

CHAPTER 31-5

RULEMAKING PROCEEDING

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.001 Commencement of Proceedings. Proceedings held for the adoption, amendment or repeal of a District rule shall be conducted according to the provisions of chapter 120, F.S., and these rules. Rulemaking proceedings are initiated by the District on its own initiative, or on the petition of a person regulated by the District, or on the petition of a person having a substantial interest in a District rule. A proceeding shall be deemed to have been initiated upon publication of notice by the District.

Specific Authority 120.53(1), 120.54 FS. Law Implemented 120.53(1), 120.54(10) FS. History-New 12-31-74, Amended 6-10-75, 3-23-80.

31-5.002 Notice of Proceeding and the Proposed Rules. (1) Except as provided in 31-5.011, notice of its intention to adopt, amend, or repeal a rule shall be given by the District as provided in Section 120.54(1), FS. Pursuant to Section 120.54(1)(a), FS., the District shall identify by rule the classes of persons required to be notified and the manner in which the notice is to be given. (2) Upon the publication of notice of its intention to adopt, amend or repeal a rule, a draft of the proposed rules shall be made available to the public.

Specific Authority 120.53(1), 120.54 FS. Law Implemented 120.53(1), 120.54(10) FS. History-New 12-31-74, amended 3-23-80.

.003 Content of Notice. The notice must conform to the content requirements of Section 120.54(1) FS: provided, however the text of the proposed rule may be included in the notice.

Specific Authority 120.53, 120.54 FS. Law Implemented 120.54(1) FS. History-New 12-31-74, Amended 6-10-75, 3-23-80.

.004 Petitions to Initiate Rulemaking Proceedings. (1) All petitions for the initiation of rulemaking proceedings pursuant to Section 120.54(5) FS., must contain the name and address of the petitioner, specific action requested, the date submitted, and shall specify the proposed rule. (2) Any interested person may file a statement in support of or in opposition to any petition for the initiation of rulemaking proceedings. The interested person shall furnish the petitioner with a copy upon filing of the statement. (3) Any interested person may submit a reply to the statement in subsection (2) prior to District action. The interested person shall furnish the petitioner and the person filing under subsection (2) with a copy upon filing of the reply.

Specific Authority 120.53(1), 120.54(10) FS. Law Implemented 120.54(5) FS. History-New 12-31-74, Amended 6-10-75, 3-23-80.

.005 Agency Action on Petitions to Initiate Rulemaking Proceedings. (1) Upon receipt of any petition for the initiation of rulemaking pursuant to Section 120.54(5) FS., the District shall assign the petition an identification number. The District shall publish notice of receipt and disposition in the appropriate publication prescribed by subsection 120.54(1) FS., and shall send a copy of the petition to the Administrative Procedures Committee. (2) If the District determines that the petitioner is not regulated by the District or does not have a substantial interest in the District rule, or does not have the interest as stated in the petition, the District may forthwith deny the petition, and shall notify the petitioner in writing with particularity the reasons for the denial. If the District determines that the petition should be granted, the District shall issue appropriate notice and initiate such District action. If the District determines that rulemaking should not be initiated, a written statement setting forth, with particularity, the reasons for such determination shall be provided to the petitioner.

Specific Authority 120.53(1)m 120.54 FS. Law Implemented 120.53(1), 120.54(9) FS. History-new 12-31-74, amended 6-10-75, 3-23-80.

.007 Rulemaking Materials. After the publication of notice initiating rulemaking, the District shall make available for public inspection and shall provide upon request, copies of the following materials.

- (1) The text of the proposed rule, or any amendment, or repeal of any existing rule;
- (2) A detailed written statement justifying the proposed rule;
- (3) A copy of the economic impact statement required by subsection 120.54 FS.;
- (4) A statement comparing the proposed rule with any applicable federal rules, regulations or standards, or a statement that no comparable federal standards exist;

- (5) The published notice.

Specific Authority 120.53(1)m 120.54 FS. Law Implemented 120.54 FS. History-New 3-23-80.

