

## CHAPTER 98-200

### Committee Substitute for Senate Bill No. 1440

An act relating to administrative procedures; amending 370.06, F.S.; authorizing the Department of Environmental Protection to issue certain special activity licenses; authorizing rulemaking for issuance of broodstock special activities licenses; amending s. 370.12; authorizing rulemaking for issuance of special permits for marine turtles; providing a definition; amending s. 120.54, F.S.; requiring the Administration Commission to adopt uniform rules of procedure for certain administrative hearings; providing requirements; amending s. 120.569, F.S.; providing requirements for petitions or requests for administrative hearings; providing procedural requirements for agencies; providing for dismissal; requiring notice; authorizing agencies to refer petitions to the Division of Administrative Hearings under certain circumstances; amending s. 120.57, F.S.; providing for motions for a summary final order in administrative hearings under certain circumstances; providing requirements for such orders; providing requirements for relinquishing jurisdiction of certain proceedings to an agency; providing procedures; amending ss. 14.202, 17.29, 18.22, 20.171, 63.233, 175.341, 177.504, 185.23, 198.08, 199.202, 201.11, 207.011, 210.10, 210.75, 212.17, 212.18, 213.06, 215.62, 215.95, 217.14, 220.182, 220.183, 229.053, 229.515, 230.22, 230.32, 231.261, 235.01, 240.209, 240.227, 240.311, 240.319, 242.331, 246.041, 246.051, 246.071, 246.207, 246.213, 253.03, 253.73, 257.14, 258.007, 258.43, 259.035, 259.041, 265.284, 265.605, 267.031, 280.19, 284.17, 288.709, 292.05, 310.151, 310.185, 319.17, 320.011, 320.69, 320.824, 324.042, 326.003, 327.04, 330.29, 334.044, 339.175, 350.127, 366.05, 367.121, 368.05, 369.20, 369.22, 369.251, 370.021, 370.092, 370.15, 373.043, 373.044, 373.113, 373.171, 373.337, 373.418, 376.07, 377.22, 377.703, 378.205, 378.404, 380.05, 380.0651, 381.0011, 384.33, 391.026, 392.66, 394.879, 395.1055, 403.061, 403.1835, 403.504, 403.523, 403.704, 403.716, 403.805, 403.861, 403.869, 403.9404, 406.04, 408.15, 414.45, 427.013, 430.08, 440.591, 443.171, 455.203, 455.521, 457.104, 458.309, 459.005, 460.405, 461.005, 463.005, 464.006, 465.005, 465.022, 466.004, 466.038, 467.005, 468.1135, 468.1685, 468.204, 468.384, 468.402, 468.507, 468.522, 468.606, 468.705, 468.802, 470.005, 471.008, 472.008, 473.304, 474.206, 475.05, 475.614, 476.064, 477.016, 478.43, 480.035, 481.2055, 481.306, 482.051, 483.805, 484.005, 484.044, 486.025, 488.02, 489.108, 489.507, 490.004, 491.004, 492.104, 494.0011, 496.424, 497.103, 497.105, 498.007, 500.459, 501.014, 501.143, 501.626, 502.014, 503.031, 504.32, 516.22, 516.23, 517.03, 520.994, 526.09, 531.41, 548.003, 553.76, 560.105, 561.11, 570.07, 571.05, 571.24, 574.14, 578.11, 580.036, 583.04, 585.002, 593.103, 616.165, 616.256, 617.01301, 620.1835, 620.81055, 624.308, 624.4431, 626.943, 627.805, 627.9408, 628.535, 633.01, 633.517, 634.021, 634.302, 634.402, 635.081, 636.067, 641.403, 641.56, 648.26, 651.015, 655.012, 681.118, 717.138, 718.501, 719.501, 721.26, 723.006, 916.20, 943.03, 944.09, 947.07, 960.045,

985.405, F.S.; restating rulemaking authority for numerous state officers, departments, divisions, boards, and other entities; repealing s. 258.011, F.S., relating to rules for state parks; amending s. 633.70, F.S.; conforming a cross-reference to a change made by the act; amending s. 334.044, F.S.; providing specific rulemaking authority; repealing s. 334.044(15), F.S., relating to certain rulemaking authority; amending s. 370.092, F.S.; providing specific rulemaking authority for the regulation of nets and boats of a specific length; directing the Marine Fisheries Commission to adopt rules prohibiting the possession and sale of mullet taken in illegal gill and entangling nets; amending s. 370.093, F.S.; authorizing the Marine Fisheries Commission to adopt rules implementing s. 370.093, F.S.; providing an effective date.

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

Section 1. Subsection (4) of section 370.06, Florida Statutes, is amended to read:

370.06 Licenses.—

(4) SPECIAL ACTIVITY LICENSES.—

(a) Any person who seeks to use special gear or equipment in harvesting saltwater species must purchase a special activity license as specified by law to engage in such activities. The department may issue special activity licenses, in accordance with s. 370.071, to permit the cultivation of oysters, clams, mussels, and crabs when such aquaculture activities relate to quality control, sanitation, and public health regulations. ~~The department may prescribe by rule special terms, conditions, and restrictions for any special activity license.~~

(b) The department is authorized to issue special activity licenses in accordance with this section and s. 370.31, to permit the importation, possession, and aquaculture of anadromous sturgeon. The special activity license shall provide for best management practices to prevent the release and escape of cultured anadromous sturgeon and to protect indigenous populations of saltwater species from sturgeon-borne disease.

(c) The department is authorized to issue special activity licenses in accordance with ss. 370.06, 370.071, and 370.101, aquaculture permit consolidation procedures in s. 370.26(3)(a) and rules of the Marine Fisheries Commission to permit the capture and possession of saltwater species protected by law and used as stock for artificial cultivation and propagation.

(d) The department is authorized to adopt rules to govern the administration of special activities licenses as provided in this chapter and rules of the Marine Fisheries Commission. Such rules may prescribe application requirements and terms, conditions, and restrictions for any such special activity license requested pursuant to this section.

Section 2. Paragraph (c) of subsection (1) of section 370.12, Florida Statutes, is amended to read:

370.12 Marine animals; regulation.—

(1) PROTECTION OF MARINE TURTLES.—

(c)1. Unless otherwise provided by the federal Endangered Species Act or its implementing regulations, no person may take, possess, disturb, mutilate, destroy, cause to be destroyed, sell, offer for sale, transfer, molest, or harass any marine turtle or its nest or eggs at any time. For purposes of this subsection, “take” means an act which actually kills or injures marine turtles, and includes significant habitat modification or degradation that kills or injures marine turtles by significantly impairing essential behavioral patterns, such as breeding, feeding, or sheltering.

2. Unless otherwise provided by the federal Endangered Species Act or its implementing regulations, no person, firm, or corporation may take, kill, disturb, mutilate, molest, harass, or destroy any marine turtle.

3. No person, firm, or corporation may possess any marine turtle, their nests, eggs, hatchlings, or parts thereof unless it is in possession of a special permit or loan agreement from the department enabling the holder to possess a marine turtle or parts thereof for scientific, educational, or exhibitional purposes, or for conservation activities such as relocating nests, eggs, or animals away from construction sites. Notwithstanding any other provisions of general or special law to the contrary, the department may issue such authorization to any properly accredited person for the purpose of marine turtle conservation upon such terms, conditions, and restrictions as it may prescribe by rule. The department shall have the authority to adopt rules to permit the possession of marine turtles pursuant to this paragraph. For the purposes of this subsection, a “properly accredited person” is defined as:

a. Students of colleges or universities whose studies with saltwater animals are under the direction of their teacher or professor;

b. Scientific or technical faculty of public or private colleges or universities;

c. Scientific or technical employees of private research institutions and consulting firms;

d. Scientific or technical employees of city, county, state or federal research or regulatory agencies;

e. Members in good standing or recognized and properly chartered conservation organizations, the Audubon Society, or the Sierra Club;

f. Persons affiliated with aquarium facilities or museums, or contracted as an agent therefor, which are open to the public with or without an admission fee; or

g. Persons without specific affiliations listed above, but who are recognized by the department for their contributions to marine conservation such as scientific or technical publications, or through a history of cooperation

with the department in conservation programs such as turtle nesting surveys, or through advanced educational programs such as high school marine science centers.

Section 3. Paragraph (b) of subsection (5) of section 120.54, Florida Statutes, is amended to read:

120.54 Rulemaking.—

(5) UNIFORM RULES.—

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

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

2. Uniform rules for use by each state agency that provide procedures for conducting public meetings, hearings, and workshops, and for taking evidence, testimony, and argument at such public meetings, hearings, and workshops, in person and by means of communications media technology. The rules shall provide that all evidence, testimony, and argument presented shall be afforded equal consideration, regardless of the method of communication. If a public meeting, hearing, or workshop is to be conducted by means of communications media technology, or if attendance may be provided by such means, the notice shall so state. The notice for public meetings, hearings, and workshops utilizing communications media technology shall state how persons interested in attending may do so and shall name locations, if any, where communications media technology facilities will be available. Nothing in this paragraph shall be construed to diminish the right to inspect public records under chapter 119. Limiting points of access to public meetings, hearings, and workshops subject to the provisions of s. 286.011 to places not normally open to the public shall be presumed to violate the right of access of the public, and any official action taken under such circumstances is void and of no effect. Other laws relating to public meetings, hearings, and workshops, including penal and remedial provisions, shall apply to public meetings, hearings, and workshops conducted by means of communications media technology, and shall be liberally construed in their application to such public meetings, hearings, and workshops. As used in this subparagraph, “communications media technology” means the electronic transmission of printed matter, audio, full-motion video, freeze-frame video, compressed video, and digital video by any method available.

3. Uniform rules of procedure for the filing of notice of protests and formal written protests.

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

a. The identification of the petitioner.

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

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

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

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

f. A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action.

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

5.4. Uniform rules of procedure for the filing and prompt disposition of petitions for declaratory statements.

6.5. Provision of a method by which each agency head shall provide a description of the agency's organization and general course of its operations.

7.6. Uniform rules establishing procedures for granting or denying petitions for variances and waivers pursuant to s. 120.542.

Section 4. Paragraphs (c) through (l) of subsection (2) of section 120.569, Florida Statutes, are renumbered as paragraphs (e) through (n), respectively, and new paragraphs (c) and (d) are added to said section, to read:

120.569 Decisions which affect substantial interests.—

(2)

(c) Unless otherwise provided by law, a petition or request for hearing shall include those items required by the uniform rules adopted pursuant to s. 120.54(5)(b)4. Upon the receipt of a petition or request for hearing, the agency shall carefully review the petition to determine if it contains all of the required information. A petition shall be dismissed if it is not in substantial compliance with these requirements or it has been untimely filed. Dismissal of a petition shall, at least once, be without prejudice to petitioner's filing a timely amended petition curing the defect, unless it conclusively appears from the face of the petition that the defect cannot be cured. The agency shall promptly give written notice to all parties of the action taken on the petition, shall state with particularity its reasons if the petition is not granted, and shall state the deadline for filing an amended petition if applicable.

