

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

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29 | the rule; amending s. 120.80, F.S.; deleting a provision
 30 | that prohibits the Department of Environmental Protection
 31 | from adopting the lowest regulatory cost alternative under
 32 | certain circumstances; providing an effective date.

34 | Be It Enacted by the Legislature of the State of Florida:

36 | Section 1. Subsection (1) of section 120.52, Florida
 37 | Statutes, is amended to read:

38 | 120.52 Definitions.--As used in this act:

39 | (1) "Agency" means the following officers or governmental
 40 | entities when acting pursuant to statutory authority:

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

51 | (b) Each officer and governmental entity in the state
 52 | having statewide jurisdiction or jurisdiction in more than one
 53 | county.÷

54 | ~~1. State officer and state department, and each~~
 55 | ~~departmental unit described in s. 20.04.~~

56 | ~~2. Authority, including a regional water supply authority.~~

57 | ~~3. Board, including the Board of Governors of the State~~

58 ~~University System and a state university board of trustees when~~
 59 ~~acting pursuant to statutory authority derived from the~~
 60 ~~Legislature.~~

61 ~~4. Commission, including the Commission on Ethics and the~~
 62 ~~Fish and Wildlife Conservation Commission when acting pursuant~~
 63 ~~to statutory authority derived from the Legislature.~~

64 ~~5. Regional planning agency.~~

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

67 ~~7. Educational units.~~

68 ~~8. Entity described in chapters 163, 373, 380, and 582 and~~
 69 ~~s. 186.504.~~

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

76
 77 This definition does not include any legal entity or agency
 78 created in whole or in part pursuant to part II of chapter 361; ~~;~~
 79 ~~part II,~~ any metropolitan planning organization created pursuant
 80 to s. 339.175; ~~;~~ any separate legal or administrative entity
 81 created pursuant to s. 339.175 of which a metropolitan planning
 82 organization is a member; ~~;~~ an expressway authority pursuant to
 83 chapter 348 or transportation authority under chapter 349; or ~~;~~
 84 any legal or administrative entity created by an interlocal
 85 agreement pursuant to s. 163.01(7), unless any party to such
 86 agreement is otherwise an agency as defined in this subsection ~~;~~
 87 ~~or any multicounty special district with a majority of its~~

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88 ~~governing board comprised of elected persons; however, this~~
 89 ~~definition shall include a regional water supply authority.~~

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

92 120.525 Meetings, hearings, and workshops.--

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

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

110 Section 3. Subsection (3), paragraph (b) of subsection
 111 (5), and paragraph (b) of subsection (6) of section 120.54,
 112 Florida Statutes, are amended to read:

113 120.54 Rulemaking.--

114 (3) ADOPTION PROCEDURES.--

115 (a) Notices.--

116 1. Prior to the adoption, amendment, or repeal of any rule

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

138 2. The notice shall be published in the Florida
139 Administrative Weekly not less than 28 days prior to the
140 intended action. The proposed rule shall be available for
141 inspection and copying by the public at the time of the
142 publication of notice.

143 3. The notice shall be mailed to all persons named in the
144 proposed rule and to all persons who, at least 14 days prior to
145 such mailing, have made requests of the agency for advance
146 notice of its proceedings. The agency shall also give such

147 notice as is prescribed by rule to those particular classes of
 148 persons to whom the intended action is directed.

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

159 (b) *Special matters to be considered in rule adoption.--*

160 1. Statement of estimated regulatory costs.--Prior to the
 161 adoption, amendment, or repeal of any rule other than an
 162 emergency rule, an agency is encouraged to prepare a statement
 163 of estimated regulatory costs of the proposed rule, as provided
 164 by s. 120.541. However, an agency shall prepare a statement of
 165 estimated regulatory costs of the proposed rule, as provided by
 166 s. 120.541, if the proposed rule will have an impact on small
 167 business.

168 2. Small businesses, small counties, and small cities.--

169 a. Each agency, before the adoption, amendment, or repeal
 170 of a rule, shall consider the impact of the rule on small
 171 businesses as defined by s. 288.703 and the impact of the rule
 172 on small counties or small cities as defined by s. 120.52.
 173 Whenever practicable, an agency shall tier its rules to reduce
 174 disproportionate impacts on small businesses, small counties, or
 175 small cities to avoid regulating small businesses, small
 176 counties, or small cities that do not contribute significantly

177 to the problem the rule is designed to address. An agency may
 178 define "small business" to include businesses employing more
 179 than 200 ~~100~~ persons, may define "small county" to include those
 180 with populations of more than 75,000, and may define "small
 181 city" to include those with populations of more than 10,000, if
 182 it finds that such a definition is necessary to adapt a rule to
 183 the needs and problems of small businesses, small counties, or
 184 small cities. The agency shall consider each of the following
 185 methods for reducing the impact of the proposed rule on small
 186 businesses, small counties, and small cities, or any combination
 187 of these entities:

188 (I) Establishing less stringent compliance or reporting
 189 requirements in the rule.

