

2006 SUMMARY OF AMENDMENTS TO CHAPTER 120

Chapter 2006-45, Law of Florida, amended §120.80, F.S., by deleting paragraph (2)(c), which provided that §§120.54 and 120.56, F.S., shall not apply to actions by the Department of Agriculture and Consumer Services in furtherance of its duties under §581.184(2), F.S., the citrus canker eradication program. **Effective date:** July 1, 2006.

Chapter 2006-82, Laws of Florida, amended several sections of Chapter 120:

Section 120.54

- Subparagraph 120.54(3)(d)1. is amended to clarify that the referenced “notice” refers to the required notice of substantive change to a proposed rule.
- Subparagraph 120.54(3)(e)2. is amended to include the rulemaking timeframes currently found in paragraph 120.56(2)(b). There will be no substantive change to the existing timeframes.
- Subparagraph 120.54(3)(e)2. is further amended to provide that if a petition for administrative determination under subsection 120.56(2) is filed, the period during which a proposed rule must be filed for adoption is extended to 60 days after the administrative law judge files the final order with the clerk or until 60 days after subsequent judicial review is complete.
- A provision is added to paragraph 120.54(3)(e) to clarify that the term “administrative determination” does not include subsequent judicial review.
- Subparagraph 120.54(5)(b)3. is amended to provide specific authority for the Administration Commission to prescribe by rule the form and content of a bond required pursuant to a bid protest.
- New subparagraph 120.54(5)(b)5. requires the Administration Commission to adopt uniform rules of procedure for the filing of a request for administrative hearing by a respondent in agency enforcement and disciplinary actions.
- Renumbered subparagraph 120.54(5)(b)6. is amended to provide that the uniform rules of procedure shall describe the contents of the notices published in the Florida Administrative Weekly relating to declaratory statements.

Section 120.55

- Subparagraph 120.55(1)(a)4. is amended to require that forms incorporated by reference in a rule noticed after December 31, 2007, shall display the number, title, and effective date of the form and the number of the rule in which the form is incorporated.
- Effective December 31, 2007, several provisions of §120.55 are amended to require the Department of State to publish the Florida Administrative Weekly on a central Internet website; describe the contents of the website; describe the responsibilities of the department; and establish the search capabilities and other features of the website. A printed version of the Weekly will be published and made available on a subscription basis. Access to the Internet website and its contents shall be free for the public.

Section 120.56

- Paragraph 120.56(2)(b) is amended to provide that unless the decision of the administrative law judge is reversed on appeal, a proposed rule that has been declared invalid may not be adopted.
- The rulemaking timeframes contained in paragraph 120.56(2)(b) are moved to subparagraph 120.54(3)(e)2.

Section 120.569

- Paragraph 120.569(2)(c) is amended to provide that the requirements of the paragraph related to the filing of a petition or request for hearing do not eliminate the availability of equitable tolling as a defense to the untimely filing of a petition or request for hearing.

Section 120.57

- Paragraph 120.57(1)(k) is amended to provide that the final order of the agency in proceedings involving disputed issues of fact shall include an explicit ruling on each exception to the recommended order.
- Paragraph 120.57(1)(m) is amended to require an agency to provide a copy of its final order and any exceptions to DOAH within 15 days after the order is filed with the agency clerk.
- Paragraph 120.57(3)(a) is amended to include in the statement accompanying agency notice of a decision or intended decision concerning a solicitation, contract award, or exceptional purchase that the failure to post a bond or other security within the time allowed for filing a bond shall constitute a waiver of proceedings under chapter 120.

Section 120.65

- Paragraph 120.65(10)(c) is created to require the DOAH annual report to include recommendations as to the types of cases that should be conducted under the summary hearing process described in §120.574.
- Paragraph 120.65(10)(d) is created to require the DOAH report to include information regarding each agency's compliance with the filing requirement in §120.57(1)(m).

Section 120.74

- Subsection 120.74(2) is amended to require that a copy of the biennial agency report on rules be provided to JAPC, and that the report identify the types of cases that should be conducted under the summary hearing process described in §120.574.

The Department of State is required to make available, before December 31, 2007, training courses for the purpose of assisting agencies with their transition to publishing on the Florida Administrative Weekly Internet website.

Effective date: July 1, 2006, unless otherwise specified in the act.