(d) The agency may refer a petition to the division for the assignment of an administrative law judge only if the petition is in substantial compliance with the requirements of paragraph (c).

Section 5. Paragraphs (h), (i), (j), (k), and (l) of subsection (1) of section 120.57, Florida Statutes, are renumbered as paragraphs (j), (k), (l), (m), and

(n), respectively, and new paragraphs (h) and (i) are added to said subsection, to read:

120.57 Additional procedures for particular cases.—

(1) ADDITIONAL PROCEDURES APPLICABLE TO HEARINGS INVOLVING DISPUTED ISSUES OF MATERIAL FACT.—

(h) Any party to a proceeding in which an administrative law judge of the Division of Administrative Hearings has final order authority may move for a summary final order when there is no genuine issue as to any material fact. A summary final order shall be rendered if the administrative law judge determines from the pleadings, depositions, answers to interrogatories, and admissions on file, together with affidavits, if any, that no genuine issue as to any material fact exists and that the moving party is entitled as a matter of law to the entry of a final order. A summary final order shall consist of findings of fact, if any, conclusions of law, a disposition or penalty, if applicable, and any other information required by law to be contained in the final order.

(i) When, in any proceeding conducted pursuant to this subsection, a dispute of material fact no longer exists, any party may move the administrative law judge to relinquish jurisdiction to the agency. In ruling on such a motion, the administrative law judge may consider the pleadings, depositions, answers to interrogatories, and admissions on file, together with supporting and opposing affidavits, if any. If the administrative law judge enters an order relinquishing jurisdiction, the agency may promptly conduct a proceeding pursuant to subsection (2), if appropriate, but the parties may not raise any issues of disputed fact that could have been raised before the administrative law judge. An order entered by an administrative law judge relinquishing jurisdiction to the agency based upon a determination that no genuine dispute of material fact exists, need not contain findings of fact, conclusions of law, or a recommended disposition or penalty.

Section 6. Section 14.202, Florida Statutes, is amended to read:

14.202 Administration Commission.—There is created as part of the Executive Office of the Governor an Administration Commission composed of the Governor and Cabinet. The Governor is chair of the commission. The Governor or Comptroller may call a meeting of the commission promptly each time the need therefor arises. Unless otherwise provided herein, affirmative action by the commission shall require the approval of the Governor and at least three other members of the commission. The commission shall adopt such rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of law conferring duties upon it as it deems necessary to carry out its duties and responsibilities.

Section 7. Section 17.29, Florida Statutes, is amended to read:

17.29 Authority to prescribe rules.—The Comptroller has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement duties assigned by statute or the State Constitution ~~may prescribe any rule he or she~~

considers necessary to properly fulfill his or her constitutional and statutory duties. Such rules may include, but are not limited to, the following:

(1) Procedures or policies relating to the processing of payments from salaries, other personal services, or any other applicable appropriation.

(2) Procedures for processing interagency and intraagency payments which do not require the issuance of a state warrant.

Section 8. Section 18.22, Florida Statutes, is amended to read:

18.22 Rules and regulations.—The department has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement All rules and regulations necessary to effectuate the provisions of this chapter may be adopted by the department in accordance with the provisions of chapter 120.

Section 9. Paragraph (k) of subsection (4) of section 20.171, Florida Statutes, is amended to read:

20.171 Department of Labor and Employment Security.—There is created a Department of Labor and Employment Security.

(4)

(k) The commission has authority to shall, in accordance with chapter 120, adopt, promulgate, amend, or rescind such rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of law conferring duties upon it as it deems necessary and administratively feasible to carry out its responsibilities.

Section 10. Section 63.233, Florida Statutes, is amended to read:

63.233 Rulemaking authority.—The department shall adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of this chapter.

Section 11. Subsection (2) of section 175.341, Florida Statutes, is amended to read:

175.341 Duties of Division of Retirement; rulemaking authority; investments by the State Board of Administration.—

(2) The division has authority to shall adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of necessary for the administration of this chapter.

Section 12. Paragraph (e) of subsection (2) of section 177.504, Florida Statutes, is amended to read:

177.504 Powers and duties of the department.—

(2) The functions, duties, and responsibilities of the department shall be:

(e) To adopt rules pursuant to ss. 120.54 and 120.536(1) and regulations necessary to implement the provisions of carry out the purpose of this act.

Section 13. Subsection (2) of section 185.23, Florida Statutes, is amended to read:

185.23 Duties of Division of Retirement; rulemaking; investment by State Board of Administration.—

(2) The division has authority to shall adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of necessary for the administration of this chapter.

Section 14. Section 198.08, Florida Statutes, is amended to read:

198.08 ~~Rules and regulations.~~—The department has authority to adopt ~~may from time to time make such rules pursuant to ss. 120.54 and 120.536(1) and regulations not inconsistent with this chapter as it may deem necessary to enforce the provisions of this chapter and may adopt, as rules, such rules and regulations as are or may be promulgated with respect to the estate tax or generation-skipping transfer tax provisions of the Revenue Act of the United States insofar as they are shall be applicable hereto. The department may from time to time prescribe such forms as it shall deem proper for the administration of this chapter.~~

Section 15. Section 199.202, Florida Statutes, is amended to read:

199.202 Administration of law; rules.—The department shall administer and enforce the assessment and collection of the taxes, interest, and penalties imposed by this chapter. It may by rule prescribe the form and content of all returns and reports. It has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) is further authorized to promulgate all other rules not inconsistent with this chapter as it deems necessary to administer and enforce the provisions of this chapter.

Section 16. Subsection (1) of section 201.11, Florida Statutes, is amended to read:

201.11 Administration of law by Department of Revenue.—

(1) The administration of this chapter shall be vested in the Department of Revenue, which has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to enforce the provisions of this chapter shall prescribe suitable rules and regulations for the enforcement of the provisions thereof, and shall administer and enforce the taxes levied and imposed by this chapter. The Department of Revenue may enter upon the premises of any taxpayer, and examine or cause to be examined by any agent or representative designated by it for that purpose, any books, papers, records, or memoranda bearing upon the amount of taxes payable, and secure other information directly or indirectly concerned in the enforcement of this chapter. Any person, subject to this tax, who shall by any practice or evasion make it difficult to enforce the provisions of this chapter by inspection, or any person, agent or officer, who shall, after demand by the department or any agent or representative designated by it for that purpose, refuse to allow full inspection of the premises or any part thereof, or any books, records, documents, or other instruments in any way relating to the liability of the taxpayer for the tax



herein imposed, or shall hinder or in anywise delay or prevent such inspection, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 17. Subsection (2) of section 207.011, Florida Statutes, is amended to read:

207.011 Inspection of records; hearings; forms; rules.—

(2) The department has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to enforce the provisions of ~~shall have the authority to prescribe all rules necessary for the enforcement of~~ this chapter.

Section 18. Subsection (1) of section 210.10, Florida Statutes, is amended to read:

210.10 General powers of the Division of Alcoholic Beverages and Tobacco.—

(1) The Division of Alcoholic Beverages and Tobacco has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement ~~is authorized to prescribe and promulgate all rules and regulations necessary to effectuate the provisions of this part consistent with the terms hereof. All cigarette permits issued hereunder shall have printed thereon a notice to the effect that such permit is issued subject to the provisions of this part and~~ such ~~said rules and regulations.~~ The division shall provide upon request without charge to any applicant for a permit a copy of this part and the rules ~~and regulations~~ prescribed by it pursuant hereto.

Section 19. Subsection (2) of section 210.75, Florida Statutes, is amended to read:

210.75 Administration.—

(2) The division has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to ~~is authorized to prescribe and promulgate rules it may deem necessary to implement and enforce the provisions of~~ this part.

Section 20. Subsection (6) of section 212.17, Florida Statutes, is amended to read:

212.17 Credits for returned goods, rentals, or admissions; additional powers of department.—

(6) The department has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to enforce the provisions of this chapter ~~shall have the power to make, prescribe and publish reasonable rules and regulations not inconsistent with this chapter, or the other laws, or the constitution of this state, or the United States, for the enforcement of the provisions of this chapter and the collection of revenue hereunder, and such rules and regulations shall when enforced be deemed to be reasonable and just.~~

Section 21. Subsection (2) of section 212.18, Florida Statutes, is amended to read:

212.18 Administration of law; registration of dealers; rules.—

(2) The department shall administer and enforce the assessment and collection of the taxes, interest, and penalties imposed by this chapter. It has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to enforce the provisions of ~~is authorized to make and publish such rules and regulations not inconsistent with this chapter, as it may deem necessary in enforcing its provisions~~ in order that there shall not be collected on the average more than the rate levied herein. The department is authorized to and it shall provide by rule and regulation a method for accomplishing this end. It shall prepare instructions to all persons required by this chapter to collect and remit the tax to guide such persons in the proper collection and remission of such tax and to instruct such persons in the practices that may be necessary for the purpose of enforcement of this chapter and the collection of the tax imposed hereby. The use of tokens in the collection of this tax is hereby expressly forbidden and prohibited.

Section 22. Subsection (1) of section 213.06, Florida Statutes, is amended to read:

213.06 Rules of department; circumstances requiring emergency rules.—

(1) The Department of Revenue ~~has the is granted~~ authority to adopt such rules pursuant to ss. 120.54 and 120.536(1) as are necessary to implement provisions of carry out the intent and purposes of this chapter and all other revenue laws administered by the department, and it may amend such rules to conform to legislation or departmental policy changes made in the absence of any legislation.

Section 23. Subsection (5) of section 215.62, Florida Statutes, is amended to read:

215.62 Division of Bond Finance.—

(5) The board has authority shall have power to adopt such rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of law conferring duties on it and regulations as may be necessary for carrying out the duties of the division. The board shall hold regular and special meetings at such places and times, in such manner, and after such notice as may be provided by resolution adopted by the board or upon call of the chair.

Section 24. Paragraph (a) of subsection (2) of section 215.95, Florida Statutes, is amended to read:

215.95 Financial Management Information Board.—

(2) To carry out its duties and responsibilities, the board shall by majority vote:

(a) Adopt such rules pursuant to ss. 120.54 and 120.536(1), policies, procedures, principles, and standards as deemed necessary to implement the Florida Financial Management Information System.

Section 25. Section 217.14, Florida Statutes, is amended to read:

217.14 Adoption of rules and regulations.—The department has authority ~~is authorized to adopt, promulgate, and repeal rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of and carry out the purpose of this chapter, in compliance with chapter 120.~~

Section 26. Subsection (8) of section 220.182, Florida Statutes, is amended to read:

220.182 Enterprise zone property tax credit.—

(8) The department has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of ~~shall promulgate any rules necessary to ensure the orderly implementation and administration of this act.~~

Section 27. Paragraphs (a) and (d) of subsection (6) of section 220.183, Florida Statutes, are amended to read:

220.183 Community contribution tax credit.—

(6) ADMINISTRATION.—

(a) The Office of Tourism, Trade, and Economic Development has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) ~~is authorized to promulgate all rules necessary to implement the provisions of~~ administer this section, including rules for the approval or disapproval of proposals by business firms.