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

192 (III) Consolidating or simplifying the rule's compliance
 193 or reporting requirements.

194 (IV) Establishing performance standards or best-management
 195 practices to replace design or operational standards in the
 196 rule.

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

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

205 (II) Each agency shall adopt those regulatory alternatives
 206 offered by the Small Business Regulatory Advisory Council and

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

215 (III) If an agency does not adopt all alternatives offered
216 pursuant to this sub-subparagraph, it shall, prior to rule
217 adoption or amendment and pursuant to subparagraph (d)1., file a
218 detailed written statement with the committee explaining the
219 reasons for failure to adopt such alternatives. Within 3 working
220 days of the filing of such notice, the agency shall send a copy
221 of such notice to the Small Business Regulatory Advisory
222 Council. The Small Business Regulatory Advisory Council may make
223 a request of the President of the Senate and the Speaker of the
224 House of Representatives that the presiding officers direct the
225 Office of Program Policy Analysis and Government Accountability
226 to determine whether the rejected alternatives reduce the impact
227 on small business while meeting the stated objectives of the
228 proposed rule. Within 60 days after the date of the directive
229 from the presiding officers, the Office of Program Policy
230 Analysis and Government Accountability shall report to the
231 Administrative Procedures Committee its findings as to whether
232 an alternative reduces the impact on small business while
233 meeting the stated objectives of the proposed rule. The Office
234 of Program Policy Analysis and Government Accountability shall
235 consider the proposed rule, the economic impact statement, the
236 written statement of the agency, the proposed alternatives, and

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237 any comment submitted during the comment period on the proposed
238 rule. The Office of Program Policy Analysis and Government
239 Accountability shall submit a report of its findings and
240 recommendations to the Governor, the President of the Senate,
241 and the Speaker of the House of Representatives. The
242 Administrative Procedures Committee shall report such findings
243 to the agency, and the agency shall respond in writing to the
244 Administrative Procedures Committee if the Office of Program
245 Policy Analysis and Government Accountability found that the
246 alternative reduced the impact on small business while meeting
247 the stated objectives of the proposed rule. If the agency will
248 not adopt the alternative, it must also provide a detailed
249 written statement to the committee as to why it will not adopt
250 the alternative.

251 (c) *Hearings.*--

252 1. If the intended action concerns any rule other than one
253 relating exclusively to procedure or practice, the agency shall,
254 on the request of any affected person received within 21 days
255 after the date of publication of the notice of intended agency
256 action, give affected persons an opportunity to present evidence
257 and argument on all issues under consideration. The agency may
258 schedule a public hearing on the rule and, if requested by any
259 affected person, shall schedule a public hearing on the rule.
260 When a public hearing is held, the agency must ensure that the
261 persons responsible for preparing the proposed rule are
262 available to explain the agency's proposal and to respond to
263 questions or comments regarding the rule. If the agency head is
264 a board or other collegial body created under s. 20.165(4) or s.
265 20.43(3)(g), and one or more requested public hearings is
266 scheduled, the board or other collegial body shall conduct at

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267 least one of the public hearings itself and may not delegate
 268 this responsibility without the consent of those persons
 269 requesting the public hearing. Any material pertinent to the
 270 issues under consideration submitted to the agency within 21
 271 days after the date of publication of the notice or submitted to
 272 the agency on or before the date of the final ~~at a~~ public
 273 hearing shall be considered by the agency and made a part of the
 274 record of the rulemaking proceeding.

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

287 (d) *Modification or withdrawal of proposed rules.--*

288 1. After the final public hearing on the proposed rule, or
 289 after the time for requesting a hearing has expired, if the rule
 290 has not been changed from the rule as previously filed with the
 291 committee, or contains only technical changes, the adopting
 292 agency shall file a notice to that effect with the committee at
 293 least 7 days prior to filing the rule for adoption. Any change,
 294 other than a technical change that does not affect the substance
 295 of the rule, must be supported by the record of public hearings
 296 held on the rule, must be in response to written material

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297 submitted to the agency within 21 days after the date of
298 publication of the notice of intended agency action or submitted
299 to the agency ~~received~~ on or before the date of the final public
300 hearing, or must be in response to a proposed objection by the
301 committee. In addition, when any change is made in a proposed
302 rule, other than a technical change, the adopting agency shall
303 provide a copy of a notice of change by certified mail or actual
304 delivery to any person who requests it in writing no later than
305 21 days after the notice required in paragraph (a). The agency
306 shall file the notice of change with the committee, along with
307 the reasons for the change, and provide the notice of change to
308 persons requesting it, at least 21 days prior to filing the rule
309 for adoption. The notice of change shall be published in the
310 Florida Administrative Weekly at least 21 days prior to filing
311 the rule for adoption. This subparagraph does not apply to
312 emergency rules adopted pursuant to subsection (4).

