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1
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.; providing
5 legislative intent; amending s. 120.525, F.S.;
6 requiring each agency to give notice of public
7 meetings, hearings, and workshops on the agency's
8 website; requiring each agency to publish agendas and
9 certain other materials on the agency's website;
10 amending s. 120.54, F.S.; revising the definition of
11 the term "small business" with regard to special
12 matters to be considered by an agency in rule
13 adoption; requiring an agency to ensure that staff be
14 available at a public hearing regarding the proposed
15 rule; requiring that certain materials submitted to
16 the agency between the date of publication of the
17 notice and the end of the final public hearing be
18 considered by the agency and made a part of the record
19 of the rulemaking proceeding; requiring that a change
20 to a proposed rule be in response to written materials
21 submitted to the agency within a specified time after
22 the date of publication of the notice of intended
23 agency action or submitted to the agency between the
24 date of publication of the notice and the end of the
25 final public hearing; requiring that a proposed rule
26 become effective on a date specified in the notice of
27 the agency's intended action; requiring that the
28 statement of an agency's organization and operations
29 be published on the agency's website; providing that a

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

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

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

42 120.52 Definitions.—As used in this act:

43 (1) "Agency" means the following officers or governmental
44 entities if acting pursuant to powers other than those derived
45 from the constitution:

46 (a) The Governor; each state officer and state department,
47 and each departmental unit described in s. 20.04; the Board of
48 Governors of the State University System; the Commission on
49 Ethics; the Fish and Wildlife Conservation Commission; a
50 regional water supply authority; a regional planning agency; a
51 multicounty special district, but only when a majority of its
52 governing board is comprised of nonelected persons; educational
53 units; and each entity described in chapters 163, 373, 380, and
54 582 and s. 186.504 in the exercise of all executive powers other
55 than those derived from the constitution.

56 (b) Each officer and governmental entity in the state
57 having statewide jurisdiction or jurisdiction in more than one
58 county.‡

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

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

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

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

69 ~~5. Regional planning agency.~~

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

72 ~~7. Educational units.~~

73 ~~8. Entity described in chapters 163, 373, 380, and 582 and~~
74 ~~s. 186.504.~~

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

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

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88 metropolitan planning organization is a member;~~7~~ an expressway
89 authority pursuant to chapter 348 or transportation authority
90 under chapter 349;or, any legal or administrative entity
91 created by an interlocal agreement pursuant to s. 163.01(7),
92 unless any party to such agreement is otherwise an agency as
93 defined in this subsection,~~or any multicounty special district~~
94 ~~with a majority of its governing board comprised of elected~~
95 ~~persons; however, this definition shall include a regional water~~
96 ~~supply authority.~~

97 Section 2. The amendments to subsection 120.52(1), Florida
98 Statutes, made by this act are not intended to effect a
99 substantive change in meaning of that subsection. The amendments
100 are intended to clarify and simplify existing law and are
101 intended to be consistent with judicial interpretations of that
102 statute.

103 Section 3. Subsections (1) and (2) of section 120.525,
104 Florida Statutes, are amended to read:

105 120.525 Meetings, hearings, and workshops.—

106 (1) Except in the case of emergency meetings, each agency
107 shall give notice of public meetings, hearings, and workshops by
108 publication in the Florida Administrative Weekly and on the
109 agency's website not less than 7 days before the event. The
110 notice shall include a statement of the general subject matter
111 to be considered.

112 (2) An agenda shall be prepared by the agency in time to
113 ensure that a copy of the agenda may be received at least 7 days
114 before the event by any person in the state who requests a copy
115 and who pays the reasonable cost of the copy. The agenda, along
116 with any meeting materials available in electronic form

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117 excluding confidential and exempt information, shall be
118 published on the agency's website. The agenda shall contain the
119 items to be considered in order of presentation. After the
120 agenda has been made available, a change shall be made only for
121 good cause, as determined by the person designated to preside,
122 and stated in the record. Notification of such change shall be
123 at the earliest practicable time.

124 Section 4. Subsection (3), paragraph (b) of subsection (5),
125 and paragraph (b) of subsection (6) of section 120.54, Florida
126 Statutes, are amended to read:

127 120.54 Rulemaking.—

128 (3) ADOPTION PROCEDURES.—

129 (a) *Notices.*—

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

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146 after publication of the notice. The notice must state the
147 procedure for requesting a public hearing on the proposed rule.
148 Except when the intended action is the repeal of a rule, the
149 notice must include a reference both to the date on which and to
150 the place where the notice of rule development that is required
151 by subsection (2) appeared.

