

By the Committee on Governmental Oversight and Accountability;
and Senator Joyner

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1 A bill to be entitled
2 An act relating to administrative procedures; amending
3 s. 120.52, F.S.; revising the definition of the term
4 "agency" for purposes of ch. 120, F.S.; amending s.
5 120.525, F.S.; requiring each agency to give notice of
6 public meetings, hearings, and workshops on the
7 agency's website; requiring each agency to publish
8 agendas on the agency's website; amending s. 120.54,
9 F.S.; revising the definition of the term "small
10 business" with regard to special matters to be
11 considered by an agency in rule adoption; requiring an
12 agency to ensure that persons responsible for
13 preparing a proposed rule be available at a public
14 hearing regarding the proposed rule; requiring that
15 certain materials submitted to the agency on or before
16 the date of the final public hearing be considered by
17 the agency and made a part of the record of the
18 rulemaking proceeding; requiring that a change to a
19 proposed rule be in response to written materials
20 submitted to the agency within a specified time after
21 the date of publication of the notice of intended
22 agency action or submitted to the agency on or before
23 the date of the final public hearing; requiring that a
24 proposed rule become effective on a date specified in
25 the notice of the agency's intended action; requiring
26 that the statement of an agency's organization and
27 operations be published on the agency's website;
28 providing that a rule that adopts federal standards
29 becomes effective upon the date designated by the

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30 agency in the notice of intent to adopt the rule;
31 amending s. 120.80, F.S.; deleting a provision that
32 prohibits the Department of Environmental Protection
33 from adopting the lowest regulatory cost alternative
34 under certain circumstances; providing an effective
35 date.

36
37 Be It Enacted by the Legislature of the State of Florida:

38
39 Section 1. Subsection (1) of section 120.52, Florida
40 Statutes, is amended to read:

41 120.52 Definitions.—As used in this act:

42 (1) "Agency" means the following officers or governmental
43 entities when acting pursuant to statutory authority:

44 (a) The Governor; each state officer and state department,
45 and each departmental unit described in s. 20.04; the Board of
46 Governors of the State University System; the Commission on
47 Ethics; the Fish and Wildlife Conservation Commission; a
48 regional water supply authority; a regional planning agency; a
49 multicounty special district, but only when a majority of its
50 governing board is comprised of nonelected persons; educational
51 units; and each entity described in chapters 163, 373, 380, and
52 582 and s. 186.504 in the exercise of all executive powers other
53 than those derived from the constitution.

54 (b) Each officer and governmental entity in the state
55 having statewide jurisdiction or jurisdiction in more than one
56 county.÷

57 ~~1. State officer and state department, and each~~
58 ~~departmental unit described in s. 20.04.~~

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59 ~~2. Authority, including a regional water supply authority.~~

60 ~~3. Board, including the Board of Governors of the State~~
 61 ~~University System and a state university board of trustees when~~
 62 ~~acting pursuant to statutory authority derived from the~~
 63 ~~Legislature.~~

64 ~~4. Commission, including the Commission on Ethics and the~~
 65 ~~Fish and Wildlife Conservation Commission when acting pursuant~~
 66 ~~to statutory authority derived from the Legislature.~~

67 ~~5. Regional planning agency.~~

68 ~~6. Multicounty special district with a majority of its~~
 69 ~~governing board comprised of nonelected persons.~~

70 ~~7. Educational units.~~

71 ~~8. Entity described in chapters 163, 373, 380, and 582 and~~
 72 ~~s. 186.504.~~

73 (c) Each officer and governmental entity in the state
 74 having jurisdiction in one county or less than one county ~~other~~
 75 ~~unit of government in the state, including counties and~~
 76 ~~municipalities, to the extent they are expressly made subject to~~
 77 ~~this act by general or special law or existing judicial~~
 78 ~~decisions.~~