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

315 3. After adoption and before the effective date, a rule
316 may be modified or withdrawn only in response to an objection by
317 the committee or may be modified to extend the effective date by
318 not more than 60 days when the committee has notified the agency
319 that an objection to the rule is being considered.

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

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

330 (e) *Filing for final adoption; effective date.--*

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

343 2. A rule may not be filed for adoption less than 28 days
 344 or more than 90 days after the notice required by paragraph (a),
 345 until 21 days after the notice of change required by paragraph
 346 (d), until 14 days after the final public hearing, until 21 days
 347 after a statement of estimated regulatory costs required under
 348 s. 120.541 has been provided to all persons who submitted a
 349 lower cost regulatory alternative and made available to the
 350 public, or until the administrative law judge has rendered a
 351 decision under s. 120.56(2), whichever applies. When a required
 352 notice of change is published prior to the expiration of the
 353 time to file the rule for adoption, the period during which a
 354 rule must be filed for adoption is extended to 45 days after the
 355 date of publication. If notice of a public hearing is published
 356 prior to the expiration of the time to file the rule for

357 adoption, the period during which a rule must be filed for
358 adoption is extended to 45 days after adjournment of the final
359 hearing on the rule, 21 days after receipt of all material
360 authorized to be submitted at the hearing, or 21 days after
361 receipt of the transcript, if one is made, whichever is latest.
362 The term "public hearing" includes any public meeting held by
363 any agency at which the rule is considered. If a petition for an
364 administrative determination under s. 120.56(2) is filed, the
365 period during which a rule must be filed for adoption is
366 extended to 60 days after the administrative law judge files the
367 final order with the clerk or until 60 days after subsequent
368 judicial review is complete.

369 3. At the time a rule is filed, the agency shall certify
370 that the time limitations prescribed by this paragraph have been
371 complied with, that all statutory rulemaking requirements have
372 been met, and that there is no administrative determination
373 pending on the rule.

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

385 5. If a rule has not been adopted within the time limits
386 imposed by this paragraph or has not been adopted in compliance

387 with all statutory rulemaking requirements, the agency proposing
 388 the rule shall withdraw the rule and give notice of its action
 389 in the next available issue of the Florida Administrative
 390 Weekly.

391 6. The proposed rule shall be adopted on being filed with
 392 the Department of State and become effective 20 days after being
 393 filed, on a later date specified in the notice required by
 394 subparagraph (a)1. ~~rule,~~ or on a date required by statute. Rules
 395 not required to be filed with the Department of State shall
 396 become effective when adopted by the agency head or on a later
 397 date specified by rule or statute. If the committee notifies an
 398 agency that an objection to a rule is being considered, the
 399 agency may postpone the adoption of the rule to accommodate
 400 review of the rule by the committee. When an agency postpones
 401 adoption of a rule to accommodate review by the committee, the
 402 90-day period for filing the rule is tolled until the committee
 403 notifies the agency that it has completed its review of the
 404 rule.

405
 406 For the purposes of this paragraph, the term "administrative
 407 determination" does not include subsequent judicial review.

408 (5) UNIFORM RULES.--

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

412 1. Uniform rules for the scheduling of public meetings,
 413 hearings, and workshops.

414 2. Uniform rules for use by each state agency that provide
 415 procedures for conducting public meetings, hearings, and
 416 workshops, and for taking evidence, testimony, and argument at