(d) The Department of Revenue has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of ~~shall promulgate any rules necessary to ensure the orderly implementation and administration of this section.~~

Section 28. Subsection (1) of section 229.053, Florida Statutes, is amended to read:

229.053 General powers of state board.—

(1) The State Board of Education is the chief policymaking and coordinating body of public education in Florida. It has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of law conferring duties upon it ~~has the general powers to determine, adopt, or prescribe such policies, rules, regulations, or standards as are required by law or as it may find necessary for the improvement of the state system of public education. Except as otherwise provided herein, it may, as it shall find appropriate, delegate its general powers to the Commissioner of Education or the directors of the divisions of the department.~~

Section 29. Section 229.515, Florida Statutes, is amended to read:

229.515 Rules and standards have force of law.—The Commissioner of Education has authority to adopt rules pursuant to ss. 120.54 and 120.536(1)

~~to implement the provisions of~~ may prescribe such rules and minimum standards as are necessary to carry out his or her responsibilities under the school code conferring duties upon the commissioner, with the exception of provisions relating to state universities and community colleges and the Florida School for the Deaf and the Blind, ~~and all such rules and minimum standards, if not in conflict with the school code, have the full force and effect of law. The commissioner, in prescribing such rules, is considered an "agency" for purposes of chapter 120.~~

Section 30. Subsection (2) of section 230.22, Florida Statutes, is amended to read:

230.22 General powers of school board.—The school board, after considering recommendations submitted by the superintendent, shall exercise the following general powers:

(2) ~~Adopt such rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of law conferring duties upon it and regulations to supplement those prescribed by the state board and the commissioner as in its opinion will contribute to the more orderly and efficient operation of the district school system.~~

Section 31. Subsection (4) of section 230.32, Florida Statutes, is amended to read:

230.32 General powers of superintendents.—The superintendent shall have the authority, and when necessary for the more efficient and adequate operation of the district school system, the superintendent shall exercise the following powers:

(4) ~~RECOMMEND AND EXECUTE RULES AND REGULATIONS.~~—Prepare and organize by subjects and submit to the school board for adoption such rules ~~and regulations~~ to supplement those adopted by the state board or the commissioner as, in the superintendent's opinion, will contribute to the efficient operation of any aspect of education in the district. When rules ~~and regulations~~ have been adopted, the superintendent shall see that they are executed.

Section 32. Paragraph (d) of subsection (7) of section 231.261, Florida Statutes, is amended to read:

231.261 Education Practices Commission; organization.—

(7) The duties and responsibilities of the commission are to:

(d) Adopt rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of law conferring duties upon it ~~Have rulemaking authority pursuant to chapter 120.~~

Section 33. Subsection (2) of section 235.01, Florida Statutes, is amended to read:

235.01 Purpose; rules.—

(2) The Commissioner of Education shall adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of this chapter.

Section 34. Subsection (1) and paragraph (r) of subsection (3) of section 240.209, Florida Statutes, are amended to read:

240.209 Board of Regents; powers and duties.—

(1) The Board of Regents is primarily responsible for adopting system-wide rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of law conferring duties upon it and policies; planning for the future needs of the State University System; planning the programmatic, financial, and physical development of the system; reviewing and evaluating the instructional, research, and service programs at the universities; coordinating program development among the universities; and monitoring the fiscal performance of the universities.

(3) The board shall:

(r) Adopt such rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of law conferring duties upon it as are necessary to carry out its duties and responsibilities.

Section 35. Subsection (1) of section 240.227, Florida Statutes, is amended to read:

240.227 University presidents; powers and duties.—The president is the chief administrative officer of the university and is responsible for the operation and administration of the university. Each university president shall:

(1) ~~Develop and~~ Adopt rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of law governing the operation and administration of the university. Such rules shall be consistent with the mission of the university and statewide rules and policies and shall assist in the development of the university in a manner which will complement the missions and activities of the other universities for the overall purpose of achieving the highest quality of education for the citizens of the state.

Section 36. Subsection (2) of section 240.311, Florida Statutes, is amended to read:

240.311 State Board of Community Colleges; powers and duties.—

(2) The State Board of Community Colleges is responsible for ~~the establishing and developing of rules and policies which will ensure~~ the operation and maintenance of a state community college system, as defined in s. 228.041(1)(b), in a coordinated, efficient, and effective manner. The State Board of Community Colleges has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of law conferring duties upon it. Such rules and policies shall be submitted to the State Board of Education for approval. If any rule is not disapproved by the State Board of Education within 45 days of its receipt by the State Board of Education, the rule shall be filed immediately with the Department of State.

Section 37. Subsection (2) of section 240.319, Florida Statutes, as amended by section 2 of chapter 97-383, Laws of Florida, is amended to read:

240.319 Community college district boards of trustees; duties and powers.—

(2) ~~In carrying out this responsibility,~~ The board of trustees, after considering recommendations submitted by the community college president, has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of law conferring duties upon it shall be authorized to adopt such rules, procedures, and policies as are necessary to operate the community college in such a manner as to assure the fulfillment of the responsibilities assigned to the board of trustees. These rules, procedures, and policies may supplement those prescribed by the State Board of Education and the State Board of Community Colleges if they will contribute to the more orderly and efficient operation of the state community college system.

Section 38. Subsection (3) of section 242.331, Florida Statutes, is amended to read:

242.331 Florida School for the Deaf and the Blind; board of trustees.—

(3) The board of trustees has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of law relating to operation of ~~is authorized to adopt such rules as are necessary to operate~~ the Florida School for the Deaf and the Blind. Such rules shall be submitted to the State Board of Education for approval or disapproval. If any rule is not disapproved by the State Board of Education within 60 days of its receipt by the State Board of Education, the rule shall be filed immediately with the Department of State. The board of trustees shall act at all times in conjunction with the rules of the State Board of Education.

Section 39. Paragraph (e) of subsection (1) of section 246.041, Florida Statutes, is amended to read:

246.041 Powers and duties of board.—

(1) The board shall:

(e) Adopt rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of law conferring duties upon it ~~necessary to carry out its functions.~~

Section 40. Section 246.051, Florida Statutes, is amended to read:

246.051 Administration by board.—The provisions of ss. 246.011-246.151 shall be administered by the board which in connection therewith has the power:

(1) To adopt such rules pursuant to ss. 120.54 and 120.536(1) to implement as it may find necessary to carry out the objectives, purposes, and directives of ss. 246.011-246.151;

(2) ~~To execute such standards and rules and regulations as shall be adopted for the operation and establishment of nonpublic colleges; and~~

(3) To expend funds as necessary to assist in the enforcement of ss. 246.011-246.151.

Section 41. Section 246.071, Florida Statutes, is amended to read:

246.071 Rules of State Board of Independent Colleges and Universities.—The State Board of Independent Colleges and Universities ~~has authority is authorized to adopt such rules pursuant to ss. 120.54 and 120.536(1) to implement as are necessary to carry out the objectives, purposes, and directives of ss. 246.011-246.151.~~ Such rules shall be submitted to the State Board of Education for approval or disapproval. If any rule is not disapproved by the State Board of Education within 60 days after its receipt by the State Board of Education, the rule shall be filed immediately with the Department of State.

Section 42. Paragraph (e) of subsection (1) of section 246.207, Florida Statutes, is amended to read:

246.207 Powers and duties of board.—

(1) The board shall:

(e) Prescribe and recommend to the State Board of Education rules to implement ~~as are required by ss. 246.201-246.231 or as it may find necessary to aid in carrying out the objectives and purposes of ss. 246.201-246.231.~~

Section 43. Subsection (1) of section 246.213, Florida Statutes, is amended to read:

246.213 Power of State Board of Education.—

(1) The State Board of Education, acting on the recommendation of the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools, shall adopt such minimum standards for schools and other rules pursuant to ss. 120.54 and 120.536(1) to implement ~~as are required for the administration of ss. 246.201-246.231.~~

Section 44. Paragraph (a) of subsection (7) of section 253.03, Florida Statutes, is amended to read:

253.03 Board of trustees to administer state lands; lands enumerated.—

(7)(a) The Board of Trustees of the Internal Improvement Trust Fund is hereby authorized and directed to administer all state-owned lands and shall be responsible for the creation of an overall and comprehensive plan of development concerning the acquisition, management, and disposition of state-owned lands so as to ensure maximum benefit and use. The Board of Trustees of the Internal Improvement Trust Fund has authority to shall adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of and regulations necessary to carry out the purposes of this act as set forth in this section.

Section 45. Section 253.73, Florida Statutes, is amended to read:

253.73 Rules and regulations; ss. 253.67-253.75.—~~Subject to the requirements of chapter 120, The board has authority to may adopt rules pursuant to ss. 120.54 and 120.536(1) to administer and regulations necessary and appropriate to carry out the provisions of ss. 253.67-253.75.~~

Section 46. Section 257.14, Florida Statutes, is amended to read:

257.14 Division of Library and Information Services; rules.—The Division of Library and Information Services has authority to may adopt rules pursuant to ss. 120.54 and 120.536(1) to implement ~~carry out~~ the provisions of this chapter.

Section 47. Subsection (2) of section 258.007, Florida Statutes, is amended to read:

258.007 Powers of division.—

(2) ~~The division has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of law conferring duties on it shall make and publish such rules and regulations as it may deem necessary or proper for the management and use of the parks, monuments, and memorials under its jurisdiction, and the violation of any rule of the rules and regulations authorized by this section shall be a misdemeanor and punishable accordingly.~~

Section 48. Section 258.011, Florida Statutes, is repealed.

Section 49. Section 258.43, Florida Statutes, is amended to read:

258.43 Rules and regulations.—

(1) The Board of Trustees of the Internal Improvement Trust Fund has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement ~~shall adopt and enforce reasonable rules and regulations to carry out~~ the provisions of this act and specifically to provide regulation of human activity within the preserve in such a manner as not to unreasonably interfere with lawful and traditional public uses of the preserve, such as sport and commercial fishing, boating, and swimming.

(2) Other uses of the preserve, or human activity within the preserve, although not originally contemplated, may be permitted by the trustees, but only subsequent to a formal finding of compatibility with the purposes of this act.

(3) The Board of Trustees of the Internal Improvement Trust Fund may delegate to a local government, by agreement, the power and duty to administer and enforce the standards and criteria established in a resource inventory and management plan adopted by the board, if the board determines that such a delegation is in the public interest.

(a) Such delegation shall be made only if the board determines that the local government's program for administering and enforcing the adopted standards and criteria:



1. Adopts, by ordinance, standards and criteria no less restrictive than those in the management plan approved by the board pursuant to the provisions of rule 18-20.013(2), Florida Administrative Code; provided, however nothing contained in this subsection shall expand the powers, jurisdiction, or authority granted pursuant to this chapter. When a local government's program proposes to include standards and criteria that are more restrictive than those in the management plan approved by the board, such standards and criteria shall not be effective until they have been approved by the board as being consistent with the provisions of this chapter.

