

26 | specified statement; requiring that a notice of
27 | proposed rule include certain information relied upon
28 | by the agency in certain circumstances; requiring that
29 | material proposed to be incorporated by reference and
30 | the statement of estimated regulatory costs be made
31 | available to the public; requiring that material
32 | proposed to be incorporated by reference be made
33 | available in a specified manner; authorizing
34 | electronic delivery of notices to persons who have
35 | requested advance notice of agency rulemaking
36 | proceedings; providing that an agency is not required
37 | to prepare a statement of estimated regulatory costs
38 | before a proposed rule repeal; providing an exception;
39 | requiring that certain proposed rule repeals be
40 | considered presumptively correct in a proceeding
41 | before the Division of Administrative Hearings or a
42 | court of competent jurisdiction; requiring an agency
43 | to provide notice of a regulatory alternative to the
44 | Administrative Procedures Committee within a certain
45 | timeframe; requiring certain agency personnel to
46 | attend public hearings on proposed rules; requiring an
47 | agency to publish a notice of convening a separate
48 | proceeding in certain circumstances; providing that
49 | rulemaking timelines are tolled during such separate
50 | proceedings; providing that such timelines resume the

51 day after the conclusion of such proceedings;
52 requiring that notice of conclusion of such
53 proceedings be provided to the committee; revising
54 requirements for the contents of a notice of change;
55 requiring the committee to notify the Department of
56 State that the date for an agency to adopt a proposed
57 rule has expired under certain circumstances;
58 requiring the department to publish a notice of
59 withdrawal of the proposed rule under certain
60 circumstances; requiring that a certain rule be
61 withdrawn if the rule has not been ratified within a
62 specified timeframe; requiring the agency, upon
63 approval of the agency head, to electronically file
64 with the department a certified copy of the proposed
65 rule; requiring the committee to notify the department
66 that the date for adoption of a rule has expired in
67 certain circumstances; requiring the department to
68 publish a notice of withdrawal of the rule in certain
69 circumstances; prohibiting an emergency rule from
70 being effective for longer than a specified timeframe;
71 providing that such rule is not renewable; providing
72 an exception; requiring that emergency rules be
73 published in the Florida Administrative Code;
74 authorizing agencies to supersede an emergency rule
75 through adoption of another emergency rule; providing

76 requirements for adopting the new rule; authorizing an
77 agency to make technical changes to an emergency rule
78 during a specified timeframe; requiring that notice of
79 renewal of an emergency rule be published in the
80 Florida Administrative Register before the expiration
81 of the existing emergency rule; requiring that the
82 notice state specified facts and reasons for the
83 renewal; requiring that emergency rules be published
84 in a certain section of the Florida Administrative
85 Code; requiring specified emergency rules to contain a
86 certain history note; providing that certain emergency
87 rules may be repealed at any time while the rule is in
88 effect by publishing a certain notice in the Florida
89 Administrative Register; requiring an agency to file a
90 copy of a certain petition with the committee; making
91 technical changes; amending s. 120.541, F.S.;

92 requiring an agency to provide a copy of a proposal
93 for a lower cost regulatory alternative to the
94 committee within a certain timeframe; specifying the
95 circumstances under which such proposal is deemed to
96 be made in good faith; revising requirements for an
97 agency upon receipt of a proposal for a lower cost
98 regulatory alternative; providing for an agency's
99 revision and publication of a revised statement of
100 estimated regulatory costs in response to such

101 alternatives; requiring that the revised statement of
102 estimated regulatory costs be made available in the
103 same manner as the original; deleting the definition
104 of the term "transactional costs"; revising the
105 applicability of specified provisions; requiring an
106 agency to provide a specified notice of a revision to
107 the statement of estimated regulatory costs; making
108 technical changes; creating s. 120.5435, F.S.;

109 providing legislative intent; requiring agency review
110 of rules and repromulgation of rules that do not
111 require substantive changes; requiring that certain
112 rules be reviewed and amended, repealed, or
113 repromulgated within a specified timeframe and every 5
114 years thereafter; requiring any variation from this
115 schedule to be reflected in the agency's regulatory
116 plan; requiring the committee to provide each agency
117 with a specified list by a specified date annually;
118 providing that the failure of an agency to adhere to
119 specified deadlines constitutes a material failure and
120 is the basis for a specified objection; requiring an
121 agency to publish a notice of repromulgation in the
122 Florida Administrative Register and file a rule for
123 repromulgation with the department within a specified
124 timeframe; requiring an agency to file a notice of
125 repromulgation with the committee within a specified

126 | timeframe; requiring the committee to certify whether
127 | the agency has responded to certain comments and
128 | inquiries; providing that a repromulgated rule is not
129 | subject to challenge as a proposed rule and that
130 | certain hearing requirements do not apply to such
131 | repromulgation; requiring an agency, upon approval of
132 | the agency head or its designee, to electronically
133 | file with the department a certified copy of the
134 | repromulgated rule and any material incorporated by
135 | reference; providing that a rule is considered
136 | repromulgated upon its filing with the department;
137 | requiring the department to update certain information
138 | in the Florida Administrative Code; requiring the
139 | committee to submit a specified list to the
140 | Legislature within a specified timeframe; requiring
141 | each agency to initiate rulemaking proceedings to
142 | repeal certain rules within a specified timeframe if
143 | certain conditions exist; requiring the department to
144 | adopt rules by a certain date; amending s. 120.545,
145 | F.S.; requiring the committee to examine certain
146 | existing rules; amending s. 120.55, F.S.; requiring
147 | the Department of State to publish the Florida
148 | Administrative Register once each business day by a
149 | specified time; providing exceptions; requiring the
150 | department to indicate if a rule, proposed rule, or

151 notice of rule development was corrected or replaced
152 by republishing the register and noting that the rule,
153 proposed rule, or notice of rule development was
154 corrected; requiring that certain rulemaking
155 timeframes revert to the initial date of publication;
156 requiring the agency, rather than the department, to
157 publish specified information at the beginning of
158 specified sections of the code; requiring that
159 materials incorporated by reference be filed in a
160 specified manner; requiring the department to include
161 the date of a technical rule change in the Florida
162 Administrative Code; providing that a technical change
163 does not affect the effective date of a rule; revising
164 the required contents of the Florida Administrative
165 Register; requiring the department to adopt specified
166 rules; amending s. 120.74, F.S.; requiring an agency's
167 annual regulatory plan to identify and describe each
168 rule that the agency expects to develop, adopt, or
169 repeal during the forthcoming year, identify any rules
170 that are required to be repromulgated during the
171 forthcoming year, and include a certification that
172 makes certain declarations; conforming a cross-
173 reference; amending s. 120.80, F.S.; providing
174 applicability; conforming a cross-reference; amending
175 ss. 120.81, 420.9072, 420.9075, and 443.091, F.S.;

176 conforming cross-references; providing legislative
177 intent; requiring the Department of Environmental
178 Protection and water management districts to conduct a
179 holistic review of certain permitting processes and
180 programs; providing requirements for such processes;
181 providing the scope and purpose of the review;
182 requiring certain factors to be considered in the
183 review; requiring the department and water management
184 districts to submit a specified report to the Governor
185 and Legislature by a specified date; providing an
186 effective date.

187

188 Be It Enacted by the Legislature of the State of Florida:

189

190 Section 1. Subsections (16) through (19) and (20), (21),
191 and (22) of section 120.52, Florida Statutes, are redesignated
192 as subsections (17) through (20) and (22), (23), and (24),
193 respectively, and new subsections (16) and (21) are added to
194 that section to read:

195 120.52 Definitions.—As used in this act:

196 (16) "Repromulgation" means the publication and adoption
197 of an existing rule following an agency's review of the rule for
198 consistency with the powers and duties granted by its enabling
199 statute.

200 (21) "Technical change" means a change limited to

201 correcting grammatical, typographical, and similar errors not
 202 affecting the substance of a rule.

203 Section 2. Paragraph (i) of subsection (1), subsections
 204 (2) and (3), paragraph (c) of subsection (4), and paragraph (a)
 205 of subsection (7) of section 120.54, Florida Statutes, are
 206 amended, and paragraphs (e) through (j) are added to subsection
 207 (4) of that section, to read:

208 120.54 Rulemaking.—

209 (1) GENERAL PROVISIONS APPLICABLE TO ALL RULES OTHER THAN
 210 EMERGENCY RULES.—

211 (i)1. A rule may incorporate material by reference but
 212 only as the material exists on the date the rule is adopted. For
 213 purposes of the rule, changes in the material are not effective
 214 unless the rule is amended to incorporate the changes.

215 2. An agency rule that incorporates by specific reference
 216 another rule of that agency automatically incorporates
 217 subsequent amendments to the referenced rule unless a contrary
 218 intent is clearly indicated in the referencing rule. A notice of
 219 amendments to a rule that has been incorporated by specific
 220 reference in other rules of that agency must explain the effect
 221 of those amendments on the referencing rules.