417 such public meetings, hearings, and workshops, in person and by
 418 means of communications media technology. The rules shall
 419 provide that all evidence, testimony, and argument presented
 420 shall be afforded equal consideration, regardless of the method
 421 of communication. If a public meeting, hearing, or workshop is
 422 to be conducted by means of communications media technology, or
 423 if attendance may be provided by such means, the notice shall so
 424 state. The notice for public meetings, hearings, and workshops
 425 utilizing communications media technology shall state how
 426 persons interested in attending may do so and shall name
 427 locations, if any, where communications media technology
 428 facilities will be available. Nothing in this paragraph shall be
 429 construed to diminish the right to inspect public records under
 430 chapter 119. Limiting points of access to public meetings,
 431 hearings, and workshops subject to the provisions of s. 286.011
 432 to places not normally open to the public shall be presumed to
 433 violate the right of access of the public, and any official
 434 action taken under such circumstances is void and of no effect.
 435 Other laws relating to public meetings, hearings, and workshops,
 436 including penal and remedial provisions, shall apply to public
 437 meetings, hearings, and workshops conducted by means of
 438 communications media technology, and shall be liberally
 439 construed in their application to such public meetings,
 440 hearings, and workshops. As used in this subparagraph,
 441 "communications media technology" means the electronic
 442 transmission of printed matter, audio, full-motion video,
 443 freeze-frame video, compressed video, and digital video by any
 444 method available.

445 3. Uniform rules of procedure for the filing of notice of
 446 protests and formal written protests. The Administration

447 Commission may prescribe the form and substantive provisions of
 448 a required bond.

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

452 a. The identification of the petitioner.

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

455 c. An explanation of how the petitioner's substantial
 456 interests are or will be affected by the action or proposed
 457 action.

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

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

463 f. A statement of the specific rules or statutes that the
 464 petitioner contends require reversal or modification of the
 465 agency's proposed action, including an explanation of how the
 466 alleged facts relate to the specific rules or statutes.

467 g. A statement of the relief sought by the petitioner,
 468 stating precisely the action petitioner wishes the agency to
 469 take with respect to the proposed action.

470 5. Uniform rules for the filing of request for
 471 administrative hearing by a respondent in agency enforcement and
 472 disciplinary actions. Such rules shall require a request to
 473 include:

474 a. The name, address, and telephone number of the party
 475 making the request and the name, address, and telephone number
 476 of the party's counsel or qualified representative upon whom

477 service of pleadings and other papers shall be made;

478 b. A statement that the respondent is requesting an
479 administrative hearing and disputes the material facts alleged
480 by the petitioner, in which case the respondent shall identify
481 those material facts that are in dispute, or that the respondent
482 is requesting an administrative hearing and does not dispute the
483 material facts alleged by the petitioner; and

484 c. A reference by file number to the administrative
485 complaint that the party has received from the agency and the
486 date on which the agency pleading was received.

487

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

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

501 7. Provision of a method by which each agency head shall
502 provide a description of the agency's organization and general
503 course of its operations. The rules shall require that the
504 statement concerning the agency's organization and operations be
505 published on the agency's website.

506 8. Uniform rules establishing procedures for granting or

507 denying petitions for variances and waivers pursuant to s.
508 120.542.

509 (6) ADOPTION OF FEDERAL STANDARDS.--Notwithstanding any
510 contrary provision of this section, in the pursuance of state
511 implementation, operation, or enforcement of federal programs,
512 an agency is empowered to adopt rules substantively identical to
513 regulations adopted pursuant to federal law, in accordance with
514 the following procedures:

515 (b) Any rule adopted pursuant to this subsection shall
516 become effective upon the date designated ~~in the rule~~ by the
517 agency in the notice of intent to adopt a rule; however, no such
518 rule shall become effective earlier than the effective date of
519 the substantively identical federal regulation.

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

522 120.80 Exceptions and special requirements; agencies.--

523 ~~(16) DEPARTMENT OF ENVIRONMENTAL PROTECTION.--~~
524 ~~Notwithstanding the provisions of s. 120.54(1)(d), the~~
525 ~~Department of Environmental Protection, in undertaking~~
526 ~~rulemaking to establish best available control technology,~~
527 ~~lowest achievable emissions rate, or case-by-case maximum~~
528 ~~available control technology for purposes of s. 403.08725, shall~~
529 ~~not adopt the lowest regulatory cost alternative if such~~
530 ~~adoption would prevent the agency from implementing federal~~
531 ~~requirements.~~

532 (16) ~~(17)~~ FLORIDA BUILDING COMMISSION.--

533 (a) Notwithstanding the provisions of s. 120.542, the
534 Florida Building Commission may not accept a petition for waiver
535 or variance and may not grant any waiver or variance from the

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536 requirements of the Florida Building Code.

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

545 (c) Notwithstanding ss. 120.565, 120.569, and 120.57, the
546 Florida Building Commission and hearing officer panels appointed
547 by the commission in accordance with s. 553.775(3)(c)1. may
548 conduct proceedings to review decisions of local building code
549 officials in accordance with s. 553.775(3)(c).

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