
**CHAPTER 62-17
ELECTRICAL POWER PLANT SITING**

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**PART I
POWER PLANT SITING**

62-17.011 General. (Repealed)

Rulemaking Authority 403.504(1), 403.517(1)(a) FS. Law Implemented 403.504(2)(3)(5), 403.517, 403.5175 FS. History - New 5-7-74, Amended 12-27-77, Formerly 17-17.01, Amended 5-9-83, Formerly 17-17.011, Amended 2-1-99, Repealed 2-16-12.

62-17.021 Definitions.

The words, terms and phrases used in Part I, unless otherwise indicated, shall have the meaning set forth in Section 403.503, Florida Statutes. In addition, the following words when used in Part I shall have the indicated meanings:

(1) "Abandonment" means the procedure by which the Board releases all or part of a site from the terms and conditions of a certification previously granted.

(2) "Clerk of the Siting Board" means the person designated as the clerk of the department pursuant to Rule 62-103.050, F.A.C.

(3) "Construction" means any clearing of land, excavation or other action which would alter the physical environment or ecology of the site, but does not include those activities essential for surveying, preliminary site evaluation or environmental studies.

(4) "Directly associated facility" shall have the same meaning as the term "associated facilities" in Section 403.503(13), F.S. These terms include associated transmission lines if the transmission lines are directly connected to the plant, or if the transmission lines are brought in at the applicant's option.

(5) "Electronic Copies" means documentation submitted by the applicant which is stored on electronic media (for example, compact disc) in a manner suitable for ease of copying and pasting text or graphics into word processing software. Acceptable formats for electronic copies include Microsoft Word for Windows Versions 5.0 or higher; Rich Text Format, and portable document format (pdf). Any portable document format (.pdf) files must be of a version that all narrative and tables can be readily converted to text.

(6) "Expansion" means any increase in maximum steam or solar gross electrical generating capacity of electrical power plants existing in 1973 as defined by Section 403.506(1), F.S.

(7) "Filing" means actual receipt by the department's Siting Coordination Office, unless otherwise specified herein.

(8) "Licensee" means an applicant which has obtained a certification order for the subject electrical power plant.

(9) "Postcertification amendments" means documentation which reflects changes in the certified project.

(10) "Precertification amendments" means documentation submitted by the applicant during the application review period which reflects changes proposed by the applicant to the designs or plans contained in its previously submitted application. It

does not mean responses to requests for additional information to make the application complete as determined by reviewing agencies which are considered supporting information.

(11) "Public notice" means the notices required by Rule 62-17.281, F.A.C.

(12) "Secretary" means the Secretary of the Department of Environmental Protection.

(13) "Supplemental Application" means an application for certification for the construction and operation of an additional steam or solar electrical power generation unit and associated facilities to be located at a site which has been previously certified for an ultimate site capacity.

Specific Authority 403.504(1), 403.517(1) FS. Law Implemented 403.503, 403.504(1), 403.5115, 403.517 FS. History—New 5-7-74, Amended 12-27-77, Formerly 17-17.02, Amended 5-9-83, Formerly 17-17.021, Amended 2-1-99, 2-13-08.

62-17.031 Prohibitions, Exceptions, and Applicability. (Repealed)

Rulemaking Authority 403.504(1) FS. Law Implemented 403.504, 403.506 FS. History—New 5-7-74, Amended 12-27-77, Formerly 17-17.03, Amended 5-9-83, Formerly 17-17.031, Amended 2-1-99, 2-13-08, Repealed 2-16-12.

62-17.041 Notice of Intent, Binding Written Agreements.

(1)(a) Any person intending to submit an application for certification may file a Notice of Intent with the Department. If this option is exercised, the Notice shall be filed with the department at least six months prior to the expected date of application.

(b) The Notice of Intent shall describe, at a minimum:

1. The type of power plant and proposed size;

2. The proposed or existing site location, together with a general map of the site, including the location if known of any proposed associated facilities or transmission line corridors;

3. A general description of the designated zoning and land use plan for the areas listed in subparagraph 2.;

4. A list of all state environmental licenses currently held for pre-application work at the site, such as for monitoring facilities;

5. The anticipated date of filing of the application.

(c) Within seven days after the filing of a Notice of Intent, the department shall notify all affected agencies.

(2)(a) After the filing of a Notice of Intent by an applicant, the department, other affected agencies, and the applicant may enter into binding written agreements as to the scope, quantity, and specificity of information to be provided in the application.

(b) Within 21 days of the filing of the proposed binding written agreement, notice of the filing of a Proposed Binding Written Agreement shall be published by the applicant as specified in Rule 62-17.281, F.A.C., and by the department in the Florida Administrative Weekly. Comments will be accepted for 30 days following publication of the notice. Copies of any public comments concerning the proposed binding agreement

shall be forwarded to the appropriate affected agencies and the applicant by the department.

(c) Any proposed binding written agreement shall be reviewed by the department and the affected agencies within forty-five days of the publication of newspaper notice regarding the filing provided pursuant to subsection 62-17.281(2), F.A.C. The department and the affected agencies shall indicate all changes which are deemed necessary for the proposed agreement to become acceptable to the agency. All such changes which the applicant agrees to shall be included in the agreement. The agreement shall take effect upon signature of the agency heads or their designees for the participating affected agencies.

(3) The notice of the filing of a Proposed Binding Written Agreement may be combined with a Notice of Intent if an applicant has furnished such an agreement to the department with the Notice of Intent.

Specific Authority 403.504(1), (2), 403.5063(2) FS. Law Implemented 403.504(2), (9), 403.5063 FS. History—New 5-9-83, Formerly 17-17.041, Amended 2-1-99, 2-13-08.

62-17.051 Application for Site Certification.

(1)(a) Applications for certification shall be supported by applicable information and technical studies.

(b) The applicant may substitute the United States Nuclear Regulatory Commission's or its successor's format for an application for a nuclear power plant as outlined in 10 CFR, Part 50 and 10 CFR, Part 51, January 1, 2007, in lieu of the department's format for a new application or a supplemental application.

(2)(a) A separate application shall be made for each expansion in steam or solar electrical generating capacity of an electrical power plant, or new electrical power plant site.

(b) Any supplemental application for certification shall follow the format allowed under paragraph (1)(a) above, or the format allowed under paragraph (1)(b) above. The applicant for supplemental certification should meet with the department to determine what previously filed information is still sufficient for agency use, and what new data must be filed. Supplemental applications shall show that the additional unit or units conform to the current non-procedural standards of affected agencies in force at the time the supplemental application is submitted, and demonstrate the extent to which the expansion falls within the environmental impacts addressed in the initial certification proceedings.

(c) An application for a power plant site which was permitted prior to the passage of the Act shall include the information required in Section 403.5175, F.S., utilizing the applicable portions of the application form cited under subsection (1) above.

(3) Applications shall also include the following:

(a) Information supporting any request for a variance, exception, exemption or other relief from the non-procedural standards or rules of the department or from the standards or rules of any other agency, including the reasons justifying such relief, and the condition which the applicant seeks to have included in the certification on this issue.

(b) Information describing the works or properties of any agency that the applicant seeks to use, connect to, or cross over, and the intended use.

(c) As required by Section 403.50665(1), F.S., a statement on the consistency of the site including associated facilities with existing land use plans and zoning ordinances in effect on the date the application was filed. Such a statement shall be supported in an appendix by copies of the applicable portions of ordinances, regulations, or land use plans involved.

(d) For sites which may have units or facilities that, due to their size, age, or other factors, were not constructed under the provisions of the Power Plant Siting Act, detailed site plans shall be submitted which delineate those specific parts of the plant and site that are to be evaluated for compliance purposes under certification and those specific parts that will continue under the original permits.

(4)(a) The application will not be deemed filed unless accompanied by the appropriate application fee as described in Rule 62-17.293, F.A.C. and the application has been distributed to all agencies identified in Section 403.507(2)(a), F.S.

(b) The applicant shall consult with the department to determine the number of copies of the certification application or supplemental application and any supplements or precertification amendments thereto to be submitted to the department for its own use. The applicant shall submit the number of hard copies and electronic copies the department determines it needs. The department's determination of how many copies it needs shall be based upon the number of district offices, divisions, or programs required to review the application, plus one for the department to provide to the Division of Administrative Hearings. The applicant shall send copies directly to the applicable district office, division, or program personnel at the addresses provided by the department. A copy of the transmittal letter shall be provided to the Siting Coordination Office.

(c) The applicant shall consult with each agency identified in Sections 403.507(2)(a) and 403.5064(2), F.S., to determine the number of printed and electronic copies needed for that agency to conduct its review. A copy of the transmittal letter shall be provided to the Siting Coordination Office.

(d) The applicant shall also submit at least one copy of any supplements or precertification amendments thereto to all agencies and parties which have received a copy of the application.

(e) The applicant shall submit one copy of the application and any supplements thereto to the main public library for the county of the site, and for each county in which any associated facility will be located.

Specific Authority 403.504(1), (2), 403.517(1)(a), 403.5175(1) FS. Law Implemented 403.504, 403.5064, 403.517, 403.5175 FS. History—New 5-7-74, Amended 12-27-77, Formerly 17-17.04, Amended 5-9-83, 4-14-86, 1-22-91, 1-26-93, Formerly 17-17.051, Amended 2-1-99, 2-13-08.

62-17.061 Hearing Officer Appointment, Duties and Powers. (Repealed)

Specific Authority 403.504(1), FS. Law Implemented 403.504(5), 403.508(6), 403.5065, 403.5095, FS. History - New 5-7-74, Amended 12-27-77, Formerly 17-17.12, Amended 5-9-83, Formerly 17-17.061, Repealed 1-9-97.

62-17.071 Completeness of Application. (Repealed)

Specific Authority 403.504(1), FS. Law Implemented 403.504(3)(5), 403.5065(2), FS. History -- New 10-1-76, Amended 12-27-77, Formerly 17-17.19, Amended 5-9-83, Formerly 17-17.071, Repealed 1-9-97.

62-17.081 Supplementary Information - Cost Responsibility, Determination of Completeness of Application. (Repealed)

Rulemaking Authority 403.504(1), (2), 403.5063(2) FS. Law Implemented 403.504(2), (3), 403.5063(2) FS. History--New 5-7-74, Amended 12-27-77, Formerly 17-17.04(2), 17-17.20, Amended 5-9-83, Formerly 17-17.081, Amended 2-1-99, 2-13-08, Repealed 2-16-12.

62-17.091 Conduct of Studies.

(1) As needed to verify or supplement the studies made by the applicant in support of the application, the department shall commence or contract for joint or independent studies to aid in the evaluation of the site or request that other agencies prepare a report on matters in that agency's jurisdiction. The department shall give written notice of all such studies to the applicant and affected agencies before they are commenced.

(2) The applicant shall be furnished with a copy of any request for approval of a contract for studies submitted by an agency other than the department within 10 days of receipt by the department.

Specific Authority 403.504(2) FS. Law Implemented 403.507(2), (3) FS. History--New 5-7-74, Amended 12-27-77, Formerly 17-17.05, Amended 5-9-83, Formerly 17-17.091, Amended 2-1-99, 2-13-08.

62-17.093 Preliminary Statements of Issues. (Repealed)

Rulemaking Authority 403.504(1) FS. Law Implemented 403.507(1), (2)(d) FS. History--New 2-1-99, Amended 2-13-08, Repealed 2-16-12.

62-17.101 Analysis by the Department. (Repealed)

Specific Authority 403.504(1)(8), FS. Law Implemented 403.509, FS. History -- New 5-7-74, Amended 12-27-77, Formerly 17-17.14(1), Amended 5-9-83, Formerly 17-17.101, Repealed 1-9-97.

62-17.111 Hearings Generally – Conduct. (Repealed)

Specific Authority 403.506, FS. Law Implemented 403.504(2)(5), FS. History - New 5-31-77, Amended 12-27-77, Formerly 17-17.08, Amended 5-9-83, Formerly 17-17.111, Repealed 1-9-97.

62-17.115 Informational Public Meetings.

(1) Any local government or regional planning council intending to conduct an informational public meeting pursuant to Section 403.50663, F.S., shall coordinate with the Department and the applicant in the scheduling of that meeting, to assure availability of the Department and the applicant.

(2) In the informational public meetings, the applicant and any other participating parties are encouraged to design their presentations to inform the public of the details of the proposed power plant.

(3) The format of the meeting is at the discretion of the local government or regional planning council. The local government or regional planning council is not required to take votes or take a position on the proposed facility.
Specific Authority 403.504(1) FS. Law Implemented 403.50663, FS. History—New 2-13-08.

62-17.121 Local Government Land Use and Zoning Consistency Determination.

(1) Consistency determinations made pursuant to Section 403.50665, F.S., must include a statement of whether the proposed project is consistent or not with local land use plans and zoning ordinances.

(2) Determinations finding the proposed site inconsistent with local land use plans or zoning ordinances must also include a statement of what would need to be done to make the proposed project consistent with local land use plans or zoning ordinances.

(3) Failure of a local government to issue a determination of consistency with local land use plans or zoning ordinances within the time periods under the Act shall result in an automatic finding of consistency.

(4) If a proceeding is held by a local government for the purpose of issuing a revised local land use or zoning approval, pursuant to Section 403.50665(3), F.S., then the revised determination issued by the local government must include a statement of whether the proposed project is consistent or not with local land use plans and zoning ordinances, and a statement of what would need to be done to make the proposed project consistent with local land use requirements if it is determined to be inconsistent.
Specific Authority 403.504(1) FS. Law Implemented 403.504(5), 403.50665, 403.508 FS. History—New 5-7-74, Amended 12-27-77, Formerly 17-17.09, Amended 5-9-83, Formerly 17-17.121, Amended 2-1-99, 2-13-08.

62-17.131 Appeal from Denial of Rezoning or Variance from Local Zoning or Amendment of Land Use Plans, Hearing, Board Action. (Repealed)

Specific Authority 403.504(1), FS. Law Implemented 403.504(5)(7), 403.508(2), FS. History - New 5-7-74, Amended 12-27-77, Formerly 17-17.10, Amended 5-9-83, Formerly 17-17.131, Repealed 1-9-97.

62-17.133 Agency Reports.

Each agency report shall contain:

(1) An assessment of the facility's expected compliance or non-compliance with applicable agency nonprocedural requirements and an identification of each nonprocedural requirement within the agency's jurisdiction not specifically listed in the application from which a variance, exception, exemption, or other relief is needed in order for the board to certify the project, plus a statement of the agency's position on each variance exception, exemption, or other relief within the agency's jurisdiction needed by the project.

(2) An evaluation of the impacts of the project, along with an assessment of any other matters within an agency's jurisdiction which will be materially affected by the project.

(3) An evaluation of the impacts of the proposed project on any proposed use of, connection to, or crossing over of properties or works of the agency, including the agency's position on the request and conditions that must be satisfied in order for the applicant to use, connect to, or cross over the agency's properties or works.

(4) Conclusions and recommendations regarding certification. If the agency recommends denial of certification, the agency shall provide the reasons for its recommendation of denial and identify any changes in the project which would make the project suitable for certification.

(5) Proposed conditions of certification on matters within the agency's jurisdiction, including:

(a) Any postcertification assessment of consistency with the conditions of certification or impact monitoring which may need to be conducted; and

(b) Conditions that may be necessary in the event the Siting Board or Secretary determines that the project should be certified. All such conditions shall include the statute or rule indicating the agency's authority to require such a condition.

(6) In order to facilitate compliance with Section 403.511(5)(b), F.S., all criteria required by the terms and conditions of the certification which are site-specific shall be identified by the department in the conditions of certification.

Specific Authority 403.504(1) FS. Law Implemented 403.507, 403.511(5)(b) FS.

History—New 2-1-99, Amended 2-13-08.

62-17.135 Coordination of Federally Approved or Delegated Programs with State Certification Application Review Procedures.

(1) To the extent possible, in order to facilitate coordination of the procedures for federally approved or delegated permit programs with the state certification application review procedures, where conflicts with federal time schedules occur, the federal time schedules shall prevail. If any other application for a department permit to be issued pursuant to a federally approved or delegated permit program is determined to be complete before the certification application is determined complete, then the department shall proceed to review that permit in accordance with adopted department rules and schedules for review and issuance of proposed agency action on such permits under the requirements of that program.

