

1 hearing provisions of the Administrative
2 Procedure Act apply to the expedited permitting
3 process; conforming language; amending s.
4 120.542, F.S.; allowing agencies to provide
5 specified relief to persons whose substantial
6 interests are determined by agency rule, rather
7 than to persons who are subject to regulation;
8 amending s. 120.595, F.S.; providing for award
9 of attorney's fees and costs to the petitioner
10 when an agency statement is challenged under
11 the Administrative Procedure Act as not having
12 been properly adopted as a rule and the agency
13 has proceeded to rulemaking; amending s.
14 373.114, F.S.; providing that water management
15 district orders resulting from certain
16 evidentiary hearings are not subject to the
17 Land and Water Adjudicatory Commission's review
18 authority; redefining "party" under said
19 section; amending s. 373.4141, F.S.; providing
20 that an applicant for a permit for a stormwater
21 management system, dam, impoundment, or other
22 work under pt. IV of ch. 373, F.S., may elect
23 to publish notice of such an application and
24 request that certain notice be given by mail;
25 requiring that a permanent list of persons
26 requesting notice be maintained and updated;
27 providing notice requirements; providing
28 requirements applicable to a party whose
29 substantial interests have been determined in
30 connection with that party's right to an
31 administrative hearing; providing that the

1 party opposed to agency action bears the burden
2 of going forward and persuasion; specifying the
3 date by which a final hearing must be held when
4 a permit application is challenged; providing
5 that certain construction activities may be
6 authorized during the pendency of the
7 administrative proceeding; amending s. 403.412,
8 F.S.; providing that a resident of this state
9 who is not a substantially affected person may
10 not initiate certain administrative proceedings
11 under the Environmental Protection Act of 1971;
12 amending s. 120.52, F.S.; clarifying which
13 governmental entities are subject to the
14 Administrative Procedure Act; providing an
15 effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

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19 Section 1. Paragraph (d) of subsection (3) and
20 paragraph (d) of subsection (4) of section 57.111, Florida
21 Statutes, are amended to read:

22 57.111 Civil actions and administrative proceedings
23 initiated by state agencies; attorneys' fees and costs.--

24 (3) As used in this section:

25 (d) The term "small business party" means:

26 1.a. A sole proprietor of an unincorporated business,
27 including a professional practice, whose principal office is
28 in this state, who is domiciled in this state, and whose
29 business or professional practice has, at the time the action
30 is initiated by a state agency, not more than 25 full-time
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1 employees or a net worth of not more than \$5~~\$2~~ million,
2 including both personal and business investments; or
3 b. A partnership or corporation, including a
4 professional practice, which has its principal office in this
5 state and has at the time the action is initiated by a state
6 agency not more than 25 full-time employees or a net worth of
7 not more than \$5~~\$2~~ million; or
8 2. Either small business party as defined in
9 subparagraph 1., without regard to the number of its employees
10 or its net worth, in any action under s. 72.011 or in any
11 administrative proceeding under that section to contest the
12 legality of any assessment of tax imposed for the sale or use
13 of services as provided in chapter 212, or interest thereon,
14 or penalty therefor.
15 (4)
16 (d) The court, or the administrative law judge in the
17 case of a proceeding under chapter 120, shall promptly conduct
18 an evidentiary hearing on the application for an award of
19 attorney's fees and shall issue a judgment, or a final order
20 in the case of an administrative law judge. The final order
21 of an administrative law judge is reviewable in accordance
22 with the provisions of s. 120.68. If the court affirms the
23 award of attorney's fees and costs in whole or in part, it
24 may, in its discretion, award additional attorney's fees and
25 costs for the appeal.
26 1. No award of attorney's fees and costs shall be made
27 in any case in which the state agency was a nominal party.
28 2. No award of attorney's fees and costs for an action
29 initiated by a state agency shall exceed \$50,000~~\$15,000~~.
30 Section 2. Section 120.574, Florida Statutes, is
31 amended to read:

1 120.574 Expedited ~~Summary~~ hearing.--
2 (1)(a) Within 5 business days following the division's
3 receipt of a petition or request for hearing, the division
4 shall issue and serve on all original parties an initial order
5 that assigns the case to a specific administrative law judge
6 and provides general information regarding practice and
7 procedure before the division. The initial order shall also
8 contain a statement advising the original parties addressees
9 that an expedited ~~a summary~~ hearing is available, if the
10 affected agency agrees, upon the agreement of all parties
11 ~~under subsection (2)~~ and briefly describing the accelerated
12 ~~expedited~~ time sequences, limited discovery, and final order
13 provisions of the expedited summary procedure.
14 (b) Within 15 days after service of the initial order,
15 any party may file with the division a motion for expedited
16 ~~summary~~ hearing in accordance with subsection (2). If a
17 nonagency party files such a motion, and the affected agency
18 does not file a written objection within 7 days after the
19 service of that motion, or if the affected agency files such a
20 motion, and the original parties do not file a written
21 objection within 7 days after the service of the motion, then
22 the motion shall be granted and an order shall be entered
23 setting the hearing date, which shall commence within 30 days
24 after the date the response period to the motion expires. If
25 the affected agency files such a motion, and an original party
26 files a response within 7 days after service of that motion
27 objecting to the expedited hearing, the administrative law
28 judge shall, within 5 days after the filing of that response,
29 enter an order granting the motion for expedited hearing,
30 unless he or she determines that any of the original parties
31 will be unduly prejudiced thereby, which hearing shall be

1 commenced within 30 days after the date the order granting the
2 expedited hearing is entered.~~If all original parties agree,~~
3 ~~in writing, to the summary proceeding, the proceeding shall be~~
4 ~~conducted within 30 days of the agreement, in accordance with~~
5 ~~the provisions of subsection (2).~~

6 (c) Intervenors in the proceeding shall be governed by
7 the decision of the administrative law judge ~~original parties~~
8 regarding whether the case will proceed in accordance with the
9 expedited ~~summary~~ hearing process and shall not have standing
10 to challenge that decision.

11 (d) If a motion for expedited ~~summary~~ hearing is not
12 filed within 15 days after service of the division's initial
13 order, the matter shall proceed in accordance with ss. 120.569
14 and 120.57.

15 (2) In any case to which this subsection is
16 applicable, the following procedures apply:

17 (a) Motions shall be limited to the following:

18 1. A motion in opposition to the petition.

19 2. A motion requesting discovery beyond the informal
20 exchange of documents and witness lists described in paragraph
21 (b). Upon a showing of necessity, additional discovery may be
22 permitted in the discretion of the administrative law judge,
23 but only if it can be completed not later than 5 days prior to
24 the final hearing.

25 3. A motion for continuance of the final hearing date.

26 4. A motion requesting a prehearing conference, or the
27 administrative law judge may require a prehearing conference,
28 for the purpose of identifying: the legal and factual issues
29 to be considered at the final hearing; the names and addresses
30 of witnesses who may be called to testify at the final
31 hearing; documentary evidence that will be offered at the

1 final hearing; the range of penalties that may be imposed upon
2 final hearing; and any other matter that the administrative
3 law judge determines would expedite resolution of the
4 proceeding. The prehearing conference may be held by
5 telephone conference call.

6 5. During or after any preliminary hearing or
7 conference, any party or the administrative law judge may
8 suggest that the case is no longer appropriate for expedited
9 ~~summary~~ disposition. Following any argument requested by the
10 parties, the administrative law judge may enter an order
11 referring the case back to the formal adjudicatory process
12 described in s. 120.57(1), in which event the parties shall
13 proceed accordingly.

14 (b) Not later than 5 days prior to the final hearing,
15 the parties shall furnish to each other copies of documentary
16 evidence and lists of witnesses who may testify at the final
17 hearing.

18 (c) All parties shall have an opportunity to respond,
19 to present evidence and argument on all issues involved, to
20 conduct cross-examination and submit rebuttal evidence, and to
21 be represented by counsel or other qualified representative.

22 (d) The record in a case governed by this subsection
23 shall consist only of:

24 1. All notices, pleadings, motions, and intermediate
25 rulings.

26 2. Evidence received.

27 3. A statement of matters officially recognized.

28 4. Proffers of proof and objections and rulings
29 thereon.

30 5. Matters placed on the record after an ex parte
31 communication.

1 6. The written decision of the administrative law
2 judge presiding at the final hearing.

3 7. The official transcript of the final hearing.

4 (e) The agency shall accurately and completely
5 preserve all testimony in the proceeding and, upon request by
6 any party, shall make a full or partial transcript available
7 at no more than actual cost.