222 3. In rules adopted after December 31, 2010, and rules
 223 amended or repromulgated on or after July 1, 2023, material may
 224 not be incorporated by reference unless:

225 a. The material has been submitted in the prescribed

226 | electronic format to the Department of State and the full text
227 | of the material can be made available for free public access
228 | through an electronic hyperlink from the rule making the
229 | reference in the Florida Administrative Code; or

230 | b. The agency has determined that posting the material on
231 | the Internet for purposes of public examination and inspection
232 | would constitute a violation of federal copyright law, in which
233 | case a statement to that effect, along with the address of
234 | locations at the Department of State and the agency at which the
235 | material is available for public inspection and examination,
236 | must be included in the notice required by subparagraph (3)(a)1.

237 | 4. A rule may not be amended by reference only. Amendments
238 | must set out the amended rule in full in the same manner as
239 | required by the State Constitution for laws.

240 | 5. Notwithstanding any contrary provision in this section,
241 | when an adopted rule of the Department of Environmental
242 | Protection or a water management district is incorporated by
243 | reference in the other agency's rule to implement a provision of
244 | part IV of chapter 373, subsequent amendments to the rule are
245 | not effective as to the incorporating rule unless the agency
246 | incorporating by reference notifies the committee and the
247 | Department of State of its intent to adopt the subsequent
248 | amendment, publishes notice of such intent in the Florida
249 | Administrative Register, and files with the Department of State
250 | a copy of the amended rule incorporated by reference. Changes in

251 the rule incorporated by reference are effective as to the other
252 agency 20 days after the date of the published notice and filing
253 with the Department of State. The Department of State shall
254 amend the history note of the incorporating rule to show the
255 effective date of such change. Any substantially affected person
256 may, within 14 days after the date of publication of the notice
257 of intent in the Florida Administrative Register, file an
258 objection to rulemaking with the agency. The objection must
259 ~~shall~~ specify the portions of the rule incorporated by reference
260 to which the person objects and the reasons for the objection.
261 The agency does ~~shall~~ not have the authority under this
262 subparagraph to adopt those portions of the rule specified in
263 such objection. The agency shall publish notice of the objection
264 and of its action in response in the next available issue of the
265 Florida Administrative Register.

266 6. The Department of State may adopt by rule requirements
267 for incorporating materials pursuant to this paragraph.

268 (2) RULE DEVELOPMENT; WORKSHOPS; NEGOTIATED RULEMAKING.—

269 (a) 1. Except when the intended action is the repeal of a
270 rule, agencies shall provide notice of the development of
271 proposed rules by publication of a notice of rule development in
272 the Florida Administrative Register at least 7 days before
273 providing notice of a proposed rule as required by paragraph

274 (3) (a). The notice of rule development must ~~shall~~ indicate the
275 subject area to be addressed by rule development, provide a

276 short, plain explanation of the purpose and effect of the
 277 proposed rule, cite the grant of rulemaking authority for the
 278 proposed rule and the law being implemented ~~specific legal~~
 279 ~~authority for the proposed rule~~, and include the proposed rule
 280 number and the preliminary text of the proposed rules, if
 281 available, or a statement of how a person may promptly obtain,
 282 without cost, a copy of any preliminary draft, when ~~if~~
 283 available. The notice must also include a request for the
 284 submission of any information that would be helpful to the
 285 agency in preparing the statement of estimated regulatory costs
 286 required pursuant to paragraph (3)(b) and a statement of how a
 287 person may submit comments on the proposal and how a person may
 288 provide information regarding the potential regulatory costs.

289 2. A notice of a proposed rule must be published in the
 290 Florida Administrative Register within 12 months after the most
 291 recent notice of rule development.

292 (b) All rules should be drafted in readable language. The
 293 language is readable if it:

294 1. ~~It~~ Avoids the use of obscure words and unnecessarily
 295 long or complicated constructions; and

296 2. ~~It~~ Avoids the use of unnecessary technical or
 297 specialized language that is understood only by members of
 298 particular trades or professions.

299 (c) An agency may hold public workshops for purposes of
 300 rule development and information gathering for the preparation

301 of the statement of estimated regulatory costs. If requested in
302 writing by any affected person, an agency must hold public
303 workshops, including workshops in various regions of this the
304 state or the agency's service area, for purposes of rule
305 development and information gathering for the preparation of the
306 statement of estimated regulatory costs ~~if requested in writing~~
307 ~~by any affected person,~~ unless the agency head explains in
308 writing why a workshop is unnecessary. The explanation is not
309 final agency action subject to review pursuant to ss. 120.569
310 and 120.57. The failure to provide the explanation when required
311 may be a material error in procedure pursuant to s.
312 120.56(1)(c). When a workshop or public hearing is held, the
313 agency must ensure that the persons responsible for preparing
314 the proposed rule and the statement of estimated regulatory
315 costs are available to receive public input, to explain the
316 agency's proposal, and to respond to questions or comments
317 regarding the rule being developed and the statement of
318 estimated regulatory costs. The workshop may be facilitated or
319 mediated by a neutral third person, or the agency may employ
320 other types of dispute resolution alternatives for the workshop
321 that are appropriate for rule development and for preparation of
322 the statement of estimated regulatory costs. Notice of a
323 workshop for rule development and for preparation of the
324 statement of estimated regulatory costs must ~~workshop shall be~~
325 by publication in the Florida Administrative Register not less

326 than 14 days before ~~prior to~~ the date on which the workshop is
327 scheduled to be held and must ~~shall~~ indicate the subject area
328 that ~~which~~ will be addressed; the agency contact person; and the
329 place, date, and time of the workshop.

330 (d)1. An agency may use negotiated rulemaking in
331 developing and adopting rules. The agency should consider the
332 use of negotiated rulemaking when complex rules are being
333 drafted or strong opposition to the rules is anticipated. The
334 agency should consider, but is not limited to considering,
335 whether a balanced committee of interested persons who will
336 negotiate in good faith can be assembled, whether the agency is
337 willing to support the work of the negotiating committee, and
338 whether the agency can use the group consensus as the basis for
339 its proposed rule. Negotiated rulemaking uses a committee of
340 designated representatives to draft a mutually acceptable
341 proposed rule and to develop information necessary to prepare a
342 statement of estimated regulatory costs, when applicable.

343 2. An agency that chooses to use the negotiated rulemaking
344 process described in this paragraph shall publish in the Florida
345 Administrative Register a notice of negotiated rulemaking that
346 includes a listing of the representative groups that will be
347 invited to participate in the negotiated rulemaking process. Any
348 person who believes that his or her interest is not adequately
349 represented may apply to participate within 30 days after
350 publication of the notice. All meetings of the negotiating

351 committee must ~~shall~~ be noticed and open to the public pursuant
352 to ~~the provisions of~~ this chapter. The negotiating committee
353 shall be chaired by a neutral facilitator or mediator.

354 3. The agency's decision to use negotiated rulemaking, its
355 selection of the representative groups, and approval or denial
356 of an application to participate in the negotiated rulemaking
357 process are not agency action. ~~Nothing in~~ This subparagraph is
358 not intended to affect the rights of a substantially an affected
359 person to challenge a proposed rule developed under this
360 paragraph in accordance with s. 120.56(2).

361 (3) ADOPTION PROCEDURES.—

362 (a) Notices.—

363 1. Before ~~Prior to~~ the adoption, amendment, or repeal of
364 any rule other than an emergency rule, an agency, upon approval
365 of the agency head, shall give notice of its intended action,
366 setting forth a short, plain explanation of the purpose and
367 effect of the proposed action; the proposed rule number and full
368 text of the proposed rule or amendment and a summary thereof; a
369 reference to the grant of rulemaking authority pursuant to which
370 the rule is adopted; and a reference to the section or
371 subsection of the Florida Statutes or the Laws of Florida being
372 implemented or interpreted. The notice must include a concise
373 summary of the agency's statement of the estimated regulatory
374 costs, if one has been prepared, based on the factors set forth
375 in s. 120.541(2), which describes the regulatory impact of the

376 rule in readable language; an agency website address where the
377 statement of estimated regulatory costs can be viewed in its
378 entirety; a statement that any person who wishes to provide the
379 agency with information regarding the statement of estimated
380 regulatory costs, ~~or~~ to provide a proposal for a lower cost
381 regulatory alternative as provided by s. 120.541(1), or to
382 request that a statement of regulatory cost be prepared must do
383 so in writing within 21 days after publication of the notice;
384 and a statement as to whether, based on the statement of the
385 estimated regulatory costs ~~or other information expressly relied~~
386 ~~upon and described by the agency if no statement of regulatory~~
387 ~~costs is required,~~ the proposed rule is expected to require
388 legislative ratification pursuant to s. 120.541(3). If a
389 statement of regulatory costs is not required, the notice must
390 state the information that the agency relied upon in reaching
391 this conclusion. The notice must state the procedure for
392 requesting a public hearing on the proposed rule. Except when
393 the intended action is the repeal of a rule, the notice must
394 include a reference both to the date on which and to the place
395 where the notice of rule development that is required by
396 subsection (2) appeared.