- .008 Rulemaking Proceeding – No Hearing. When no hearing is requested, and when the District chooses not to initiate a hearing on its own, the District may direct that the proposed rule be filed with Department of State no less than twenty-one (21) days following notice. Such direction may be given by the District head prior to initiating the proposed rule in the event no hearing is requested, or may be given after allowing fourteen (14) days in which affected persons may request a hearing.

Specific Authority 120.53(1), 120.54(10), FS. Law Implemented 120.54(3) FS. History-New 3-23-80.

31-5.009 Rulemaking Proceeding – Hearing. (1) If the proposed rule does not relate exclusively to organization, practice or procedure, the District shall provide, upon request, a public hearing for presentation of evidence, argument and oral statements, within the reasonable conditions and limitations imposed by the District to avoid duplication, irrelevant comments, unnecessary delay or disruption of the proceeding. Written statements may be submitted to the District following the hearing by any person, and may be considered and made a part of the record if authorized by the District. (2) A public hearing shall be held if an affected person requests a hearing within fourteen (14) days after the date of publication of the notice. The District may decide on its own initiative to hold a public hearing and shall publish notice of this fact. (3) The District shall prepare an agenda for the hearing that provides affected persons with sufficient time to present evidence, argument or oral statements, and other information. (4) The District may take official recognition of any material that is of common and general knowledge, authoritatively well settled and free from uncertainty. If the material is officially recognized by the District, it is deemed to be admissible without the necessity of the offering party presenting evidence. This material shall be part of the record and all affected persons shall be given a reasonable opportunity to examine and offer evidence and argument in opposition. (5) Upon request of any affected person, the District shall cause to be made a transcript of the proceeding and copies of the transcript of the proceeding shall be available to the public. Cost of preparing the transcript and having the proceeding recorded shall be paid by the requesting person. A copy of the transcript shall be available to the public at cost. (6) The agency head, any member thereof or any person designated by the agency head may preside at a hearing held pursuant to subsection 120.54(3) FS. If requested by the agency head, following the hearing the person presiding shall provide a detailed statement of any changes which will be recommended in the proposed rule to any person who requests it at the hearing, and shall

prepare a summary of such hearing and recommendations for changes in the proposed rule to the agency head for final inspection.

Specific Authority 120.53(1), 120.54(10) FS. Law Implemented 120.54(3), (6) FS. History-New 12-31-74, Amended 6-10-75, 3-23-80.

31-5.010 Incorporation by Reference. Any rule, standard, specification or similar material which is generally available to affected persons may be incorporated in a rule, by reference, in the manner adopted by rule by the Department of State.

Specific Authority 120.53(1), 120.54(10) FS. Law Implemented 120.53, 1420.54 FS. History-New 12-31-74, amended 6-10-75, 3-23-80.

31-5.011 Emergency Rule Adoption. (1) The District may adopt, an emergency rule, if:

- (a) The District finds that immediate danger to the public health, safety and welfare exists which requires immediate District action; and
 - (b) The District complies with the requirements of Section 120.54(9)(a), FS.
- (2) Unless it defeats the purpose of any emergency rule, the District should notify major wire services and notify all affected persons before adopting an emergency rule. The District shall permit, upon request, all affected persons to present testimony, evidence, and submit written statements. (3) Upon the request of any affected person, the District shall cause a transcript to be made of the proceeding and shall compile a record, consisting of the transcript, copies of the notice and statement filed with the Department of State pursuant to subsection (1) above, and any other matter of information considered by the District in adopting the emergency rule. Cost of preparing the transcript shall be paid by the requesting person. In any event, a recording shall be made of the proceeding. (4) Notwithstanding subsection (2) and (3) above, the District may use any procedure which is fair under the circumstances in the adoption of any emergency rule as long as it protects the public interest and otherwise complies with applicable statutory provisions.

Specific Authority 120.53(1), 120.54(10) FS. Law Implemented 120.53(1), 120.54(9) FS. History-New 12-31-74, amended 6-10-75, 3-23-80.