2. Provides for the enforcement of such requirements by appropriate administrative and judicial processes.

3. Provides for administrative organization, staff, and financial and other resources necessary to effectively and efficiently enforce such requirements.

4. Provides for improved management and enforcement of the standards and criteria in the resource inventory and management plans and of the rules adopted by the board pertaining to state-owned lands.

(b) Such delegation may not include the authority to grant approval for the sale, lease, easement, or other uses of state-owned sovereignty lands that require approval by the board as provided by the board's rules on October 1, 1989. This provision shall not preclude agreements between the board and local governments that may provide that the local government shall process applications and present recommendations for final action to the board.

(c) The board shall give prior notice of its intention to enter into an agreement as described in this subsection, as provided by s. 253.115. The Division of State Lands of the Department of Environmental Protection shall update its rules annually to include a list of the management agreements adopted pursuant to this subsection. The list shall identify the parties to, and the date and location of, each agreement, and shall specify the nature of the authority delegated by the agreement.

(d) The board may designate the local government as its enforcement arm for purposes of s. 258.46, and the local government shall have the authority to directly enforce the provisions of that section or to rely on the enforcement provisions of the local ordinance implementing the management plan. The governing body of the local government shall seek approval from the Division of State Lands before seeking the elevated penalties associated with direct enforcement of s. 258.46 in lieu of penalties associated with violation of its ordinance. Nothing in this subsection shall affect the authority of the division to enforce the provisions of this act.

(e) Each year on the anniversary of any delegation pursuant to this subsection, the staff of the department shall present to the board an evaluation of decisions made by the local governments during the previous year. The board shall, upon reviewing this evaluation, either act to renew the delegation, act to retract the delegation, or act to renew the delegation with

specific directives to the local government to take corrective action concerning any deficiencies in its processing or application of the standards and criteria in the rules approved by the board or a management plan adopted for the preserves.

(f) Nothing contained in this subsection shall affect the powers, duties, or procedures set forth in chapter 403.

Section 50. Subsection (1) of section 259.035, Florida Statutes, is amended to read:

259.035 Advisory council; powers and duties.—

(1) There is created a Land Acquisition and Management Advisory Council to be composed of the secretary and a designee of the department, the director of the Division of Forestry of the Department of Agriculture and Consumer Services, the executive director of the Game and Fresh Water Fish Commission, the director of the Division of Historical Resources of the Department of State, and the secretary of the Department of Community Affairs, or their respective designees. The chairmanship of the council shall rotate annually in the foregoing order. The council shall hold periodic meetings at the request of the chair. The department shall provide primary staff support to the council and shall ensure that council meetings are electronically recorded. Such recordings shall be preserved pursuant to chapters 119 and 257. The department has authority to may adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of any rule or form necessary to implement this section.

Section 51. Subsection (2) of section 259.041, Florida Statutes, is amended to read:

259.041 Acquisition of state-owned lands for preservation, conservation, and recreation purposes.—

(2) The board of trustees has authority to shall adopt and may modify or repeal such rules pursuant to ss. 120.54 and 120.536(1) as are necessary to implement the provisions carry out the purposes of this section, including rules governing the terms and conditions of land purchases. Such rules shall address with specificity, but not be limited to:

(a) The procedures to be followed in the acquisition process, including selection of appraisers, surveyors, title agents and closing agents, and the content of appraisal reports.

(b) The determination of the value of parcels which the state has an interest to acquire.

(c) Special requirements when multiple landowners are involved in an acquisition.

(d) Requirements for obtaining written option agreements so that the interests of the state are fully protected.

Section 52. Paragraph (d) of subsection (5) of section 265.284, Florida Statutes, is amended to read:

265.284 Chief cultural officer; director of division; powers and duties.—

(5) The division is further authorized to:

(d) Adopt rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of law conferring duties on it ~~Promulgate such rules as are necessary to carry out its duties.~~

Section 53. Subsection (1) of section 265.605, Florida Statutes, is amended to read:

265.605 Cultural Endowment Program; rulemaking.—

(1) The department shall adopt ~~any~~ rules pursuant to ss. 120.54 and 120.536(1) necessary to implement the provisions of this act.

Section 54. Subsection (1) of section 267.031, Florida Statutes, is amended to read:

267.031 Division of Historical Resources.—

(1) The division ~~has authority to shall~~ adopt such rules pursuant to ss. 120.54 and 120.536(1) as deemed necessary to implement provisions of carry out its duties and responsibilities under this chapter conferring duties upon it.

Section 55. Section 280.19, Florida Statutes, is amended to read:

280.19 Rules.—The Treasurer shall adopt ~~such rules pursuant to ss. 120.54 and 120.536(1) and prescribe such forms as may be necessary to administer the provisions~~ accomplish the purposes of this chapter.

Section 56. Section 284.17, Florida Statutes, is amended to read:

284.17 Rules and regulations.—The Department of Insurance ~~has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of shall promulgate such reasonable rules and regulations as are necessary to aid in the implementation of this chapter.~~

Section 57. Subsection (1) of section 288.709, Florida Statutes, is amended to read:

288.709 Powers of the Florida Black Business Investment Board.—The board shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of ss. 9-21, chapter 85-104, Laws of Florida, including, but not limited to, the power to:

(1) Adopt bylaws for the regulation of its affairs and the conduct of its business and adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of law conferring duties upon it ~~rules pursuant to chapter 120.~~ However, any proposed rules affecting the operation or administration or

financial well-being of any of the black business investment corporations must first be approved by a majority of the black business investment corporations.

Section 58. Subsection (3) of section 292.05, Florida Statutes, is amended to read:

292.05 Duties of Department of Veterans' Affairs.—

(3) The department ~~has authority to may adopt, amend, or rescind such rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of as it deems necessary to carry out this chapter.~~

Section 59. Paragraph (c) of subsection (1) of section 310.151, Florida Statutes, is amended to read:

310.151 Rates of pilotage; Pilotage Rate Review Board.—

(1)

(c) The board ~~has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of is authorized to adopt such rules as are consistent with law and necessary to carry out the duties and authority conferred on it by this section conferring duties upon it.~~ The department shall provide the staff required by the board to carry out its duties under this section.

Section 60. Subsection (1) of section 310.185, Florida Statutes, is amended to read:

310.185 Rulemaking.—

(1) The board ~~has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement shall have the power to adopt rules necessary to the provisions of this chapter.~~

Section 61. Subsection (1) of section 319.17, Florida Statutes, is amended to read:

319.17 Rules; forms; indexes and records.—

(1) The department ~~has authority to may adopt such rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of as it deems necessary or proper for the administration of this chapter, including rules that allow alternative methods of proof of satisfaction of liens.~~

Section 62. Section 320.011, Florida Statutes, is amended to read:

320.011 Administration and enforcement; rules.—The department shall administer and enforce the provisions of this chapter and ~~has authority to may adopt such rules pursuant to ss. 120.54 and 120.536(1) to implement them as it deems necessary or proper for the administration hereof.~~

Section 63. Section 320.69, Florida Statutes, is amended to read:

~~320.69 Rules and regulations.—The department has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of may make such rules and regulations as it shall deem necessary or proper for the effective administration and enforcement of this law.~~

Section 64. Section 320.824, Florida Statutes, is amended to read:

~~320.824 Rules and regulations.~~ Changes and modifications of standards.—

(1) The department ~~may make such rules and regulations as it shall deem necessary or proper for the effective administration and enforcement of ss. 320.822-320.90 and may adopt by rule and promulgate any changes in, or additions to, the standards adopted in s. 320.823 or s. 320.8231, which are approved and officially published by the institute or promulgated by the Department of Housing and Urban Development subsequent to the effective date of this act.~~

(2) The department or its authorized agent may enter any place or establishment where mobile homes are manufactured, sold, or offered for sale, for the purpose of ascertaining whether the requirements of the code and the rules regulations adopted by the department have been met.

Section 65. Section 324.042, Florida Statutes, is amended to read:

~~324.042 Administration.—The department shall administer and enforce the provisions of this chapter, and has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement them the department may make such rules as may be necessary for its administration.~~

Section 66. Subsection (2) of section 326.003, Florida Statutes, is amended to read:

326.003 Administration.—The division shall:

(2) Adopt rules pursuant to ss. 120.54 and 120.536(1) to implement ad-~~minister~~ ss. 326.001-326.006 and to classify brokers and salespersons and regulate their activities.

Section 67. Section 327.04, Florida Statutes, is amended to read:

327.04 ~~Rules and regulations.~~—

(1) The department has authority to ~~may~~ adopt rules pursuant to ss. 120.54 and 120.536(1), other than rules pertaining to vessel registration or titling, to implement the provisions of which are necessary for carrying out the administrative powers and duties conferred on the department by this chapter conferring powers or duties upon it.

(2) The Department of Highway Safety and Motor Vehicles has authority to ~~may~~ adopt rules pursuant to ss. 120.54 and 120.536(1) which pertain pertaining to vessel registration and titling to implement the provisions of necessary for carrying out the administrative duties, obligations, and pow-

ers conferred on that department by this chapter and chapter 328 conferring duties upon it.

Section 68. Section 330.29, Florida Statutes, is amended to read:

330.29 Administration and enforcement; rules; standards for airport sites and airports.—It is the duty of the department to:

- (1) Administer and enforce the provisions of this chapter.;
- (2) Establish minimum standards for airport sites and airports under its licensing jurisdiction.;
~~and~~- (3) Adopt such rules pursuant to ss. 120.54 and 120.536(1) as it deems necessary to implement ~~administer and enforce~~ the provisions of this chapter.

Section 69. Subsection (2) of section 334.044, Florida Statutes, is amended to read:

334.044 Department; powers and duties.—The department shall have the following general powers and duties:

- (2) To adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of law conferring duties upon it, procedures, and standards for the conduct of its business operations and the implementation of any provision of law for which the department is responsible.

Section 70. Paragraph (c) of subsection (10) of section 339.175, Florida Statutes, is amended to read:

339.175 Metropolitan planning organization.—It is the intent of the Legislature to encourage and promote the development of transportation systems embracing various modes of transportation in a manner that will maximize the mobility of people and goods within and through urbanized areas of this state and minimize, to the maximum extent feasible, and together with applicable regulatory government agencies, transportation-related fuel consumption and air pollution. To accomplish these objectives, metropolitan planning organizations, referred to in this section as M.P.O.'s, shall develop, in cooperation with the state, transportation plans and programs for metropolitan areas. Such plans and programs must provide for the development of transportation facilities that will function as an intermodal transportation system for the metropolitan area. The process for developing such plans and programs shall be continuing, cooperative, and comprehensive, to the degree appropriate, based on the complexity of the transportation problems.