79
 80 This definition does not include any municipality or legal
 81 entity created solely by a municipality; any legal entity or
 82 agency created in whole or in part pursuant to part II of
 83 chapter 361; ~~part II,~~ any metropolitan planning organization
 84 created pursuant to s. 339.175; any separate legal or
 85 administrative entity created pursuant to s. 339.175 of which a
 86 metropolitan planning organization is a member; ~~an expressway~~
 87 authority pursuant to chapter 348 or transportation authority

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88 under chapter 349; ~~or,~~ any legal or administrative entity
89 created by an interlocal agreement pursuant to s. 163.01(7),
90 unless any party to such agreement is otherwise an agency as
91 defined in this subsection, ~~or any multicounty special district~~
92 ~~with a majority of its governing board comprised of elected~~
93 ~~persons; however, this definition shall include a regional water~~
94 ~~supply authority.~~

95 Section 2. Subsections (1) and (2) of section 120.525,
96 Florida Statutes, are amended to read:

97 120.525 Meetings, hearings, and workshops.—

98 (1) Except in the case of emergency meetings, each agency
99 shall give notice of public meetings, hearings, and workshops by
100 publication in the Florida Administrative Weekly and on the
101 agency's website not less than 7 days before the event. The
102 notice shall include a statement of the general subject matter
103 to be considered.

104 (2) An agenda shall be prepared by the agency in time to
105 ensure that a copy of the agenda may be received at least 7 days
106 before the event by any person in the state who requests a copy
107 and who pays the reasonable cost of the copy. The agenda, along
108 with any meeting materials available in electronic form, shall
109 be published on the agency's website. The agenda shall contain
110 the items to be considered in order of presentation. After the
111 agenda has been made available, a change shall be made only for
112 good cause, as determined by the person designated to preside,
113 and stated in the record. Notification of such change shall be
114 at the earliest practicable time.

115 Section 3. Subsection (3), paragraph (b) of subsection (5),
116 and paragraph (b) of subsection (6) of section 120.54, Florida

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117 Statutes, are amended to read:

118 120.54 Rulemaking.—

119 (3) ADOPTION PROCEDURES.—

120 (a) *Notices*.—

121 1. Prior to the adoption, amendment, or repeal of any rule
122 other than an emergency rule, an agency, upon approval of the
123 agency head, shall give notice of its intended action, setting
124 forth a short, plain explanation of the purpose and effect of
125 the proposed action; the full text of the proposed rule or
126 amendment and a summary thereof; a reference to the grant of
127 rulemaking authority pursuant to which the rule is adopted; and
128 a reference to the section or subsection of the Florida Statutes
129 or the Laws of Florida being implemented or interpreted. The
130 notice must include a summary of the agency's statement of the
131 estimated regulatory costs, if one has been prepared, based on
132 the factors set forth in s. 120.541(2), and a statement that any
133 person who wishes to provide the agency with information
134 regarding the statement of estimated regulatory costs, or to
135 provide a proposal for a lower cost regulatory alternative as
136 provided by s. 120.541(1), must do so in writing within 21 days
137 after publication of the notice. The notice must state the
138 procedure for requesting a public hearing on the proposed rule.
139 Except when the intended action is the repeal of a rule, the
140 notice must include a reference both to the date on which and to
141 the place where the notice of rule development that is required
142 by subsection (2) appeared.

143 2. The notice shall be published in the Florida
144 Administrative Weekly not less than 28 days prior to the
145 intended action. The proposed rule shall be available for

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146 inspection and copying by the public at the time of the
147 publication of notice.

148 3. The notice shall be mailed to all persons named in the
149 proposed rule and to all persons who, at least 14 days prior to
150 such mailing, have made requests of the agency for advance
151 notice of its proceedings. The agency shall also give such
152 notice as is prescribed by rule to those particular classes of
153 persons to whom the intended action is directed.

154 4. The adopting agency shall file with the committee, at
155 least 21 days prior to the proposed adoption date, a copy of
156 each rule it proposes to adopt; a copy of any material
157 incorporated by reference in the rule; a detailed written
158 statement of the facts and circumstances justifying the proposed
159 rule; a copy of any statement of estimated regulatory costs that
160 has been prepared pursuant to s. 120.541; a statement of the
161 extent to which the proposed rule relates to federal standards
162 or rules on the same subject; and the notice required by
163 subparagraph 1.