397 2. The notice must ~~shall~~ be published in the Florida
398 Administrative Register at least ~~not less than~~ 28 days before
399 ~~prior to~~ the intended action. The proposed rule, including all
400 materials proposed to be incorporated by reference and the

401 statement of estimated regulatory costs, must ~~shall~~ be available
402 for inspection and copying by the public at the time of the
403 publication of notice. Material proposed to be incorporated by
404 reference in the notice must be made available in the manner
405 prescribed by sub-subparagraph (1)(i)3.a. or sub-subparagraph
406 (1)(i)3.b.

407 3. The notice must ~~shall~~ be mailed or delivered
408 electronically to all persons named in the proposed rule and
409 mailed or delivered electronically to all persons who, at least
410 14 days before publication of the notice ~~prior to such mailing~~,
411 have made requests of the agency for advance notice of its
412 proceedings. The agency shall also give such notice as is
413 prescribed by rule to those particular classes of persons to
414 whom the intended action is directed.

415 4. The adopting agency shall file with the committee, at
416 least 21 days before ~~prior to~~ the proposed adoption date, a copy
417 of each rule it proposes to adopt; a copy of any material
418 incorporated by reference in the rule; a detailed written
419 statement of the facts and circumstances justifying the proposed
420 rule; a copy of the ~~any~~ statement of estimated regulatory costs
421 ~~that has been~~ prepared pursuant to s. 120.541; a statement of
422 the extent to which the proposed rule relates to federal
423 standards or rules on the same subject; and the notice required
424 by subparagraph 1.

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

426 1. Statement of estimated regulatory costs.—Before the
427 adoption, amendment, or repeal of any rule, other than an
428 emergency rule, an agency is encouraged to prepare a statement
429 of estimated regulatory costs of the proposed rule, as provided
430 by s. 120.541. However, an agency is not required to prepare a
431 statement of estimated regulatory costs for a proposed rule
432 repeal unless such repeal would impose a regulatory cost. In any
433 challenge to a proposed rule repeal, a proposed rule repeal that
434 only reduces or eliminates regulations on those individuals or
435 entities regulated by the existing rule must be considered
436 presumptively correct in any proceeding before the division or
437 in any proceeding before a court of competent jurisdiction.
438 However, an agency must prepare a statement of estimated
439 regulatory costs of the proposed rule, as provided by s.
440 120.541, if:

441 a. The proposed rule will have an adverse impact on small
442 business; or

443 b. The proposed rule is likely to directly or indirectly
444 increase regulatory costs in excess of \$200,000 in the aggregate
445 in this state within 1 year after the implementation of the
446 rule.

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

448 a. Each agency, before the adoption, amendment, or repeal
449 of a rule, shall consider the impact of the rule on small
450 businesses as defined in ~~by~~ s. 288.703 and the impact of the

451 rule on small counties or small cities as defined in ~~by~~ s.
452 120.52. Whenever practicable, an agency shall tier its rules to
453 reduce disproportionate impacts on small businesses, small
454 counties, or small cities to avoid regulating small businesses,
455 small counties, or small cities that do not contribute
456 significantly to the problem the rule is designed to address. An
457 agency may define "small business" to include businesses
458 employing more than 200 persons, may define "small county" to
459 include those with populations of more than 75,000, and may
460 define "small city" to include those with populations of more
461 than 10,000, if it finds that such a definition is necessary to
462 adapt a rule to the needs and problems of small businesses,
463 small counties, or small cities. The agency shall consider each
464 of the following methods for reducing the impact of the proposed
465 rule on small businesses, small counties, and small cities, or
466 any combination of these entities:

467 (I) Establishing less stringent compliance or reporting
468 requirements in the rule.

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

471 (III) Consolidating or simplifying the rule's compliance
472 or reporting requirements.

473 (IV) Establishing performance standards or best management
474 practices to replace design or operational standards in the
475 rule.

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

478 b.(I) If the agency determines that the proposed action
 479 will affect small businesses as defined by the agency as
 480 provided in sub-subparagraph a., the agency must ~~shall~~ send
 481 written notice of the rule to the rules ombudsman in the
 482 Executive Office of the Governor at least 28 days before the
 483 intended action.

484 (II) Each agency shall adopt those regulatory alternatives
 485 offered by the rules ombudsman in the Executive Office of the
 486 Governor and provided to the agency no later than 21 days after
 487 the rules ombudsman's receipt of the written notice of the rule
 488 which it finds are feasible and consistent with the stated
 489 objectives of the proposed rule and which would reduce the
 490 impact on small businesses. When regulatory alternatives are
 491 offered by the rules ombudsman in the Executive Office of the
 492 Governor, the 90-day period for filing the rule in subparagraph
 493 (e)2. is extended for a period of 21 days. The agency shall
 494 provide notice to the committee of any regulatory alternative
 495 offered to the agency pursuant to this sub-subparagraph at least
 496 21 days before filing the proposed rule for adoption.

497 (III) If an agency does not adopt all alternatives offered
 498 pursuant to this sub-subparagraph, it must ~~shall~~, before rule
 499 adoption or amendment and pursuant to subparagraph (d)1., file a
 500 detailed written statement with the committee explaining the

501 reasons for failure to adopt such alternatives. Within 3 working
502 days after the filing of such notice, the agency shall send a
503 copy of such notice to the rules ombudsman in the Executive
504 Office of the Governor.

505 (c) Hearings.—

506 1. If the intended action concerns any rule other than one
507 relating exclusively to procedure or practice, the agency must
508 ~~shall~~, on the request of any affected person received within 21
509 days after the date of publication of the notice of intended
510 agency action, give affected persons an opportunity to present
511 evidence and argument on all issues under consideration. The
512 agency may schedule a public hearing on the proposed rule and,
513 if requested by any affected person, must ~~shall~~ schedule a
514 public hearing on the proposed rule. When a public hearing is
515 held, the agency must ensure that the persons responsible for
516 preparing the proposed rule and the statement of estimated
517 regulatory costs ~~staff~~ are in attendance ~~available~~ to explain
518 the agency's proposal and to respond to questions or comments
519 regarding the proposed rule, the statement of estimated
520 regulatory costs, and the agency's decision on whether to adopt
521 a lower cost regulatory alternative submitted pursuant to s.
522 120.541(1)(a). If the agency head is a board or other collegial
523 body created under s. 20.165(4) or s. 20.43(3)(g), and one or
524 more requested public hearings is scheduled, the board or other
525 collegial body must ~~shall~~ conduct at least one of the public

526 | hearings itself and may not delegate this responsibility without
527 | the consent of those persons requesting the public hearing. Any
528 | material pertinent to the issues under consideration submitted
529 | to the agency within 21 days after the date of publication of
530 | the notice or submitted to the agency between the date of
531 | publication of the notice and the end of the final public
532 | hearing must ~~shall~~ be considered by the agency and made a part
533 | of the record of the rulemaking proceeding.

534 | 2. Rulemaking proceedings are ~~shall be~~ governed solely by
535 | ~~the provisions of~~ this section unless a person timely asserts
536 | that the person's substantial interests will be affected in the
537 | proceeding and affirmatively demonstrates to the agency that the
538 | proceeding does not provide adequate opportunity to protect
539 | those interests. If the agency determines that the rulemaking
540 | proceeding is not adequate to protect the person's interests, it
541 | must ~~shall~~ suspend the rulemaking proceeding and convene a
542 | separate proceeding under ~~the provisions of~~ ss. 120.569 and
543 | 120.57. The agency shall publish notice of convening a separate
544 | proceeding in the Florida Administrative Register. Similarly
545 | situated persons may be requested to join and participate in the
546 | separate proceeding. Upon conclusion of the separate proceeding,
547 | the rulemaking proceeding shall be resumed. All timelines in
548 | this section are tolled during any suspension of the rulemaking
549 | proceeding under this subparagraph, beginning on the date the
550 | notice of convening a separate proceeding is published, and the

551 timelines shall resume the day after conclusion of the separate
552 proceedings, notice of which must be provided to the committee.