8 (f) The decision of the administrative law judge shall
9 be rendered within 30 days after the conclusion of the final
10 hearing or the filing of the transcript thereof, whichever is
11 later. The administrative law judge's recommended order
12 ~~decision, which shall be final agency action subject to~~
13 ~~judicial review under s. 120.68,~~ shall include the following:

14 1. Findings of fact based exclusively on the evidence
15 of record and matters officially recognized.

16 2. Conclusions of law.

17 3. Imposition of a fine or penalty, if applicable.

18 4. Any other information required by law or rule to be
19 contained in a final order.

20 (g) The parties may file exceptions to the
21 administrative law judge's recommended order within 10 days
22 after its issuance and responses may be filed within 5 days
23 after the exceptions. The agency shall issue the final order
24 within 30 days after the issuance of the administrative law
25 judge's recommended order.~~For a period of 2 years following~~
26 ~~October 1, 1996, the division shall maintain a register of the~~
27 ~~total number of formal proceedings filed with the division~~
28 ~~under s. 120.57(1).~~

29 Section 3. Subsection (8) of section 373.1501, Florida
30 Statutes, is amended to read:

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1 373.1501 South Florida Water Management District as
2 local sponsor.--
3 (8) Final agency action with regard to any project
4 component subject to s. 373.026(8)(b) shall be taken by the
5 department. Actions taken by the district pursuant to
6 subsection (5) shall not be considered final agency action.
7 Any petition for formal proceedings filed pursuant to ss.
8 120.569 and 120.57 shall require a hearing under the expedited
9 ~~summary~~ hearing provisions of s. 120.574, which shall be
10 mandatory. The final hearing under this section shall be held
11 within 30 days after receipt of the petition by the Division
12 of Administrative Hearings.

13 Section 4. Paragraph (g) of subsection (2) of section
14 403.088, Florida Statutes, is amended to read:

15 403.088 Water pollution operation permits;
16 conditions.--

17 (2)

18 (g) The Legislature finds that the restoration of the
19 Everglades Protection Area, including the construction,
20 operation, and maintenance of stormwater treatment areas
21 (STAs) is in the public interest. Accordingly, whenever a
22 facility to be constructed, operated, or maintained in
23 accordance with s. 373.4592 is subjected to permitting
24 requirements pursuant to chapter 373 or this chapter, and the
25 issuance of the initial permit for a new source, a new
26 discharger, or a recommencing discharger is subjected to a
27 request for hearing pursuant to s. 120.569, the administrative
28 law judge may, upon motion by the permittee, issue a
29 recommended order to the secretary who, within 5 days, shall
30 issue an order authorizing the interim construction,
31 operation, and maintenance of the facility if it complies with

1 all uncontested conditions of the proposed permit and all
2 other conditions recommended by the administrative law judge
3 during the period until the final agency action on the permit.
4 1. An order authorizing such interim construction,
5 operation, and maintenance shall be granted if requested by
6 motion and no party opposes it.
7 2. If a party to the administrative hearing pursuant
8 to ss. 120.569 and 120.57 opposes the motion, the
9 administrative law judge shall issue a recommended order
10 granting the motion if the administrative law judge finds
11 that:
12 a. The facility is likely to receive the permit; and
13 b. The environment will not be irreparably harmed by
14 the construction, operation, or maintenance of the facility
15 pending final agency action on the permit.
16 3. Prior to granting a contested motion for interim
17 construction, operation, or maintenance of a facility
18 authorized by s. 373.4592, the administrative law judge shall
19 conduct a hearing using the expedited ~~summary~~ hearing process
20 defined in s. 120.574, which shall be mandatory for motions
21 made pursuant to this paragraph. Notwithstanding the
22 provisions of s. 120.574(1), expedited ~~summary~~ hearing
23 proceedings for these facilities shall begin within 30 days of
24 the motion made by the permittee. Within 15 days of the
25 conclusion of the expedited ~~summary~~ proceeding, the
26 administrative law judge shall issue a recommended order
27 either denying or approving interim construction, operation,
28 or maintenance of the facility, which shall be submitted to
29 the secretary who shall within 5 days thereafter, enter an
30 order granting or denying interim construction operation or
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1 maintenance of the facility. The order shall remain in effect
2 until final agency action is taken on the permit.