164 (b) *Special matters to be considered in rule adoption.*—

165 1. Statement of estimated regulatory costs.—Prior to the
166 adoption, amendment, or repeal of any rule other than an
167 emergency rule, an agency is encouraged to prepare a statement
168 of estimated regulatory costs of the proposed rule, as provided
169 by s. 120.541. However, an agency shall prepare a statement of
170 estimated regulatory costs of the proposed rule, as provided by
171 s. 120.541, if the proposed rule will have an impact on small
172 business.

173 2. Small businesses, small counties, and small cities.—

174 a. Each agency, before the adoption, amendment, or repeal

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175 of a rule, shall consider the impact of the rule on small
176 businesses as defined by s. 288.703 and the impact of the rule
177 on small counties or small cities as defined by s. 120.52.
178 Whenever practicable, an agency shall tier its rules to reduce
179 disproportionate impacts on small businesses, small counties, or
180 small cities to avoid regulating small businesses, small
181 counties, or small cities that do not contribute significantly
182 to the problem the rule is designed to address. An agency may
183 define "small business" to include businesses employing more
184 than 200 ~~100~~ persons, may define "small county" to include those
185 with populations of more than 75,000, and may define "small
186 city" to include those with populations of more than 10,000, if
187 it finds that such a definition is necessary to adapt a rule to
188 the needs and problems of small businesses, small counties, or
189 small cities. The agency shall consider each of the following
190 methods for reducing the impact of the proposed rule on small
191 businesses, small counties, and small cities, or any combination
192 of these entities:

193 (I) Establishing less stringent compliance or reporting
194 requirements in the rule.

195 (II) Establishing less stringent schedules or deadlines in
196 the rule for compliance or reporting requirements.

197 (III) Consolidating or simplifying the rule's compliance or
198 reporting requirements.

199 (IV) Establishing performance standards or best-management
200 practices to replace design or operational standards in the
201 rule.

202 (V) Exempting small businesses, small counties, or small
203 cities from any or all requirements of the rule.

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204 b.(I) If the agency determines that the proposed action
205 will affect small businesses as defined by the agency as
206 provided in sub-subparagraph a., the agency shall send written
207 notice of the rule to the Small Business Regulatory Advisory
208 Council and the Office of Tourism, Trade, and Economic
209 Development not less than 28 days prior to the intended action.

210 (II) Each agency shall adopt those regulatory alternatives
211 offered by the Small Business Regulatory Advisory Council and
212 provided to the agency no later than 21 days after the council's
213 receipt of the written notice of the rule which it finds are
214 feasible and consistent with the stated objectives of the
215 proposed rule and which would reduce the impact on small
216 businesses. When regulatory alternatives are offered by the
217 Small Business Regulatory Advisory Council, the 90-day period
218 for filing the rule in subparagraph (e)2. is extended for a
219 period of 21 days.

220 (III) If an agency does not adopt all alternatives offered
221 pursuant to this sub-subparagraph, it shall, prior to rule
222 adoption or amendment and pursuant to subparagraph (d)1., file a
223 detailed written statement with the committee explaining the
224 reasons for failure to adopt such alternatives. Within 3 working
225 days of the filing of such notice, the agency shall send a copy
226 of such notice to the Small Business Regulatory Advisory
227 Council. The Small Business Regulatory Advisory Council may make
228 a request of the President of the Senate and the Speaker of the
229 House of Representatives that the presiding officers direct the
230 Office of Program Policy Analysis and Government Accountability
231 to determine whether the rejected alternatives reduce the impact
232 on small business while meeting the stated objectives of the