152 2. The notice shall be published in the Florida
153 Administrative Weekly not less than 28 days prior to the
154 intended action. The proposed rule shall be available for
155 inspection and copying by the public at the time of the
156 publication of notice.

157 3. The notice shall be mailed to all persons named in the
158 proposed rule and to all persons who, at least 14 days prior to
159 such mailing, have made requests of the agency for advance
160 notice of its proceedings. The agency shall also give such
161 notice as is prescribed by rule to those particular classes of
162 persons to whom the intended action is directed.

163 4. The adopting agency shall file with the committee, at
164 least 21 days prior to the proposed adoption date, a copy of
165 each rule it proposes to adopt; a copy of any material
166 incorporated by reference in the rule; a detailed written
167 statement of the facts and circumstances justifying the proposed
168 rule; a copy of any statement of estimated regulatory costs that
169 has been prepared pursuant to s. 120.541; a statement of the
170 extent to which the proposed rule relates to federal standards
171 or rules on the same subject; and the notice required by
172 subparagraph 1.

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

174 1. Statement of estimated regulatory costs.—Prior to the

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175 adoption, amendment, or repeal of any rule other than an
176 emergency rule, an agency is encouraged to prepare a statement
177 of estimated regulatory costs of the proposed rule, as provided
178 by s. 120.541. However, an agency shall prepare a statement of
179 estimated regulatory costs of the proposed rule, as provided by
180 s. 120.541, if the proposed rule will have an impact on small
181 business.

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

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

202 (I) Establishing less stringent compliance or reporting
203 requirements in the rule.

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

206 (III) Consolidating or simplifying the rule's compliance or
207 reporting requirements.

208 (IV) Establishing performance standards or best-management
209 practices to replace design or operational standards in the
210 rule.

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

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

219 (II) Each agency shall adopt those regulatory alternatives
220 offered by the Small Business Regulatory Advisory Council and
221 provided to the agency no later than 21 days after the council's
222 receipt of the written notice of the rule which it finds are
223 feasible and consistent with the stated objectives of the
224 proposed rule and which would reduce the impact on small
225 businesses. When regulatory alternatives are offered by the
226 Small Business Regulatory Advisory Council, the 90-day period
227 for filing the rule in subparagraph (e)2. is extended for a
228 period of 21 days.

229 (III) If an agency does not adopt all alternatives offered
230 pursuant to this sub-subparagraph, it shall, prior to rule
231 adoption or amendment and pursuant to subparagraph (d)1., file a
232 detailed written statement with the committee explaining the

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233 reasons for failure to adopt such alternatives. Within 3 working
234 days of the filing of such notice, the agency shall send a copy
235 of such notice to the Small Business Regulatory Advisory
236 Council. The Small Business Regulatory Advisory Council may make
237 a request of the President of the Senate and the Speaker of the
238 House of Representatives that the presiding officers direct the
239 Office of Program Policy Analysis and Government Accountability
240 to determine whether the rejected alternatives reduce the impact
241 on small business while meeting the stated objectives of the
242 proposed rule. Within 60 days after the date of the directive
243 from the presiding officers, the Office of Program Policy
244 Analysis and Government Accountability shall report to the
245 Administrative Procedures Committee its findings as to whether
246 an alternative reduces the impact on small business while
247 meeting the stated objectives of the proposed rule. The Office
248 of Program Policy Analysis and Government Accountability shall
249 consider the proposed rule, the economic impact statement, the
250 written statement of the agency, the proposed alternatives, and
251 any comment submitted during the comment period on the proposed
252 rule. The Office of Program Policy Analysis and Government
253 Accountability shall submit a report of its findings and
254 recommendations to the Governor, the President of the Senate,
255 and the Speaker of the House of Representatives. The
256 Administrative Procedures Committee shall report such findings
257 to the agency, and the agency shall respond in writing to the
258 Administrative Procedures Committee if the Office of Program
259 Policy Analysis and Government Accountability found that the
260 alternative reduced the impact on small business while meeting
261 the stated objectives of the proposed rule. If the agency will

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262 not adopt the alternative, it must also provide a detailed
263 written statement to the committee as to why it will not adopt
264 the alternative.

