

2016

SUMMARY OF AMENDMENTS TO CHAPTER 120

Chapter 2016-116, Laws of Florida, amended several provisions in Chapter 120, F.S.

Section 120.54

- Adds section 120.54(7)(d), F.S., which requires an agency initiating rulemaking after a public hearing to publish a notice of proposed rule development within 30 days after the hearing. The notice of proposed rulemaking must be published within 180 days after the notice of proposed rule development unless the agency publishes before the 180th day, a statement in the Florida Administrative Register explaining its reasons for not publishing the notice of proposed rulemaking. If rulemaking is initiated under section 120.54(7)(d), F.S., the agency may not rely upon the unadopted rule unless it publishes a statement in the Florida Administrative Register explaining why rulemaking is neither feasible or practicable until the conclusion of the rulemaking proceeding.

Section 120.55

- Adds section 120.55(1)(b)6.-7., F.S., which requires the Florida Administrative Register to include a list of rules filed for adoption in the previous 7 days and a list of rules awaiting legislative ratification.
- Also adds subsection (5) to section 120.55, F.S., which requires each agency that utilizes an email notification service to notify recipients of notices published under section 120.54(2) and (3), F.S., to provide links to the page on the Secretary of State or agency website that contains the proposed or final rule.

Section 120.56

- The chapter law makes several technical changes to section 120.56, F.S.

Section 120.57

- Amends section 120.57(1)(e)1., F.S., to prohibit an agency or administrative law judge from basing agency action that determines the substantial interests of a party on an unadopted rule or a rule that is an invalid exercise of delegated legislative authority.
- Adds section 120.57(1)(e)2., F.S., which allows a party's timely petition for hearing to challenge proposed agency action based upon an invalid or unadopted rule to use the procedures in section 120.56, F.S. A proceeding under section 120.56, F.S., may be consolidated with a proceeding under section 120.57(1)(e), F.S.
- Amends section 120.57(2), F.S., to preclude an agency from basing agency action that determines the substantial interests of a party on an unadopted rule or rule that is an invalid exercise of delegated legislative authority.

Section 120.68

- Amends section 120.68(9), F.S., to add orders entered under sections 120.57(1)(e)1. and 120.57(2)(b), F.S., as orders that may be reviewed.

Section 120.695

- Amends section 120.695(2)(c)1., F.S., to require each agency to certify to the Senate President, Speaker of the House, and the Joint Administrative Procedures Committee, by June 30, 2017 (and within 3 months after request from the rules ombudsman), those rules that would constitute a minor violation.
- Adds section 120.695(2)(c)2., F.S., which requires each agency, starting July 1, 2017, to publish all rules it has designated as a minor violation, either on the agency's website or by incorporation of the designation in the agency's disciplinary guideline rules.
- Adds section 120.695(2)(c)3., F.S., which requires each agency head to certify whether the proposed rule is a minor violation when the rule is filed for adoption.
- Amends section 120.695(2)(e), F.S., to exempt the Department of Corrections and educational units from section 120.695(2), F.S.

Effective date: July 1, 2016

Chapter 2016-232, Laws of Florida, amends section 120.541, F.S., by adding subsection (5) which requires a statement of estimated regulatory costs (SERC) to include the adverse impacts and regulatory costs estimated to occur five years after the effective date of a rule. In the event that part of the rule is not fully implemented by the effective date of the rule, the SERC must be adjusted to include the adverse impacts and regulatory costs expected to occur within five years after the implementation of such provision.

Effective date: July 1, 2016