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233 proposed rule. Within 60 days after the date of the directive
234 from the presiding officers, the Office of Program Policy
235 Analysis and Government Accountability shall report to the
236 Administrative Procedures Committee its findings as to whether
237 an alternative reduces the impact on small business while
238 meeting the stated objectives of the proposed rule. The Office
239 of Program Policy Analysis and Government Accountability shall
240 consider the proposed rule, the economic impact statement, the
241 written statement of the agency, the proposed alternatives, and
242 any comment submitted during the comment period on the proposed
243 rule. The Office of Program Policy Analysis and Government
244 Accountability shall submit a report of its findings and
245 recommendations to the Governor, the President of the Senate,
246 and the Speaker of the House of Representatives. The
247 Administrative Procedures Committee shall report such findings
248 to the agency, and the agency shall respond in writing to the
249 Administrative Procedures Committee if the Office of Program
250 Policy Analysis and Government Accountability found that the
251 alternative reduced the impact on small business while meeting
252 the stated objectives of the proposed rule. If the agency will
253 not adopt the alternative, it must also provide a detailed
254 written statement to the committee as to why it will not adopt
255 the alternative.

256 (c) *Hearings.*—

257 1. If the intended action concerns any rule other than one
258 relating exclusively to procedure or practice, the agency shall,
259 on the request of any affected person received within 21 days
260 after the date of publication of the notice of intended agency
261 action, give affected persons an opportunity to present evidence

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262 and argument on all issues under consideration. The agency may
263 schedule a public hearing on the rule and, if requested by any
264 affected person, shall schedule a public hearing on the rule.
265 When a public hearing is held, the agency must ensure that the
266 persons responsible for preparing the proposed rule are
267 available to explain the agency's proposal and to respond to
268 questions or comments regarding the rule. If the agency head is
269 a board or other collegial body created under s. 20.165(4) or s.
270 20.43(3)(g), and one or more requested public hearings is
271 scheduled, the board or other collegial body shall conduct at
272 least one of the public hearings itself and may not delegate
273 this responsibility without the consent of those persons
274 requesting the public hearing. Any material pertinent to the
275 issues under consideration submitted to the agency within 21
276 days after the date of publication of the notice or submitted to
277 the agency on or before the date of the final ~~at a~~ public
278 hearing shall be considered by the agency and made a part of the
279 record of the rulemaking proceeding.

280 2. Rulemaking proceedings shall be governed solely by the
281 provisions of this section unless a person timely asserts that
282 the person's substantial interests will be affected in the
283 proceeding and affirmatively demonstrates to the agency that the
284 proceeding does not provide adequate opportunity to protect
285 those interests. If the agency determines that the rulemaking
286 proceeding is not adequate to protect the person's interests, it
287 shall suspend the rulemaking proceeding and convene a separate
288 proceeding under the provisions of ss. 120.569 and 120.57.
289 Similarly situated persons may be requested to join and
290 participate in the separate proceeding. Upon conclusion of the

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291 separate proceeding, the rulemaking proceeding shall be resumed.

292 (d) *Modification or withdrawal of proposed rules.*—

293 1. After the final public hearing on the proposed rule, or
294 after the time for requesting a hearing has expired, if the rule
295 has not been changed from the rule as previously filed with the
296 committee, or contains only technical changes, the adopting
297 agency shall file a notice to that effect with the committee at
298 least 7 days prior to filing the rule for adoption. Any change,
299 other than a technical change that does not affect the substance
300 of the rule, must be supported by the record of public hearings
301 held on the rule, must be in response to written material
302 submitted to the agency within 21 days after the date of
303 publication of the notice of intended agency action or submitted
304 to the agency ~~received~~ on or before the date of the final public
305 hearing, or must be in response to a proposed objection by the
306 committee. In addition, when any change is made in a proposed
307 rule, other than a technical change, the adopting agency shall
308 provide a copy of a notice of change by certified mail or actual
309 delivery to any person who requests it in writing no later than
310 21 days after the notice required in paragraph (a). The agency
311 shall file the notice of change with the committee, along with
312 the reasons for the change, and provide the notice of change to
313 persons requesting it, at least 21 days prior to filing the rule
314 for adoption. The notice of change shall be published in the
315 Florida Administrative Weekly at least 21 days prior to filing
316 the rule for adoption. This subparagraph does not apply to
317 emergency rules adopted pursuant to subsection (4).