(10) METROPOLITAN PLANNING ORGANIZATION ADVISORY COUNCIL.—

(c) The powers and duties of the Metropolitan Planning Organization Advisory Council are to:

1. Enter into contracts with individuals, private corporations, and public agencies.
2. Acquire, own, operate, maintain, sell, or lease personal property essential for the conduct of business.
3. Accept funds, grants, assistance, gifts, or bequests from private, local, state, or federal sources.
4. Establish bylaws and adopt rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of law conferring powers or duties upon it ~~make rules to effectuate its powers, responsibilities, and obligations.~~
5. Assist M.P.O.'s in carrying out the urbanized area transportation planning process by serving as the principal forum for collective policy discussion pursuant to law.
6. Serve as a clearinghouse for review and comment by M.P.O.'s on the Florida Transportation Plan and on other issues required to comply with federal or state law in carrying out the urbanized area transportation and systematic planning processes instituted pursuant to s. 339.155.
7. Employ an executive director and such other staff as necessary to perform adequately the functions of the council, within budgetary limitations. The executive director and staff are exempt from part II of chapter 110 and serve at the direction and control of the council. The council is assigned to the Office of the Secretary of the Department of Transportation or for fiscal and accountability purposes, but it shall otherwise function independently of the control and direction of the department.
8. Adopt an agency strategic plan that provides the priority directions the agency will take to carry out its mission within the context of the state comprehensive plan and any other statutory mandates and directions given to the agency.

Section 71. Subsection (2) of section 350.127, Florida Statutes, is amended to read:

350.127 Penalties; rules; execution of contracts.—

(2) The commission is authorized to adopt, by affirmative vote of a majority of the commission, rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of law conferring duties upon it ~~reasonably necessary to implement any law which it administers.~~

Section 72. Subsection (1) of section 366.05, Florida Statutes, is amended to read:

366.05 Powers.—

(1) In the exercise of such jurisdiction, the commission shall have power to prescribe fair and reasonable rates and charges, classifications, standards of quality and measurements, and service rules and regulations to be observed by each public utility; to require repairs, improvements, additions,

and extensions to the plant and equipment of any public utility when reasonably necessary to promote the convenience and welfare of the public and secure adequate service or facilities for those reasonably entitled thereto; to employ and fix the compensation for such examiners and technical, legal, and clerical employees as it deems necessary to carry out the provisions of this chapter; and to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement and enforce the provisions of ~~prescribe all rules and regulations reasonably necessary and appropriate for the administration and enforcement of this chapter.~~

Section 73. Subsection (1) of section 367.121, Florida Statutes, is amended to read:

367.121 Powers of commission.—

(1) In the exercise of its jurisdiction, the commission shall have power:

(a) To prescribe fair and reasonable rates and charges, classifications, standards of quality and measurements, and to prescribe service rules to be observed by each utility, except to the extent such authority is expressly given to another state agency.;

(b) To prescribe, by rule, a uniform system and classification of accounts for all utilities, which rules, among other things, shall establish adequate, fair, and reasonable depreciation rates and charges.;

(c) To require such regular or emergency reports from a utility, including, but not limited to, financial reports, as the commission deems necessary and, if the commission finds a financial report to be incomplete, incorrect, or inconsistent with the uniform system and classification of accounts, to require a new report or a supplemental report, either of which the commission may require to be certified by an independent certified public accountant licensed under chapter 473.;

(d) To require repairs, improvements, additions, and extensions to any facility, or to require the construction of a new facility, if reasonably necessary to provide adequate and proper service to any person entitled to service or if reasonably necessary to provide any prescribed quality of service, except that no utility shall be required to extend its service outside the geographic area described in its certificate of authorization, or make additions to its plant or equipment to serve outside such area, unless the commission first finds that the utility is financially able to make such additional investment without impairing its capacity to serve its existing customers.;

(e) To employ and fix the compensation for such examiners and technical, legal, and clerical employees as it deems necessary to carry out the provisions of this chapter.;

(f) To adopt, by affirmative vote of a majority of the commission, rules pursuant to ss. 120.54 and 120.536(1) to implement and enforce the provisions of ~~reasonably necessary and appropriate for the administration and enforcement of this chapter.~~;



(g) To exercise all judicial powers, issue all writs, and do all things necessary or convenient to the full and complete exercise of its jurisdiction and the enforcement of its orders and requirements.;

(h) To order interconnections of service or facilities between utilities, and to approve any plant capacity charges or wholesale service charges or rates related thereto, provided the commission first finds that the utility is financially able to make such additional investment as is required without impairing its capacity to serve its existing customers.;

(i) To require the filing of reports and other data by a public utility or its affiliated companies, including its parent company, regarding transactions or allocations of common costs, among the utility and such affiliated companies. The commission may also require such reports or other data necessary to ensure that a utility's ratepayers do not subsidize nonutility activities.;

(j) To seek relief in circuit court including temporary and permanent injunctions, restraining orders, or any other appropriate order, because the Legislature finds that violations of commission orders or rules, in connection with the impairment of a utility's operations or service, constitute irreparable harm for which there is no adequate remedy at law. Such remedies shall be in addition to and supplementary to any other remedies available for enforcement of agency action under s. 120.69 or the provisions of this chapter. The commission shall establish procedures implementing this section by rule.;

(k) To assess a utility for reasonable travel costs associated with reviewing the records of the utility and its affiliates when such records are kept out of state. The utility may bring the records back into the state for review.

Section 74. Section 368.05, Florida Statutes, is amended to read:

368.05 Commission jurisdiction, rules and regulations.—

(1) In addition to its existing functions, the Florida Public Service Commission shall have jurisdiction over all persons, corporations, partnerships, associations, public agencies, municipalities, or other legal entities engaged in the operation of gas transmission or distribution facilities with respect to their compliance with the rules and regulations governing safety standards established by the commission pursuant to this law. The jurisdiction conferred upon the commission hereby shall be exclusive of and superior to that of all other boards, agencies, political subdivisions, municipalities, towns, villages, or counties; and in case of conflict therewith all lawful safety acts, orders, and rules, ~~and regulations~~ of the commission shall in each instance prevail.

(2) The commission shall have the power to perform any and all acts, ~~and to prescribe, issue, make, amend, and rescind such orders, rules, and regulations not inconsistent herewith as it may find necessary or appropriate to the exercise of the authority granted under the provisions of this law.~~ The commission has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of law conferring duties upon it. The commission may require the filing of periodic reports and all other data

reasonably necessary to determine whether the safety standards prescribed by it are being complied with; may require repairs and improvements to the gas transmission and distribution piping systems subject to this law which are reasonably necessary to promote the protection of the public; and may exercise all judicial powers, issue all writs, and do all things necessary or convenient to the full and complete exercise of its jurisdiction and the enforcement of its safety orders and rules ~~and regulations~~ adopted pursuant to this law.

(3) The jurisdiction conferred upon the commission by this part does not extend to the distribution of gas beyond the last meter prior to consumption.

Section 75. Subsection (6) of section 369.20, Florida Statutes, is amended to read:

369.20 Florida Aquatic Weed Control Act.—

(6) The department shall adopt rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of this section conferring powers or duties upon it, amend, or repeal all rules as necessary to carry out the duties, obligations, and powers set forth in this section and perform any other acts necessary for the proper administration, enforcement, or interpretation of this section, including creating general permits and exemptions and adopting rules and forms governing reports.

Section 76. Subsection (11) of section 369.22, Florida Statutes, is amended to read:

369.22 Nonindigenous aquatic plant control.—

(11) The department shall adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of, amend, or repeal all rules as necessary to carry out the duties, obligations, and powers set forth in this section conferring powers or duties upon it and perform any other acts necessary for the proper administration, enforcement, or interpretation of this section, including adopting rules and forms governing reports.

Section 77. Subsection (3) of section 369.251, Florida Statutes, is amended to read:

369.251 Invasive nonnative plants; prohibitions; study; removal; rules.—

(3) The department has authority to shall adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of necessary to implement this section. Possession or transportation resulting from natural dispersion, mulching operations, control and disposal, or use in herbaria or other educational or research institutions, or for other reasons determined by the department to be consistent with this section and where there is neither the danger of, nor intent to, further disperse any plant species prohibited by this section, is not subject to the permit or penalty provisions of this section.

Section 78. Subsection (1) of section 370.021, Florida Statutes, is amended to read:

370.021 Administration; rules, publications, records; penalty for violation of chapter; injunctions.—

(1) ~~RULES AND REGULATIONS.—~~The Department of Environmental Protection has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of law conferring powers or duties upon it shall make, adopt, promulgate, amend, and repeal all rules and regulations necessary or convenient for the carrying out of the duties, obligations, powers, and responsibilities conferred on the department or any of its divisions. The director of each division shall submit to the department suggested rules and regulations for that division. Any person violating or otherwise failing to comply with any of the rules and regulations adopted as aforesaid is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, unless otherwise provided by law.

Section 79. Subsection (5) of section 370.092, Florida Statutes, is amended to read:

370.092 Carriage of proscribed nets across Florida waters.—

(5) The department has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of ~~is authorized to make and adopt reasonable rules, regulations, and orders, including emergency rules, to implement this section. The department shall adopt emergency rules to implement the provisions of subparagraph (4)(c)1. by August 1, 1996.~~

Section 80. Subsection (1) of section 370.15, Florida Statutes, is amended to read:

370.15 Shrimp; regulation.—

(1) ~~GENERAL AUTHORITY; CONSERVATION.—~~The department has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of this section. The department shall encourage ~~is authorized and directed to adopt, promulgate, and enforce rules and regulations consistent with the provisions of this section and the general policy of encouraging the production of the maximum sustained yield consistent with the preservation and protection of breeding stock, taking into consideration the recommendations of the various marine laboratories, as well as those of interested and experienced groups of private citizens. Such Rules shall and regulations are to control the method, manner, and equipment used in the taking of shrimp or prawn, as well as limiting and defining the areas where taken.~~

Section 81. Section 373.043, Florida Statutes, is amended to read:

373.043 Adoption and enforcement of rules regulations by the department.—The department has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) shall adopt, promulgate, and enforce such regulations and review procedures as may be necessary or convenient to implement ~~administer~~ the provisions of this chapter.

Section 82. Section 373.044, Florida Statutes, is amended to read:

373.044 ~~Rules and regulations; enforcement; availability of personnel rules.—In administering this chapter, The governing board of the district is authorized to make and adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of this chapter. reasonable rules, regulations, and orders which are consistent with law; and such Rules, regulations, and orders may be enforced by mandatory injunction or other appropriate action in the courts of the state. Rules relating to personnel matters shall be made available to the public and affected persons at no more than cost but need not be published in the Florida Administrative Code or the Florida Administrative Weekly.~~

Section 83. Section 373.113, Florida Statutes, is amended to read:

373.113 ~~Adoption of rules regulations by the governing board.—In administering the provisions of this chapter the governing board has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of law conferring powers or duties upon it shall adopt, promulgate, and enforce such regulations as may be reasonably necessary to effectuate its powers, duties, and functions pursuant to the provisions of chapter 120.~~

Section 84. Section 373.171, Florida Statutes, is amended to read:

373.171 ~~Rules and regulations.—~~

(1) In order to obtain the most beneficial use of the water resources of the state and to protect the public health, safety, and welfare and the interests of the water users affected, governing boards, by action not inconsistent with the other provisions of this law and without impairing property rights, may:

(a) ~~Adopt Establish~~ rules, regulations, or ~~issue~~ orders affecting the use of water, as conditions warrant, and forbidding the construction of new diversion facilities or wells, the initiation of new water uses, or the modification of any existing uses, diversion facilities, or storage facilities within the affected area.