3 Section 5. Subsections (8), (13), and (15) of section
4 403.973, Florida Statutes, are amended to read:

5 403.973 Expedited permitting; comprehensive plan
6 amendments.--

7 (8) At the option of the participating local
8 government, appeals of its final approval for a project may be
9 pursuant to the expedited ~~summary~~ hearing provisions of s.
10 120.574, pursuant to subsection (15), or pursuant to other
11 appellate processes available to the local government. The
12 local government's decision to enter into an expedited ~~a~~
13 ~~summary~~ hearing must be made as provided in s. 120.574 or in
14 the memorandum of agreement.

15 (13) The applicant, the regional permit action team,
16 and participating local governments may agree to incorporate
17 into a single document the permits, licenses, and approvals
18 that are obtained through the expedited permit process. This
19 consolidated permit is subject to the expedited ~~summary~~
20 hearing provisions set forth in subsection (15).

21 (15) The expedited hearing process as provided for in
22 s. 120.574 shall be used with regard to challenges to state
23 agency action in the expedited permitting process for projects
24 processed under this section. Notwithstanding s. 120.574, use
25 of the expedited hearing process does not require consent of
26 the affected agency or a determination by the administrative
27 law judge as to its propriety; however, the hearing schedule
28 may be extended by written agreement of all parties.~~are~~
29 ~~subject to the summary hearing provisions of s. 120.574,~~
30 ~~except that the administrative law judge's decision, as~~
31 ~~provided in s. 120.574(2)(f), shall be in the form of a~~

1 ~~recommended order and shall not constitute the final action of~~
2 ~~the state agency.~~In those proceedings where the action of
3 only one agency of the state is challenged, the agency of the
4 state shall issue the final order within 10 working days of
5 receipt of the administrative law judge's recommended order.
6 In those proceedings where the actions of more than one agency
7 of the state are challenged, the Governor shall issue the
8 final order within 10 working days of receipt of the
9 administrative law judge's recommended order. The
10 participating agencies of the state may opt at the preliminary
11 hearing conference to allow the administrative law judge's
12 decision to constitute the final agency action. If a
13 participating local government agrees to participate in the
14 expedited ~~summary~~ hearing provisions of s. 120.574 for
15 purposes of review of local government comprehensive plan
16 amendments, s. 163.3184(9) and (10) apply.

17 Section 6. Subsection (14) of section 408.7056,
18 Florida Statutes, is amended to read:

19 408.7056 Statewide Provider and Subscriber Assistance
20 Program.--

21 (14) A proposed order issued by the agency or
22 department which only requires the managed care entity to take
23 a specific action under subsection (7) is subject to an
24 expedited ~~a summary~~ hearing in accordance with s. 120.574,
25 unless all of the parties agree otherwise. If the managed care
26 entity does not prevail at the hearing, the managed care
27 entity must pay reasonable costs and attorney's fees of the
28 agency or the department incurred in that proceeding.

29 Section 7. Subsections (1) and (5) of section 120.542,
30 Florida Statutes, are amended to read:

31 120.542 Variances and waivers.--

1 (1) Strict application of uniformly applicable rule
2 requirements can lead to unreasonable, unfair, and unintended
3 results in particular instances. The Legislature finds that it
4 is appropriate in such cases to adopt a procedure for agencies
5 to provide relief to persons whose substantial interests are
6 determined by an agency rule ~~subject to regulation~~. A public
7 employee is not a person whose substantial interests are
8 determined by agency rule ~~subject to regulation~~ under this
9 section for the purpose of petitioning for a variance or
10 waiver to a rule that affects that public employee in his or
11 her capacity as a public employee. Agencies are authorized to
12 grant variances and waivers to requirements of their rules
13 consistent with this section and with rules adopted under the
14 authority of this section. An agency may limit the duration of
15 any grant of a variance or waiver or otherwise impose
16 conditions on the grant only to the extent necessary for the
17 purpose of the underlying statute to be achieved. This section
18 does not authorize agencies to grant variances or waivers to
19 statutes or to rules required by the Federal Government for
20 the agency's implementation or retention of any federally
21 approved or delegated program, except as allowed by the
22 program or when the variance or waiver is also approved by the
23 appropriate agency of the Federal Government. This section is
24 supplemental to, and does not abrogate, the variance and
25 waiver provisions in any other statute.