318 2. After the notice required by paragraph (a) and prior to
319 adoption, the agency may withdraw the rule in whole or in part.

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320 3. After adoption and before the effective date, a rule may
321 be modified or withdrawn only in response to an objection by the
322 committee or may be modified to extend the effective date by not
323 more than 60 days when the committee has notified the agency
324 that an objection to the rule is being considered.

325 4. The agency shall give notice of its decision to withdraw
326 or modify a rule in the first available issue of the publication
327 in which the original notice of rulemaking was published, shall
328 notify those persons described in subparagraph (a)3. in
329 accordance with the requirements of that subparagraph, and shall
330 notify the Department of State if the rule is required to be
331 filed with the Department of State.

332 5. After a rule has become effective, it may be repealed or
333 amended only through the rulemaking procedures specified in this
334 chapter.

335 (e) *Filing for final adoption; effective date.*—

336 1. If the adopting agency is required to publish its rules
337 in the Florida Administrative Code, the agency, upon approval of
338 the agency head, shall file with the Department of State three
339 certified copies of the rule it proposes to adopt; one copy of
340 any material incorporated by reference in the rule, certified by
341 the agency; a summary of the rule; a summary of any hearings
342 held on the rule; and a detailed written statement of the facts
343 and circumstances justifying the rule. Agencies not required to
344 publish their rules in the Florida Administrative Code shall
345 file one certified copy of the proposed rule, and the other
346 material required by this subparagraph, in the office of the
347 agency head, and such rules shall be open to the public.

348 2. A rule may not be filed for adoption less than 28 days

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349 or more than 90 days after the notice required by paragraph (a),
350 until 21 days after the notice of change required by paragraph
351 (d), until 14 days after the final public hearing, until 21 days
352 after a statement of estimated regulatory costs required under
353 s. 120.541 has been provided to all persons who submitted a
354 lower cost regulatory alternative and made available to the
355 public, or until the administrative law judge has rendered a
356 decision under s. 120.56(2), whichever applies. When a required
357 notice of change is published prior to the expiration of the
358 time to file the rule for adoption, the period during which a
359 rule must be filed for adoption is extended to 45 days after the
360 date of publication. If notice of a public hearing is published
361 prior to the expiration of the time to file the rule for
362 adoption, the period during which a rule must be filed for
363 adoption is extended to 45 days after adjournment of the final
364 hearing on the rule, 21 days after receipt of all material
365 authorized to be submitted at the hearing, or 21 days after
366 receipt of the transcript, if one is made, whichever is latest.
367 The term "public hearing" includes any public meeting held by
368 any agency at which the rule is considered. If a petition for an
369 administrative determination under s. 120.56(2) is filed, the
370 period during which a rule must be filed for adoption is
371 extended to 60 days after the administrative law judge files the
372 final order with the clerk or until 60 days after subsequent
373 judicial review is complete.

374 3. At the time a rule is filed, the agency shall certify
375 that the time limitations prescribed by this paragraph have been
376 complied with, that all statutory rulemaking requirements have
377 been met, and that there is no administrative determination

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378 pending on the rule.

379 4. At the time a rule is filed, the committee shall certify
380 whether the agency has responded in writing to all material and
381 timely written comments or written inquiries made on behalf of
382 the committee. The department shall reject any rule that is not
383 filed within the prescribed time limits; that does not comply
384 with all statutory rulemaking requirements and rules of the
385 department; upon which an agency has not responded in writing to
386 all material and timely written inquiries or written comments;
387 upon which an administrative determination is pending; or which
388 does not include a statement of estimated regulatory costs, if
389 required.

390 5. If a rule has not been adopted within the time limits
391 imposed by this paragraph or has not been adopted in compliance
392 with all statutory rulemaking requirements, the agency proposing
393 the rule shall withdraw the rule and give notice of its action
394 in the next available issue of the Florida Administrative
395 Weekly.