(b) Regulate the use of water within the affected area by apportioning, limiting, or rotating uses of water or by preventing those uses which the governing board finds have ceased to be reasonable or beneficial.

(c) ~~Issue orders and adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of this chapter Make other rules, regulations, and orders necessary for the preservation of the interests of the public and of affected water users.~~

(2) In ~~adopting promulgating~~ rules and regulations and issuing orders under this law, the governing board shall act with a view to full protection of the existing rights to water in this state insofar as is consistent with the purpose of this law.

(3) No rule, ~~regulation~~ or order shall require any modification of existing use or disposition of water in the district unless it is shown that the use or disposition proposed to be modified is detrimental to other water users or to the water resources of the state.

(4) All rules ~~and regulations~~ adopted by the governing board shall be filed with the Department of State as provided in chapter 120. An information copy will be filed with the Department of Environmental Protection.

Section 85. Section 373.337, Florida Statutes, is amended to read:

373.337 Rules.—The department shall, ~~by July 1, 1989,~~ adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of this part, providing each water management district and representatives of the water well contracting industry with meaningful opportunity to participate in the development of the rules as they are drafted. The rules shall be adopted by each water management district.

Section 86. Subsection (3) of section 373.418, Florida Statutes, is amended to read:

373.418 Rulemaking; preservation of existing authority.—

(3) The department or governing boards have authority to may adopt ~~such rules pursuant to ss. 120.54 and 120.536(1) as are necessary to~~ implement the provisions of this part. Such rules shall be consistent with the water resource implementation rule and shall not allow harm to water resources or be contrary to the policy set forth in s. 373.016.

Section 87. Section 376.07, Florida Statutes, is amended to read:

376.07 Regulatory powers of department; penalties for inadequate booming by terminal facilities.—~~The department shall from time to time adopt, amend, repeal, and enforce reasonable rules insofar as they relate to discharges of pollutants into the waters of this state or onto the coasts of this state.~~

(1) The department shall adopt rules pursuant to ss. 120.54 and 120.536(1) to implement ss. 376.011-376.21 ~~rules shall be adopted in accordance with the Administrative Procedure Act, chapter 120.~~

(2) The department shall adopt rules including, but not limited to, the following matters:

(a) Operation and inspection requirements for discharge prevention, abatement, and cleanup capabilities of terminal facilities and vessels, and other matters relating to certification under ss. 376.011-376.21.

(b) Procedures and methods of reporting discharges and other occurrences prohibited by ss. 376.011-376.21.

(c) Procedures, methods, means, and equipment to be used by persons subject to regulation by ss. 376.011-376.21 in the removal of pollutants.

(d) Development and implementation of criteria and plans to meet pollution occurrences of various degrees and kinds.

(e) Creation by contract or administrative action of a state response team which shall be responsible for creating and maintaining a contingency plan

of response, organization, and equipment for handling emergency cleanup operations and wildlife rescue and rehabilitation operations. The state plans shall include detailed emergency operating procedures for the state as a whole, and the team shall from time to time conduct practice alerts. These plans shall be filed with the Governor and all Coast Guard stations in the state and Coast Guard captains of the port having responsibility for enforcement of federal pollution laws within the state. The contingency plan shall include all necessary information for the total containment and cleanup of pollution, including, but not limited to, an inventory of equipment and its location, a table of organization with the names, addresses, and telephone numbers of all persons responsible for implementing every phase of the plan, including a plan for wildlife rescue and rehabilitation operations, a list of available sources of supplies necessary for cleanup, and a designation of priority zones to determine the sequence and methods of cleanup. The state response team shall act independently of agencies of the Federal Government but is directed to cooperate with any federal cleanup operation.

(f) Requirements for minimum weather and sea conditions for permitting a vessel to enter port and for the safety and operation of vessels, barges, tugs, motor vehicles, motorized equipment, and other equipment relating to the use and operation of terminals, facilities, and refineries, the approach and departure from terminals, facilities, and refineries, and requirements that containment gear approved by the department be on hand and maintained by terminal facilities and refineries with adequate personnel trained in its use.

(g) Requirements that, prior to being granted entry into any port in this state, the master of a vessel shall report:

1. Any discharges of pollutants the vessel has had since leaving the last port.
2. Any mechanical problem on the vessel which creates the possibility of a discharge.
3. Any denial of entry into any port during the current cruise of the vessel.

(h) Requirements that any terminal facility be subject to a complete and thorough inspection whenever the terminal facility causes or permits the discharge of a pollutant in violation of the provisions of ss. 376.011-376.21, and at other reasonable times. If the department determines there are unsatisfactory preventive measures or containment and cleanup capabilities, it shall, within a reasonable time after notice and hearing in compliance with chapter 120, suspend the registration until such time as there is compliance with the department requirements.

~~(i) Such other rules as the exigencies of any condition may require or as may reasonably be necessary to carry out the intent of ss. 376.011-376.21.~~

(3) The department shall not require vessels to maintain discharge prevention gear, holding tanks, and containment gear which exceed federal requirements. However, a terminal facility transferring heavy oil to or from

a vessel with a heavy oil storage capacity greater than 10,000 gallons shall be required, considering existing weather and tidal conditions, to adequately boom or seal off the transfer area during a transfer, including, but not limited to, a bunkering operation, to minimize the escape of such pollutants from the containment area. As used in this subsection, the term "adequate booming" means booming with proper containment equipment which is employed and located for the purpose of preventing, for the most likely discharge, as much of the pollutant as possible from escaping out of the containment area.

(a) The owner or operator of a terminal facility involved in the transfer of such pollutant to or from a vessel which is not adequately boomed commits a noncriminal infraction and shall be cited for such infraction. The civil penalty for such an infraction shall be \$2,500, except as otherwise provided in this section.

(b) Any person cited for an infraction under this section may:

1. Pay the civil penalty;
2. Post bond equal to the amount of the applicable civil penalty; or
3. Sign and accept a citation indicating a promise to appear before the county court.

The officer authorized to issue these citations may indicate on the citation the time and location of the scheduled hearing and shall indicate the applicable civil penalty.

(c) Any person who willfully refuses to post bond or accept and sign a citation commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(d) After compliance with subparagraph (b)2. or subparagraph (b)3., any person charged with a noncriminal infraction under this section may:

1. Pay the civil penalty, either by mail or in person, within 30 days after the date of receiving the citation; or
2. If the person has posted bond, forfeit the bond by not appearing at the designated time and location.

A person cited for an infraction under this section who pays the civil penalty or forfeits the bond has admitted the infraction and waives the right to a hearing on the issue of commission of the infraction. Such admission may not be used as evidence in any other proceedings.

(e) Any person who elects to appear before the county court or who is required to appear waives the limitations of the civil penalty specified in paragraph (a). The issue of whether an infraction has been committed and the severity of the infraction shall be determined by a hearing official at a hearing. If the commission of the infraction is proved by the greater weight of the evidence, the court shall impose a civil penalty of \$2,500. If the court

determines that the owner or operator of the terminal facility failed to deploy any boom equipment during such a transfer, including, but not limited to, a bunkering operation, the civil penalty shall be \$5,000.

(f) A person who is found by the hearing official to have committed an infraction may appeal that finding to the circuit court.

(g) Any person who has not posted bond and who fails either to pay the civil penalty specified in paragraph (a) within 30 days after receipt of the citation or to appear before the court commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 88. Section 377.22, Florida Statutes, is amended to read:

377.22 Rules, ~~regulations~~, and orders.—

(1) The department shall provide, by rule ~~rules and regulations~~, for ratable takings in all pools on a reasonable and equitable basis.

(2) The department shall ~~adopt such rules and regulations, and shall issue such orders and adopt rules pursuant to ss. 120.54 and 120.536(1) to implement and enforce the provisions of, governing all phases of the exploration, drilling, and production of oil, gas, or other petroleum products in the state, including exploration, drilling, and production in the offshore waters of the state as may be necessary for the proper administration and enforcement of this chapter.~~ Such rules, regulations, and orders shall ensure that all precautions are taken to prevent the spillage of oil or any other pollutant in all phases of the drilling for, and extracting of, oil, gas, or other petroleum products. The department shall revise such rules and regulations from time to time as ~~may be necessary for the proper administration and enforcement of this chapter.~~ Rules adopted, ~~regulations~~, and orders issued ~~promulgated~~ in accordance with this section shall be for, but shall not be limited to, the following purposes:

(a) To require the drilling, casing, and plugging of wells to be done in such a manner as to prevent the pollution of the fresh, salt, or brackish waters or the lands of the state.

(b) To prevent the alteration of the sheet flow of water in any area.

(c) To require that appropriate safety equipment be installed to minimize the possibility of an escape of oil or other petroleum products in the event of accident, human error, or a natural disaster during drilling, casing, or plugging of any well and during extraction operations.

(d) To require the drilling, casing, and plugging of wells to be done in such a manner as to prevent the escape of oil or other petroleum products from one stratum to another.

(e) To prevent the intrusion of water into an oil or gas stratum from a separate stratum, except as provided by rules of the division relating to the injection of water for proper reservoir conservation and brine disposal.



(f) To require a reasonable bond, or other form of security acceptable to the department, conditioned upon the performance of the duty to plug properly each dry and abandoned well and the full and complete restoration by the applicant of the area over which geophysical exploration, drilling, or production is conducted to the similar contour and general condition in existence prior to such operation.

(g) To require and carry out a reasonable program of monitoring or inspection of all drilling operations or producing wells, including regular inspections by division personnel.

(h) To require the making of reports showing the location of all oil and gas wells; the making and filing of logs; the taking and filing of directional surveys; the filing of electrical, sonic, radioactive, and mechanical logs of oil and gas wells; if taken, the saving of cutting and cores, the cuts of which shall be given to the Bureau of Geology; and the making of reports with respect to drilling and production records. However, such information, or any part thereof, at the request of the operator, shall be exempt from the provisions of s. 119.07(1) and held confidential by the division for a period of 1 year after the completion of a well.

(i) To prevent wells from being drilled, operated, or produced in such a manner as to cause injury to neighboring leases or property.

(j) To prevent the drowning by water of any stratum, or part thereof, capable of producing oil or gas in paying quantities and to prevent the premature and irregular encroachment of water which reduces, or tends to reduce, the total ultimate recovery of oil or gas from any pool.

(k) To require the operation of wells with efficient gas-oil ratio, and to fix such ratios.

(l) To prevent "blowouts," "caving," and "seepage," in the sense that conditions indicated by such terms are generally understood in the oil and gas business.

(m) To prevent fires.

(n) To identify the ownership of all oil or gas wells, producing leases, refineries, tanks, plants, structures, and storage and transportation equipment and facilities.

(o) To regulate the "shooting," perforating and chemical treatment of wells.

(p) To regulate secondary recovery methods, including the introduction of gas, air, water, or other substance into producing formations.