553 (d) Modification or withdrawal of proposed rules.—

554 1. After the final public hearing on the proposed rule, or
555 after the time for requesting a hearing has expired, if the
556 proposed rule has not been changed from the proposed rule as
557 previously filed with the committee, or contains only technical
558 changes, the adopting agency shall file a notice to that effect
559 with the committee at least 7 days before ~~prior to~~ filing the
560 proposed rule for adoption. Any change, other than a technical
561 change ~~that does not affect the substance of the rule,~~ must be
562 supported by the record of public hearings held on the proposed
563 rule, must be in response to written material submitted to the
564 agency within 21 days after the date of publication of the
565 notice of intended agency action or submitted to the agency
566 between the date of publication of the notice and the end of the
567 final public hearing, or must be in response to a proposed
568 objection by the committee. Any change, other than a technical
569 change, to a statement of estimated regulatory costs requires a
570 notice of change. In addition, ~~when~~ any change, other than a
571 technical change, to is made in a proposed rule text or any
572 material incorporated by reference requires, ~~other than a~~
573 ~~technical change,~~ the adopting agency to shall provide a copy of
574 a notice of change by certified mail or actual delivery to any
575 person who requests it in writing no later than 21 days after

576 the notice required in paragraph (a). The agency shall file the
577 notice of change with the committee, along with the reasons for
578 the change, and provide the notice of change to persons
579 requesting it, ~~at least 21 days before~~ prior to filing the
580 proposed rule for adoption. The notice of change must ~~shall~~ be
581 published in the Florida Administrative Register at least 21
582 days ~~before~~ prior to filing the proposed rule for adoption. The
583 notice of change must include a summary of any revision of the
584 statement of estimated regulatory costs required by s.
585 120.541(1)(c). This subparagraph does not apply to emergency
586 rules adopted pursuant to subsection (4). Material proposed to
587 be incorporated by reference in the notice required by this
588 subparagraph must be made available in the manner prescribed by
589 sub-subparagraph (1)(i)3.a. or sub-subparagraph (1)(i)3.b. and
590 include a summary of substantive revisions to any material
591 proposed to be incorporated by reference in the proposed rule.

592 2. After the notice required by paragraph (a) and before
593 ~~prior to~~ adoption, the agency may withdraw the proposed rule in
594 whole or in part.

595 3. After the notice required by paragraph (a), the agency
596 must withdraw the proposed rule if the agency has failed to
597 adopt it within the prescribed timeframes in this chapter. If
598 the agency, 30 days after notice by the committee that the
599 agency has failed to adopt the proposed rule within the
600 prescribed timeframes in this chapter, has not given notice of

601 the withdrawal of the proposed rule, the committee must notify
602 the Department of State that the date for adoption of the rule
603 has expired, and the Department of State must publish a notice
604 of withdrawal of the proposed rule.

605 4. After adoption and before the rule becomes effective, a
606 rule may be modified or withdrawn only in the following
607 circumstances:

608 a. When the committee objects to the rule;

609 b. When a final order, which is not subject to further
610 appeal, is entered in a rule challenge brought pursuant to s.
611 120.56 after the date of adoption but before the rule becomes
612 effective pursuant to subparagraph (e)6.;

613 c. If the rule requires ratification, and two consecutive
614 regular legislative sessions ~~when more than 90 days~~ have passed
615 since the rule was filed for adoption without the Legislature
616 ratifying the rule, ~~in which case the rule must~~ may be withdrawn
617 ~~but may not be modified~~; or

618 d. When the committee notifies the agency that an
619 objection to the rule is being considered, in which case the
620 rule may be modified to extend the effective date by not more
621 than 60 days.

622 ~~5.4.~~ The agency shall give notice of its decision to
623 withdraw or modify a rule in the first available issue of the
624 publication in which the original notice of rulemaking was
625 published, shall notify those persons described in subparagraph

626 (a)3. in accordance with the requirements of that subparagraph,
627 and shall notify the Department of State if the rule is required
628 to be filed with the Department of State.

629 ~~6.5.~~ After a rule has become effective, it may be repealed
630 or amended only through the rulemaking procedures specified in
631 this chapter.

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

633 1. If the adopting agency is required to publish its rules
634 in the Florida Administrative Code, the agency, upon approval of
635 the agency head, must electronically ~~shall~~ file with the
636 Department of State a ~~three~~ certified copy ~~copies~~ of the rule it
637 proposes to adopt; one copy of any material incorporated by
638 reference in the rule, certified by the agency; a summary of the
639 rule; a summary of any hearings held on the rule; and a detailed
640 written statement of the facts and circumstances justifying the
641 rule. Agencies not required to publish their rules in the
642 Florida Administrative Code shall file one certified copy of the
643 proposed rule, and the other material required by this
644 subparagraph, in the office of the agency head, and such rules
645 must ~~shall~~ be open to the public.

646 2. A rule may not be filed for adoption less than 28 days
647 or more than 90 days after the notice required by paragraph (a),
648 until 21 days after the notice of change required by paragraph
649 (d), until 14 days after the final public hearing, until 21 days
650 after a statement of estimated regulatory costs required under

651 s. 120.541 has been provided to all persons who submitted a
652 lower cost regulatory alternative and made available to the
653 public at a readily accessible page on the agency's website, or
654 until the administrative law judge has rendered a decision under
655 s. 120.56(2), whichever applies. When a required notice of
656 change is published before ~~prior to~~ the expiration of the time
657 to file the rule for adoption, the period during which a rule
658 must be filed for adoption is extended to 45 days after the date
659 of publication. If notice of a public hearing is published
660 before ~~prior to~~ the expiration of the time to file the rule for
661 adoption, the period during which a rule must be filed for
662 adoption is extended to 45 days after adjournment of the final
663 hearing on the rule, 21 days after receipt of all material
664 authorized to be submitted at the hearing, or 21 days after
665 receipt of the transcript, if one is made, whichever is latest.
666 The term "public hearing" includes any public meeting held by
667 any agency at which the rule is considered. If a petition for an
668 administrative determination under s. 120.56(2) is filed, the
669 period during which a rule must be filed for adoption is
670 extended to 60 days after the administrative law judge files the
671 final order with the clerk or until 60 days after subsequent
672 judicial review is complete.

673 3. At the time a rule is filed, the agency shall certify
674 that the time limitations prescribed by this paragraph have been
675 complied with, that all statutory rulemaking requirements have

676 | been met, and that there is no administrative determination
677 | pending on the rule.

678 | 4. At the time a rule is filed, the committee shall
679 | certify whether the agency has responded in writing to all
680 | material and timely written comments or written inquiries made
681 | on behalf of the committee. The Department of State shall reject
682 | any rule that is not filed within the prescribed time limits;
683 | that does not comply with all statutory rulemaking requirements
684 | and rules of the Department of State; upon which an agency has
685 | not responded in writing to all material and timely written
686 | inquiries or written comments; upon which an administrative
687 | determination is pending; or which does not include a statement
688 | of estimated regulatory costs, if required.

689 | 5. If a rule has not been adopted within the time limits
690 | imposed by this paragraph or has not been adopted in compliance
691 | with all statutory rulemaking requirements, the agency proposing
692 | the rule must ~~shall~~ withdraw the proposed rule and give notice
693 | of its action in the next available issue of the Florida
694 | Administrative Register. If the agency has not published notice
695 | of withdrawal of the rule during the 30 days after receiving
696 | notice from the committee that the agency has failed to withdraw
697 | the rule, the committee must notify the Department of State that
698 | the date for adoption of the rule has expired, and the
699 | Department of State must publish a notice of withdrawal of the
700 | rule.

701 6. The proposed rule shall be adopted on being filed with
 702 the Department of State and becomes ~~become~~ effective 20 days
 703 after being filed, on a later date specified in the notice
 704 required by subparagraph (a)1., on a date required by statute,
 705 or upon ratification by the Legislature pursuant to s.
 706 120.541(3). Rules not required to be filed with the Department
 707 of State ~~shall~~ become effective when adopted by the agency head,
 708 on a later date specified by rule or statute, or upon
 709 ratification by the Legislature pursuant to s. 120.541(3). If
 710 the committee notifies an agency that an objection to a rule is
 711 being considered, the agency may postpone the adoption of the
 712 rule to accommodate review of the rule by the committee. When an
 713 agency postpones adoption of a rule to accommodate review by the
 714 committee, the 90-day period for filing the rule is tolled until
 715 the committee notifies the agency that it has completed its
 716 review of the rule.

717
 718 For the purposes of this paragraph, the term "administrative
 719 determination" does not include subsequent judicial review.

720 (4) EMERGENCY RULES.—

721 (c) Unless otherwise provided by law, an emergency rule
 722 may ~~adopted under this subsection shall~~ not be effective for a
 723 period longer than 90 days and is ~~shall~~ not ~~be~~ renewable, except
 724 when the agency has initiated rulemaking to adopt rules
 725 addressing the subject of the emergency rule and either:

726 1. A challenge to the proposed rules has been filed and
 727 remains pending; or

728 2. The proposed rules are awaiting ratification by the
 729 Legislature pursuant to s. 120.541(3).

730

731 ~~Nothing in~~ This paragraph does not prohibit ~~prohibits~~ the agency
 732 from adopting a rule or rules identical to the emergency rule
 733 through the rulemaking procedures specified in subsection (3).

734 (e) Emergency rules must be published in the Florida
 735 Administrative Code.

736 (f) An agency may supersede an emergency rule currently in
 737 effect through adoption of another emergency rule. The agency
 738 must state the reason for adopting the new rule, in accordance
 739 with the procedures set forth in paragraph (a), and the new rule
 740 must be in effect for the duration of the effective period of
 741 the superseded rule. Technical changes to an emergency rule may
 742 be made within the first 7 days after adoption of the rule.

743 (g) Any notice of the renewal of an emergency rule must be
 744 published in the Florida Administrative Register before the
 745 expiration of the existing emergency rule. The notice of renewal
 746 must state the specific facts and reasons for the renewal
 747 pursuant to paragraph (c).