396 6. The proposed rule shall be adopted on being filed with
397 the Department of State and become effective 20 days after being
398 filed, on a later date specified in the notice required by
399 subparagraph (a)1. rule, or on a date required by statute. Rules
400 not required to be filed with the Department of State shall
401 become effective when adopted by the agency head or on a later
402 date specified by rule or statute. If the committee notifies an
403 agency that an objection to a rule is being considered, the
404 agency may postpone the adoption of the rule to accommodate
405 review of the rule by the committee. When an agency postpones
406 adoption of a rule to accommodate review by the committee, the

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407 90-day period for filing the rule is tolled until the committee
408 notifies the agency that it has completed its review of the
409 rule.

410
411 For the purposes of this paragraph, the term "administrative
412 determination" does not include subsequent judicial review.

413 (5) UNIFORM RULES.—

414 (b) The uniform rules of procedure adopted by the
415 commission pursuant to this subsection shall include, but are
416 not limited to:

417 1. Uniform rules for the scheduling of public meetings,
418 hearings, and workshops.

419 2. Uniform rules for use by each state agency that provide
420 procedures for conducting public meetings, hearings, and
421 workshops, and for taking evidence, testimony, and argument at
422 such public meetings, hearings, and workshops, in person and by
423 means of communications media technology. The rules shall
424 provide that all evidence, testimony, and argument presented
425 shall be afforded equal consideration, regardless of the method
426 of communication. If a public meeting, hearing, or workshop is
427 to be conducted by means of communications media technology, or
428 if attendance may be provided by such means, the notice shall so
429 state. The notice for public meetings, hearings, and workshops
430 utilizing communications media technology shall state how
431 persons interested in attending may do so and shall name
432 locations, if any, where communications media technology
433 facilities will be available. Nothing in this paragraph shall be
434 construed to diminish the right to inspect public records under
435 chapter 119. Limiting points of access to public meetings,

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436 hearings, and workshops subject to the provisions of s. 286.011
437 to places not normally open to the public shall be presumed to
438 violate the right of access of the public, and any official
439 action taken under such circumstances is void and of no effect.
440 Other laws relating to public meetings, hearings, and workshops,
441 including penal and remedial provisions, shall apply to public
442 meetings, hearings, and workshops conducted by means of
443 communications media technology, and shall be liberally
444 construed in their application to such public meetings,
445 hearings, and workshops. As used in this subparagraph,
446 "communications media technology" means the electronic
447 transmission of printed matter, audio, full-motion video,
448 freeze-frame video, compressed video, and digital video by any
449 method available.

450 3. Uniform rules of procedure for the filing of notice of
451 protests and formal written protests. The Administration
452 Commission may prescribe the form and substantive provisions of
453 a required bond.

454 4. Uniform rules of procedure for the filing of petitions
455 for administrative hearings pursuant to s. 120.569 or s. 120.57.
456 Such rules shall require the petition to include:

457 a. The identification of the petitioner.

458 b. A statement of when and how the petitioner received
459 notice of the agency's action or proposed action.

460 c. An explanation of how the petitioner's substantial
461 interests are or will be affected by the action or proposed
462 action.

463 d. A statement of all material facts disputed by the
464 petitioner or a statement that there are no disputed facts.

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465 e. A statement of the ultimate facts alleged, including a
466 statement of the specific facts the petitioner contends warrant
467 reversal or modification of the agency's proposed action.

468 f. A statement of the specific rules or statutes that the
469 petitioner contends require reversal or modification of the
470 agency's proposed action, including an explanation of how the
471 alleged facts relate to the specific rules or statutes.

472 g. A statement of the relief sought by the petitioner,
473 stating precisely the action petitioner wishes the agency to
474 take with respect to the proposed action.