265 (c) *Hearings.*—

266 1. If the intended action concerns any rule other than one
267 relating exclusively to procedure or practice, the agency shall,
268 on the request of any affected person received within 21 days
269 after the date of publication of the notice of intended agency
270 action, give affected persons an opportunity to present evidence
271 and argument on all issues under consideration. The agency may
272 schedule a public hearing on the rule and, if requested by any
273 affected person, shall schedule a public hearing on the rule.
274 When a public hearing is held, the agency must ensure that staff
275 are available to explain the agency's proposal and to respond to
276 questions or comments regarding the rule. If the agency head is
277 a board or other collegial body created under s. 20.165(4) or s.
278 20.43(3)(g), and one or more requested public hearings is
279 scheduled, the board or other collegial body shall conduct at
280 least one of the public hearings itself and may not delegate
281 this responsibility without the consent of those persons
282 requesting the public hearing. Any material pertinent to the
283 issues under consideration submitted to the agency within 21
284 days after the date of publication of the notice or submitted to
285 the agency between the date of publication of the notice and the
286 end of the final ~~at a~~ public hearing shall be considered by the
287 agency and made a part of the record of the rulemaking
288 proceeding.

289 2. Rulemaking proceedings shall be governed solely by the
290 provisions of this section unless a person timely asserts that

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291 the person's substantial interests will be affected in the
292 proceeding and affirmatively demonstrates to the agency that the
293 proceeding does not provide adequate opportunity to protect
294 those interests. If the agency determines that the rulemaking
295 proceeding is not adequate to protect the person's interests, it
296 shall suspend the rulemaking proceeding and convene a separate
297 proceeding under the provisions of ss. 120.569 and 120.57.
298 Similarly situated persons may be requested to join and
299 participate in the separate proceeding. Upon conclusion of the
300 separate proceeding, the rulemaking proceeding shall be resumed.

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

302 1. After the final public hearing on the proposed rule, or
303 after the time for requesting a hearing has expired, if the rule
304 has not been changed from the rule as previously filed with the
305 committee, or contains only technical changes, the adopting
306 agency shall file a notice to that effect with the committee at
307 least 7 days prior to filing the rule for adoption. Any change,
308 other than a technical change that does not affect the substance
309 of the rule, must be supported by the record of public hearings
310 held on the rule, must be in response to written material
311 submitted to the agency within 21 days after the date of
312 publication of the notice of intended agency action or submitted
313 to the agency between the date of publication of the notice and
314 ~~received on or before~~ the end date of the final public hearing,
315 or must be in response to a proposed objection by the committee.
316 In addition, when any change is made in a proposed rule, other
317 than a technical change, the adopting agency shall provide a
318 copy of a notice of change by certified mail or actual delivery
319 to any person who requests it in writing no later than 21 days

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320 after the notice required in paragraph (a). The agency shall
321 file the notice of change with the committee, along with the
322 reasons for the change, and provide the notice of change to
323 persons requesting it, at least 21 days prior to filing the rule
324 for adoption. The notice of change shall be published in the
325 Florida Administrative Weekly at least 21 days prior to filing
326 the rule for adoption. This subparagraph does not apply to
327 emergency rules adopted pursuant to subsection (4).

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

330 3. After adoption and before the effective date, a rule may
331 be modified or withdrawn only in response to an objection by the
332 committee or may be modified to extend the effective date by not
333 more than 60 days when the committee has notified the agency
334 that an objection to the rule is being considered.

335 4. The agency shall give notice of its decision to withdraw
336 or modify a rule in the first available issue of the publication
337 in which the original notice of rulemaking was published, shall
338 notify those persons described in subparagraph (a)3. in
339 accordance with the requirements of that subparagraph, and shall
340 notify the Department of State if the rule is required to be
341 filed with the Department of State.

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

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

346 1. If the adopting agency is required to publish its rules
347 in the Florida Administrative Code, the agency, upon approval of
348 the agency head, shall file with the Department of State three

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349 certified copies of the rule it proposes to adopt; one copy of
350 any material incorporated by reference in the rule, certified by
351 the agency; a summary of the rule; a summary of any hearings
352 held on the rule; and a detailed written statement of the facts
353 and circumstances justifying the rule. Agencies not required to
354 publish their rules in the Florida Administrative Code shall
355 file one certified copy of the proposed rule, and the other
356 material required by this subparagraph, in the office of the
357 agency head, and such rules shall be open to the public.