748 (h) All emergency rules must be published in the Florida
 749 Administrative Code in the section of the code dealing with the
 750 agency.

751 (i) For emergency rules with an effective period longer
752 than 90 days which are intended to replace existing rules, a
753 note must be added to the history note of the existing rule
754 which specifically identifies the emergency rule that is
755 intended to supersede the existing rule and includes the date
756 that the emergency rule was filed with the Department of State.

757 (j) An emergency rule adopted under this subsection may be
758 repealed at any time while the rule is in effect by publishing a
759 notice in the Florida Administrative Register citing the reason
760 for the repeal and the effective date of the repeal.

761 (7) PETITION TO INITIATE RULEMAKING.—

762 (a) Any person regulated by an agency or having
763 substantial interest in an agency rule may petition an agency to
764 adopt, amend, or repeal a rule or to provide the minimum public
765 information required by this chapter. The petition must ~~shall~~
766 specify the proposed rule and action requested. The agency shall
767 file a copy of the petition with the committee. No ~~Not~~ later
768 than 30 calendar days after ~~following the date of~~ filing a
769 petition, the agency shall initiate rulemaking proceedings under
770 this chapter, otherwise comply with the requested action, or
771 deny the petition with a written statement of its reasons for
772 the denial.

773 Section 3. Section 120.541, Florida Statutes, is amended
774 to read:

775 120.541 Statement of estimated regulatory costs.—

776 (1) (a) Within 21 days after publication of the notice of a
777 proposed rule or notice of change ~~required under s.~~
778 ~~120.54(3)(a)~~, a substantially affected person may submit to an
779 agency a good faith written proposal for a lower cost regulatory
780 alternative to a proposed rule which substantially accomplishes
781 the objectives of the law being implemented. The agency shall
782 provide a copy of any proposal for a lower cost regulatory
783 alternative to the committee at least 21 days before filing the
784 proposed rule for adoption. The proposal may include the
785 alternative of not adopting any rule if the proposal explains
786 how the lower costs and objectives of the law will be achieved
787 by not adopting any rule. If submitted after a notice of change,
788 a proposal for a lower cost regulatory alternative is deemed to
789 be made in good faith only if the person reasonably believes,
790 and the proposal states the person's reasons for believing, that
791 the proposed rule as changed by the notice of change increases
792 the regulatory costs or creates an adverse impact on small
793 businesses which was not created by the previous proposed rule.
794 If such a proposal is submitted, the 90-day period for filing
795 the rule is extended 21 days. Upon the submission of the lower
796 cost regulatory alternative, the agency shall ~~prepare a~~
797 ~~statement of estimated regulatory costs as provided in~~
798 ~~subsection (2), or shall~~ revise its prior statement of estimated
799 regulatory costs, and either adopt the alternative proposal,
800 reject the alternative proposal, or modify the proposed rule to

801 reduce the regulatory costs. If the agency rejects the
802 alternative proposal or modifies the proposed rule, the agency
803 must ~~ex~~ provide a statement of the reasons for rejecting the
804 alternative in favor of the proposed rule.

805 (b) If a proposed rule will have an adverse impact on
806 small business or if the proposed rule is likely to directly or
807 indirectly increase regulatory costs in excess of \$200,000 in
808 the aggregate within 1 year after the implementation of the
809 rule, the agency shall prepare a statement of estimated
810 regulatory costs as required by s. 120.54(3)(b).

811 (c) The agency must ~~shall~~ revise a statement of estimated
812 regulatory costs if any change to the rule made under s.
813 120.54(3)(d) increases the regulatory costs of the rule or if
814 the rule is modified in response to the submission of a lower
815 cost regulatory alternative. A summary of the revised statement
816 must be included with any subsequent notice published under s.
817 120.54(3).

818 (d) At least 21 days before filing the proposed rule for
819 adoption, an agency that is required to revise a statement of
820 estimated regulatory costs shall provide the statement to the
821 person who submitted the lower cost regulatory alternative, to
822 the rules ombudsman in the Executive Office of the Governor, and
823 to the committee. The revised statement must be published and
824 made available in the same manner as the original statement of
825 estimated regulatory costs ~~and shall provide notice on the~~

826 | ~~agency's website that it is available to the public.~~

827 | (e) Notwithstanding s. 120.56(1)(c), the failure of the
828 | agency to prepare and publish a statement of estimated
829 | regulatory costs or to respond to a written lower cost
830 | regulatory alternative as provided in this subsection is a
831 | material failure to follow the applicable rulemaking procedures
832 | or requirements set forth in this chapter.

833 | (f) An agency's failure to prepare a statement of
834 | estimated regulatory costs or to respond to a written lower cost
835 | regulatory alternative may not be raised in a proceeding
836 | challenging the validity of a rule pursuant to s. 120.52(8)(a)
837 | unless:

838 | 1. Raised in a petition filed no later than 1 year after
839 | the effective date of the rule; and

840 | 2. Raised by a person whose substantial interests are
841 | affected by the rule's regulatory costs.

842 | (g) A rule that is challenged pursuant to s. 120.52(8)(f)
843 | may not be declared invalid unless:

844 | 1. The issue is raised in an administrative proceeding
845 | within 1 year after the effective date of the rule;

846 | 2. The challenge is to the agency's rejection of a lower
847 | cost regulatory alternative offered under paragraph (a) or s.
848 | 120.54(3)(b)2.b.; and

849 | 3. The substantial interests of the person challenging the
850 | rule are materially affected by the rejection.

851 (2) A statement of estimated regulatory costs must ~~shall~~
 852 include:

853 (a) An economic analysis showing whether the rule directly
 854 or indirectly:

855 1. Is likely to have an adverse impact on economic growth,
 856 private sector job creation or employment, or private sector
 857 investment in excess of \$1 million in the aggregate within 5
 858 years after the implementation of the rule;

859 2. Is likely to have an adverse impact on business
 860 competitiveness, including the ability of persons doing business
 861 in this ~~the~~ state to compete with persons doing business in
 862 other states or domestic markets, productivity, or innovation in
 863 excess of \$1 million in the aggregate within 5 years after the
 864 implementation of the rule; or

865 3. Is likely to increase regulatory costs, including all
 866 ~~any transactional~~ costs and impacts estimated in the statement,
 867 in excess of \$1 million in the aggregate within 5 years after
 868 the implementation of the rule.

869 (b) A good faith estimate of the number of individuals, and
 870 small businesses, and other entities likely to be required to
 871 comply with the rule, together with a general description of the
 872 types of individuals likely to be affected by the rule.

873 (c) A good faith estimate of the cost to the agency, and
 874 to any other state and local government entities, of
 875 implementing and enforcing the proposed rule, and any

876 anticipated effect on state or local revenues.

877 (d) A good faith estimate of the compliance ~~transactional~~
878 costs likely to be incurred by individuals and entities,
879 including local government entities, required to comply with the
880 requirements of the rule. ~~As used in this section,~~
881 ~~"transactional costs" are direct costs that are readily~~
882 ~~ascertainable based upon standard business practices, and~~
883 ~~include filing fees, the cost of obtaining a license, the cost~~
884 ~~of equipment required to be installed or used or procedures~~
885 ~~required to be employed in complying with the rule, additional~~
886 ~~operating costs incurred, the cost of monitoring and reporting,~~
887 ~~and any other costs necessary to comply with the rule.~~

888 (e) An analysis of the impact on small businesses as
889 defined by s. 288.703, and an analysis of the impact on small
890 counties and small cities as defined in s. 120.52. The impact
891 analysis for small businesses must include the basis for the
892 agency's decision not to implement alternatives that would
893 reduce adverse impacts on small businesses.

894 (f) Any additional information that the agency determines
895 may be useful.

896 (g) In the ~~statement or~~ revised statement, ~~whichever~~
897 ~~applies,~~ a description of any regulatory alternatives submitted
898 under paragraph (1)(a) and a statement adopting the alternative
899 or a statement of the reasons for rejecting the alternative in
900 favor of the proposed rule.

901 (3) If the adverse impact or regulatory costs of the rule
902 exceed any of the criteria established in paragraph (2) (a), the
903 rule must ~~shall~~ be submitted to the President of the Senate and
904 Speaker of the House of Representatives no later than 30 days
905 before ~~prior to~~ the next regular legislative session, and the
906 rule may not take effect until it is ratified by the
907 Legislature.

908 (4) Subsection (3) does not apply to the adoption of:

909 (a) Federal standards pursuant to s. 120.54(6).

910 (b) Triennial updates of and amendments to the Florida
911 Building Code which are expressly authorized by s. 553.73.

912 (c) Triennial updates of and amendments to the Florida
913 Fire Prevention Code which are expressly authorized by s.
914 633.202.

915 (d) Emergency rules adopted pursuant to s. 120.54(4).