26 (5) A person whose substantial interests are
27 determined ~~who is subject to regulation~~ by an agency rule may
28 file a petition with that agency, with a copy to the
29 committee, requesting a variance or waiver from the agency's
30 rule. In addition to any requirements mandated by the uniform
31 rules, each petition shall specify:

- 1 (a) The rule from which a variance or waiver is
2 requested.
- 3 (b) The type of action requested.
- 4 (c) The specific facts that would justify a waiver or
5 variance for the petitioner.
- 6 (d) The reason why the variance or the waiver
7 requested would serve the purposes of the underlying statute.

8 Section 8. Paragraph (a) of subsection (4) of section
9 120.595, Florida Statutes, is amended to read:

10 120.595 Attorney's fees.--

11 (4) CHALLENGES TO AGENCY ACTION PURSUANT TO SECTION
12 120.56(4).--

13 (a) Upon entry of a final order that all or part of an
14 agency statement violates s. 120.54(1)(a), the administrative
15 law judge shall award reasonable costs and reasonable
16 attorney's fees to the petitioner, unless the agency
17 demonstrates that the statement is required by the Federal
18 Government to implement or retain a delegated or approved
19 program or to meet a condition to receipt of federal funds.
20 Notwithstanding any other provision of law to the contrary, if
21 an agency files with the Secretary of State a notice of rule
22 development less than 10 days prior to the final hearing and a
23 final order has not been entered because the agency has
24 proceeded to rulemaking or a final order has been entered in
25 favor of the agency solely because the agency has proceeded to
26 rulemaking and has effectively relied upon s. 120.56(4)(e),
27 the administrative law judge shall nevertheless enter an order
28 awarding the petitioner reasonable attorney's fees and costs.
29 Attorney's fees and costs shall not be awarded if the agency
30 prevails that the agency statement does not violate s.
31 120.54(1)(a).

1 Section 9. Subsection (1) of section 373.114, Florida
2 Statutes, is amended to read:

3 373.114 Land and Water Adjudicatory Commission; review
4 of district rules and orders; department review of district
5 rules.--

6 (1) Except as provided in subsection (2), the Governor
7 and Cabinet, sitting as the Land and Water Adjudicatory
8 Commission, have the exclusive authority to review any order
9 or rule of a water management district, other than a rule
10 relating to an internal procedure of the district or an order
11 resulting from an s. 120.569 or s. 120.57 evidentiary hearing,
12 to ensure consistency with the provisions and purposes of this
13 chapter. Subsequent to the legislative ratification of the
14 delineation methodology pursuant to s. 373.421(1), this
15 subsection also shall apply to an order of the department, or
16 a local government exercising delegated authority, pursuant to
17 ss. 373.403-373.443, except an order pertaining to activities
18 or operations subject to conceptual plan approval pursuant to
19 chapter 378.

20 (a) Such review may be initiated by the department or
21 by a party to the proceeding below by filing a request for
22 review with the Land and Water Adjudicatory Commission and
23 serving a copy on the department and on any person named in
24 the rule or order within 20 days after adoption of the rule or
25 the rendering of the order. For the purposes of this section,
26 the term "party" means any affected person who submitted oral
27 or written testimony, sworn or unsworn, of a substantive
28 nature which stated with particularity objections to or
29 support for the rule or order that are cognizable within the
30 scope of the provisions and purposes of this chapter, or any
31 person who participated as a party in a rule challenge

1 proceeding instituted pursuant to chapter 120. In order for
2 the commission to accept a request for review initiated by a
3 party below, with regard to a specific order, four members of
4 the commission must determine on the basis of the record below
5 that the activity authorized by the order would substantially
6 affect natural resources of statewide or regional
7 significance. Review of an order may also be accepted if four
8 members of the commission determine that the order raises
9 issues of policy, statutory interpretation, or rule
10 interpretation that have regional or statewide significance
11 from the standpoint of agency precedent. The party requesting
12 the commission to review an order must allege with
13 particularity, and the commission must find, that:

14 1. The order is in conflict with statutory
15 requirements; or

16 2. The order is in conflict with the requirements of a
17 duly adopted rule.

18 (b) Review by the Land and Water Adjudicatory
19 Commission is appellate in nature and shall be based solely on
20 the record below. ~~If there was no evidentiary administrative~~
21 ~~proceeding below,~~The facts contained in the proposed agency
22 action, including any technical staff report, shall be deemed
23 undisputed. The matter shall be heard by the commission not
24 more than 60 days after receipt of the request for review,
25 unless waived by the parties.