358 2. A rule may not be filed for adoption less than 28 days
359 or more than 90 days after the notice required by paragraph (a),
360 until 21 days after the notice of change required by paragraph
361 (d), until 14 days after the final public hearing, until 21 days
362 after a statement of estimated regulatory costs required under
363 s. 120.541 has been provided to all persons who submitted a
364 lower cost regulatory alternative and made available to the
365 public, or until the administrative law judge has rendered a
366 decision under s. 120.56(2), whichever applies. When a required
367 notice of change is published prior to the expiration of the
368 time to file the rule for adoption, the period during which a
369 rule must be filed for adoption is extended to 45 days after the
370 date of publication. If notice of a public hearing is published
371 prior to the expiration of the time to file the rule for
372 adoption, the period during which a rule must be filed for
373 adoption is extended to 45 days after adjournment of the final
374 hearing on the rule, 21 days after receipt of all material
375 authorized to be submitted at the hearing, or 21 days after
376 receipt of the transcript, if one is made, whichever is latest.
377 The term "public hearing" includes any public meeting held by

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378 any agency at which the rule is considered. If a petition for an
379 administrative determination under s. 120.56(2) is filed, the
380 period during which a rule must be filed for adoption is
381 extended to 60 days after the administrative law judge files the
382 final order with the clerk or until 60 days after subsequent
383 judicial review is complete.

384 3. At the time a rule is filed, the agency shall certify
385 that the time limitations prescribed by this paragraph have been
386 complied with, that all statutory rulemaking requirements have
387 been met, and that there is no administrative determination
388 pending on the rule.

389 4. At the time a rule is filed, the committee shall certify
390 whether the agency has responded in writing to all material and
391 timely written comments or written inquiries made on behalf of
392 the committee. The department shall reject any rule that is not
393 filed within the prescribed time limits; that does not comply
394 with all statutory rulemaking requirements and rules of the
395 department; upon which an agency has not responded in writing to
396 all material and timely written inquiries or written comments;
397 upon which an administrative determination is pending; or which
398 does not include a statement of estimated regulatory costs, if
399 required.

400 5. If a rule has not been adopted within the time limits
401 imposed by this paragraph or has not been adopted in compliance
402 with all statutory rulemaking requirements, the agency proposing
403 the rule shall withdraw the rule and give notice of its action
404 in the next available issue of the Florida Administrative
405 Weekly.

406 6. The proposed rule shall be adopted on being filed with

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407 the Department of State and become effective 20 days after being
408 filed, on a later date specified in the notice required by
409 subparagraph (a)1. ~~rule~~, or on a date required by statute. Rules
410 not required to be filed with the Department of State shall
411 become effective when adopted by the agency head or on a later
412 date specified by rule or statute. If the committee notifies an
413 agency that an objection to a rule is being considered, the
414 agency may postpone the adoption of the rule to accommodate
415 review of the rule by the committee. When an agency postpones
416 adoption of a rule to accommodate review by the committee, the
417 90-day period for filing the rule is tolled until the committee
418 notifies the agency that it has completed its review of the
419 rule.

420
421 For the purposes of this paragraph, the term "administrative
422 determination" does not include subsequent judicial review.

423 (5) UNIFORM RULES.—

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

427 1. Uniform rules for the scheduling of public meetings,
428 hearings, and workshops.

429 2. Uniform rules for use by each state agency that provide
430 procedures for conducting public meetings, hearings, and
431 workshops, and for taking evidence, testimony, and argument at
432 such public meetings, hearings, and workshops, in person and by
433 means of communications media technology. The rules shall
434 provide that all evidence, testimony, and argument presented
435 shall be afforded equal consideration, regardless of the method

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436 of communication. If a public meeting, hearing, or workshop is
437 to be conducted by means of communications media technology, or
438 if attendance may be provided by such means, the notice shall so
439 state. The notice for public meetings, hearings, and workshops
440 utilizing communications media technology shall state how
441 persons interested in attending may do so and shall name
442 locations, if any, where communications media technology
443 facilities will be available. Nothing in this paragraph shall be
444 construed to diminish the right to inspect public records under
445 chapter 119. Limiting points of access to public meetings,
446 hearings, and workshops subject to the provisions of s. 286.011
447 to places not normally open to the public shall be presumed to
448 violate the right of access of the public, and any official
449 action taken under such circumstances is void and of no effect.
450 Other laws relating to public meetings, hearings, and workshops,
451 including penal and remedial provisions, shall apply to public
452 meetings, hearings, and workshops conducted by means of
453 communications media technology, and shall be liberally
454 construed in their application to such public meetings,
455 hearings, and workshops. As used in this subparagraph,
456 "communications media technology" means the electronic
457 transmission of printed matter, audio, full-motion video,
458 freeze-frame video, compressed video, and digital video by any
459 method available.

460 3. Uniform rules of procedure for the filing of notice of
461 protests and formal written protests. The Administration
462 Commission may prescribe the form and substantive provisions of
463 a required bond.

464 4. Uniform rules of procedure for the filing of petitions

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465 for administrative hearings pursuant to s. 120.569 or s. 120.57.

466 Such rules shall require the petition to include:

467 a. The identification of the petitioner.

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

470 c. An explanation of how the petitioner's substantial
471 interests are or will be affected by the action or proposed
472 action.