916 (5) For purposes of subsections (2) and (3), adverse
917 impacts and regulatory costs likely to occur within 5 years
918 after implementation of the rule include adverse impacts and
919 regulatory costs estimated to occur within 5 years after the
920 effective date of the rule. However, if any provision of the
921 rule is not fully implemented upon the effective date of the
922 rule, the adverse impacts and regulatory costs associated with
923 such provision must be adjusted to include any additional
924 adverse impacts and regulatory costs estimated to occur within 5
925 years after implementation of such provision.

926 (6) If an agency revises its statement of estimated
927 regulatory costs, the agency must provide notice that a revision
928 has been made in the manner provided under s. 120.54(3)(d)1.
929 Such notice must also include the agency website address where
930 the revision can be viewed in its entirety.

931 Section 4. Section 120.5435, Florida Statutes, is created
932 to read:

933 120.5435 Repromulgation of rules.—

934 (1) It is the intent of the Legislature that each agency
935 periodically review its rules for consistency with the powers
936 and duties granted by its enabling statutes.

937 (2) If an agency determines after review that substantive
938 changes to update a rule are not required, the agency must
939 repromulgate the rule to reflect the date of the review. All
940 rules adopted, amended, or repromulgated on or after January 1,
941 2019, must be reviewed and amended, repealed, or repromulgated
942 within 5 years after their effective dates and every 5 years
943 thereafter. Each agency shall review all existing rules pursuant
944 to this section no later than December 31, 2028, in accordance
945 with a schedule provided by the committee. No later than
946 September 1, 2023, and annually thereafter, the committee shall
947 provide each agency with a list of existing rules and their
948 effective dates to be reviewed in the next calendar year. Any
949 variation from this schedule must be reflected in the agency's
950 regulatory plan. Failure of an agency to adhere to the deadlines

951 imposed in this section constitutes a material failure to follow
952 the applicable rulemaking procedures or requirements of this
953 chapter and shall be the basis of an objection under s. 120.545.

954 (3) Before repromulgation of a rule, the agency must, upon
955 approval by the agency head or the agency head's designee:

956 (a) Publish a notice of repromulgation in the Florida
957 Administrative Register. A notice of repromulgation is not
958 required to include the text of the rule being repromulgated.

959 (b) File the rule for repromulgation with the Department
960 of State. A rule may not be filed for repromulgation less than
961 28 days, or more than 90 days, after the date of publication of
962 the notice required by paragraph (a).

963 (4) The agency must file a notice of repromulgation with
964 the committee at least 14 days before filing the rule for
965 repromulgation. At the time the rule is filed for
966 repromulgation, the committee shall certify whether the agency
967 has responded in writing to all material and timely written
968 comments or written inquiries made on behalf of the committee.

969 (5) A repromulgated rule is not subject to challenge as a
970 proposed rule pursuant to s. 120.56(2).

971 (6) The hearing requirements of s. 120.54 do not apply to
972 repromulgation of a rule.

973 (7)(a) The agency, upon approval of the agency head or the
974 agency head's designee, shall electronically file with the
975 Department of State a certified copy of the repromulgated rule

976 it proposes to adopt and one certified copy of any material
977 incorporated by reference in the rule.

978 (b) The rule is considered to be repromulgated upon its
979 filing with the Department of State.

980 (c) The Department of State shall update the history note
981 of the rule in the Florida Administrative Code to reflect the
982 filing date of the repromulgated rule.

983 (8) At least 30 days before each legislative session, the
984 committee shall submit to the President of the Senate and the
985 Speaker of the House of Representatives a list of all rules that
986 have not been repromulgated in accordance with this section, and
987 identify whether the statutory rulemaking authority for each
988 rule remains in effect. If no action is taken by the Legislature
989 with regard to a rule during the next regular legislative
990 session, each agency, by July 1 following the close of the
991 session, must initiate rulemaking proceedings under this chapter
992 to repeal the rule.

993 (9) The Department of State shall adopt rules to implement
994 this section by December 31, 2023.

995 Section 5. Subsection (1) of section 120.545, Florida
996 Statutes, is amended to read:

997 120.545 Committee review of agency rules.—

998 (1) As a legislative check on legislatively created
999 authority, the committee shall examine each existing rule and
1000 proposed rule, except for those proposed rules exempted by s.

1001 120.81(1) (e) and (2), and its accompanying material, and each
 1002 emergency rule, ~~and may examine any existing rule,~~ for the
 1003 purpose of determining whether:

1004 (a) The rule is an invalid exercise of delegated
 1005 legislative authority.

1006 (b) The statutory authority for the rule has been
 1007 repealed.

1008 (c) The rule reiterates or paraphrases statutory material.

1009 (d) The rule is in proper form.

1010 (e) The notice given before ~~prior to~~ its adoption was
 1011 sufficient to give adequate notice of the purpose and effect of
 1012 the rule.

1013 (f) The rule is consistent with expressed legislative
 1014 intent pertaining to the specific provisions of law which the
 1015 rule implements.

1016 (g) The rule is necessary to accomplish the apparent or
 1017 expressed objectives of the specific provision of law which the
 1018 rule implements.

1019 (h) The rule is a reasonable implementation of the law as
 1020 it affects the convenience of the general public or persons
 1021 particularly affected by the rule.

1022 (i) The rule could be made less complex or more easily
 1023 comprehensible to the general public.

1024 (j) The rule's statement of estimated regulatory costs
 1025 complies with the requirements of s. 120.541 and whether the

1026 rule does not impose regulatory costs on the regulated person,
1027 county, or city which could be reduced by the adoption of less
1028 costly alternatives that substantially accomplish the statutory
1029 objectives.

1030 (k) The rule will require additional appropriations.

1031 (l) If the rule is an emergency rule, there exists an
1032 emergency justifying the adoption of such rule, the agency is
1033 within its statutory authority, and the rule was adopted in
1034 compliance with the requirements and limitations of s.

1035 120.54(4).

1036 Section 6. Paragraphs (a), (b), and (c) of subsection (1)
1037 of section 120.55, Florida Statutes, are amended to read:

1038 120.55 Publication.—

1039 (1) The Department of State shall:

1040 (a)1. Through a continuous revision and publication
1041 system, compile and publish electronically, on a website managed
1042 by the department, the "Florida Administrative Code." The
1043 Florida Administrative Code must ~~shall~~ contain all rules adopted
1044 by each agency, citing the grant of rulemaking authority and the
1045 specific law implemented pursuant to which each rule was
1046 adopted, all history notes as authorized in s. 120.545(7),
1047 complete indexes to all rules contained in the code, and any
1048 other material required or authorized by law or deemed useful by
1049 the department. The electronic code must ~~shall~~ display each rule
1050 chapter currently in effect in browse mode and allow full text

1051 search of the code and each rule chapter. The department may
 1052 contract with a publishing firm for a printed publication;
 1053 however, the department shall retain responsibility for the code
 1054 as provided in this section. The electronic publication is ~~shall~~
 1055 ~~be~~ the official compilation of the administrative rules of this
 1056 state. The Florida Administrative Register must be published
 1057 once each business day by 8 a.m., with the exception of state
 1058 holidays or emergency closures of state agencies. If a rule,
 1059 proposed rule, or notice of rule development is corrected and
 1060 replaced, the corrected rule or notice must be published in the
 1061 next available Florida Administrative Register with a notation
 1062 indicating that the rule, proposed rule, or notice has been
 1063 corrected by the Department of State. Any timeframes for
 1064 rulemaking set forth in this chapter must revert to the initial
 1065 date of publication. The Department of State retains ~~shall~~
 1066 ~~retain~~ the copyright over the Florida Administrative Code.

1067 2. Not publish rules in the Florida Administrative Code
 1068 which are general in form but applicable to only one school
 1069 district, community college district, or county, or a part
 1070 thereof, or state university rules relating to internal
 1071 personnel or business and finance ~~shall not be published in the~~
 1072 ~~Florida Administrative Code~~. Exclusion from publication in the
 1073 Florida Administrative Code does ~~shall~~ not affect the validity
 1074 or effectiveness of such rules.

1075 3. At the beginning of the section of the code dealing

1076 with an agency that files copies of its rules with the
1077 department, the agency ~~department~~ shall publish the address and
1078 telephone number of the executive offices of each agency, the
1079 manner by which the agency indexes its rules, a listing of all
1080 rules of that agency excluded from publication in the code, and
1081 a statement as to where those rules may be inspected.

1082 4. Not publish forms ~~shall not be published~~ in the Florida
1083 Administrative Code; but any form which an agency uses in its
1084 dealings with the public, along with any accompanying
1085 instructions, shall be filed with the committee before it is
1086 used. Any form or instruction which meets the definition of
1087 "rule" provided in s. 120.52 must ~~shall~~ be incorporated by
1088 reference into the appropriate rule. The reference must ~~shall~~
1089 specifically state that the form is being incorporated by
1090 reference and must ~~shall~~ include the number, title, and
1091 effective date of the form and an explanation of how the form
1092 may be obtained. Each form created by an agency which is
1093 incorporated by reference in a rule notice of which is given
1094 under s. 120.54(3)(a) after December 31, 2007, must clearly
1095 display the number, title, and effective date of the form and
1096 the number of the rule in which the form is incorporated.