(2) Pursuant to Sections 403.507(5)(e) and 403.5055(2), F.S., the Project Analysis may contain a copy of any draft license for a National Pollutant Discharge Elimination System permit, a Prevention of Significant Deterioration permit, and an Underground Injection Control test well permit. Delays in the issuance of a related federally delegated or approved draft permit are good cause for an alteration of the deadline for the issuance of the department's Project Analysis.

(3) Coastal Zone Management (CZM). The Department of Community Affairs is the lead coordination agency for matters pertaining to CZM. When federally designated review schedules do not conflict, the Department of Community Affairs shall include in its agency report to the Department of Environmental Protection an assessment or summary of CZM issues raised in the CZM review process, if any. Specific Authority 403.504(1) FS. Law Implemented 403.5055, 403.507(3), (4), 403.508(3), (8), 403.0872, 403.0885, 403.511(7) FS. History—New 2-1-99, Amended 2-13-08.

62-17.137 Proprietary Interest in State-Owned Lands. (Repealed)

Rulemaking Authority 403.504(1) FS. Law Implemented 403.509(5) FS. History—New 2-13-08, Repealed 2-16-12.

62-17.141 Certification Hearings - Subject Matter, Procedure, Participants, Stipulations.

(1) The certification hearing, if held, and any Recommended Order issued thereupon shall address the extent to which the project comports with the provisions, as applicable, of Section 403.509(3), F.S.

(2) In the certification hearing, the applicant, the Department and any other participating parties are encouraged to design their presentations to inform the public of the details of the proposed power plant, but the question of compliance with this paragraph shall not be the basis for review.

(3) Each party shall make available for public inspection at least five days prior to the certification hearing, if held, at a place specified in the public notice any written direct testimony which it intends to submit at the hearing.

(4) Delays in the issuance of a related federally delegated or approved draft permit are good cause for the continuance of the certification hearing, or any other time frame.

(5) In regard to the properties and works of any agency which is a party to the certification hearing, any stipulation filed pursuant to Section 403.508(6)(a), F.S., must include a stipulation regarding issues relating to the use, the connection thereto, or the crossing thereof, for the electrical power plant and directly associated facilities. Any agency stipulating to the use, connection to, or crossing of its property must agree to execute, within 30 days after the entry of certification, the necessary license or easement for such use, connection, or crossing, subject only to the conditions set forth in such certification.

Specific Authority 403.504(1) FS. Law Implemented 403.502, 403.504(5), 403.508, 403.5175(4) FS. History—New 10-1-76, Amended 12-27-77, Formerly 17-17.11, Amended 5-9-83, Formerly 17-17.131, Amended 2-1-99, 2-13-08.

62-17.143 Recommended Orders, Exceptions. (Repealed)

Rulemaking Authority 403.504(1) FS. Law Implemented 403.508(3), 403.508(7)(d), 403.509 FS. History—New 2-1-99, Amended 2-13-08, Repealed 2-16-12.

62-17.147 Certified Corridor Notice. (Repealed)

Specific Authority 403.504(1), 403.504(8), 403.523(1)(8), FS. Law Implemented 403.504(8), 403.523(8), 403.5312, FS. History - New 2-1-99, Repealed 2-13-08.

62-17.151 Public Notice. (Repealed)

Specific Authority 403.504(1), FS. Law Implemented 403.504(2)(3)(5), 403.508, 403.517, 403.5065, FS. History - New 5-7-74, Amended 12-27-77, Formerly 17-17.06, Amended 5-9-83, 4-14-86, Formerly 17-17.151, Repealed 3-16-99.

62-17.161 Evidence of Notice, Additional Notice.

Specific Authority 403.504(1), FS. Law Implemented 403.504(5)(9), 403.508, FS. History - New 5-7-74, Amended 12-27-77, Formerly 17-17.07, Amended 5-9-83, Formerly 17-17.161, Repealed 3-16-99.

62-17.171 Department Conditions of Certification under Section 403.511(5)(a), (b). (Repealed)

Specific Authority 403.504(1), FS. Law Implemented 403.511(5)(b), FS. History - New 5-9-83, Formerly 17-17.171, Amended 2-1-99, Repealed 2-13-08.

62-17.181 Retention and Availability of Certification and Application, Copying Fees. (Repealed)

Specific Authority 403.504(1), FS. Law Implemented 403.515, FS. History - New 5-7-74, Amended 12-27-77, Formerly 17-17.15, Transferred 5-9-83, Formerly 17-17.181, Repealed 1-9-97.

62-17.191 Postcertification Compliance Review, Monitoring.

(1) Pursuant to specific conditions of certification, a licensee may be required to file site-specific technical data to allow the review by the department and any other affected agency of the licensee's compliance with the conditions of certification. This is considered postcertification review (PCR).

(a) Any submittal of information or determination of compliance pursuant to PCR does not provide a point of entry for a third party.

(b) Data required for PCR shall be equivalent to that which would be submitted for permits required in the absence of certification except where the conditions of certification specify a different requirement.

(c) The procedures for postcertification submittal processing, if not otherwise specified in the conditions, are as follows:

1. All postcertification submittals of information by the licensee are to be filed with the department. Copies of each submittal shall be simultaneously submitted to any other agency indicated in a specific condition requiring a postcertification submittal.

2. The department shall review each postcertification submittal for completeness; for the purposes of postcertification reviews, completeness shall mean that the information submitted is both complete and sufficient. The department will consult with the other agencies receiving the submittal, as appropriate, and note completeness problems raised by the other agencies. If the submittal is found by the department to be incomplete, the licensee shall be so notified. Failure of the department to issue such a notice within 30 days after filing of the submittal shall constitute a finding of completeness.

3. Within 90 days after complete information is submitted, the department shall give written notification to the licensee and the agencies to which the postcertification information was submitted of its assessment of whether there is reasonable assurance of compliance with the conditions of certification. If it is determined that compliance with the conditions will not be achieved, the licensee shall be notified with particularity and possible corrective measures suggested. Failure of the department to notify the licensee in writing within 90 days of receipt of a complete postcertification submittal shall constitute a finding of compliance.

4. If the department does not give notification of compliance within the time period specified in subparagraph 3. above, the licensee may begin construction pursuant to the terms of the conditions of certification and the subsequently submitted construction details.

(d) Postcertification compliance reviews shall be limited to the technical merits of whether the postcertification submittals demonstrate compliance with the conditions of certification. However, a postcertification compliance review may be the basis for initiating modifications to the relevant condition or to other related conditions.

(2) The licensee shall conduct monitoring as indicated in the conditions of certification, of the environmental effects arising from construction and operation of the licensee’s electrical power plant, in order to assure continued compliance with the terms and conditions of certification. The monitoring shall be carried out in the manner prescribed in the conditions of certification, and at no expense to the department or affected agencies.

(3) The licensee shall provide within 90 days after certification a complete summary of those submittals identified in the Conditions of Certification where due-dates for information required of the licensee are identified. Such submittals shall include, but are not limited to, monitoring reports, management plans, wildlife surveys, etc. The summary shall be provided to the Siting Coordination Office and any affected agency or agency subunit to whom the submittal is required to be provided, in a sortable spreadsheet, via CD and hard copy, in the format identified below.

Condition Number	Requirement and timeframe	Due Date	Name of Agency or agency subunit to whom the submittal is required to be provided
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Specific Authority 403.504(1) FS. Law Implemented 403.504(8), 403.511 FS. History–New 5-7-74, Amended 12-27-77, Formerly 17-17.13, Amended 5-9-83, Formerly 17-17.191, Amended 2-1-99, 2-13-08.

62-17.201 Review and Evaluation. (Repealed)

Specific Authority 403.504(1), FS. Law Implemented 403.512, 403.514, FS. History - New 5-7-74, Amended 12-27-77, Formerly 17-17.16, Amended 5-9-83, Formerly 17-17.201, Amended 2-1-99, Repealed 2-13-08.

62-17.205 Postcertification Amendments or Clarifications.

(1) Amendments. Any postcertification amendments to an application must include appropriate revisions to the application text, figures, and photographs, to reflect the changes. Such postcertification amendments shall be processed in accordance with Section 403.5113, F.S. The Department shall perform a review for completeness of information, including a review of whether there is sufficient information in order to make a determination on the postcertification amendment.

(2) Clarifications. For certified sites which have other units or facilities that, due to their size, age, or other factors, were not constructed under the provisions of the Power Plant Siting Act, the licensee shall submit within 12 months after receipt of written notice from the department detailed site plans which delineate those specific parts of the plant and site that are to be evaluated for compliance purposes under certification and those specific parts that will continue under the original permits. However, if such information has been previously submitted in conjunction with a modification which has occurred within the preceding two years, then this provision shall not apply.

Specific Authority 403.504(1) FS. Law Implemented 403.511, 403.5113, 403.516 FS. History–New 2-1-99, Amended 2-13-08.

62-17.211 Modification of Certification, Criteria-change Modifications, Transfer of Ownership.

A certification and conditions of certification can be modified only in accordance with Section 403.516, F.S., and this rule; or in accordance with Section 403.511(5), F.S.; or, as a transfer of certification to a new licensee.

(1) For modifications under the provisions of Section 403.516, F.S., the following shall apply:

(a) Under Section 403.516(1)(a), F.S., the Siting Board may delegate to the department the authority to modify conditions in the certification which have been identified in the adopted conditions as being subject to this provision. This includes the authority to impose new conditions as well as modify existing conditions. The department shall request that such delegation be made as a term of the imposed conditions. A copy of any modification pursuant to this section shall be provided to all parties.

(b) The process for modifications requested by the licensee shall be in accordance with Section 403.516(1)(c), F.S., and the following:

1. The process is initiated by the filing of a complete and sufficient petition for modification. The petition shall contain a concise statement of the proposed modification; the factual reasons asserted for the modification, including the changes in circumstance which justify the modification; and, a statement of whether, and if so, how the proposed modification if approved would affect the conditions of certification, the site layout or design as depicted in the current version of the application, and the anticipated affects of the proposed modification on the environment.

2. To be deemed properly filed, the licensee shall submit the number of paper and electronic copies determined below.

a. The licensee shall consult with the department to determine the number of paper copies needed to support the modification review. At a minimum, three copies of the request shall be submitted to the department's Siting Coordination Office, one copy shall be submitted to the department's agency clerk, and at least one copy of the request shall be sent to all parties to the original proceedings and any previous modification proceedings, at the last address on record for the party.

b. The licensee shall consult with the department and parties to determine the number of electronic copies needed to support the modification review, and shall submit the number of electronic copies as determined. Parties have a duty to notify the department of changes of address. The applicant shall provide those copies on a timely basis pursuant to Section 403.5064(3), F.S.

3. The department may require notice of the petition for modification to be published, based on the criteria in Section 403.5115(1)(g), and which shall comply with Rule 62-17.281, F.A.C.

4. The petition shall be reviewed for completeness. Within 25 days of the filing of the petition with the department, agencies with jurisdictional matters affected by the proposal shall file completeness recommendations with the department. Within 30 days of the filing of the petition with the department, the department shall issue a completeness determination. Any subsequent information filings intended to render the petition complete shall be reviewed by the agencies and the department under these same deadlines. Notice in the Florida Administrative Weekly regarding the Proposed Order shall be published by the department in accordance with Rule 62-17.280, F.A.C., which shall identify the time period for objections specified in subparagraph 6., below.

5. The department shall send any notice of the proposed order of a modification to the last address of each party to the original certification proceedings as shown in the record of that proceeding, or as may have otherwise been updated by the party.

6. If no objections are received from the parties to the certification hearing within 45 days after issuance of the notice by mail, or from other persons whose substantial interest may be affected thereby within 30 days after publication of the F.A.W. notice specified in subparagraph 4. above, then a Final Order approving the Modification shall be issued by the department. If written objections are filed which address only a portion of the requested modification, then the department shall issue a

Final Order approving the portion of the modification to which no objections were filed, unless that portion of the requested modification is substantially related to or necessary to implement the portion to which written objections are filed.

7. If objections are raised, the following shall apply. Written objections shall only address matters raised in the request for modification and the department's Proposed Order.

a. If objections are raised and agreement cannot be subsequently reached, then pursuant to Section 403.516(1)(c), F.S., a petition for modification may be filed seeking approval for those portions of the request for modification to which written objections were timely filed.

b. Any request for a hearing on the modification under Section 403.516(1)(c), F.S., shall be filed with the department and the Division of Administrative Hearings, and served on the parties to the certification hearing and persons who have objected to the modification in writing pursuant to Section 403.516(1)(c)2., F.S. The request shall contain a description of the petitioner; a copy of the initial Request for Modification specified under subparagraph 1. above; a copy of the objections to the request or proposed Order; the information required by Section 403.516(1)(c)1., F.S.; a statement of all disputed issues of material fact or a statement that there are none; a concise statement of the ultimate facts alleged, including the specific facts the requesting party contends warrant issuance of the modification; a statement of the specific rules or statutes the requesting party contends require issuance of the modification; a statement of the relief sought; and any other information which the petitioner contends is material.

c. In accordance with Section 403.516(1)(c)4., F.S., a request for modification shall be disposed of in the same manner as an application. At least 30 days prior to the date set for the hearing, the parties shall file their statement of issues with the administrative law judge and the department. The hearing on the modification shall be conducted in the same manner as a certification hearing, and notice of hearing shall be provided as prescribed in Rules 62-17.281, F.A.C. The modification shall not become effective until approved by the Board or the department.

(c) Administrative res judicata applies to petitions for modification.

(d) Modification fees shall not be required of agencies requesting that the department initiate a modification proceeding.

(2) For modifications pursuant to Section 403.511(5), F.S.:

(a) In accordance with Section 403.511(5)(a), F.S., if new rules are adopted which prescribe new or stricter criteria which are applicable to the certified electrical power plant, the certification holder must operate the certified electrical power plant in accordance with such rules unless variances or other relief have been granted.

(b) If, in accordance with Section 403.511(5)(b), F.S., any holder of a certification pursuant to this Part chooses to operate the certified electrical power plant in compliance with any rules subsequently adopted by the department which prescribe criteria more lenient than the criteria required by the terms and conditions in the certification which are not site specific, the certification holder shall notify the department prior to modifying its method of operation.

(3) A transfer of certification of all or part of a certified facility shall be initiated by the licensee's filing with the department and the parties a notice of intent to transfer certification to a new licensee. The notice of intent shall identify the intended new certification holder or licensee and the identity of the entity responsible for compliance with the certification. Parties shall have 30 days to file in writing with the department any objections to transfer of the certification. Upon the filing with the department of a written agreement from the intended new licensee to abide by all conditions of certification and applicable laws and regulations, the transfer shall be approved unless the department objects to the transfer on the grounds of the inability of the new licensee to comply with the conditions of certification, specifies in writing its reasons therefore, and gives notice and opportunity to petition for a Section 120.57, F.S., administrative hearing. A copy of the department's action on the transfer of certification shall be sent to all parties.

(4) For modifications in relation to federally delegated or approved permit programs, pursuant to Section 403.516(1)(b), F.S., the department shall modify a certification order and conditions of certification to conform to any subsequent department-issued amendments, modifications or renewals of any separately-issued prevention of significant deterioration (PSD) permit, Title V Air Operation permit, National Pollutant Discharge Elimination System (NPDES) permit, or any other permit for the certified electrical power plant issued by the department under a federally delegated or approved permit program so long as no state rule exists which conflicts or is more stringent than the provisos of the federal permits. Pursuant to Section 403.516(1)(b)2., F.S., if the matter has been previously noticed under the requirements for the relevant federally delegated or approved permit program, notice is not required for the modification. However, if the matter has not been previously noticed under the requirements for the relevant federally delegated or approved permit program, notice is required for the modification pursuant to Section 403.516(1)(c)2., F.S.

Specific Authority 403.504(1) FS. Law Implemented 403.511(5), 403.516, FS. History—New 5-7-74, Amended 12-27-77, Formerly 17-17.17, Amended 5-9-83, Formerly 17-17.211, Amended 2-1-99, 2-13-08.