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

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

478 f. A statement of the specific rules or statutes that the
479 petitioner contends require reversal or modification of the
480 agency's proposed action, including an explanation of how the
481 alleged facts relate to the specific rules or statutes.

482 g. A statement of the relief sought by the petitioner,
483 stating precisely the action petitioner wishes the agency to
484 take with respect to the proposed action.

485 5. Uniform rules for the filing of request for
486 administrative hearing by a respondent in agency enforcement and
487 disciplinary actions. Such rules shall require a request to
488 include:

489 a. The name, address, and telephone number of the party
490 making the request and the name, address, and telephone number
491 of the party's counsel or qualified representative upon whom
492 service of pleadings and other papers shall be made;

493 b. A statement that the respondent is requesting an

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494 administrative hearing and disputes the material facts alleged
495 by the petitioner, in which case the respondent shall identify
496 those material facts that are in dispute, or that the respondent
497 is requesting an administrative hearing and does not dispute the
498 material facts alleged by the petitioner; and

499 c. A reference by file number to the administrative
500 complaint that the party has received from the agency and the
501 date on which the agency pleading was received.

502

503 The agency may provide an election-of-rights form for the
504 respondent's use in requesting a hearing, so long as any form
505 provided by the agency calls for the information in sub-
506 subparagraphs a. through c. and does not impose any additional
507 requirements on a respondent in order to request a hearing,
508 unless such requirements are specifically authorized by law.

509 6. Uniform rules of procedure for the filing and prompt
510 disposition of petitions for declaratory statements. The rules
511 shall also describe the contents of the notices that must be
512 published in the Florida Administrative Weekly under s. 120.565,
513 including any applicable time limit for the filing of petitions
514 to intervene or petitions for administrative hearing by persons
515 whose substantial interests may be affected.

516 7. Provision of a method by which each agency head shall
517 provide a description of the agency's organization and general
518 course of its operations. The rules shall require that the
519 statement concerning the agency's organization and operations be
520 published on the agency's website.

521 8. Uniform rules establishing procedures for granting or
522 denying petitions for variances and waivers pursuant to s.

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523 120.542.

524 (6) ADOPTION OF FEDERAL STANDARDS.—Notwithstanding any
525 contrary provision of this section, in the pursuance of state
526 implementation, operation, or enforcement of federal programs,
527 an agency is empowered to adopt rules substantively identical to
528 regulations adopted pursuant to federal law, in accordance with
529 the following procedures:

530 (b) Any rule adopted pursuant to this subsection shall
531 become effective upon the date designated ~~in the rule~~ by the
532 agency in the notice of intent to adopt a rule; however, no such
533 rule shall become effective earlier than the effective date of
534 the substantively identical federal regulation.

535 Section 5. Subsections (16) and (17) of section 120.80,
536 Florida Statutes, are amended to read:

537 120.80 Exceptions and special requirements; agencies.—

538 ~~(16) DEPARTMENT OF ENVIRONMENTAL PROTECTION.—~~

539 ~~Notwithstanding the provisions of s. 120.54(1)(d), the~~
540 ~~Department of Environmental Protection, in undertaking~~
541 ~~rulemaking to establish best available control technology,~~
542 ~~lowest achievable emissions rate, or case-by-case maximum~~
543 ~~available control technology for purposes of s. 403.08725, shall~~
544 ~~not adopt the lowest regulatory cost alternative if such~~
545 ~~adoption would prevent the agency from implementing federal~~
546 ~~requirements.~~

547 (16) ~~(17)~~ FLORIDA BUILDING COMMISSION.—

548 (a) Notwithstanding the provisions of s. 120.542, the
549 Florida Building Commission may not accept a petition for waiver
550 or variance and may not grant any waiver or variance from the
551 requirements of the Florida Building Code.

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552 (b) The Florida Building Commission shall adopt within the
553 Florida Building Code criteria and procedures for alternative
554 means of compliance with the code or local amendments thereto,
555 for enforcement by local governments, local enforcement
556 districts, or other entities authorized by law to enforce the
557 Florida Building Code. Appeals from the denial of the use of
558 alternative means shall be heard by the local board, if one
559 exists, and may be appealed to the Florida Building Commission.

560 (c) Notwithstanding ss. 120.565, 120.569, and 120.57, the
561 Florida Building Commission and hearing officer panels appointed
562 by the commission in accordance with s. 553.775(3)(c)1. may
563 conduct proceedings to review decisions of local building code
564 officials in accordance with s. 553.775(3)(c).

565 Section 6. This act shall take effect July 1, 2009.