1097 5. Require all materials incorporated by reference in any
1098 part of an adopted rule and in any part of a repromulgated rule
1099 ~~The department shall allow adopted rules and material~~
1100 ~~incorporated by reference~~ to be filed in the manner prescribed

1101 ~~by s. 120.54(1)(i)3.a. or b. electronic form as prescribed by~~
1102 ~~department rule.~~ When a proposed rule is filed for adoption or
1103 repromulgation with incorporated material in electronic form,
1104 the department's publication of the Florida Administrative Code
1105 on its website must contain a hyperlink from the incorporating
1106 reference in the rule directly to that material. The department
1107 may not allow hyperlinks from rules in the Florida
1108 Administrative Code to any material other than that filed with
1109 and maintained by the department, but may allow hyperlinks to
1110 incorporated material maintained by the department from the
1111 adopting agency's website or other sites.

1112 6. Include the date of any technical changes to a rule in
1113 the history note of the rule in the Florida Administrative Code.
1114 A technical change does not affect the effective date of the
1115 rule.

1116 (b) Electronically publish on a website managed by the
1117 department a continuous revision and publication entitled the
1118 "Florida Administrative Register," which shall serve as the
1119 official publication and must contain:

1120 1. All notices required by s. 120.54(2) and (3)(a),
1121 showing the text of all rules proposed for consideration.

1122 2. All notices of public meetings, hearings, and workshops
1123 conducted in accordance with s. 120.525, including a statement
1124 of the manner in which a copy of the agenda may be obtained.

1125 3. A notice of each request for authorization to amend or

1126 | repeal an existing uniform rule or for the adoption of new
 1127 | uniform rules.

1128 | 4. Notice of petitions for declaratory statements or
 1129 | administrative determinations.

1130 | 5. A summary of each objection to any rule filed by the
 1131 | Administrative Procedures Committee.

1132 | 6. A list of rules filed for adoption in the previous 7
 1133 | days.

1134 | 7. A list of all rules filed for adoption pending
 1135 | legislative ratification under s. 120.541(3). A rule shall be
 1136 | removed from the list once notice of ratification or withdrawal
 1137 | of the rule is received.

1138 | 8. The full text of each emergency rule in effect on the
 1139 | date of publication.

1140 | 9. Any other material required or authorized by law or
 1141 | deemed useful by the department.

1142 |
 1143 | The department may contract with a publishing firm for a printed
 1144 | publication of the Florida Administrative Register and make
 1145 | copies available on an annual subscription basis.

1146 | (c) Prescribe by rule the style and form required for
 1147 | rules, notices, and other materials submitted for filing,
 1148 | including a rule requiring documents created by an agency which
 1149 | are proposed to be incorporated by reference in notices
 1150 | published pursuant to s. 120.54(3) (a) and (d) to be coded in the

1151 same manner as notices published pursuant to s. 120.54(3)(a)1.

1152 Section 7. Subsection (1) and paragraph (a) of subsection
1153 (2) of section 120.74, Florida Statutes, are amended to read:

1154 120.74 Agency annual rulemaking and regulatory plans;
1155 reports.—

1156 (1) REGULATORY PLAN.—By October 1 of each year, each
1157 agency shall prepare a regulatory plan.

1158 (a) The plan must include a listing of each law enacted or
1159 amended during the previous 12 months which creates or modifies
1160 the duties or authority of the agency. If the Governor or the
1161 Attorney General provides a letter to the committee stating that
1162 a law affects all or most agencies, the agency may exclude the
1163 law from its plan. For each law listed by an agency under this
1164 paragraph, the plan must state:

1165 1. Whether the agency must adopt rules to implement the
1166 law.

1167 2. If rulemaking is necessary to implement the law:

1168 a. Whether a notice of rule development has been published
1169 and, if so, the citation to such notice in the Florida
1170 Administrative Register.

1171 b. The date by which the agency expects to publish the
1172 notice of proposed rule under s. 120.54(3)(a).

1173 3. If rulemaking is not necessary to implement the law, a
1174 concise written explanation of the reasons why the law may be
1175 implemented without rulemaking.

1176 (b) The plan must also identify and describe each rule,
1177 including each rule number or proposed rule number, that include
1178 ~~a listing of each law not otherwise listed pursuant to paragraph~~
1179 ~~(a) which~~ the agency expects to develop, adopt, or repeal for
1180 the 12-month period beginning on October 1 and ending on
1181 September 30 ~~implement by rulemaking before the following July~~
1182 ~~1,~~ excluding emergency rules ~~except emergency rulemaking.~~ For
1183 each rule ~~law~~ listed under this paragraph, the plan must state
1184 whether the rulemaking is intended to simplify, clarify,
1185 increase efficiency, improve coordination with other agencies,
1186 reduce regulatory costs, or delete obsolete, unnecessary, or
1187 redundant rules.

1188 (c) The plan must include any desired update to the prior
1189 year's regulatory plan or supplement published pursuant to
1190 subsection (7). If, in a prior year, a law was identified under
1191 this paragraph or under subparagraph (a)1. as a law requiring
1192 rulemaking to implement but a notice of proposed rule has not
1193 been published:

1194 1. The agency must ~~shall~~ identify and again list such law,
1195 noting the applicable notice of rule development by citation to
1196 the Florida Administrative Register; or

1197 2. If the agency has subsequently determined that
1198 rulemaking is not necessary to implement the law, the agency
1199 must ~~shall~~ identify such law, reference the citation to the
1200 applicable notice of rule development in the Florida

1201 Administrative Register, and provide a concise written
1202 explanation of the reason why the law may be implemented without
1203 rulemaking.

1204 (d) The plan must identify any rules that are required to
1205 be repromulgated pursuant to s. 120.5435 for the 12-month period
1206 beginning on October 1 and ending on September 30.

1207 (e) The plan must include a certification executed on
1208 behalf of the agency by both the agency head, or, if the agency
1209 head is a collegial body, the presiding officer; and the
1210 individual acting as principal legal advisor to the agency head.
1211 The certification must declare:

1212 1. ~~Verify~~ That the persons executing the certification
1213 have reviewed the plan.

1214 2. ~~Verify~~ That the agency regularly reviews all of its
1215 rules and identify the period during which all rules have most
1216 recently been reviewed to determine if the rules remain
1217 consistent with the agency's rulemaking authority and the laws
1218 implemented.

1219 3. That the agency understands that regulatory
1220 accountability is necessary to ensure public confidence in the
1221 integrity of state government and, to that end, the agency is
1222 diligently working toward lowering the total number of rules
1223 adopted.

1224 4. The total number of rules adopted and repealed during
1225 the previous 12 months.

1226 (2) PUBLICATION AND DELIVERY TO THE COMMITTEE.—
 1227 (a) By October 1 of each year, each agency shall:
 1228 1. Publish its regulatory plan on its website or on
 1229 another state website established for publication of
 1230 administrative law records. A clearly labeled hyperlink to the
 1231 current plan must be included on the agency's primary website
 1232 homepage.
 1233 2. Electronically deliver to the committee a copy of the
 1234 certification required in paragraph (1)(e) ~~(1)(d)~~.
 1235 3. Publish in the Florida Administrative Register a notice
 1236 identifying the date of publication of the agency's regulatory
 1237 plan. The notice must include a hyperlink or website address
 1238 providing direct access to the published plan.
 1239 Section 8. Subsections (5) and (11) of section 120.80,
 1240 Florida Statutes, are amended to read:
 1241 120.80 Exceptions and special requirements; agencies.—
 1242 (5) FLORIDA LAND AND WATER ADJUDICATORY COMMISSION.—
 1243 (a) Notwithstanding ~~the provisions of~~ s. 120.57(1)(a),
 1244 when the Florida Land and Water Adjudicatory Commission receives
 1245 a notice of appeal pursuant to s. 380.07, the commission shall
 1246 notify the division within 60 days after receipt of the notice
 1247 of appeal if the commission elects to request the assignment of
 1248 an administrative law judge.
 1249 (b) Notwithstanding s. 120.5435, repromulgation
 1250 requirements do not apply to community development districts

1251 established pursuant to s. 190.005.

1252 (11) NATIONAL GUARD.—Notwithstanding s. 120.52(17) ~~s.~~
 1253 ~~120.52(16)~~, the enlistment, organization, administration,
 1254 equipment, maintenance, training, and discipline of the militia,
 1255 National Guard, organized militia, and unorganized militia, as
 1256 provided by s. 2, Art. X of the State Constitution, are not
 1257 rules as defined by this chapter.

1258 Section 9. Paragraph (c) of subsection (1) of section
 1259 120.81, Florida Statutes, is amended to read:

1260 120.81 Exceptions and special requirements; general
 1261 areas.—

1262 (1) EDUCATIONAL UNITS.—

1263 (c) Notwithstanding s. 120.52(17) ~~s. 120.52(16)~~, any
 1264 tests, test scoring criteria, or testing procedures relating to
 1265 student assessment which are developed or administered by the
 1266 Department of Education pursuant to s. 1003.4282, s. 1008.22, or
 1267 s. 1008.25, or any other statewide educational tests required by
 1268 law, are not rules.