62-17.221 Revocation or Suspension of Certification. (Repealed)

Rulemaking Authority 403.504(1), FS. Law Implemented 403.512, FS. History - New 5-7-74, Amended 12-27-77, Formerly 17-17.18, Transferred 5-9-83, Formerly 17-17.221, Amended 2-1-99, Repealed 2-16-12.

62-17.231 Supplemental Applications. (Repealed)

Rulemaking Authority 403.504(1), (6), (9) FS. Law Implemented 403.517 FS. History—New 5-7-74, Amended 12-27-77, Formerly 17-17.21, Amended 5-9-83, Formerly 17-17.231, Amended 2-1-99, 2-13-08, Repealed 2-16-12.

62-17.241 Abandonment.

A site or portion thereof shall be released from the terms and conditions of a certification by order of the Board upon a finding that such site or portion thereof has been abandoned by the applicant. Board action for abandonment may be initiated either by:

(1) A petition by an applicant requesting release of all or part of the site from the terms and conditions of a certification previously issued. The petition shall specify:

- (a) The site or portions thereof to be abandoned;
- (b) The electrical power plant or generating capacity to be abandoned;
- (c) Any changes in environmental impact expected to result from abandonment;
- (d) The reasons why abandonment is desired.

(2) A petition alleging failure of an applicant to commence construction of an electrical power plant which has been certified, either within 15 years of the date of the issuance of such certification or within 15 years of the date construction was scheduled to commence on such plant, as shown in the application, whichever is the later date. For good cause shown, which shall include but not be limited to permitting delays, the time of abandonment under this subsection shall be waived by the Board. Specific Authority 403.504(1)(8), FS. Law Implemented 403.509, FS. History - New 5-7-74, Amended 12-27-77, Formerly 17-17.14(2), Amended 5-9-83, Formerly 17-17.241, Amended 2-1-99.

62-17.251 Processing of Application for Certification of an Existing Power Plant Site. (Repealed)

Specific Authority 403.504(1), FS. Law Implemented 403.5175, FS. History - New 2-1-99, Repealed 2-13-08.

62-17.280 Florida Administrative Weekly. (Repealed)

Specific Authority 403.504(1)(2), 403.5063(2), 403.517(1)(a), FS. Law Implemented 403.504(2)(5)(9), 403.5063, 403.5115(4), 403.516(1), 403.517, 403.5175, FS. History - New 2-1-99, Repealed 2-13-08.

62-17.281 Newspaper Notice.

The applicant shall provide newspaper notices as required by Section 403.5115, F.S., and as further specified herein. The map required under Section 403.5115(2), F.S., should occupy approximately one-quarter of the notice space. After the notice has been published, the applicant shall forward to the department's Siting Coordination Office one copy of the applicable proofs of publication. The content of any notice shall be approved by the department and may be different than that provided in this rule so long as the deviation does not materially and substantially alter the substance of such notice.

- (1) Notice of Intent to File an Application.
 - (a) The notice shall bear a prominent heading in bold letters: "Notice of Intent to File Application for Power Plant Site Certification".
 - (b) The notice shall contain at least the following information:
 - 1. The name and a brief description of the site including any associated facilities and corridors, and type and capacity of the power plant;
 - 2. A map showing the location of the proposed site;
 - 3. A statement that "a Notice of Intent to file an application seeking certification authorizing construction and operation of an electrical power plant near

_____” <location> “, Florida, has been received by the Department of Environmental Protection pursuant to the Florida Electrical Power Plant Siting Act, Chapter 403, Part II, Florida Statutes”;

4. The statement “The department and other affected agencies are authorized by Section 403.5063(2), F.S., to enter into binding written agreements with _____” <name of the applicant> “regarding the scope, quantity, and level of information to be provided in the application for certification which will be subsequently filed. The public may provide comments regarding the substance of such agreements. These comments should be addressed to the Administrator, Siting Coordination Office, Department of Environmental Protection, _____ <current address> no later than 30 days from the date of this notice.”

(2) Notice of Binding Agreement.

Unless otherwise combined with the notice for the Notice of Intent as allowed under subsection 62-17.041(3), F.A.C., the following notice shall be provided in the newspapers required for other notices under Section 403.5115(2), F.S., within 21 days of the filing of the proposed agreement. The notice shall be 1/4 page in size and shall consist of the following:

(a) The name and a brief description of the site, including type and capacity of the power plant;

(b) A list of places where the proposed agreements are available for public inspection;

(c) The statement “The Department of Environmental Protection and other affected agencies are authorized by Section 403.5063(2), F.S., to enter into binding written agreements with _____” <name of the applicant> “regarding the scope, quantity, and level of information to be provided in the application for certification which will subsequently be filed. The public may provide comments regarding the substance of such an agreement to the Administrator, Siting Coordination Office, Department of Environmental Protection, _____” <current address> “, within 30 days of the publication of this notice”;

(d) A statement that any disagreements with the proposed binding written agreement may be submitted by an affected agency to the department and the applicant within 45 days of the publication of the notice.

(3) Notice of Filing of Application. The notice shall bear the heading “Notice of Filing of Application for Electrical Power Plant Site Certification” in bold letters not less than 3/8 inches high. The notice must substantially contain the following:

(a) A map of the site and any associated facilities and corridors in the counties in which the site, facilities and corridors are located, along with a portion of any adjoining county as deemed necessary by the department. A small “window” map which shows the entire route shall, where possible, be superimposed on a non-relevant part of the main map. Where practicable, geographical and political boundaries, physical features and roadways, and selected sections, townships and ranges, should be shown on the main map. All patterns or other graphics used to indicate special features must be bold enough to register legibly on newsprint. The map should occupy at least one quarter of the display advertisement.

(b) Text which is the same point size as standard news items and which substantially states the following:

1. "Application number _____ for certification to authorize construction and operation of a _____" <size of facility, type of fuels> "electrical power plant and site" <and where appropriate, a general description of any associated facilities such as rail spurs, transmissions lines, or fuel pipelines> "was filed with the Department of Environmental Protection on _____, ____" <date>. "The case is pending before the Division of Administrative Hearings, Case No. _____, prior to action by the Governor and Cabinet, or the Secretary, pursuant to the Florida Electrical Power Plant Siting Act, Chapter 403, Part II, F.S."

2. "The application for certification is available for public inspection during normal business hours at the following locations: _____." <Here list the addresses of the main and appropriate district offices of the department serving the area of the site and any associated facilities; the general business office of the applicant and the local business office of the applicant, if any, for the site and in every county which any associated facility may be located; and the main public libraries identified in paragraph 62-17.051(4)(b), F.A.C.>

3. "State agencies and local governments will be studying the application and preparing reports and recommendations on the proposed facility for the certification hearing. Interested individuals should review the application and bring matters of concern to the appropriate agency's attention as soon as possible. Information regarding the appropriate contact persons in the agencies may be obtained from the Department of Environmental Protection's Siting Coordination Office, _____" <provide address and phone number, and if known, case manager's name>."

(c) The text shall also include the following:

1. "Any person wishing to participate in the proceedings, either as a party or without party status, must follow either Section 403.508(3) or (4)(b), F.S." <Here list the language of Sections 403.508(3)(c) and (e), and 403.508(4)(b), F.S.>

2. "Any notice of intent to be a party or motion to intervene must be sent to _____, Administrative Law Judge, Division of Administrative Hearings, _____" <current address> ", Tallahassee, Florida, _____, and must contain the following: reference to the application number; the name, address, and telephone number of the agency or person; and, allegations sufficient to demonstrate the agency or person is entitled to participate in the proceeding. The notice or motion must be sent by mail to the applicant and to all parties. (A list of parties may be obtained from the department's Siting Coordination Office at the address above.) Those wishing to intervene in these proceedings, unless appearing on their own behalf, must be represented by an attorney or other person who can be determined to be qualified to appear in administrative proceedings pursuant to Chapter 120, F.S., or Rule 28-106.106, F.A.C."

3. "In regard to variances or other relief, Section 403.507(3), F.S., requires that agency reports include a notice of any nonprocedural requirements not specifically listed in the application from which a variance, exemption, exception, or other relief is necessary in order for any proposed electrical power plant to be certified. Subsection 62-17.133(1), F.A.C., similarly requires that agencies identify in their reports any such

needed variances or other relief. Failure to provide such notice shall be treated as a waiver from nonprocedural requirements of the department or any other agency. However, no variance shall be granted from standards or regulations of the department applicable under any federally delegated or approved permit program, except as expressly allowed in such program.”

(d) Where applicable, the notice shall also state that issues relating to the use of, connection to, or the crossing of properties and works of agencies may be addressed under certification, with a listing of the agencies.

(e) Where applicable, the notice shall also state that a related application has been filed for:

1. A New Source Review or Prevention of Significant Deterioration Permit,
2. A Wastewater Permit, or
3. Any other permit issued by the department pursuant to a federally delegated or approved program.

(f) When the application for certification is accompanied by an applicant's Federal coastal zone consistency determination as required by the Federal Coastal Zone Management Act, the following statement shall be included: “This Public Notice is also provided in compliance with the federal Coastal Zone Management Act, as specified in 15 CFR Part 930, Subpart D. Public comments on the applicant's federal consistency certification should be directed to the Federal Consistency Coordinator, Department of Community Affairs” <current address>.

(4) Notice of Land Use Consistency Determination.

The notice shall bear the heading "Notice of Land Use Consistency Determination on Electrical Power Plant Site" (and/or "Associated Facilities", if applicable) in bold letters not less than 3/8 inches high. The notice must substantially contain the following:

(a) Same as paragraph (3)(a).

(b) Text which substantially states the following:

1. “Application number _____ for certification to authorize construction and operation of a _____” <size of facility, type of fuels> “electrical power plant and site” <and where appropriate, a general description of any associated facilities such as rail spurs, transmissions lines, or fuel pipelines> “was filed with the Department of Environmental Protection on _____, _____” <date>. “Pursuant to Section 403.50665, F.S., _____” <local government name>”, is required to file a determination with the department, the applicant, the administrative law judge, and all parties on the consistency of the site or any directly associated facilities with existing land use plans and zoning ordinances that were in effect on the date the application was filed, based on the information provided in the application.

2. “On <date> <name of local government or governments> issued a determination that the proposed facility <is><is not> consistent with existing land use plans and zoning ordinances that were in effect on the date the application was filed, based on the information provided in the application.”

3. If it has initially been determined that the electrical power plant is not compliant, the following language: “The applicant may apply to the local government for the necessary local approval to address the inconsistencies identified in the local

government's determination. If the applicant applies to the local government for necessary local land use or zoning approval, the local government shall issue a revised determination within 30 days following the conclusion of any related hearing held by the local government.”-

4. “If any substantially affected person wishes to dispute the local government's determination, he or she shall file a petition with the Department of Environmental Protection, _____ <entity and address>, within 21 days after the publication of notice of the local government's determination. If a hearing is requested, the designated administrative law judge shall conduct a land use hearing in the county of the proposed site or directly associated facility, as applicable, as expeditiously as possible, but not later than 30 days after the department's receipt of the petition”.

(5) Notice of Land Use Hearing.

At least 15 days prior to the public hearing on land use and zoning issues, notice shall be published as required by Section 403.5115, F.S., and shall bear the heading “Notice of Land Use Hearing on Proposed Power Plant Facility”, in bold letters not less than 3/8 inches high. The notice shall contain the following information:

(a) A map meeting the requirements in paragraph (3)(a) above showing the location of the site, and of any associated facilities or corridors.

(b) Text which is the same point size as standard news items and which substantially states the following:

1. Same as subparagraph (3)(b)1. above.

2. A statement that: “Pursuant to Section 403.508, F.S., a land use public hearing will be held by the Division of Administrative Hearings on _____, _____,” <date> “, at _____” <address, room> “, in _____ County, Florida, at ____:____.m.” <time> “to determine whether the site is consistent and in compliance with existing land use plans and zoning ordinances. No other issues will be heard at this land use hearing. A subsequent public hearing upon the application will be held to consider environmental and other impacts prior to final action by the Governor and Cabinet or the Secretary”.

3. Same as subparagraph (3)(b)2. above.

4. “Any person wishing to participate in the proceedings, either as a party or without party status, must follow either Section 403.508(3) or (4), F.S.” <Here list the language of Sections 403.508(3)(c) and (e), and 403.508(4)(b), F.S.>

5. “Any motion to intervene must be sent to _____, Administrative Law Judge, Division of Administrative Hearings, _____” <current address> “, Tallahassee, Florida, _____, and must contain the following: reference to the application number; the case number of the Division of Administrative Hearing; the name, address, and telephone number; and, allegations sufficient to demonstrate the person is entitled to participate in the hearing. The request must be sent by mail to the applicant and all parties. (A list of parties may be obtained from the department's Siting Coordination Office, _____” <address> “. Those wishing to intervene in these proceedings, unless appearing on their own behalf, must be represented by an attorney or other person who can be determined to be qualified to appear in administrative proceedings pursuant to Chapter 120, F.S., or Rule 28-106.106, F.A.C.”

(6) Notice of Zoning and Land Use Plan Appeal Hearing.

If the applicant intends to appeal to the Board for a variance, pursuant to Section 403.508(1)(f), F.S., because the proposed site is not in compliance with existing land use plans or zoning ordinances, newspaper notice shall be provided which complies with all the requirements of subsection (5) above, except that:

(a) The notice shall be published at least 30 days prior to the zoning or land use plan appeal hearing before the Board, in a newspaper in the jurisdiction of the local government which denied the zoning or land use plan approval;

(b) The heading of the notice shall read:
 “Notice of Hearing Before the Governor and Cabinet to Determine Whether it is in the Public Interest to Authorize a Nonconforming Use of Land in _____ County (or city) as a Site for an Electrical Power Plant.”

(c) The following statement shall be included in lieu of subparagraphs (5)(a)2. and 4. above:

“Pursuant to Section 403.508, F.S., a zoning appeal or land use plan appeal hearing will be held before the Board on _____, 19__ at _____, in _____ County, Florida at _____ .m. An application for rezoning or change or amendment of the existing land use plan has been denied by _____” <name of local government> “and, upon a finding that it is in the public interest to authorize a nonconforming use of the land as a site for an electrical power plant at this hearing, the Governor and Cabinet are empowered to authorize a nonconforming use or variance. If such a change in land use is granted the responsible zoning or planning authority shall not thereafter change or apply such land use plans or zoning ordinances so as to impair or prevent the proposed use of the site unless certification of the site is subsequently denied.”

(d) Identification of the land use plans or zoning ordinance which are the subject of the appeal shall be provided.

(7) Notice of Certification Hearing.

Not less than 65 days prior to any scheduled certification hearing, notice shall be published as required by Section 403.5115, F.S., and shall bear the heading, “Notice of Certification Hearing on an Application to Construct and Operate an Electrical Power Plant on a Site to be located near _____, Florida”. The heading shall be in bold letters not less than 3/8 inches high. The notice shall contain the following information:

(a) A map meeting the requirements in paragraph (3)(a) above showing the location of the site and any associated facilities or corridors.

(b) Text which is the same point size as standard news items and which substantially states the following:

1. Same as subparagraph (3)(b)1., above.

2. A statement that: “Pursuant to Section 403.508, F.S., the certification hearing is scheduled to be heard by the Division of Administrative Hearings on _____, _____” <date> “, at _____” <location> “, in _____” <county or city> “, Florida, at _____:_____ .m.” <time> “in order to take written or oral testimony on the effects of the proposed electrical power plant or any other matter appropriate to the consideration of the site and associated facilities”. The Public Service Commission has previously determined the need for the facility at a separate hearing and need will not be an issue

at this hearing. Written comments may be sent to _____," <Administrative Law Judge> ", at _____" <Address> "on or before _____" <date>.

3. Same as subparagraph (3)(b)2. above, pertaining to where a copy of the application can be reviewed.

4. A statement indicating where the department's Written Analysis and any written direct testimony will be available for public inspection at least five days prior to the hearing, as required by subsection 62-17.141(2), F.A.C.