475 5. Uniform rules for the filing of request for
476 administrative hearing by a respondent in agency enforcement and
477 disciplinary actions. Such rules shall require a request to
478 include:

479 a. The name, address, and telephone number of the party
480 making the request and the name, address, and telephone number
481 of the party's counsel or qualified representative upon whom
482 service of pleadings and other papers shall be made;

483 b. A statement that the respondent is requesting an
484 administrative hearing and disputes the material facts alleged
485 by the petitioner, in which case the respondent shall identify
486 those material facts that are in dispute, or that the respondent
487 is requesting an administrative hearing and does not dispute the
488 material facts alleged by the petitioner; and

489 c. A reference by file number to the administrative
490 complaint that the party has received from the agency and the
491 date on which the agency pleading was received.

492
493 The agency may provide an election-of-rights form for the

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494 respondent's use in requesting a hearing, so long as any form
495 provided by the agency calls for the information in sub-
496 subparagraphs a. through c. and does not impose any additional
497 requirements on a respondent in order to request a hearing,
498 unless such requirements are specifically authorized by law.

499 6. Uniform rules of procedure for the filing and prompt
500 disposition of petitions for declaratory statements. The rules
501 shall also describe the contents of the notices that must be
502 published in the Florida Administrative Weekly under s. 120.565,
503 including any applicable time limit for the filing of petitions
504 to intervene or petitions for administrative hearing by persons
505 whose substantial interests may be affected.

506 7. Provision of a method by which each agency head shall
507 provide a description of the agency's organization and general
508 course of its operations. The rules shall require that the
509 statement concerning the agency's organization and operations be
510 published on the agency's website.

511 8. Uniform rules establishing procedures for granting or
512 denying petitions for variances and waivers pursuant to s.
513 120.542.

514 (6) ADOPTION OF FEDERAL STANDARDS.—Notwithstanding any
515 contrary provision of this section, in the pursuance of state
516 implementation, operation, or enforcement of federal programs,
517 an agency is empowered to adopt rules substantively identical to
518 regulations adopted pursuant to federal law, in accordance with
519 the following procedures:

520 (b) Any rule adopted pursuant to this subsection shall
521 become effective upon the date designated ~~in the rule~~ by the
522 agency in the notice of intent to adopt a rule; however, no such

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523 rule shall become effective earlier than the effective date of
524 the substantively identical federal regulation.

525 Section 4. Subsections (16) and (17) of section 120.80,
526 Florida Statutes, are amended to read:

527 120.80 Exceptions and special requirements; agencies.-

528 ~~(16) DEPARTMENT OF ENVIRONMENTAL PROTECTION.-~~

529 ~~Notwithstanding the provisions of s. 120.54(1)(d), the~~
530 ~~Department of Environmental Protection, in undertaking~~
531 ~~rulemaking to establish best available control technology,~~
532 ~~lowest achievable emissions rate, or case-by-case maximum~~
533 ~~available control technology for purposes of s. 403.08725, shall~~
534 ~~not adopt the lowest regulatory cost alternative if such~~
535 ~~adoption would prevent the agency from implementing federal~~
536 ~~requirements.-~~

537 (16) ~~(17)~~ FLORIDA BUILDING COMMISSION.-

538 (a) Notwithstanding the provisions of s. 120.542, the
539 Florida Building Commission may not accept a petition for waiver
540 or variance and may not grant any waiver or variance from the
541 requirements of the Florida Building Code.

542 (b) The Florida Building Commission shall adopt within the
543 Florida Building Code criteria and procedures for alternative
544 means of compliance with the code or local amendments thereto,
545 for enforcement by local governments, local enforcement
546 districts, or other entities authorized by law to enforce the
547 Florida Building Code. Appeals from the denial of the use of
548 alternative means shall be heard by the local board, if one
549 exists, and may be appealed to the Florida Building Commission.

550 (c) Notwithstanding ss. 120.565, 120.569, and 120.57, the
551 Florida Building Commission and hearing officer panels appointed

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552 by the commission in accordance with s. 553.775(3)(c)1. may
553 conduct proceedings to review decisions of local building code
554 officials in accordance with s. 553.775(3)(c).

555 Section 5. This act shall take effect July 1, 2009.