26 (c) If the Land and Water Adjudicatory Commission
27 determines that a rule of a water management district is not
28 consistent with the provisions and purposes of this chapter,
29 it may require the water management district to initiate
30 rulemaking proceedings to amend or repeal the rule. If the
31 commission determines that an order is not consistent with the

1 provisions and purposes of this chapter, the commission may
2 rescind or modify the order or remand the proceeding for
3 further action consistent with the order of the Land and Water
4 Adjudicatory Commission only if the commission determines that
5 the activity authorized by the order would substantially
6 affect natural resources of statewide or regional
7 significance. In the case of an order which does not itself
8 substantially affect natural resources of statewide or
9 regional significance, but which raises issues of policy that
10 have regional or statewide significance from the standpoint of
11 agency precedent, the commission may direct the district to
12 initiate rulemaking to amend its rules to assure that future
13 actions are consistent with the provisions and purposes of
14 this chapter without modifying the order.

15 (d) In a review under this section of a construction
16 permit issued pursuant to a conceptual permit under part IV,
17 which conceptual permit is issued after July 1, 1993, a party
18 to the review may not raise an issue which was or could have
19 been raised in a review of the conceptual permit under this
20 section.

21 (e) A request for review under this section shall not
22 be a precondition to the seeking of judicial review pursuant
23 to s. 120.68 or the seeking of an administrative determination
24 of rule validity pursuant to s. 120.56.

25 (f) The Florida Land and Water Adjudicatory Commission
26 may adopt rules to set forth its procedures for reviewing an
27 order or rule of a water management district consistent with
28 the provisions of this section.

29 (g) For the purpose of this section, it shall be
30 presumed that activity authorized by an order will not affect
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- 1 resources of statewide or regional significance if the
2 proposed activity:
- 3 1. Occupies an area less than 10 acres in size, and
 - 4 2. Does not create impervious surfaces greater than 2
5 acres in size, and
 - 6 3. Is not located within 550 feet of the shoreline of
7 a named body of water designated as Outstanding Florida
8 Waters, and
 - 9 4. Does not adversely affect threatened or endangered
10 species.

11
12 This paragraph shall not operate to hold that any activity
13 that exceeds these limits is presumed to affect resources of
14 statewide or regional significance. The determination of
15 whether an activity will substantially affect resources of
16 statewide or regional significance shall be made on a
17 case-by-case basis, based upon facts contained in the record
18 below.

19 Section 10. Section 373.4141, Florida Statutes, is
20 amended to read:

21 373.4141 Permits; processing.--

22 (1) Within 30 days after receipt of an application for
23 a permit under this part, the department or the water
24 management district shall review the application and shall
25 request submittal of all additional information the department
26 or the water management district is permitted by law to
27 require. If the applicant believes any request for additional
28 information is not authorized by law or rule, the applicant
29 may request a hearing pursuant to s. 120.57. Within 30 days
30 after receipt of such additional information, the department
31 or water management district shall review it and may request

1 only that information needed to clarify such additional
2 information or to answer new questions raised by or directly
3 related to such additional information. If the applicant
4 believes the request of the department or water management
5 district for such additional information is not authorized by
6 law or rule, the department or water management district, at
7 the applicant's request, shall proceed to process the permit
8 application.

9 (2) A permit shall be approved or denied within 90
10 days after receipt of the original application, the last item
11 of timely requested additional material, or the applicant's
12 written request to begin processing the permit application.

13 (3) When the permit application is deemed complete
14 pursuant to this section, or when the applicant declines to
15 provide additional information and demands that the agency
16 proceed to process the permit application, the applicant may
17 elect to publish notice of the application and request that
18 the department or water management district mail a notice to
19 every person who has submitted a request for such notice that
20 a permit is being processed, and may be the subject of final
21 agency action, and all persons owning property within 500 feet
22 of the boundary of the proposed project. The department or
23 district shall maintain a permanent list of persons requesting
24 such notices, and shall regularly update this list. Once each
25 year, in a newspaper of general circulation in each county,
26 the department and respective district shall publish a notice
27 indicating that persons who wish to be notified of such permit
28 applications may submit a written request for such notices to
29 the department or district. Each mailed notice shall include:

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1 (a) A description of the project, permit
2 identification number, identity of the applicant, and the
3 water body or wetland area that is impacted by the project.
4 (b) The number of acres of wetland impacted, if known,
5 or a statement that wetlands will or will not be impacted, if
6 the exact acreage is unknown.
7 (c) Reproduction of a vicinity map showing the
8 location of the project.
9 (d) A statement of whether or not the project will
10 impact the habitat of endangered or threatened species, if
11 known, or a statement that such impacts have not been
12 determined if this information is not available.
13
14 In order to seek a formal proceeding pursuant to ss. 120.569
15 and 120.57, or s. 403.412(5), any party whose substantial
16 interests have been determined must have submitted written
17 comments, recommendations, or objections to the department or
18 district prior to the decision of the department or district
19 to grant or deny the permit or, in the alternative, in the
20 case of a district, submitted oral comments to the district's
21 governing board. Failure of any party whose substantial
22 interests have been determined to participate in agency
23 deliberations by providing written comments, recommendations,
24 or objections to the department or district prior to its
25 decision to grant or deny the permit shall be considered by
26 the administrative law judge in any subsequent proceeding as
27 evidence that a petitioner is not a party whose substantial
28 interests are determined, and the petitioner shall be deemed
29 to have waived its right to an administrative hearing unless
30 good cause is presented regarding the lack of participation.
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1 (4) The party who objects to the intended agency
2 action bears the burden of going forward with the evidence and
3 the burden of persuasion.

4 (5) The Division of Administrative Hearings shall
5 conduct a final hearing pursuant to ss. 120.569 and 120.57 on
6 a permit application under this part within 90 days after
7 receipt by the division of the petition or request for
8 hearing; however, the hearing schedule may be extended by
9 written agreement of all parties. During the pendency of the
10 administrative proceeding, the department or the water
11 management district, as applicable, may authorize construction
12 activities that are not subject to the allegations contained
13 in the petition or request for hearing initiating the
14 administrative challenge.

15 Section 11. Subsection (5) of section 403.412, Florida
16 Statutes, is amended to read:

17 403.412 Environmental Protection Act.--

18 (5) In any administrative, licensing, or other
19 proceedings authorized by law for the protection of the air,
20 water, or other natural resources of the state from pollution,
21 impairment, or destruction, the Department of Legal Affairs, a
22 political subdivision or municipality of the state, or a
23 citizen of the state shall have standing to intervene as a
24 party on the filing of a verified pleading asserting that the
25 activity, conduct, or product to be licensed or permitted has
26 or will have the effect of impairing, polluting, or otherwise
27 injuring the air, water, or other natural resources of the
28 state; however, a resident of this state who is not
29 substantially affected by the activity, conduct, or product
30 may not institute, initiate, petition, or request a proceeding
31 pursuant to s. 120.569 or s. 120.57.

1 Section 12. Paragraphs (b) and (c) of subsection (1)
2 of section 120.52, Florida Statutes, are amended to read:
3 120.52 Definitions.--As used in this act:
4 (1) "Agency" means:
5 (b) Each:
6 1. State officer and state department, and each
7 departmental unit described in s. 20.04.
8 2. State authority, including a regional water supply
9 authority.
10 3. State board.
11 4. State commission, including the Commission on
12 Ethics and the Fish and Wildlife Conservation Commission when
13 acting pursuant to statutory authority derived from the
14 Legislature.
15 5. Regional planning agency.
16 6. Multicounty special district with a majority of its
17 governing board comprised of nonelected persons.
18 7. Educational units.
19 8. Entity described in chapters 163, 373, 380, and 582
20 and s. 186.504.
21 (c) Each other unit of government in the state,
22 including counties and municipalities and units of local
23 government having jurisdiction only in one county or part
24 thereof, to the extent they are expressly made subject to this
25 act by general or special law or existing judicial decisions.
26
27 This definition does not include any legal entity or agency
28 created in whole or in part pursuant to chapter 361, part II,
29 an expressway authority pursuant to chapter 348, any legal or
30 administrative entity created by an interlocal agreement
31 pursuant to s. 163.01(7), unless any party to such agreement

1 is otherwise an agency as defined in this subsection, or any
2 multicounty special district with a majority of its governing
3 board comprised of elected persons; however, this definition
4 shall include a regional water supply authority.

5 Section 13. This act shall take effect upon becoming a
6 law.

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