5. "Any person wishing to participate in the proceedings, either as a party or without party status, must follow either Section 403.508(3) or (4)(b), F.S." <Here list the language of Sections 403.508(3)(c) and (e), and 403.508(4)(b), F.S.>

6. A motion to intervene must be sent to _____, Administrative Law Judge, Division of Administrative Hearings, _____" <current address> ", Tallahassee, Florida, _____, and must contain the following: reference to the application number; the case number of the Division of Administrative Hearings; the name, address, and telephone number of the person filing the motion; and, allegations sufficient to demonstrate that the person filing the motion is entitled to participate in the hearing. Copies must be sent by mail to the applicant and all parties. (A list of parties may be obtained from the department's Siting Coordination Office, _____" <address>.) Those wishing to intervene in these proceedings, unless appearing on their own behalf, must be represented by an attorney or other person who can be determined to be qualified to appear in administrative proceedings pursuant to Chapter 120, F.S., or Rule 28-106.106, F.A.C."

7. "Pursuant to Section 403.508(6), F.S., the certification hearing may be cancelled if, within 29 days of the certification hearing, all parties to the proceeding stipulate that there are no disputed issues of fact or law to be raised, and the department or the applicant requests that the administrative law judge cancel the certification hearing. If the administrative law judge grants the request, the department shall prepare and issue a final order in accordance with Section 403.509(1)(a), F.S."

(c) Where applicable, the following statements:

1. "Certification of this power plant would allow construction and operation of a new source of air pollution which would consume an increment of air quality resources."

2. "The department's review has separately resulted in an assessment of the prevention of significant deterioration (PSD) impacts and a determination of the Best Available Control Technology (BACT)" <and, where applicable, the phrase: "an assessment of a non-attainment area review and a determination of Lowest Achievable Emission Rate (LAER)"> "necessary to control the emission of air pollutants from this source. The certification hearing may be consolidated with any proceeding relating to the Department of Environmental Protection's preliminary determination for granting a federally required new source review, PSD, or Air Operation Permit."

3. "The certification hearing may include consideration of a federally required Wastewater Permit pursuant to Section 403.5055, F.S."

4. "Pursuant to Section 403.509(5), F.S., _____" <Name of Applicant> "intends to use, connect to, or cross over properties or works of the following agencies: _____."

5. "Pursuant to Section 403.511(2), F.S., _____" <Name of Applicant> "seeks a variance or other regulatory relief from _____" <Rule, Agency> "for the purpose of _____."

6. A statement, where appropriate to the power plant project, that, while an associated facility corridor of up to one mile in width may be certified, the directly affected properties will be within a final right-of-way no greater than _____ feet in width within that corridor;

(d) Where appropriate, a statement shall be included indicating the status of the Coastal Zone Management consistency determination, if any.

(8) Notice of Cancellation of Certification Hearing.

(a) A map which complies with the requirements of (3)(a) showing the location of the site.

(b) The text for the notice shall substantially read:

1. "The certification hearing originally scheduled for ____ <date>, has been cancelled. In accordance with the Florida Electrical Power Plant Siting Act, Section 403.508(6), F.S., on ____ <date> all parties to this proceeding stipulated that there are no disputed issues of material fact or law to be raised at the certification hearing. Accordingly, on ____ <date> Administrative Law Judge _____ <name> issued an order granting a request to cancel the hearing and relinquish jurisdiction to the department.

2. Pursuant to Section 403.509(1)(a), F.S., the department will issue a final order within 40 days of the Administrative Law Judge's order.

3. "For information, contact: ____ <name>, ____ <phone number and e-mail address> at the Department of Environmental Protection, 2600 Blair Stone Road, M.S. 48, Tallahassee, Florida 32399-2400."

(9) Modifications Notices.

(a) If required by the department, within 21 days after filing of a request for modification, the applicant shall publish notice of the request in a newspaper of general circulation in the county or counties which the modification would affect.

(b) If a hearing is to be conducted in response to a petition for modification, then, pursuant to Section 403.5115(1)(g)2., F.S., newspaper notice shall be published no later than 30 days prior to the hearing, and shall comply with the following:

1. The notice shall bear the heading, "Notice of Hearing on a Proposed Modification of the _____" <name of facility> "Certified Electrical Power Plant". The heading shall be in bold letters not less than 3/8 inches high.

2. The notice shall contain a map showing the location of the site or part of the site or of any associated facilities or transmission line corridor proposed to be modified.

3. The notice shall contain text which is the same point size as standard news items and which substantially provides the following information:

a. The name of the facility, a brief description of the proposed modification, the date the modification was proposed, and the appropriate case numbers.

b. A list of places where copies of the modification request and pertinent supporting documents are available for public inspection and copying at cost during normal business hours. The list shall include the addresses of the main and the local regulatory district office of the department, the general business offices of the applicant and the local business office of the applicant serving the area of the site and any associated facilities.

c. A statement that: "Pursuant to Section 403.516, F.S., the hearing will be held by the Division of Administrative Hearings on _____, _____" <date> ", at _____" <location> ", in _____" <county or city> ", Florida, at ____:____.m." <time> "in order to receive evidence on the proposed modification of certification. Written comments may be sent to _____, Administrative Law Judge, at _____" <address> "on or before _____" <date>.

d. "Any person wishing to participate in the proceedings, either as a party or without party status, must follow either Section 403.508(3) or (4), F.S." <Here list the language of Sections 403.508(3)(c) and (4), F.S.>

e. "Any motion to intervene must be sent to _____, Administrative Law Judge, Division of Administrative Hearings, _____" <current address> ", Tallahassee, Florida, _____. The motion must contain the following: reference to the application number; the case number of the Division of Administrative Hearings; the name, address, and telephone number of the person filing the motion; and, allegations sufficient to demonstrate that the person filing the motion is entitled to participate in the hearing. Copies must be sent by mail to all parties. (A list of parties may be obtained from the department's Siting Coordination Office, _____" <address>.) "Those wishing to intervene in these proceedings, unless appearing on their own behalf, must be represented by an attorney or other person who can be determined to be qualified to appear in administrative proceedings pursuant to Chapter 120, F.S., or Rule 28-106.106, F.A.C."

f. Same as subparagraph (5)(b)6. above.

g. Where applicable, a statement reflecting that the modification would result in the use of, connection to, or the crossing over of properties and works of agencies, with a listing of the agencies.

h. Where applicable, a statement reflecting the licensee's request for a variance or other regulatory relief from the rule of an agency, with a listing of the name, the rule, and the purpose of the variance or other relief.

i. Where applicable, a statement pertaining to any new corridor or modified corridor proposed for certification under the modification explaining that, while an associated facility corridor of up to one mile in width may be approved under the modification, the directly affected properties will be within a final right-of-way no greater than _____ feet in width within that corridor.

(10) Notices for a Supplemental Application.

(a) Filing of a supplemental application.

1. The notice shall bear the heading, "Notice of Application for Construction and Operation of an Addition to the Power Plant Facility Located Near _____, Florida", in bold letters not less than three-eighths (3/8) inches high.

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2. The notice shall contain the following information:
 - a. The name and brief description of the new power plant facility to be located on the site, including type and capacity to be located on the site;
 - b. A map which complies with the requirements of paragraph (3)(a) showing the location of the site;
 - c. A list of places where copies of the application are available for public inspection and copying at cost during normal business hours. The list shall include the addresses of the mail and those local regulatory district offices of the department, those public libraries, those general business offices of the applicant, and those local business offices of the applicant nearest to the site;
 3. Text which is the same point size as standard news items and which substantially states the following:
 - a. A statement that: "A supplemental application numbered _____ for certification to authorize construction and operation of an addition to an electrical power plant near _____, Florida, is now pending before the Division of Administrative Hearings pursuant to the Florida Electrical Power Plant Siting Act, Chapter 403, Part II, Florida Statutes."
 - b. A statement that: "A public hearing on the effects of the construction and operation of an additional electrical power plant that would be located on the previously certified site will be announced in the future. Any person wishing to participate in the proceedings, as a party or without a party status, must follow Sections 403.508(3) and (4)(b), F.S." <Here list the language of Section either 403.508(3)(c) or (e), and 403.508(4)(b), F.S.>
 - c. A statement that: Any notice of intent to be a party or motion to intervene must be sent to the Division of Administrative Hearings, _____" <current address> ", Tallahassee, Florida, _____, and must contain the following: reference to the application number; the case number of the Division of Administrative Hearings; the name, address, and telephone number of the person wishing to intervene; and, allegations sufficient to demonstrate the person is entitled to participate in the hearing. Copies must be sent by mail to all parties. A list of parties may be obtained from the department's Siting Coordination Office, _____" <address> ". Those wishing to intervene in these proceedings, unless appearing on their own behalf, must be represented by an attorney or other person who can be determined to be qualified to appear in administrative proceedings pursuant to Chapter 120, F.S., or Rule 28-106.106, F.A.C."
 - (b) Certification hearing. The notice of certification hearing for a supplemental application shall be substantially the same as required in subsection (7) above, with text approved by the department.
 - (11) Notices for Certification of an Existing Power Plant Site. The same notices as specified in subsections (1) through (8) above shall be published, as applicable, with text tailored to fit the specific project.
 - (12) Proof of Publication.
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The applicant must provide proof of publication of each newspaper notice published in accordance with the above to the Siting Coordination Office within seven (7) days of the applicant's receipt of the proof of publication.

Specific Authority 403.504(1), (2), 403.517(1)(a) FS. Law Implemented 403.504(2), (5), (9), 403.5063, 403.5115(4), 403.516(1), 403.517, 403.5175 FS. History—New 2-1-99, 2-13-08.

62-17.282 Other Notifications. (Repealed)

Specific Authority 403.504(1), FS. Law Implemented 403.504(2), FS. History - New 2-1-99, Repealed 2-13-08.

62-17.283 Cure of Defective Notice.

Inadvertent failure of service on, or notice to the public or any of the persons entitled to receive such service pursuant to provisions of this Part may be cured by an order of the administrative law judge designed to afford the public or such persons adequate notice to enable their effective participation in the proceeding.

Specific Authority 403.504(1), FS. Law Implemented 403.504(5)(9), 403.508, FS. History - New 2-1-99.

62-17.293 Fees, Disbursement of Funds, Contracts.

(1) The Department will take no action on any notice-of-intent, application, or petition for modification until it has received the appropriate fee described below. All fees shall be paid by check made payable to the "Department of Environmental Protection".

(a) Notice of Intent: \$2,500.

(b) Application fee, comprised of the amounts in subparagraphs 1. and 2., as applicable:

1. Fuel, site type, and net generating capacity and fuel:

TYPE/CAPACITY	FEE
Nuclear	\$200,000
Fossil fuel (coal, oil or emulsified bitumen, except gas) 500 MW or larger	\$200,000
Fossil fuel (coal, oil, or emulsified bitumen, except gas) less than 500 MW	\$175,000 plus (b)2.
Gas-fired, 100 MW or larger	\$150,000 plus (b)2.
Waste-To-Energy, 100 MW or larger	\$150,000 plus (b)2.
Gas-fired or Waste-To-Energy less than 100 MW; Solar or other, any size	\$125,000 plus (b)2.
Combined Cycle fueled by associated coal gasification facilities or oil heavier than #2	\$150,000 plus (b)2.

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Combined Cycle fueled by gas or distillate oil, 350 MW or larger	\$125,000 plus (b)2.
Combined Cycle fueled by gas or distillate oil, less than 350 MW	\$100,000 plus (b)2.

2. Associated linear facilities.

For associated linear facilities such as transmission lines, rail lines, or gas or oil pipelines which are proposed to be certified, a fee of \$500 per mile of linear facility, as measured from the edge of the powerblock to the offsite terminus of the linear facility, is required in addition to the specified application fee, up to a maximum total fee of \$200,000.

(c) Modifications.

1. No fee is required for modifications pursuant to Section 403.516(1)(a) or (b), F.S.

2. The fee for any other modification shall be based on the number of agencies whose review is required in order to modify the Conditions of Certification due to the proposed equipment redesign, change in site size, type, increase in generating capacity proposed, or change in an associated linear facility location. The number of agencies whose review is required shall be determined by the Department based on the changes proposed to the Conditions of Certification. The fee shall be:

- | | |
|---------------------------|-----------|
| a. One agency | \$10,000. |
| b. Two agencies | \$20,000. |
| c. Three or more agencies | \$30,000. |

3. If the licensee files a request for a hearing pursuant to Section 403.516(1)(c)3., F.S., the amount of the fee to be transferred to the Division of Administrative Hearings shall be remitted to the Division by the Department within 60 days after the referral of the request to the Division.

(d) Supplemental applications. A supplemental application fee comprised of the amounts in subparagraphs 1. and 2. as applicable:

1. Supplemental generating capacity to be added and fuel:

TYPE/CAPACITY OF SUPPLEMENTAL UNITS	FEE
Nuclear	\$75,000
Fossil fuel (coal, oil, or emulsified bitumen, except gas) 500 MW or larger	\$75,000
Fossil fuel (coal, oil, or emulsified bitumen, except gas) less than 500 MW	\$65,000
Gas-fired, 100 MW or larger	\$65,000
Waste-To-Energy, 100 MW or larger	\$60,000
Gas-fired or Waste-To-Energy, less than 100 MW; solar or other, any size	\$50,000
Combined Cycle fueled by associated coal gasification facilities or oil heavier than #2	\$75,000
Combined Cycle fueled by gas or distillate oil	\$50,000

2. Additional associated linear facilities.

For associated linear facilities such as transmission lines, rail lines, or gas or oil pipelines which are proposed to be certified in addition to those previously certified, a fee of \$500 per mile of linear facility, as measured from the edge of the powerblock to

the offsite terminus of the linear facility, is required in addition to the specified application fee, up to a maximum total fee of \$75,000.

(2) The following applies to management of the fees:

(a) The department shall retain the percentages specified in 403.518(2)(a) and (d), F.S.

(b) The portion of the fee to be transferred to the Division of Administrative Hearings shall be remitted within 60 days after the following events:

1. Assignment of an administrative law judge to conduct the initial exercise of duties, pursuant to Section 403.518(2)(b)1., F.S.

2. The issuance of the recommended order on land use, pursuant to Section 403.508(1)(d), F.S.

3. The issuance of the recommended order on certification, pursuant to Section 403.508(2)(a), F.S.

(c) In order to receive reimbursement for participation in the proceedings, the affected agencies must submit invoices for reimbursement to the Department's Siting Coordination Office for a validity review prior to processing by the Department's Bureau of Finance & Accounting. The invoices must be submitted no later than 45 days after final action by the Siting Board or after notification of withdrawal of the application. Invoices received after the deadline shall not be deemed eligible for reimbursement unless good cause is demonstrated to the department. Each invoice must be accompanied by an itemization of the time and expenses incurred in accordance with state auditing procedures.

(d) Authorized agency expenses for affected agencies may only include direct costs for those items identified in Section 403.518(2)(c)1., F.S.

(e) All contracts must be directly related to the evaluation of the application. Any agency intending to incur an expense for a contract for studies pursuant to Section 403.507, F.S., must first obtain approval from the department for the amount and purpose of such expenditure. All such studies must be related to the jurisdiction of the agencies and must be directly related to the evaluation of the application. Any such contract must specify that:

1. Receipt of the final results must be available in time for agency report submittals.

2. The studies shall be finalized in writing.

3. Final reimbursement to the contractor shall not occur unless complete results are submitted such that the schedule of subparagraph 1. can be met.

4. The contractor agrees to be available to act as a witness in certification proceedings.

Specific Authority 403.504 FS. Law Implemented 403.518 FS. History--New 1-22-91, Amended 1-26-93, Formerly 17-17.293, Amended 2-1-99, 2-13-08.

PART II TRANSMISSION LINE SITING

62-17.510 General. (Repealed)

Rulemaking Authority 403.523(1), FS. Law Implemented 403.521, 403.531, FS. History - New 11-20-80, Amended 6-26-84, Formerly 17-17.510, Repealed 2-16-12.

62-17.520 Definitions.