(q) To regulate gas cycling operations.

(r) If necessary for the prevention of waste, as herein defined, to determine, limit, and prorate the production of oil or gas, or both, from any pool or field in the state.

(s) To require, either generally or in or from particular areas, certificates of clearance or tenders in connection with the transportation or delivery of oil or gas, or any product.

(t) To regulate the spacing of wells and to establish drilling units.

(u) To prevent, so far as is practicable, reasonably avoidable drainage from each developed unit which is not equalized by counterdrainage.

(v) To require that geophysical operations requiring a permit be conducted in a manner which will minimize the impact on hydrology and biota of the area, especially environmentally sensitive lands and coastal areas.

(w) To regulate aboveground crude oil storage tanks in a manner which will protect the water resources of the state.

(x) To act in a receivership capacity for fractional mineral interests for which the owners are unknown or unlocated and to administratively designate the operator as the lessee.

Section 89. Paragraph (g) of subsection (3) of section 377.703, Florida Statutes, is amended to read:

377.703 Additional functions of the Department of Community Affairs; energy emergency contingency plan; federal and state conservation programs.—

(3) DEPARTMENT OF COMMUNITY AFFAIRS; DUTIES.—The Department of Community Affairs shall, in addition to assuming the duties and responsibilities provided by ss. 20.18 and 377.701, perform the following functions consistent with the development of a state energy policy:

(g) The department has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of ~~is authorized to make any rules or regulations pursuant to chapter 120 as are necessary to carry out the purposes of this act.~~

Section 90. Paragraph (d) of subsection (1) of section 378.205, Florida Statutes, is amended to read:

378.205 Administration; powers and duties of the department; agency review responsibility.—

(1) The department shall administer the provisions of this part and shall have the following powers and duties:

(d) To adopt those rules pursuant to ss. 120.54 and 120.536(1) necessary to implement the provisions of ~~administer~~ this part.

Section 91. Subsection (1) of section 378.404, Florida Statutes, is amended to read:

378.404 Department of Environmental Protection; powers and duties.—The department shall have the following powers and duties:

(1) To adopt rules pursuant to ss. 120.54 and 120.536(1) procedural rules to implement the provisions of this part.

Section 92. Paragraph (c) of subsection (22) of section 380.05, Florida Statutes, is amended to read:

380.05 Areas of critical state concern.—

(22) All state agencies with rulemaking authority for programs that affect a designated area of critical state concern shall review those programs for consistency with the purpose of the designation and principles for guiding development, and shall adopt specific permitting standards and criteria applicable in the designated area, or otherwise amend the program, as necessary to further the purpose of the designation.

(c) The Administration Commission has authority to ~~may~~ adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of this subsection.

Section 93. Paragraph (f) of subsection (4) of section 380.0651, Florida Statutes, is amended to read:

380.0651 Statewide guidelines and standards.—

(4) Two or more developments, represented by their owners or developers to be separate developments, shall be aggregated and treated as a single development under this chapter when they are determined to be part of a unified plan of development and are physically proximate to one other.

(f) ~~Pursuant to chapter 120, The state land planning agency~~ has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of ~~shall adopt rules as necessary to implement this subsection.~~

Section 94. Subsection (13) of section 381.0011, Florida Statutes, is amended to read:

381.0011 Duties and powers of the Department of Health.—It is the duty of the Department of Health to:

(13) ~~Adopt, repeal, and amend rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of law conferring duties upon it consistent with law.~~ This subsection does not authorize the department to require a permit or license unless such requirement is specifically provided by law.

Section 95. Section 384.33, Florida Statutes, is amended to read:

384.33 Rules.—The department may adopt rules pursuant to ss. 120.54 and 120.536(1) to implement ~~carry out~~ the provisions of this chapter.

Section 96. Subsection (12) of section 391.026, Florida Statutes, is amended to read:

391.026 Powers and duties of the department.—To administer its programs of children's medical services, the department shall have the following powers, duties, and responsibilities:

(12) ~~To adopt rules pursuant to ss. 120.54 and 120.536(1) to implement make rules to carry out~~ the provisions of this act.

Section 97. Section 392.66, Florida Statutes, is amended to read:

392.66 Rules.—The department shall adopt rules pursuant to ss. 120.54 and 120.536(1) to implement ~~carry out~~ the provisions of this chapter.

Section 98. Subsection (1) of section 394.879, Florida Statutes, is amended to read:

394.879 Rules; enforcement.—

(1) The department shall adopt ~~reasonable~~ rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of this chapter, including, at a minimum, rules providing standards to ensure that:

(a) Sufficient numbers and types of qualified personnel are on duty and available at all times to provide necessary and adequate client safety and care.

(b) Adequate space is provided each client of a licensed facility.

(c) Licensed facilities are limited to an appropriate number of beds.

(d) Each licensee establishes and implements adequate infection control, housekeeping, sanitation, disaster planning, and medical recordkeeping.

(e) Licensed facilities are established, organized, and operated in accordance with programmatic standards of the department.

Section 99. Subsection (1) of section 395.1055, Florida Statutes, is amended to read:

395.1055 Rules and enforcement.—

(1) The agency shall ~~adopt, amend, promulgate, and enforce~~ rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of this part, which shall include reasonable and fair minimum standards for ensuring that:

(a) Sufficient numbers and qualified types of personnel and occupational disciplines are on duty and available at all times to provide necessary and adequate patient care and safety.

(b) Infection control, housekeeping, sanitary conditions, and medical record procedures that will adequately protect patient care and safety are established and implemented.

(c) A comprehensive emergency management plan is prepared and updated annually. Such standards must be included in the rules adopted by the agency after consulting with the Department of Community Affairs. At a minimum, the rules must provide for plan components that address emergency evacuation transportation; adequate sheltering arrangements; postdisaster activities, including emergency power, food, and water; postdisaster

transportation; supplies; staffing; emergency equipment; individual identification of residents and transfer of records, and responding to family inquiries. The comprehensive emergency management plan is subject to review and approval by the local emergency management agency. During its review, the local emergency management agency shall ensure that the following agencies, at a minimum, are given the opportunity to review the plan: the Department of Elderly Affairs, the Department of Health and Rehabilitative Services, the Agency for Health Care Administration, and the Department of Community Affairs. Also, appropriate volunteer organizations must be given the opportunity to review the plan. The local emergency management agency shall complete its review within 60 days and either approve the plan or advise the facility of necessary revisions.

(d) Facilities are structurally capable of serving as shelters and equipped to be self-supporting during and immediately following disasters.

(e) Construction, maintenance, repair, lifesafety, and renovation of licensed facilities are governed by the most recently adopted, nationally recognized lifesafety code, except as may be specifically modified by rule.

(f) Licensed facilities are established, organized, and operated consistent with established standards and rules.

(g) Licensed facility beds conform to minimum space, equipment, and furnishings standards as specified by the department.

(h) All hospitals submit such data as necessary to conduct certificate-of-need reviews required under ss. 408.031-408.045. Such data shall include, but shall not be limited to, patient origin data, hospital utilization data, type of service reporting, and facility staffing data. The agency shall not collect data that identifies or could disclose the identity of individual patients. The agency shall utilize existing uniform statewide data sources when available and shall minimize reporting costs to hospitals.

(i) Each hospital has a quality improvement program designed according to standards established by their current accrediting organization. This program will enhance quality of care and emphasize quality patient outcomes, corrective action for problems, governing board review, and reporting to the agency of standardized data elements necessary to analyze quality of care outcomes. The agency shall use existing data, when available, and shall not duplicate the efforts of other state agencies in order to obtain such data.

Section 100. Subsection (7) of section 403.061, Florida Statutes, is amended to read:

403.061 Department; powers and duties.—The department shall have the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules adopted and promulgated by it and, for this purpose, to:

~~(7) Adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of, modify, and repeal rules and regulations to carry out the intent and purposes of this act. Any rule or regulation adopted pursuant to~~

this act shall be consistent with the provisions of federal law, if any, relating to control of emissions from motor vehicles, effluent limitations, pretreatment requirements, or standards of performance. No county, municipality, or political subdivision shall adopt or enforce any local ordinance, special law, or local regulation requiring the installation of Stage II vapor recovery systems, as currently defined by department rule, unless such county, municipality, or political subdivision is or has been in the past designated by federal regulation as a moderate, serious, or severe ozone nonattainment area. Rules adopted pursuant to this act shall not require dischargers of waste into waters of the state to improve natural background conditions. Discharges from steam electric generating plants existing or licensed under this chapter on July 1, 1984, shall not be required to be treated to a greater extent than may be necessary to assure that the quality of nonthermal components of discharges from nonrecirculated cooling water systems is as high as the quality of the makeup waters; that the quality of nonthermal components of discharges from recirculated cooling water systems is no lower than is allowed for blowdown from such systems; or that the quality of noncooling system discharges which receive makeup water from a receiving body of water which does not meet applicable department water quality standards is as high as the quality of the receiving body of water. The department may not adopt standards more stringent than federal regulations, except as provided in s. 403.804.

The department shall implement such programs in conjunction with its other powers and duties and shall place special emphasis on reducing and eliminating contamination that presents a threat to humans, animals or plants, or to the environment.

Section 101. Paragraph (a) of subsection (5) and subsection (10) of section 403.1835, Florida Statutes, are amended to read:

403.1835 Sewage treatment facilities revolving loan program.—

(5)(a) The department has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of ~~is authorized to make rules necessary to carry out the purpose of~~ this section, including rules to administer the state revolving fund authorized pursuant to the Federal Water Pollution Control Act, as amended.

(10)(a) Because the Legislature has experienced revenue shortfalls in recent years and has been unable to provide enough funds to fully match available federal funds to help capitalize the Sewage Treatment Revolving Loan Fund, it is necessary for innovative approaches to be considered to help capitalize the revolving loan fund. The department shall evaluate potential innovative approaches that can generate funds to match available federal funds. The department shall consider, among other possible alternatives, the option of implementing by rule a program to allow local governments to offer funds voluntarily to the state for use as a match to available federal funds to capitalize the state sewage treatment revolving loan fund.

~~(b) The department may adopt rules necessary to administer this section.~~

Section 102. Subsection (1) of section 403.504, Florida Statutes, is amended to read:

403.504 Department of Environmental Protection; powers and duties enumerated.—The department shall have the following powers and duties in relation to this act:

(1) To adopt, ~~promulgate, or amend~~ reasonable rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of this act, including rules setting forth environmental precautions to be followed in relation to the location and operation of electrical power plants.

Section 103. Subsection (1) of section 403.523, Florida Statutes, is amended to read:

403.523 Department of Environmental Protection; powers and duties.—The department shall have the following powers and duties:

(1) To adopt ~~or amend~~ reasonable procedural rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of this act and to adopt or amend rules to implement the provisions of subsection (10).