1269 Section 10. Paragraph (a) of subsection (1) of section
 1270 420.9072, Florida Statutes, is amended to read:

1271 420.9072 State Housing Initiatives Partnership Program.—
 1272 The State Housing Initiatives Partnership Program is created for
 1273 the purpose of providing funds to counties and eligible
 1274 municipalities as an incentive for the creation of local housing
 1275 partnerships, to expand production of and preserve affordable

1276 housing, to further the housing element of the local government
1277 comprehensive plan specific to affordable housing, and to
1278 increase housing-related employment.

1279 (1)(a) In addition to the legislative findings set forth
1280 in s. 420.6015, the Legislature finds that affordable housing is
1281 most effectively provided by combining available public and
1282 private resources to conserve and improve existing housing and
1283 provide new housing for very-low-income households, low-income
1284 households, and moderate-income households. The Legislature
1285 intends to encourage partnerships in order to secure the
1286 benefits of cooperation by the public and private sectors and to
1287 reduce the cost of housing for the target group by effectively
1288 combining all available resources and cost-saving measures. The
1289 Legislature further intends that local governments achieve this
1290 combination of resources by encouraging active partnerships
1291 between government, lenders, builders and developers, real
1292 estate professionals, advocates for low-income persons, and
1293 community groups to produce affordable housing and provide
1294 related services. Extending the partnership concept to encompass
1295 cooperative efforts among small counties as defined in s.
1296 120.52(20) ~~s. 120.52(19)~~, and among counties and municipalities
1297 is specifically encouraged. Local governments are also intended
1298 to establish an affordable housing advisory committee to
1299 recommend monetary and nonmonetary incentives for affordable
1300 housing as provided in s. 420.9076.

1301 Section 11. Subsection (7) of section 420.9075, Florida
 1302 Statutes, is amended to read:

1303 420.9075 Local housing assistance plans; partnerships.—

1304 (7) The moneys deposited in the local housing assistance
 1305 trust fund shall be used to administer and implement the local
 1306 housing assistance plan. The cost of administering the plan may
 1307 not exceed 5 percent of the local housing distribution moneys
 1308 and program income deposited into the trust fund. A county or an
 1309 eligible municipality may not exceed the 5-percent limitation on
 1310 administrative costs, unless its governing body finds, by
 1311 resolution, that 5 percent of the local housing distribution
 1312 plus 5 percent of program income is insufficient to adequately
 1313 pay the necessary costs of administering the local housing
 1314 assistance plan. The cost of administering the program may not
 1315 exceed 10 percent of the local housing distribution plus 5
 1316 percent of program income deposited into the trust fund, except
 1317 that small counties, as defined in s. 120.52(20) ~~s. 120.52(19)~~,
 1318 and eligible municipalities receiving a local housing
 1319 distribution of up to \$350,000 may use up to 10 percent of
 1320 program income for administrative costs.

1321 Section 12. Paragraph (d) of subsection (1) of section
 1322 443.091, Florida Statutes, is amended to read:

1323 443.091 Benefit eligibility conditions.—

1324 (1) An unemployed individual is eligible to receive
 1325 benefits for any week only if the Department of Economic

1326 Opportunity finds that:

1327 (d) She or he is able to work and is available for work.
1328 In order to assess eligibility for a claimed week of
1329 unemployment, the department shall develop criteria to determine
1330 a claimant's ability to work and availability for work. A
1331 claimant must be actively seeking work in order to be considered
1332 available for work. This means engaging in systematic and
1333 sustained efforts to find work, including contacting at least
1334 five prospective employers for each week of unemployment
1335 claimed. The department may require the claimant to provide
1336 proof of such efforts to the one-stop career center as part of
1337 reemployment services. A claimant's proof of work search efforts
1338 may not include the same prospective employer at the same
1339 location in 3 consecutive weeks, unless the employer has
1340 indicated since the time of the initial contact that the
1341 employer is hiring. The department shall conduct random reviews
1342 of work search information provided by claimants. As an
1343 alternative to contacting at least five prospective employers
1344 for any week of unemployment claimed, a claimant may, for that
1345 same week, report in person to a one-stop career center to meet
1346 with a representative of the center and access reemployment
1347 services of the center. The center shall keep a record of the
1348 services or information provided to the claimant and shall
1349 provide the records to the department upon request by the
1350 department. However:

1351 1. Notwithstanding any other provision of this paragraph
1352 or paragraphs (b) and (e), an otherwise eligible individual may
1353 not be denied benefits for any week because she or he is in
1354 training with the approval of the department, or by reason of s.
1355 443.101(2) relating to failure to apply for, or refusal to
1356 accept, suitable work. Training may be approved by the
1357 department in accordance with criteria prescribed by rule. A
1358 claimant's eligibility during approved training is contingent
1359 upon satisfying eligibility conditions prescribed by rule.

1360 2. Notwithstanding any other provision of this chapter, an
1361 otherwise eligible individual who is in training approved under
1362 s. 236(a)(1) of the Trade Act of 1974, as amended, may not be
1363 determined ineligible or disqualified for benefits due to
1364 enrollment in such training or because of leaving work that is
1365 not suitable employment to enter such training. As used in this
1366 subparagraph, the term "suitable employment" means work of a
1367 substantially equal or higher skill level than the worker's past
1368 adversely affected employment, as defined for purposes of the
1369 Trade Act of 1974, as amended, the wages for which are at least
1370 80 percent of the worker's average weekly wage as determined for
1371 purposes of the Trade Act of 1974, as amended.

1372 3. Notwithstanding any other provision of this section, an
1373 otherwise eligible individual may not be denied benefits for any
1374 week because she or he is before any state or federal court
1375 pursuant to a lawfully issued summons to appear for jury duty.

1376 4. Union members who customarily obtain employment through
 1377 a union hiring hall may satisfy the work search requirements of
 1378 this paragraph by reporting daily to their union hall.

1379 5. The work search requirements of this paragraph do not
 1380 apply to persons who are unemployed as a result of a temporary
 1381 layoff or who are claiming benefits under an approved short-time
 1382 compensation plan as provided in s. 443.1116.

1383 6. In small counties as defined in s. 120.52(20) ~~s.~~
 1384 ~~120.52(19)~~, a claimant engaging in systematic and sustained
 1385 efforts to find work must contact at least three prospective
 1386 employers for each week of unemployment claimed.

1387 7. The work search requirements of this paragraph do not
 1388 apply to persons required to participate in reemployment
 1389 services under paragraph (e).

1390 Section 13. Infrastructure and environmental permitting
 1391 review.—

1392 (1)(a) It is the intent of the Legislature to build a more
 1393 resilient and responsive government infrastructure to allow for
 1394 quick recovery after natural disasters, including hurricanes and
 1395 tropical storms without negatively impacting coastal ecosystems
 1396 or increasing future community vulnerability.

1397 (b) It is further the intent of the Legislature to promote
 1398 efficiency in state government across branches, agencies, and
 1399 other governmental entities and to identify any area of
 1400 improvement within each that allows for quick, effective

1401 delivery of services.

1402 (c) Further, the Legislature intends for the state to seek
1403 out ways to improve its administrative procedures in relevant
1404 fields to build a streamlined permitting process that withstands
1405 disruptions caused by natural disasters, including hurricanes
1406 and tropical storms while maintaining the integrity of natural
1407 coastal ecosystems.

1408 (2) (a) The Department of Environmental Protection and
1409 water management districts shall conduct a holistic review of
1410 their current coastal permitting processes and other permit
1411 programs. These permitting processes must include, but are not
1412 limited to, coastal construction control line permits; joint
1413 coastal permits; environmental resource permits; consistent with
1414 the terms of the United States Environmental Protection Agency's
1415 approval, state-administered section 404 permits; and permitting
1416 processes related to water supply infrastructure, wastewater
1417 infrastructure, and onsite sewage treatment and disposal
1418 systems.

1419 (b) The scope and purpose of the review is to identify
1420 areas of improvement and to increase efficiency within each
1421 process. Factors that must be considered in the review include
1422 the following:

- 1423 1. The requirements to obtain a permit.
1424 2. Time periods for review, including by commenting
1425 agencies, and approval of the permit application.

- 1426 3. Areas for improved efficiency and decision-point
1427 consolidation within a single project's process.
- 1428 4. Areas of duplication across one or more permit
1429 programs.
- 1430 5. The methods of requesting permits.
- 1431 6. Adequate staffing levels necessary for complete and
1432 efficient review.
- 1433 7. Any other factors that may increase the efficiency of
1434 the permitting processes and may allow improved storm recovery.
- 1435 (c) By December 31, 2023, the department and water
1436 management districts shall provide their findings and proposed
1437 solutions in a report to the Governor, the President of the
1438 Senate, and the Speaker of the House of Representatives.
- 1439 Section 14. This act shall take effect July 1, 2023.