Words, terms, and phrases used in this chapter, unless otherwise indicated, shall have the meaning set forth in Section 403.522, Florida Statutes. In addition, the following words when used in this Part shall have the indicated meanings:

- (1) "Act" means the Transmission Line Siting Act, Sections 403.52 through 403.539, F.S.
- (2) "Access road" shall mean a road within the corridor as recorded pursuant to s. 403.5312, F.S., and which is used to gain access to the rights-of-way, transmission towers, or other utility property or facilities, including those roads used for maintenance purposes. The term includes access roads within the certified corridor outside of the transmission line rights-of-way.
- (3) "Alternate corridors" shall mean corridors proposed by parties other than the applicant pursuant to the provisions of s.403.527(5), F.S.
- (4) "Construction" means any clearing of land, excavation or other action by the applicant which would alter the physical environment or ecology of a corridor, but does not include those activities essential for surveying, preliminary corridor evaluation, environmental studies, or trimming of vegetation.
- (5) "Maintenance" means the act of physically maintaining the transmission line including the right-of-way.
- (6) "Primary corridor" shall mean the preferred original corridor which the applicant seeks to have certified.
- (7) "Secondary corridors" shall mean corridors proposed for certification by the applicant which are not the primary corridor for which certification is sought.
- (8) "Secretary" means the Secretary of the Department of Environmental Protection , or the duly authorized designee.
- (9) "Working days" shall mean the days of the week during which the state conducts business. Unless otherwise indicated, "days" shall mean calendar days. Specific Authority 403.523(1), FS. Law Implemented 403.522, FS. History - New 11-20-80, Amended 6-26-84, Formerly 17-17.520.

62-17.530 Prohibitions. (Repealed)

Specific Authority 403.523(1), FS. Law Implemented 403.524, FS. History - New 11-20-80, Amended 6-26-84, Formerly 17-17.530, Repealed 1-9-97.

62-17.540 Application for Corridor Certification, Amendments, Modifications.

- (1) Applications for certification shall follow the format and shall be supported by information and technical studies, as prescribed by DEP form 62-1.212(1), FAC, unless otherwise agreed to by the Department and affected agencies. Prior to application filing, the applicant may request and the department shall grant a meeting

between the applicant, the department and all potential statutory parties which are known to determine what informational requirements required by the application form may be waived, modified, or reduced in scope for a particular application. Subsequent to this meeting, the applicant may submit a written agreement to the department and all potential statutory parties which are known as to the appropriate changes in scope, quantity, and specificity of information to be provided in the application. The department shall publish notice of receipt of the proposed written agreement as provided in FAC Rule 62-17.750(2). After publication of notice, such written agreement shall be deemed binding except to the extent an affected agency specifically disagrees within 25 days of receipt of the proposed written agreement and indicates all changes necessary to render the written agreement acceptable to the agency. All such changes with which the applicant agrees in writing shall be incorporated into the agreement. If an agency and the applicant are unable to agree on a proposed change of application information requirements, the applicant must fully complete the portion of the application with which there is disagreement. Any affected agencies' disagreements shall be in writing and include the reasons for such disagreements.

(2) Ten copies of the certification application shall be submitted by the applicant to the department. The department may provide in the application form, or by written agreement with the applicant, that less than 10 copies be submitted of parts of the certification application. Within 7 days of receipt of an application, the department shall request the Division of Administrative Hearings to designate a hearing officer. The department shall file a copy of the application with the hearing officer immediately upon being advised by the Division of Administrative Hearings of assignment of the hearing officer and the following shall be accomplished:

(a) Within 7 days of the filing of the application, the department shall provide the applicant and the Division of Administrative Hearings the names and addresses of those affected or other agencies entitled to notice and copies of the application and any amendments.

(b) Within 7 days after completeness has been determined, the department shall provide a schedule of significant dates to be followed during the certification process to the hearing officer, the applicant, and the agencies identified pursuant to subsection (a).

(c) Within 7 days after completeness has been determined, the applicant shall distribute copies of the application to the agencies identified by the department pursuant to subsection (a) and to all other parties to the certification proceeding within 7 days the determination of completeness or within 7 days of their appearance, whichever is later.

(d) Within five days of distribution, the applicant shall provide a list to the department of the names and addresses of all the persons to whom the application was distributed.

(3)(a) Any amendments made to the application shall be sent by the applicant to the hearing officer and to all parties to the proceeding as well as to all persons who received a copy of the application.

(b) Amendments to an application shall follow the format and shall be supported by information as prescribed by DEP form 62-1.212(1), FAC. Appropriate

revisions to the application text, figures, and photographs must be made to reflect the changes. Amendments may be submitted initially as correspondence, but formal revisions to the application, either in the form of amended application pages or an errata sheet listing all necessary changes to application pages, must be distributed within 15 days of correspondence submittal.

(c) Any correspondence from the applicant, including responses to agency completeness or sufficiency findings, which materially alters information contained in the application, shall be deemed an amendment.

(4)(a) Except as otherwise provided in the conditions of certification, requests or petitions to modify certification shall be filed for all changes in transmission line corridor alignment.

(b) Except as otherwise provided in the conditions of certification, expansions in right-of-way width will be considered modifications pursuant to Section 403.5315, Florida Statutes.

Specific Authority 403.523(1), FS. Law Implemented 403.523(1)(2)(3)(5)(6), 403.525, 403.5251, 403.5275, FS. History - New 11-20-80, Amended 6-26-84; 17-17.54(4) Transferred to 17-17.545(1) and Amended 6-26-84; Amended 1-26-93, Formerly 17-17.540.

62-17.543 Alternate or Multiple Corridor Information.

(1) Information submittals for Alternate Corridor proposals must address all portions of the application form (DEP form 62-1.212(1) FAC). The level of detail therein shall be commensurate with the scale of change in comparison to the applicant's original proposal. The information shall be filed with the Division of Administrative Hearings and served on the department and all other parties to the proceeding within 45 days of the filing of the alternate corridor proposal. Failure to file and serve the information as provided in this subsection shall constitute a voluntary withdrawal of the proposed alternate corridor and the alternate corridor shall not be a corridor proper for certification at the certification hearing.

(2) An applicant may choose at its option to propose more than one corridor as being proper for certification in the original application. If information on more than one corridor is included in the application, the applicant must clearly indicate which is the primary corridor versus secondary corridors.

Specific Authority 403.523(1), FS. Law Implemented 403.523(1)(2)(3)(5)(6), 403.527(5), FS. History - New 6-26-84, Formerly 17-17.543.

62-17.545 Fees, Disbursement of Funds, Contracts.

(1) The Department will take no action on any application or petition for modification until it has received the appropriate fee described below:

(a)1. The application fee is \$1000 for each mile of the proposed transmission line corridor as measured along the centerline of the corridor, plus the amount listed in 2. Portions of a mile shall be computed on a decimal basis, e.g. the fee for 74.33 miles would be \$74,330,00. When an applicant proposes secondary corridors as well as a

primary one for consideration for certification, the application fee shall be computed on the basis of the longest corridor.

2. The following amounts are required in addition to the specified application fee:

Project Size	Number of Substations or Substation Expansions Included In Certification Application	Fee
230 kV:	0-2	\$ 5,000
	3-4	\$10,000
	5-6	\$15,000
	7-8	\$20,000
	over 8	\$25,000
500 kV:	0-2	\$10,000
	3-4	\$20,000
	5-6	\$30,000
	7-8	\$40,000
	over 8	\$50,000

(b) A fee of \$2,000 plus \$750 per mile of the total realigned portion(s) of the corridor is required whenever an amendment is proposed by the applicant which includes one or more corridor alignment changes. Portions of a mile shall be computed on a decimal basis. No additional fee is required from an applicant for corridor changes initiated by other parties even if the applicant either does not object to or supports such a change.

(c)1. A \$4,000 modification fee is required where no change in corridor alignment is proposed by the applicant.

2. Where a modification is proposed by the applicant requires a corridor alignment change, the fee shall be \$1,000 for each mile of corridor realignment as measured along the centerline of the realigned portion of the corridor, plus the amount listed below. Portions of a mile shall be computed on a decimal basis.

Project Size	Number of Substations or Substation Expansions Included in Certification Application	Fee
230 kV:	0-2	\$ 1,000
	3-4	\$ 2,000
	5-6	\$ 3,000
	7-8	\$ 4,000

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over 8

\$ 5,000

500 kV:

0-2	\$ 2,000
3-4	\$ 4,000
5-6	\$ 6,000
7-8	\$ 8,000
over 8	\$10,000

(2) All fees shall be paid by check made payable to the Department. All fees received from applicants under this Chapter will be deposited into the Department's Operating Trust Fund to be used by the department for costs incurred in the conduct of activities pertaining to applications for certification or modification of electrical transmission lines.

(3) Sixty percent of each fee shall be reserved for Department costs associated with reviewing and acting upon applications or petitions; for costs of public notices published by the Department; and for field services associated with monitoring construction and operation of the facility.

(4) Forty percent of the fee shall be reserved to reimburse for authorized expenses identified in subsection (6) below the Department of Community Affairs; the Department of Environmental Protection ; the Game and Fresh Water Fish Commission; and the water management district, regional planning council, or local government in whose the jurisdiction the proposed electrical transmission line corridor is to be located; or any other agency which received a copy of the application for review pursuant to s. 62-17.540, F.A.C. In the event these reserved funds are not sufficient to provide for complete reimbursement of all agencies, reimbursement to each agency shall be on a prorated basis.

(5) All sums remaining after the payment of authorized agency expenses shall be retained by the Department for its use in the same manner as is otherwise authorized by the Transmission Line Siting Act.

(6) The following procedures for reimbursement of authorized agency expenses shall apply after final agency action by the Board or withdrawal of the application. No later than 90 days after final action by the Siting Board or 60 days after withdrawal, invoices for reimbursement must be submitted to the Department's Siting Coordination Office for review by the Department's Bureau of Finance & Accounting. Each invoice must be accompanied by an itemization of the time and expenses incurred. Reimbursement shall occur no sooner than 120 days after final action by the Siting Board, or 90 days after withdrawal of the application.

(a) Direct application-related salary costs for the following:

1. The conduct of studies for, and preparation of, reports required in accordance with Section 403.526, F.S.
2. Site inspections.
3. Attendance at hearings, depositions, and other administrative or legal proceedings.
4. Technical review and legal support.

(b) Other Personal Service (OPS) help for technical review, site inspections, studies, report preparation and participation in siting proceedings.

(c) Contracts for studies pursuant to subsection (7) below.

(d) Application-related expenses for the following:

1. Travel costs. Any reimbursement claims for travel costs must be accompanied by an approved State of Florida travel voucher.

2. Copying and reproduction costs for reports, notices, and legal pleadings.

3. Telephone and communication expenses.

4. Materials needed for studies and report preparation (e.g. maps, aerial-photographs).

5. Authorized local governments may charge for the cost of public notice directly related to informational public meetings held pursuant to s. 403.5272, F.S.

(7) Any agency intending to incur an expense for a contract for studies pursuant to Section 403.526, F.S., shall first obtain prior written approval from the Department for the amount and purpose of the expenditure. All such studies shall be related to the jurisdiction of the agencies and shall be directly related to the evaluation of the certification application. The applicant shall be furnished with a copy of any request for approval of a contract for studies within 10 days of receipt by the department. (a) Any contract must specify that:

1. Receipt of the preliminary results will be available in time for agency report submittals with final results available at least 30 days prior to the certification hearing.

2. The studies shall be finalized in writing.

3. Final reimbursement to the agency and thus to the contractor shall not occur unless complete results are submitted such that the schedule of paragraph-1. above can be met.

4. The contractor will be available to act as a witness in certification proceedings.

(b) The breach of any provision of a contract for studies shall not be grounds for the alteration of any time limitation in the Act pursuant to s. 403.528, F.S.

(8) If the application is withdrawn, the Department shall request all agencies to compute their expenses up to the time of application withdrawal, and within 30 days of the request, to submit invoices for that time period, including any expenses incurred in preparing the invoice, in accordance with (6). Within 90 days of the notification of withdrawal, the applicant shall be refunded whatever amount remains after subtraction of all documented agency and Department expenses.

Specific Authority 403.523, FS. Law Implemented 403.523, 403.5275, 403.5365, FS. History - New 11-20-80; Formerly 17-17.54(4), Transferred from and Amended 6-26-84, 4-14-86, 01-22-91, 1-26-93, Formerly 17-17.545.

62-17.560 Completeness of Application, Resolution Procedures.

(Repealed)

Specific Authority 403.523(1), FS. Law Implemented 403.523(3)(5), 403.525(2), FS. History - New 11-20-80, Amended 6-26-84, Formerly 17-17.560, Repealed 1-9-97.

62-17.570 Insufficiency of Application, Resolution Procedures.

(1) Should the department determine that an application is insufficient, a detailed statement explaining the insufficiency of the application may be served on the applicant and the parties concurrent with the completeness determination or may be served at a later time but no later than 20 working days after receipt of a complete application. Amendments shall be reviewed for sufficiency on a 10 working day schedule. The department's sufficiency finding shall be based on the recommendations of agencies required to submit reports pursuant to s. 403.526, F.S.; therefore, the sufficiency concerns of all reporting agencies shall be filed with the department and served on all parties no later than 10 working days after the agency's receipt of the application or 7 working days after receipt of an amendment. Failure to file sufficiency remarks with the department in a timely fashion shall be a waiver of the individual agency's sufficiency concerns.

(2) Within 15 days after the filing of the department's statement that the application or amendment is insufficient, the applicant shall file one of the following with the Division of Administrative Hearings, the department, and the parties:

(a) Supplemental information which renders the application or amendment sufficient.

(b) A statement agreeing with the statement of the department but indicating that the information cannot be supplied within 15 days which shall toll the time for the certification schedule, or the application or amendment may be withdrawn.

1. If the certification schedule is tolled, upon the filing of sufficient information to render the application or amendment sufficient, the times provided in the Act and this Chapter shall recommence as of the date of the filing of the Department's determination that the application or amendment is sufficient.

2. If an application is withdrawn then later resubmitted, the certification schedule shall commence anew as for an original application. However, when reviewing a resubmitted application for completeness and sufficiency, the agencies shall take into account previous determinations of completeness and sufficiency and attempt to shorten the time period necessary to make such determinations for the resubmitted application.

(c) A statement contesting the sufficiency statement of the department and providing information explaining its position. The applicant's responses and hearings on sufficiency shall follow the same procedures and time schedules as for completeness set forth in 62-17.560(3)(c), FAC, and both sufficiency and completeness issues may be addressed in the same responses and hearings.

(3) If, after an amendment has been filed to address agency sufficiency concerns, an agency or the department determines that the amendment is incomplete or insufficient to such a degree that the filing of a preliminary report would result in no meaningful information produced for use in the voluntary public meetings held by the local governments, the agency shall advise the department and the department may so inform the hearing officer and request that the certification schedule be revised such that the filing date of the preliminary reports, and thus the final reports, the Compiled

Agency Report, and date of the certification hearing is postponed in order to afford the preparation of meaningful reports.

(4) If an amendment is filed after the submission of agency reports to the department, or after the filing of the Compiled Agencies' Report, an agency may request the hearing officer to adjust the certification schedule if the agency determines that the amendment alters the findings of the report or variance information or suggested conditions of certification.

Specific Authority 403.523(1), FS. Law Implemented 403.523(3)(5), 403.525(3), FS. History -- New 11-20-80, Amended 6-26-84, Formerly 17-17.570.

62-17.580 Conduct of Studies.

(1) As needed to verify or supplement the studies made by the applicant in support of the application, the department within 15 days of the filing of a complete application shall commence or contract for joint or independent studies to aid in the evaluation of the certification application. For studies in areas outside of the department's jurisdiction and in the jurisdiction of another agency, the department may initiate such studies, but only with the consent of such agency. The department shall give written notice of all such studies to the applicant before they are commenced. Such studies may include the consideration of the following criteria in regards to corridor location impacts, transmission line construction impacts, electric and magnetic field effects, right-of-way and access road maintenance impacts, and mitigation measures, as applicable:

(a) Potential impacts of transmission line crossings on navigable waters, and submerged lands or wetlands.

(b) Potential impact on water quality and quantity, including hydrology and surface drainage resulting from construction, clearing, and maintenance.

(c) Potential impact on terrestrial and aquatic plant and animal life, including endangered or threatened species within the department's jurisdiction.

(d) Commensurate with the level of detail of information provided in the application, a final or preliminary identification of those areas where the Department has dredge/fill jurisdiction; specific identification and the location of the landward extent of jurisdiction may not occur until after the right-of-way has been defined.

