recommended
4542 order; amending s. 403.531, F.S.; revising provisions for
4543 conditions of certification; amending s. 403.5312, F.S.;
4544 requiring the applicant to file notice of a certified
4545 corridor route with the department; amending s. 403.5315,
4546 F.S.; revising the circumstances under which a
4547 certification may be modified after the certification has
4548 been issued; providing for procedures if objections are
4549 raised to the proposed modification; creating s. 403.5317,
4550 F.S.; providing procedures for changes proposed by the

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

4551 licensee after certification; requiring the department to
4552 determine within a certain time if the proposed change
4553 requires modification of the conditions of certification;
4554 requiring notice to the licensee, all agencies, and all
4555 parties of changes that are approved as not requiring
4556 modification of the conditions of certification; creating
4557 s. 403.5363, F.S.; requiring publication of certain
4558 notices by the applicant, the proponent of an alternate
4559 corridor, and the department; requiring the department to
4560 adopt rules specifying the content of such notices;
4561 amending s. 403.5365, F.S.; revising application fees and
4562 the distribution of fees collected; revising procedures
4563 for reimbursement of local governments and regional
4564 planning organizations; amending s. 403.537, F.S.;
4565 revising the schedule for notice of a public hearing by
4566 the Public Service Commission in order to determine the
4567 need for a transmission line; providing that the
4568 commission is the sole forum in which to determine the
4569 need for a transmission line; amending ss. 373.441,
4570 403.061, 403.0876, and 403.809, F.S.; conforming
4571 terminology to changes made by the act; repealing ss.
4572 403.5253 and 403.5369, F.S., relating to determination of
4573 sufficiency of application or amendment to the application
4574 and the application of the act to applications filed
4575 before a certain date; requiring the Department of
4576 Environmental Protection to provide a report to the
4577 Governor and Legislature by a certain date; providing
4578 requirements for such report; amending 403.885, F.S.;
4579 revising provisions and requirements relating to the

413029

5/2/2006 9:49:45 AM

Amendment No. (for drafter's use only)

4580 | stormwater management, wastewater management, and water
4581 | restoration grants program; providing for appropriations;
4582 | providing effective dates.