(e) If site specific dredging and filling information has not been provided for all locations in the corridor at the time of application filing:

1. An analysis of areas in which the right-of-way, if located, would cause the transmission line not to be certifiable. Designation of such areas may be premised on, but is not limited to, the following:

a. There are no construction techniques which can reasonably be used in that area to mitigate adverse construction impacts to the extent that permitting requirements can be met, including considerations of cumulative impact as provided for in s.403.919, F.S, and therefore it would be appropriate for this particular location to be excluded from the certified corridor.

b. Other matters relating to dredging and filling which fail to comply with all non-procedural requirements of an agency or fail to comply with the standards set forth

in section 403.529, F.S., e.g., endangered species habitat within the department's jurisdiction.

2. An analysis of areas where construction techniques and potential right-of-way locations may exist which will comply with departmental permitting requirements, but the department does not possess sufficient information to make such determination. For example, such an instance might occur when neither the applicant nor the department has permission to enter property to verify conditions deduced from aerial photography or other remote means.

(f) Potential transmission line electric and magnetic field effects on health, safety, and welfare, if any.

(g) Site specific environmental studies due to the particular nature of the corridor.

(2) At the time of distribution of the application, the department shall inform the local governments and regional planning councils of the general process of transmission line siting and that they would have the right to conduct studies on matters within their jurisdiction relating to the presence of or impacts to:

(a) Special requirements for county/city permitting activities, such as for road crossings, stormwater control, etc., which will be included under certification;

(b) Compliance with adopted local government comprehensive plans and areas where a corridor location is unauthorized by such a plan;

(c) Compliance with zoning restrictions, including noise ordinances as compared with the estimated noise levels produced by the transmission line, and airport flight overlay zoning restrictions;

(d) City/county owned lands and easements necessary thereto;

(e) Potential impacts to socioeconomic factors addressed in zoning ordinances;

(f) Potential conflicts with support services, such as radio interference with emergency vehicles or broadcast towers;

(g) Environmental or special use factors with which the county/city has a particular concern, such as proximity to landfills or aircraft flight approach paths;

(h) Compliance with adopted Regional Comprehensive Plans;

(i) Potential impacts from regionally significant projects such as pending Developments of Regional Impact.

Specific Authority 403.523(1), FS. Law Implemented 403.523(2)(4)(14), 403.526(2)(7)(8), 403.527(5), FS. History - New 11-20-80, Amended 6-26-84, 4-15-85, Formerly 17-17.580.

62-17.590 Agency Reports, Compiled Agencies' Report with Summaries.

(1) The preliminary agency reports shall be submitted to the department no later than 60 days after the department's receipt of a complete application, and shall be made available to each local government for use as information at public meetings held pursuant to s. 403.5272, F.S.

(2) The final agency reports shall be submitted to the department no later than 90 days after each agency's receipt of a complete application.

- (3) The agency reports shall contain:
- (a) An assessment of the impacts of the project as determined by the studies required by s. 403.526, F.S.;
 - (b) Expected compliance with agency standards and an identification of any nonprocedural requirements not specifically listed in the application from which a variance or exemption is needed in order for the board to certify the corridor;
 - (c) Conclusions and recommendations regarding certification including reasons for recommendations of denial, if the agency recommends denial of certification;
 - (d) Proposed Conditions of Certification, if the agency intends to recommend certification, on matters within the agency's jurisdiction, listing the specific statute, rule, or ordinance, as applicable, which authorizes the proposed condition;
 - (e) An identification of what matters are within their jurisdiction which will be materially affected by the transmission line or corridor.
- (4) The department shall file the Compiled Agencies' Report required by 403.523(8), F.S., with the hearing officer and serve it on all parties no later than four months after the complete application has been filed with the department or 30 days prior to the certification hearing, whichever is earliest.
- (5) The Compiled Agencies' Report shall contain:
- (a) The department's recommendations relating to the disposition of the application;
 - (b) Reports by governmental agencies as specified by section 403.523(8) and 403.526, F.S.;
 - (c) A summary by the department of the significant comments made in all the reports; and
 - (d) A compilation of the various recommended conditions of certification.
- Specific Authority 403.523(2)(3)(4)(5)(6)(7)(8)(9)(10), 403.527(5), FS. Law Implemented 403.523(8), 403.526, FS. History - New 11-20-80, Amended 6-26-84, Formerly 17-17.590.

62-17.600 Conditions of Certification, Delegated Modifications.

- (1) The applicant can construct the transmission line in compliance with the terms of certification. If appropriate, the agencies' proposed conditions of certification shall recognize that the construction of the proposed transmission line may take place over a substantial period of time. Therefore, compliance with the terms of certification may be monitored by the agencies.
- (2) The department shall request that the Board delegate authority to the Secretary to review and modify specific conditions in the certification pursuant to section 403.5315(1), F.S. The specific conditions to be requested for delegation shall include, but not be limited to, the following:
- (a) Except for modification of the location of the certified corridor, the Secretary of the department is delegated the authority pursuant to section 403.5315(1), F.S., to modify Conditions of Certification relating to:

1. A modification of the transmission line that would not cause any significant additional adverse environmental impact.

2. Modifications necessary to meet licensing conditions or requirements imposed on the applicant by any federal regulatory agency. The permittee shall notify the department at least 30 days prior to the issuance of the federal license that would require such a modification, if known, or in any event, as soon as the federal agency notifies the permittee.

(b) The department shall give written notice to the parties to the original certification of any requests for modification received pursuant to this section.

(3) If the information relating to dredging and filling in waters of the State over which the department has dredging and filling jurisdiction pursuant to Ch. 403, F.S. was not provided by the applicant with the application for certification or amendments thereto, the department may request the Board to deny certification unless the following conditions of certification are imposed:

"A. For all construction activities in waters of the state where the department has dredge and fill jurisdiction pursuant to Chapter 403, F.S., which are identified in the conditions of certification, the permittee shall file with the Department of Environmental Protection, Bureau of Permitting, Siting Coordination Section, the information requested in Florida Administrative Code Rule 62-17.665.

"B. The department shall promptly review the submittal for completeness; for the purposes of this condition, completeness shall mean that the information submitted is both complete and sufficient. If found to be incomplete, the applicant shall be so notified. Failure to issue such a notice within 30 days after filing of the submittal shall constitute a finding of completeness.

"C. Within 90 days of filing of complete information, DEP shall determine whether there is reasonable assurance of compliance with applicable substantive agency regulations as required by the conditions of certification if the plans are executed as filed. If it is determined that reasonable assurance has not been provided, the permittee shall be notified with particularity and possible corrective measures suggested. Failure to notify the permittee in writing within 90 days of receipt of a complete information submittal shall constitute a compliance verification.

"D. If the department does not object within the time period specified, the utility may begin construction pursuant to the terms of the conditions of certification and the subsequently submitted construction details and the department shall provide to the Corps of Engineers a letter indicating that the full requirements of this condition have been met and that water quality certification for the purposes of 33 USC 1341 is hereby conveyed.

"E. Any information submittal after Board certification required by this section shall be solely for the purpose of facilitating the department's monitoring of the applicant's compliance with the conditions of certification.

"F. The permittee, at its option, may submit information for different dredging and filling activities at different time intervals. Each submittal by the permittee shall be processed by the Department separately."

(4) In conjunction with (3), the department may request that the Board adopt conditions of certification which provide that:

(a) The applicant not locate the right-of-way within certain areas of the corridor. These are to be identified by the Department as to the extent and reason for such "avoidance area".

(b) The applicant receive prior approval for specific construction techniques to be used or not used in areas specified in the conditions; this may be in lieu of an avoidance area designation.

(c) The applicant consult with the department prior to submittal of any post-certification monitoring data to establish where gauged stream flow information will be necessary. Disputes over such consultations shall be resolved in accordance with Chapter 120.

(d) The applicant consult with the department's dredge and fill permitting staff prior to finalization of the access road locations, including those which will not be located on the right-of-way, and tower locations and establishment of construction techniques which are to be reflected on any post-certification review information submittals.

(e) The acquisition of a particular right-of-way or the expenditure of funds towards acquisition of a particular right-of-way prior to the department's review pursuant to (3) above will be at the permittee's risk, and the department or any other party is not estopped from objecting to the construction of the transmission line and access roads in the right-of-way even if other construction has been approved or occurred on both sides of the proposed location.

(5) Any submittal of information pursuant to a requirement contained in a condition of certification which does not require agency action or which would authorize an activity by the permittee without further agency action does not provide a point of entry for a person to an administrative determination on the submittal unless the Department makes a determination that the submittal or activity is not in compliance with the terms and conditions of certification, or applicable law including applicable rules. Persons whose substantial interests may be affected by the submittal may have the right to petition for a declaratory statement pursuant to Section 120.565, F.S., or to file a verified complaint pursuant to Section 403.412, F.S. However, such persons would not be entitled to raise issues which were or could reasonably have been litigated in the certification hearing process pursuant to Section 403.527, F.S.

Specific Authority 403.523(1), FS. Law Implemented 403.531(2), 403.5315(1), FS. History - New 11-20-80, Amended 6-26-84, 4-15-85, Formerly 17-17.600.

62-17.610 Proprietary Interest in State-Owned Lands.

Rulemaking Authority 403.523(1) FS. Law Implemented 403.531(3)(b) FS. History-New 5-24-10, Repealed 2-16-12

62-17.625 Criteria for Rejection of an Alternate Corridor.

(1) Pursuant to 403.527(5)(b), F.S., within five days of receipt of a proposed alternate corridor filing, the department and the applicant shall each file with the Division

of Administrative Hearings a notice of acceptance or rejection of the alternate corridor proposed for consideration. The criteria of the department for this rejection shall be:

- (a) The alternate does not have appropriate end points which connect to the remainder of the transmission line.
 - (b) The quality of the filing is so poor as to make it difficult for the department to evaluate the proposal.
 - (c) Failure to submit the information required by s.403.527(5)(a), F.S.; however, this shall be without prejudice to refile within the timeframes set forth in s.403.527(5), F.S.
- (2) Acceptance by the department of an alternate corridor proposed for consideration pursuant to (1) above shall not require the department to support or oppose certification of such alternate corridor.
 - (3) Acceptance by the applicant of an alternate corridor proposed for certification shall not require the applicant to support or oppose certification of such alternate corridor.

Specific Authority 403.523(1), FS. Law Implemented 403.527(5), FS. History - New 6-26-84, Formerly 17-17.625.

62-17.630 Hearings Generally - Conduct, Public Service Commission's Determination of Need. (Repealed)

Specific Authority 403.523(1)(2), FS. Law Implemented 403.527(1), 403.537, FS. History - New 11-20-80, Amended 6-26-84, Formerly 17-17.630, Repealed 1-9-97.

62-17.640 Certification Hearings - Subject Matter, Procedure, Participants. (Repealed)

Specific Authority 403.523(1), FS. Law Implemented 403.527(2)(4)(5)(6), 403.529(3), FS. History - New 11-20-80, Amended 6-26-84, Formerly 17-17.640, Repealed 1-9-97.

62-17.650 Retention and Availability of Certification and Application, Copying Fees. (Repealed)

Specific Authority 403.523(1), FS. Law Implemented 403.527, FS. History - New 11-20-80, Amended 6-26-84, 4-15-85, Formerly 17-17.650, Repealed 1-9-97.

62-17.660 Post-Certification Monitoring and Reporting.

The applicant shall conduct at its expense such post-certification monitoring and reporting as is deemed reasonable by the Board, of the effects arising from the location of the transmission line corridor, the construction of the transmission line or lines and the maintenance of the transmission line right-of-way pursuant to the conditions to assure continued compliance with the terms of certification. The monitoring and reporting shall be carried out in the manner prescribed in the conditions of certification. Specific Authority 403.532(1), FS. Law Implemented 403.523(10), FS. History - New 11-20-80, Amended 6-26-84, Formerly 17-17.660.

62-17.665 Dredging and Filling, Post-Certification Review, Water Quality.

The requirements of this section shall only apply where construction of the transmission line, including access roads and structure pads, requires dredging or filling activities in waters of the state over which the department has dredge and fill jurisdiction pursuant to Chapter 403, F.S.

(1) The applicant shall show compliance with the department's dredging and filling requirements set forth in department rules and may, at its option, elect to do so:

(a) As part of the certification application and prior to the conduct of any construction activities within the landward extent of waters of the state; or

(b) As part of a post-certification monitoring review process pursuant to the conditions of certification and prior to the conduct of any construction activities within the landward extent of waters of the state. Five copies are required of all post-certification information submittals, including modifications thereof.

(2) The information submitted as part of (1) above shall be in accordance with DEP Form 62-1.212(1) and the following. Regardless of the type of drawing submitted, specific water quality assurance information must be submitted. When information is to be submitted after certification, the applicant may choose to provide the information in one or more submittals.

(a) Generic drawings will be acceptable:

1. Where there is a defined bed or channel in which water flows (incised streams, rivers, etc., with little or no associated floodplain); or

2. Where there are unchannelized wetlands or floodplains where the vegetation is predominantly herbaceous such as in a Cladium or Juncus marsh or grass prairie; or

3. Where there is forested wetlands are only comprised of isolated cypress domes, isolated bayheads, cypress sloughs, or forested wetlands not covered under s.(2)(b)1 of this section; or

4. Where there is any combination of 1, 2, or 3; or

5. In other areas if approved by the Department.

(b) Specific information will be required for construction located, at a minimum, in the following areas unless otherwise agreed to between the department and the applicant or is provided for in (a):

1. In forested wetlands, consisting of unchannelized wetlands or multiple watercourses in riverine floodplains, other than the isolated cypress domes, isolated bayheads, or cypress sloughs listed above;

2. In lakes;

3. In waters in which construction has the potential to interfere with navigation.

(3) Information which will not be required for either generic or specific data submittals will be the names and addresses of adjoining property owners unless that owner is the Trustees of the Internal Improvement Trust Fund. Notification of the project will be given as part of the certification notice published in accordance with FAC Rule 62-17.750 and no further individual notice will be given by the department.

(4) If upon ground truthing of a dredge and fill site for which generic information was submitted, the permittee discovers that the site is of a different type of general contour than the type provided in the generic drawings or if the information provided is not accurate, the permittee shall submit a revised generic drawing or information, as applicable, to the department. Such revised generic drawing or information shall be in accordance with the application form requirements.

(5)(a) Where the certification is issued requiring Department of Environmental Protection (DEP) approval for easement or other interest in state lands, the applicant shall apply directly to DEP for each required easement or other interest in state lands for such approval. The applicant shall send a copy of the application to the department. The DEP, or the applicant if DEP fails to do so, shall forward a copy of the letter of approval for such easement or other interest to the department so that the department can verify compliance with the conditions of certification.

(b) In the event the applicant files information relating to dredging and filling as part of the application rather than after certification, the department's position on compliance with permitting standards shall be indicated in the Department's report required by FAC Rule 62-17.590(3)(b) and DEP shall be copied whenever an interest in state lands must be acquired.

(6) The applicant shall apply directly to the U. S. Army Corps of Engineers (COE) for permits required by the COE for construction of the transmission line. A copy of the COE application shall be sent to the department by the applicant.

(7) If the material is submitted after certification pursuant to this section, the following procedures shall be used by the department for monitoring review:

(a) The department's Siting Coordination Section in Tallahassee shall coordinate the processing of reviews.

(b) Copies of the dredge and fill information shall be sent by the department to the applicable Water Management District, the Game and Freshwater Fish Commission, the Department of Environmental Protection and any other agency which so requests in writing. Copies will not be sent to adjacent landowners unless a landowner within or immediately adjacent to the corridor requests copies in writing.

(c) The department shall promptly review the post-certification Dredge and Fill submittal for completeness. For the purposes of this section, completeness shall mean that the information submitted is both complete and sufficient. If found to be incomplete the permittee shall be so notified within 30 days of receipt; failure to notify the permittee accordingly shall constitute a finding of completeness.

(d) Within 90 days of filing of complete information, the department shall determine whether there is reasonable assurance of compliance with substantive agency regulations as required by the conditions of certification.

(e) If it is determined that reasonable assurance has not been provided, the department shall notify the permittee with particularity and suggest possible corrective measures. Failure to notify the permittee in writing within 90 days of receipt of a complete information submittal shall constitute a compliance verification.

(f) For those areas where the department has joint jurisdiction with the U. S. Army Corps of Engineers, upon determining that the construction proposed is in

accordance with the permitting requirements of the Conditions of Certification, the department shall provide to the Corps of Engineer a letter stating that the applicant has met the requirements for 33 USC 1341 certification and copy the applicant.

(8) If the department does not object within the time period specified on the grounds of noncompliance with the permitting requirements of the conditions of certification, the utility may begin construction in such waters of the state pursuant to the terms of the conditions of certification and the subsequently submitted construction details.

(9) The applicant shall notify the department, Siting Coordination Section, or as otherwise indicated in the conditions of certification, of the place and anticipated starting date, i.e., county and month, of the dredge and fill activities in waters of the state no later than 10 working days prior to initiating any such dredge and fill activity.

(10) In the instance where the department has determined prior to the expiration of the full review period that it has no objections to the construction plans, it may so advise the applicant in writing.

(11) Any information submittal after Board certification required by this section shall be solely for the purpose of facilitating the department's monitoring of the applicant's compliance with the conditions of certification.

Specific Authority 403.523(1), FS. Law Implemented 403.531(2), FS. History - New 4-15-85, Formerly 17-17.665.

62-17.670 Review and Evaluation. (Repealed)

Specific Authority 403.523(1), FS. Law Implemented 403.532, 403.533, FS. History - New 11-20-80, Amended 6-26-84, Formerly 17-17.670, Repealed 1-9-97.

62-17.680 Modification of Certification.

(1) Certification, including conditions of certification, may be modified pursuant to the provisions of section 403.5315, F.S., and the appropriate one of the following procedures:

(a) Delegated Modifications pursuant to s. 403.5315(1), F.S., and FAC Rule 62-17.680(3)(a).

(b) Modifications without objections pursuant to s.403.5315(2), F.S., and FAC Rule 62-17.680(3)(b).

(c) Modification by petition pursuant to s.403.5315(3), F.S., and FAC Rule 62-17.680(3)(c).

(2) Modification of certification shall be initiated by filing a request or petition for modification, along with the applicable fee with the department, with service of a copy of the request on all other parties to the original certification proceeding. All requests or petitions for modification shall contain:

(a) The proposed modification;

(b) A description of the portion of the transmission line as certified or previously modified which is the subject of the proposed modification;

(c) A concise statement of the facts, including changes in circumstance which justify the modification, as well as the rules and statutes which entitle the applicant to the modification;

(d) A discussion of the anticipated effects of the proposed modification, including any additional environmental effects;

(e) A statement of whether and how a proposed modification if granted would affect the conditions of certification, Findings of Fact or Conclusions of Law, and studies conducted pursuant to FAC Rule 62-17.580 upon which the certification or conditions of certification were based;

(f) A copy of the appropriate alterations of the application as modified by the final order of certification, or subsequent modifications;

(g) The legal authority that entitles the person to seek the modification.

(3) The request for modification shall be processed by the department in accordance with the following:

(a) If the proposed modification is one for which the department has been delegated approval authority by the Board pursuant to s. 403.5315(1), F.S., the procedures set forth below shall apply.

1. Within 60 days of receipt of a request for modification, the department shall provide notice of receipt of the request and the department's proposed action on the request as set forth in FAC Rule 62-17.750(8).

2. If no person whose substantial interests would be determined by the department's decision on the request files a petition within fourteen calendar days from receipt or publication of notice, whichever is earlier, the department shall issue an order adopting its proposed agency action as set forth in the notice published pursuant to subsection 1. above.

3. Petitions for an administrative proceeding on the request for modification, if any, shall be filed with the department with a copy served on all parties to the original certification proceeding. The department may request the Division of Administrative Hearings to conduct a proceeding on the petition. The Hearing Officer shall submit the recommended order to the Secretary of the department who shall take final agency action.

4. The department shall issue its final order within 20 days after receipt of any exceptions to the recommended order.

5. Failure to submit a complete or sufficient request for modification shall be grounds for the department to deny a modification.

(b) If the proposed modification is one for which the department can approve if no objections are received pursuant to s.403.5315(2), F.S., the procedures set forth below shall apply.

1. Within 15 days of receipt of such a request for modification the department shall provide notice of receipt of the request as set forth in FAC Rule 62-17.750(9).

2. If no party or other person whose substantial interests would be affected by the department's decision on the request files an objection within the time period allotted in s.403.5315(2), F.S., the modification shall be approved and the department shall issue an order modifying the certification.

3.a. Objections to the request for modification, if any, shall be filed with the department with a copy served on all other parties to the original certification proceeding.

b. Upon the filing of an objection, the department shall conduct an informal conference after at least five days written notice to all parties and to all persons whose substantial interests would be determined who filed a timely objection, to determine if the objecting parties are able to reach mutual written agreement on modification of the terms and conditions of certification, or whether changes can be made to the proposed modification so as to have the objections withdrawn. However, if the changes significantly alter the proposed modification, the modification as changed shall be noticed in accordance with this subsection, 62-17.680(3)(b), with persons whose substantial interests are affected given another right to object.

c. If no agreement can be reached, the department shall deny the request for modification without prejudice to the applicant to file a petition pursuant to s.403.5315(3), F.S., and FAC Rule 62-17.680(3)(c).

d. If a mutual written agreement can be reached by all parties or if the objections are withdrawn, the department shall issue an order modifying the terms and conditions of certification as set forth in the agreement.

4. Failure to submit a complete or sufficient request for modification may be grounds for any party to object to the modification.

(c) If the proposed modification is one for which approval authority has not been delegated to the department, and if the department is unable to approve the proposed modification pursuant to s.403.5315(2), F.S., and FAC Rule 62-17.680(3)(b), or at the applicant's option, the applicant may file a petition for modification pursuant to s.403.5315(3), F.S., and the procedures below shall apply.

1. Within 5 days of receipt of a petition for modification, the department shall forward the petition to the DOAH for assignment of a hearing officer and shall request the hearing officer to establish a schedule for the processing of the petition, including a schedule for appropriate notices.

2. Within 15 days of receipt of a petition for modification the department shall arrange for notice as set forth in FAC Rule 62-17.750(10).

3. The provisions of Florida Administrative Code Rules 62-17.560 and 62-17.570 relating to completeness and sufficiency shall apply to review of petitions for modification filed pursuant to this subsection, but with a shorter time period commensurate with the significance of the modification.

4. Petitions filed pursuant to this subsection shall be disposed of in the same manner as an application but with shortened time periods commensurate with the significance of the modification requested.

5. The Hearing Officer shall submit the Recommended Order to the Board for final agency action.

6. The department shall request the Board to take final agency action within 30 days from issuance of the recommended order by the hearing officer or at the next available regularly scheduled Board meeting.

(4) Except to the extent that the Act or this Chapter sets forth a specific procedural requirement, the Model Rules of Procedures, Florida Administrative Code Chapter 28-5, shall govern.

Specific Authority 403.523(1), FS. Law Implemented 403.523(11), 403.535, FS. History - New 11-20-80, Amended 6-26-84, Formerly 17-17.680.

62-17.682 Exceptions. (Repealed)

Specific Authority 403.523(1), FS. Law Implemented 403.527(3), FS. History - New 6-26-84, Formerly 17-17.682, Repealed 1-9-97.

62-17.695 Emergency Replacement.

Emergency replacement of transmission lines certified under the Act requiring deviation from any condition of certification shall not be considered a modification pursuant to section 403.5315 F.S. A verbal report of the emergency shall be made to the department as soon as possible. Within 30 days after correction of the emergency a report to the department shall be made outlining the details of the emergency and the steps taken for its relief. The report shall be a written description of all of the work performed and shall set forth any pollution control measures or mitigative measures which were utilized or are being utilized to prevent pollution of waters, harm to sensitive areas or alteration of archaeological or historical resources.

Specific Authority 403.523(1), FS. Law Implemented 403.531(2), 403.5315, FS. History - New 6-26-84, Formerly 17-17.695.

62-17.700 Revocation or Suspension of Certification.

(1) Any certification may be revoked or suspended by the Board in accordance with s.403.532, F.S.

(2) Any affected agency, as authorized by law, may at its discretion cause to be conducted any investigations, monitoring or studies related to certification, deemed appropriate in contemplation or in pursuance of suspension or revocation proceedings. Specific Authority 403.523(1), FS. Law Implemented 403.532, FS. History - New 11-20-80, Amended 6-26-84, Formerly 17-17.700.

62-17.710 Termination of Certification.

The applicant shall commence construction on or condemnation or aquisition of the right-of-way of a transmission line which has been certified within 5 years of the date of certification or such later date as may be authorized by the Board, or certification shall be terminated.

Specific Authority 403.523(1)(8), FS. Law Implemented 403.529, FS. History - New 11-20-80, Amended 6-26-84, Formerly 17-17.710.

62-17.750 Public Notice.

(1)(a) The department shall prepare the text for the public notices required under this chapter and send the notices to the appropriate newspapers when required. The department shall notify the newspaper that the invoice for publication is to be sent to the

department. If the application for certification proposes one or more secondary corridors, the notices provided by this chapter shall be amended by the department to reflect that such secondary corridors are proper for certification.

(b) Many of the notice requirements of this section are beyond the notice content requirements of the Act and are solely provided as a voluntary public service by the department. The content of any notice may be different than that provided in this section so long as the deviation does not materially and substantially alter the substance of such notice. A person challenging any such notice content deviation must show that but for the particular notice content deviation such person would have had notice of the certification proceedings. Upon such showing, the hearing officer may correct such deficiency as provided in FAC Rule 62-17.760.

(2) Notice of Binding Agreement.

Within 15 days of receipt of a proposed written agreement, as provided for in FAC Rule 62-17.540(1), on the scope, quantity, and specificity of the information to be provided in the application, notice shall be provided:

(a) To the agencies in whose jurisdiction the corridor may pass, informing the agencies that any disagreements must be in writing and served on the department by the agency within 25 days of receipt of the notice.

(b) In the Florida Administrative Weekly, containing the following information:

1. The name, size, and a brief description of the transmission line.
2. A list of places where the proposed agreements are available for inspection.
3. Text which substantially states "The department and other affected agencies are authorized by FAC Rule 62-17.540(1) to enter into binding written agreements with regarding the scope, quantity, and level of information to be provided in the application for certification which will subsequently be filed. The public may provide comments regarding the substance of such an agreement to its local government or the Transmission Line Siting Coordinator, Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida, 32301, within 25 days of the publication of this notice".

4. A statement informing persons whose substantial interests may be affected by the agreement of their rights under Chapters 120 and 403 regarding any decision on the agreement.

(c) At the discretion of the department, in newspapers of general circulation, as defined in (3)(a) below, consisting of the same information described in (b) above.

(3) Notice of Receipt of Application.

No later than 15 days after the receipt of an application, the department shall arrange for publication of a public notice consisting of the following:

(a) Publication in a newspaper of general circulation within each county crossed by a transmission line corridor. A newspaper of general circulation is the newspaper which has the largest daily circulation within that county and whose principal office is in that county; if such newspaper has its principal office outside the county, then the notice shall appear in both that newspaper and in a newspaper authorized to publish legal notices within the county. The public notice shall be no less than one-half page in

size (one-full page in a tabloid size newspaper), bearing the heading "Notice of Receipt of Transmission Line Certification Application" in bold letters not less than 3/8 inch high. The notice shall contain the following:

1. A map of the corridors proper for certification. The map shall be supplied by the applicant and shall be a camera-ready copy. The applicant shall consult with the department as to how many copies will be necessary. The map shall clearly show the corridors proper for certification. Selected Townships and Ranges, and where possible, Sections, shall be shown on the map. All patterns or other graphics used to indicate special features shall be bold enough to register legibly on newsprint. The map shall occupy at least one quarter of the display advertisement.

2. Text which substantially states the following:

a. "Application number for certification to authorize location of a transmission line corridor, construction, operation and maintenance of a(n) kilovolt electrical transmission line(s) commonly referred to as - and maintenance of the transmission line right-of-way from, Florida to , Florida was received by the Department of Environmental Protection on , 19 . The case is pending before the Division of Administrative Hearings, Case No. , prior to action by the Governor and Cabinet, pursuant to the Florida Transmission Line Siting Act, Chapter 403, Part II, F.S. The corridor will pass through the following local government jurisdictions , .

b. "A certification hearing will be held regarding this application in approximately 4 months and a notice stating the date, time and location of the hearing will be published in this newspaper at least 80 days before the date set for the hearing. The Hearing Officer will receive testimony and evidence from the parties and the public at the certification hearing. If timely requested by a local government pursuant to s.403.527(2), F.S., a public hearing where members of the public not parties to the certification proceedings may testify under oath as to relevant facts and subject to cross examination by all parties shall be held in each county through which the corridor passes; however, the public should be aware that the majority of the testimony and evidence in the case will be heard at the centrally located certification hearing.

c. "State agencies and local governments will be studying the application and preparing testimony and evidence for the certification hearing. It is recommended that interested individuals review the application and bring matters of concern to the appropriate agency's attention as soon as possible (see below for listing of participating agencies). The application for certification which more specifically depicts the corridor is available for public inspection at the following locations:" (Here list the addresses of the main and appropriate district offices of the department serving the area of the corridor; the general business office of the applicant and the local business office of the applicant, if any, in every county through which the proposed corridor passes; and a public library in each county through which the corridor passes.)

d. "Consideration may be given in this proceeding to corridors alternate to the route preferred by (the applicant). The applicant may propose corridors secondary to the primary corridor in order to preserve its options, and persons other than the applicant may also propose alternate routes for portions or all of the corridor. To propose an alternate corridor, persons must request to become a party to the

proceedings (see below), and then must file a notice of proposed alternate corridor with the hearing officer pursuant to s.403.527(5), F.S., all parties, and any local governments in the jurisdiction of which the alternate is proposed, by no later than 50 days prior to the certification hearing. The filing must include the most recent United States Geological Survey 1:24000 quadrangle maps specifically delineating the corridor boundaries, a description of the proposed alternate corridor, and a statement of the reasons the proposed alternate should be certified. Each party proposing an alternate corridor shall have the burden to provide the data necessary for the agencies listed in s.403.526, F.S., to prepare a supplementary report, and the burden of proof on the certifiability of the alternate corridor at the certification hearing. See s.403.527(5), F.S., and Florida Administrative Code Rule 62-17.543 for further information and requirements."

e. "Anyone wishing to become a party to the proceedings should file an appropriate petition pursuant to Florida Admin. Code Rule 28-5.207 with _____, Hearing Officer, Division of Administrative Hearings, _____, Tallahassee, Florida. Copies of the petition should be sent by mail to all parties. Those wishing to intervene in these proceedings, unless appearing on their own behalf, must be represented by an attorney or other person who can be determined to be qualified to appear in administrative proceedings pursuant to Chapter 120, F.S., or Florida Admin. Code Rule 62-1.21.

f. The text shall also include section 403.527(4), F.S., in its entirety.

(b) The department shall mail the same text and map used in the public notice to any person who has requested to be placed on the department's mailing list for notification of transmission line certification hearings.

(c) Publication of an appropriate notice of the application in the Florida Administrative Weekly.

(4) Notice of Certification Hearing.

At least 80 days prior to the certification hearing, public notice shall be provided and shall consist of the following:

(a) Publication in the same newspapers identified pursuant to subsection (3) above. The notice shall also be of the same size, and have the same heading height, as set forth in subsection (3) above. Such public notice shall bear the heading, "Notice of Certification Hearing on Proposed Electrical Transmission Line Corridor". The public notice shall contain the following information:

1. Same as (3)(a)1. above.

2. Text which substantially states the following.

a. Same as (3)(a)2.a.

b. "Pursuant to Section 403.527, F.S., the certification hearing will be held by the Division of Administrative Hearings on _____, 19____, at _____, in _____, Florida, at _____ m. to determine whether the application should be approved in whole, approved with modifications and conditions, or denied. In making this determination, the hearing officer, and ultimately the Governor and Cabinet, shall consider whether, and the extent to which, the location of the transmission line corridor, and the construction and maintenance of the transmission line will:

"(a) Ensure electric power system reliability and integrity;

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- "(b) Meet the electric energy needs of the state in an orderly and timely fashion;
 - "(c) Comply with nonprocedural requirements of agencies;
 - "(d) Be consistent with applicable local government comprehensive plans; and
 - "(e) Effect a reasonable balance between the need for the transmission line as a means of providing abundant low-cost electrical energy and the impact to the public and the environment resulting from the location of the transmission line corridor, and construction, maintenance, and electric and magnetic field effects of the transmission line.

"Consideration of individual private property rights, equitable compensation for condemnation proceedings which may be necessary to obtain access and use of the right-of-way, and the electrical need for the transmission line will not be heard at this hearing. Need for the transmission line is considered by the Public Service Commission at a separate hearing."

c. Where individual local government hearings have been requested, the public notice for the particular county shall state: "As requested by _____ (local governments' names) "a local public hearing where members of the public not a party to the certification hearing may testify under oath as to relevant facts and subject to cross-examination by all parties shall be held on _____, 19____, at _____, in _____, Florida".

d. Same as (3)(a)2.c.

e. Same as (3)(a)2.d., except that the date by which an alternate corridor must be filed shall be specifically listed.

f. Same as (3)(a)2.e. - f.

g. A statement that "This notice is in lieu of other notices, including those relating to variances, changes to zoning ordinances and local governments' plans, or any other non-federal government license or permit".

h. A statement that "A term or condition of the certification, if granted, may provide for the subsequent submittal of information necessary for agencies to monitor the effects arising from the location of the transmission line corridor and the construction and maintenance of the transmission line to assure continued compliance with state water quality requirements or compliance with other agency non-procedural rules and standards, particularly with regards to dredging and filling activities, without any further government action. A person whose substantial interest may be affected by such submittals or monitoring must petition to become a party to this proceeding if they desire an administrative determination relative to the postcertification monitoring process in that this certification proceeding provides such a person with the opportunity for a hearing as required by Chapter 120, F.S., and the Act. Failure to petition to become a party within the time frames set forth in this notice constitutes a waiver to an administrative determination (or hearing) pursuant to Chapter 120 and the Act on the postcertification review and monitoring unless otherwise specified by a term or condition of certification".

(b) Publication of an appropriate notice of the hearing in the Florida Administrative Weekly.

(5) Reminder Notice.

No more than two weeks prior to the centrally located certification hearing, the department shall publish a brief notice in the Legal Advertisements section of the same newspapers in which the notice of certification hearing was published, reminding the public of the time and place of the hearing.

(6) Notice on Rescheduled Certification Hearing Due to Filing of Alternate Corridors.

At least 80 days prior to the rescheduled certification hearing, public notice shall be provided and shall consist of the following:

(a) Publication in the same newspapers used in (3) above. The notice shall also be of the same size or larger if necessary to accommodate maps, have the same heading height, and shall be subject to the same specifications for the map. The notice shall bear the heading, "Notice of Rescheduled Transmission Line Certification Hearing". The public notice shall contain the following:

1. A copy of a map or maps showing the location of all corridors proper for certification. Alternates located in only certain counties need only be published in the newspapers for those counties.

2. Text which substantially states the following:

a. "Pursuant to the provisions of s.403.527(5), F.S., corridors alternate to the one sought by (applicant's name) in the to (project name) Transmission Line Certification proceedings, application number , Division of Administrative Hearings Case No. , have been submitted. In order to allow citizens and agencies to study the proposal, the certification hearing originally scheduled for , 19 and noticed in this paper on , 19 has been rescheduled to , 19 , at , Florida, commencing at : .m."

b. Where individual local government hearings had been requested, the public notice for the particular county shall state: "The local public hearing where members of the public not a party to the proceeding could testify has also been rescheduled to , 19 , at , Florida, commencing at : .m.; citizens should be aware that the majority of the testimony and evidence of the case will be heard at the centrally located certification hearing identified above".

c. "State agencies and local governments have been studying the application as was originally proposed and shall do the same for the alternate corridor locations proposed. It is recommended that interested individuals review the information available on the alternate proposal and bring matters of concern to the appropriate agency's or the alternate proponent's attention as soon as possible (see below for listing of participating agencies). The information on alternates is available at the following locations:"

(Here list the addresses of the main and appropriate district offices of the department, the applicable local governments, the applicant, the alternate proponent, and any other appropriate locations.)

d. "Persons substantially affected by any corridor proper for certification may become a party to the proceedings as described below. Persons becoming parties are entitled to propose corridors alternate to the alternate previously proposed. To propose

an alternate, persons must request to become a party to the proceedings (see below), and then must file a notice of proposed alternate corridor with the hearing officer, all parties, and any local governments in the jurisdiction of which the alternate is proposed, by (here list a date at least 50 days prior to the certification hearing). The filing must include the most recent United States Geological Service 1:24000 quadrangle maps specifically delineating the corridor boundaries, a description of the proposed alternate corridor, and a statement of the reasons the proposed alternate should be certified. Each party proposing an alternate corridor shall have the burden to provide the data necessary for the agencies listed in s.403.526, F.S., to prepare a supplementary report, and the burden of proof on the certifiability of the alternate corridor at the certification hearing. See s.403.527(5), F.S., and FAC Rule 62-17.543 for further information and requirements."

e. Same as in (3)(a)2.e. - f.

(b) Same as (3)(b).

(c) Publication of an appropriate notice of rescheduled certification hearing in the Florida Administrative Weekly.

(7) Notice on Completeness or Sufficiency Hearings.

Written notice of a hearing on the completeness or sufficiency of an application shall be given to all parties.

(8) Notice of a Modification Request pursuant to s.403.5315(1), F.S.

The notice of receipt of, and of proposed agency action, (one notice for both) on a request for modification filed pursuant to FAC Rule 62-17.680(3)(a) shall be in substantial conformance with the following:

(a) Florida Administrative Weekly Notice.

"Notice of Proposed Modification of Transmission Line Corridor Certification"

"Please take notice that the Department of Environmental Protection has received a request for modification of a Transmission Line Corridor Certification issued under the Florida Transmission Line Siting Act pursuant to section 403.5315(1), F.S., and Florida Administrative Code Rule 62-17.680(3)(a), concerning: (name and file number of certification). The proposed modification involves (description and location of modification).

"The department proposes to (issue/issue with changes or conditions/deny) the request.

"A copy of the request and proposed agency action is available for inspection at (name and address).

"RIGHT TO PETITION

"Any person whose substantial interest may be determined by the proposed agency action may petition pursuant to Chapter 120, F.S., for an administrative proceeding (hearing) within 14 days from receipt of this notice. The petition must conform to the requirements of Model Rule section 28-5.201, FAC, and FAC Rule 62-17.680, and must be filed during business hours with (received by) the Office of General Counsel, Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida, 32301. Failure to file a petition within the aforementioned time

period constitutes a waiver of Chapter 120, F.S., right to such administrative proceeding."

(b) A similar notice shall be sent to all parties and to all persons on the department mailing list.

(c) The department in its discretion may also require the person requesting the modification to publish notice in a newspaper of general circulation (as defined in (3)(a) above) in the affected area.

(9) Notice of Modification Request pursuant to s.403.5315(2), F.S.

Within 15 days of receipt of a request for modification pursuant to s.403.5315(2), F.S., the department shall provide notice of receipt of such modification request by:

(a) Publication in a newspaper of general circulation, as defined in (3)(a), in each county affected by the modification. The text of the notice shall contain substantially the following information:

1. The name of the utility and a brief description of the requested modification;

2. If corridor alignment changes are proposed, a map of the same quality required by (3)(a)1. showing the location of the modification;

3. A list of readily accessible places where copies of the modification information are available;

4. A statement that: "Request number to authorize a modification to the previously certified electrical transmission line to has been received by the Department of Environmental Protection , pursuant to the Transmission Line Siting Act, Ch. 403, Part II. The modification will pass through or affect the following local governmental jurisdictions , , . Persons who are not already parties to the certification proceeding and whose substantial interests are affected by the proposed modification and who object to it must file their objections in writing with the Department of Environmental Protection, Office of General Counsel, 2600 Blair Stone Road, Tallahassee, Florida, 32301, during normal business hours within 30 days of publication of this notice. A copy of such objection must be served on all parties. Persons who fail to have the objection filed with (received by) the department within the prescribed time period will have waived their right to object.

(b) Publication of notice in the Florida Administrative Weekly; and

(c) Mailing notice to the last address of record for each party to the original certification proceedings. Such notice shall contain statements that advise that parties have the right, pursuant to s.403.5315(2), F.S., to object to the proposed modification by filing an objection with the department during normal business hours within 45 days of the mailing of the notice, and that a party who fails to have the objection filed with (received by) the department within the prescribed time period will have waived their right to object.

(10) Notice of Receipt of a Modification Petition Filed Pursuant to subsection 403.5315(3), F.S.

The department shall provide notice of a modification petition filed pursuant to subsection 403.5315(3), F.S., by:

(a) Publication in a newspaper of general circulation as defined in (3)(a), in each county affected by the modification. The public notice shall be no less than 1/2 page in size (one full page in tabloid size newspaper), bearing the heading, " to Transmission Line; Notice of Receipt of Modification Petition" in bold letters. The text of the public notice shall contain substantially the following information:

1. The same as in (9)(a)1 - 2.
2. A statement that: "A petition to authorize a modification to the previously certified electrical transmission line from Florida to , Florida, is now pending before the Division of Administrative Hearings, Case Number , prior to action by the Governor and Cabinet, pursuant to the Transmission Line Siting Act, Chapter 403, Part II, F.S. The modification will pass through the following local governmental jurisdictions: ." (Here list the Cities and Counties as appropriate).
3. A statement that: "Pursuant to sections 403.527 and 403.5315(4), F.S., a hearing regarding any disputed issues over the modification of the previously issued certification will be held at a later date, to be announced in this paper. The Hearing Officer has (or will) established a schedule for processing the Petition which may be shorter than the schedule allowed for the original application. A copy of the schedule is available from . The Hearing Officer will receive testimony and evidence from the parties and the public at the modification hearing. If requested by a local government pursuant to s.403.527(2), F.S., within the time period set by the hearing officer, a public hearing where members of the public not parties to the modification proceedings may testify under oath as to relevant facts and subject to cross examination by all parties shall be held in each county through which the modification would occur; however, the public should be aware that the majority of the testimony and evidence in the case will be heard at the centrally located modification hearing.
4. "State agencies and local governments will be studying the proposed modification and preparing testimony and evidence for the modification hearing. It is recommended that interested individuals review the proposal and bring matters of concern to the appropriate agency's attention as soon as possible (see below for listing of participating agencies). The petition for modification which more specifically describes the matters of issue is available for public inspection at the following locations:" (Here list the addresses of the main and appropriate district offices of the department serving the area of the proposed modification; the general business office of the applicant and the local business office of the applicant, if any, in every county through which the proposed modification would occur; and a public library in each county through which the proposed modification would occur.)
5. Where a corridor location change has been proposed, the following: "Consideration may be given in this proceeding to corridors alternate to the route for which the modification is proposed. Persons who become parties to the modification proceeding (see below) may also propose alternate routes for the portion of the corridor at issue. A notice of proposed alternate corridor must be filed with the hearing officer pursuant to s.403.527(5), F.S., all parties, and any local governments in the jurisdiction of which the alternate is proposed, by no later than (50 days/a time period established by the hearing officer) prior to the modification hearing. The filing must

include the most recent United States Geological Survey 1:24000 quadrangle maps specifically delineating the corridor boundaries, a description of the proposed alternate corridor, and a statement of the reasons the proposed alternate should be certified. Each party proposing an alternate corridor shall have the burden to provide the data necessary for the agencies listed in s.403.526, F.S., to prepare a supplementary report, and the burden of proof on the certifiability of the alternate corridor at the modification hearing. See s.403.527(5), F.S., and Florida Administrative Code Rule 62-17.543 for further information and requirements."

6. "Anyone whose substantial interests are affected by the proposed modification and who wishes to become a party to the proceedings should file an appropriate petition pursuant to Florida Admin. Code Rule 28-5.207 with _____, Hearing Officer, Division of Administrative Hearings, _____, Tallahassee, Florida, _____. Copies of the petition should be sent by mail to all parties."

7. The text shall also include section 403.527(4), Florida Statutes, in its entirety.

(b) By publication of appropriate notice in the Florida Administrative Weekly.

(c) The department shall mail the same text and map used in the public notice to any person who has requested to be placed on the department's mailing list for notification of transmission line certification hearings.

(11) Notice of Hearing on Modification Petition Filed Pursuant to 403.5315(3), F.S.

At least 80 days prior to the modification hearing, or as otherwise ordered by the Hearing Officer, public notice shall be provided and shall consist of the following:

(a) Publication in the same newspapers identified pursuant to subsection (10) above. The notice shall also be of the same size, and have the same heading height, as set forth in subsection (10) above. Such public notice shall bear the heading, " _____ to Transmission Line; Notice of Certification Modification Hearing". The public notice shall contain the following information:

1. Same as (9)(a)2. above.

2. Text which substantially states the following.

a. The name of the utility and a brief description of the requested modification.

b. "Pursuant to sections 403.527 and 403.5315(4), F.S., the modification hearing will be held by the Division of Administrative Hearings on _____, 19 _____, at _____, in _____, Florida, at _____ m. to determine whether the proposal for modification should be approved in whole, approved with other modifications and conditions, or denied. In making this determination, the hearing officer, and ultimately the Governor and Cabinet, shall consider whether, and the extent to which, the location of the transmission line corridor, and the construction and maintenance of the transmission line will:

"(a) Ensure electric power system reliability and integrity;

"(b) Meet the electric energy needs of the state in an orderly and timely fashion;

"(c) Comply with nonprocedural requirements of agencies;

"(d) Be consistent with applicable local government comprehensive plans; and

"(e) Effect a reasonable balance between the need for the transmission line as a means of providing abundant low-cost electrical energy and the impact to the public and the environment resulting from the location of the transmission line corridor, and construction, maintenance, and electric and magnetic field effects of the transmission line.

"Consideration of individual private property rights, equitable compensation for condemnation proceedings which may be necessary to obtain access and use of the right-of-way, and the electrical need for the transmission line will not be heard at this hearing. Need for the transmission line is considered by the Public Service Commission at a separate hearing."

c. Where individual local government hearings have been requested, the public notice for the particular county shall state: "As requested by _____" (local governments' names) "a local public hearing where members of the public not a party to the modification hearing may testify under oath as to relevant facts and subject to cross-examination by all parties shall be held on _____, 19____, at _____, in _____, Florida.

d. Same as (10)(a)4.

e. Same as (10)(a)5., except that the date by which an alternate corridor must be filed shall be specifically listed.

f. Same as (10)(a)6. - 7.

g. Same as (4)(a)2.g. - h.

(b) Publication of an appropriate notice of the hearing in the Florida Administrative Weekly.

(c) Same as (10)(c).

(12) Reminder Notice for Modification Hearing Conducted on Petition Filed Pursuant to s.403.5315(3), F.S.

No more than two weeks prior to the modification hearing, the department shall publish a brief notice in the Legal Advertisements section of the newspapers in which the notice of modification hearing was published, reminding the public of the time and the place of the hearing.

Specific Authority 403.523(1), FS. Law Implemented 403.523(9), 403.527(1)(5), 403.535, FS. History - New 11-20-80, Transferred from 17-17.61 and Amended 6-26-84, Formerly 17-17.750.

62-17.760 Evidence of Notice, Additional Notice.

(1) Evidence of any notice made pursuant to this chapter, together with a copy of the notice, shall be filed with the hearing officer by the department at the commencement of the hearings held pursuant to the subject of the notice.

(2) Failure of service on, or to give notice to the public by publication or otherwise or any of the persons entitled to receive such service or notice pursuant to provisions of this chapter, may be cured by an order of the hearing officer designed to afford the public or such persons adequate notice to enable their effective participation in the proceedings.

(3) The hearing officer may, at any time for good cause shown, require the department to serve or publish additional notices of hearing and file evidence thereof.

Specific Authority 403.523(1), FS. Law Implemented 403.523(6)(9), 403.527(1)(5), 403.5315, FS. History - New 11-20-80, Transferred from 17-17.62 and Amended 6-26-84, Formerly 17-17.760.