Section 104. Subsection (15) of section 403.704, Florida Statutes, is amended to read:

403.704 Powers and duties of the department.—The department shall have responsibility for the implementation and enforcement of the provisions of this act. In addition to other powers and duties, the department shall:

(15) ~~Adopt, repeal, or amend~~ rules pursuant to ss. 120.54 and 120.536(1) to implement, ~~administer,~~ and enforce the provisions of this act, including requirements for the classification, construction, operation, maintenance, and closure of solid waste management facilities and requirements for, and conditions on, solid waste disposal in this state, whether such solid waste is generated within this state or outside this state as long as such requirements and conditions are not based on the out-of-state origin of the waste and are consistent with applicable provisions of law. When classifying solid waste management facilities, the department shall consider the hydrogeology of the site for the facility, the types of wastes to be handled by the facility, and methods used to control the types of waste to be handled by the facility and shall seek to minimize the adverse effects of solid waste management on the environment. Whenever the department adopts any rule stricter or more stringent than one which has been set by the United States Environmental Protection Agency, the procedures set forth in s. 403.804(2) shall be followed. The department shall not, however, adopt hazardous waste rules for solid waste for which special studies were required prior to October 1, 1988, under s. 8002 of the Resource Conservation and Recovery Act, 42 U.S.C. s. 6982, as amended, until the studies are completed by the United States Environmental Protection Agency and the information is available to the department for consideration in adopting its own rule.

Section 105. Subsection (4) of section 403.716, Florida Statutes, is amended to read:

403.716 Training of operators of solid waste management and other facilities.—

(4) The department ~~has authority to may~~ adopt rules and minimum standards and other rules pursuant to ss. 120.54 and 120.536(1) to implement to effectuate the provisions of this section. The department shall and ~~to~~ ensure the safe, healthy, and lawful operation of solid waste management facilities in this state. The department may establish by rule various classifications for operators to cover the need for differing levels of training required to operate various types of solid waste management facilities due to different operating requirements at such facilities.

Section 106. Subsection (1) of section 403.805, Florida Statutes, is amended to read:

403.805 Secretary; powers and duties.—

(1) The secretary shall have the powers and duties of heads of departments set forth in chapter 20, including the authority power ~~to~~ adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of under chapters 253, 373, and 376, and this chapter. The secretary shall have rulemaking responsibility under chapter 120, but shall submit any proposed rule containing standards to the Environmental Regulation Commission for approval, modification, or disapproval pursuant to s. 403.804. The secretary shall employ legal counsel to represent the department in matters affecting the department. Except for appeals on permits specifically assigned by this act to the Governor and Cabinet, and unless otherwise prohibited by law, the secretary may delegate the authority assigned to the department by this act to the assistant secretary, division directors, and district and branch office managers and to the water management districts.

Section 107. Subsection (9) of section 403.861, Florida Statutes, is amended to read:

403.861 Department; powers and duties.—The department shall have the power and the duty to carry out the provisions and purposes of this act and, for this purpose, to:

(9) Adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of, modify, and repeal such rules as are necessary or appropriate to carry out its functions under this act.

Section 108. Section 403.869, Florida Statutes, is amended to read:

403.869 Authority to adopt rules.—The department may adopt rules pursuant to ss. 120.54 and 120.536(1) necessary to implement carry out the provisions of ss. 403.865-403.876.

Section 109. Subsection (1) of section 403.9404, Florida Statutes, is amended to read:



403.9404 Department of Environmental Protection; powers and duties.—The Department of Environmental Protection shall have the following powers and duties:

(1) ~~To adopt or amend reasonable~~ procedural rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of ss. 403.9401-403.9425 and to ~~adopt or amend~~ rules to implement the provisions of subsection (8).

Section 110. Section 406.04, Florida Statutes, is amended to read:

406.04 ~~Rules and regulations.~~—The commission shall adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of ~~promulgate rules and regulations, pursuant to chapter 120, necessary to effectuate this chapter. The commission shall~~ and to ensure minimum and uniform standards of excellence, performance of duties, and maintenance of records so as to provide useful and adequate information to the state in regard to causative factors of those deaths investigated.

Section 111. Subsection (8) of section 408.15, Florida Statutes, is amended to read:

408.15 Powers of the agency.—In addition to the powers granted to the agency elsewhere in this chapter, the agency is authorized to:

(8) ~~Adopt rules pursuant to ss. 120.54 and 120.536(1) to implement, amend, and repeal all rules necessary to carry out~~ the provisions of this chapter.

Section 112. Section 414.45, Florida Statutes, is amended to read:

414.45 Rulemaking.—The department has authority to may adopt, amend, or repeal rules pursuant to ss. 120.54 and 120.536(1), as provided in chapter 120, to implement and, enforce the provisions of, and interpret this chapter. The Department of Labor and Employment Security may ~~adopt, amend, or repeal rules pursuant to ss. 120.54 and 120.536(1), as provided in chapter 120, to implement and, enforce the provisions of, and interpret~~ this chapter. The rules must provide protection against discrimination and the opportunity for a participant to request a review by a supervisor or administrator of any decision made by a panel or board of the department, the Department of Labor and Employment Security, or the WAGES Program.

Section 113. Subsection (10) of section 427.013, Florida Statutes, is amended to read:

427.013 The Commission for the Transportation Disadvantaged; purpose and responsibilities.—The purpose of the commission is to accomplish the coordination of transportation services provided to the transportation disadvantaged. The goal of this coordination shall be to assure the cost-effective provision of transportation by qualified community transportation coordinators or transportation operators for the transportation disadvantaged without any bias or presumption in favor of multioperator systems or not-for-profit transportation operators over single operator systems or for-profit

transportation operators. In carrying out this purpose, the commission shall:

(10) Adopt rules pursuant to ss. 120.54 and 120.536(1) Develop and monitor rules and procedures to implement the provisions of ss. 427.011-427.017.

Section 114. Section 430.08, Florida Statutes, is amended to read:

430.08 Rulemaking.—The department shall adopt, ~~amend, or rescind~~ such rules pursuant to ss. 120.54 and 120.536(1) to implement as it deems necessary to carry out the provisions of this chapter.

Section 115. Section 440.591, Florida Statutes, is amended to read:

440.591 Administrative procedure; rulemaking authority.—The division has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of ~~shall have the authority to adopt rules to govern the performance of any programs, duties, or responsibilities with which it is charged under this chapter conferring duties upon it.~~

Section 116. Paragraph (a) of subsection (2) of section 443.171, Florida Statutes, is amended to read:

443.171 Division and commission; powers and duties; rules; advisory council; records and reports.—

(2) RULES; DIVISION, SEAL.—

(a) The division has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of ~~shall have the power and authority to adopt, amend, or rescind such rules as are necessary for the administration of this chapter.~~

Section 117. Subsection (5) of section 455.203, Florida Statutes, is amended to read:

455.203 Department; powers and duties.—The department, for the boards under its jurisdiction, shall:

(5) Adopt all rules pursuant to ss. 120.54 and 120.536(1) necessary to implement the provisions of ~~administer~~ this part.

Section 118. Subsection (5) of section 455.521, Florida Statutes, is amended to read:

455.521 Department; powers and duties.—The department, for the boards under its jurisdiction, shall:

(5) Adopt all rules pursuant to ss. 120.54 and 120.536(1) necessary to implement the provisions of ~~administer~~ this part.

Section 119. Section 457.104, Florida Statutes, is amended to read:

457.104 Authority to make rules.—The board has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of is ~~authorized to make rules not inconsistent with law which are necessary to carry out the duties and authority conferred upon the board by this chapter conferring duties upon it.~~

Section 120. Subsection (1) of section 458.309, Florida Statutes, is amended to read:

458.309 Authority to make rules.—

(1) The board has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of is ~~authorized to make such rules not inconsistent with law as may be necessary to carry out the duties and authority conferred upon the board by this chapter conferring duties upon it and as may be necessary to protect the health, safety, and welfare of the public.~~

Section 121. Section 459.005, Florida Statutes, is amended to read:

459.005 Authority to make rules.—The board has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of is ~~authorized to make such rules not inconsistent with law as may be necessary to carry out the duties and authority conferred upon the board by this chapter conferring duties upon it and as may be necessary to protect the health, safety, and welfare of the public.~~

Section 122. Section 460.405, Florida Statutes, is amended to read:

460.405 Authority to make rules.—The Board of Chiropractic has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of is ~~authorized to make such rules not inconsistent with law as are necessary to carry out the duties and authority conferred upon the board by this chapter conferring duties upon it.~~

Section 123. Section 461.005, Florida Statutes, is amended to read:

461.005 Authority to make rules.—The Board of Podiatric Medicine has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of is ~~authorized to make such rules not inconsistent with law as are necessary to carry out the duties and authority conferred upon the board by this chapter conferring duties upon it and as may be necessary to protect the health, safety, and welfare of the public.~~

Section 124. Subsection (1) of section 463.005, Florida Statutes, is amended to read:

463.005 Authority of the board.—

(1) The Board of Optometry has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of is ~~authorized to make such rules not inconsistent with law as are necessary to carry out the duties and authority conferred upon the board by this chapter conferring duties upon it.~~ Such rules shall include, but not be limited to, rules relating to:

- (a) Standards of practice, including, but not limited to, those provided for in s. 463.0135.
- (b) Minimum equipment which a licensed practitioner shall at all times possess to engage in the practice of optometry.
- (c) Minimum procedures which shall constitute a visual examination.
- (d) Procedures for the safekeeping and transfer of prescription files or case records upon the discontinuance of practice.
- (e) Supervision of supportive personnel.
- (f) Courses and procedures for continuing education.
- (g) Administration and prescription of topical ocular pharmaceutical agents.

Section 125. Section 464.006, Florida Statutes, is amended to read:

464.006 Authority to make rules.—The Board of Nursing has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of is authorized to make such rules not inconsistent with law as are necessary to carry out the duties and authority conferred upon the board by this chapter conferring duties upon it.

Section 126. Section 465.005, Florida Statutes, is amended to read:

465.005 Authority to make rules.—The Board of Pharmacy has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of is authorized to make such rules not inconsistent with law as are necessary to carry out the duties and authority conferred upon the board by this chapter conferring duties upon it.

Section 127. Subsection (1) of section 465.022, Florida Statutes, is amended to read:

465.022 Pharmacies; general requirements; fees.—

(1) The board shall adopt such rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of this chapter relating to pharmacies as are necessary to protect the public health, safety, and welfare. Such rules shall include, but shall not be limited to, rules relating to:

- (a) General drug safety measures.
- (b) Minimum standards for the physical facilities of pharmacies.
- (c) Safe storage of floor-stock drugs.
- (d) Functions of a pharmacist in an institutional pharmacy, consistent with the size and scope of the pharmacy.
- (e) Procedures for the safe storage and handling of radioactive drugs.

(f) Procedures for the distribution and disposition of medicinal drugs distributed pursuant to s. 499.028.

(g) Procedures for transfer of prescription files and medicinal drugs upon the change of ownership or closing of a pharmacy.

(h) Minimum equipment which a pharmacy shall at all times possess to fill prescriptions properly.

Section 128. Subsection (4) of section 466.004, Florida Statutes, is amended to read:

466.004 Board of Dentistry.—

(4) The board is authorized to adopt all rules pursuant to ss. 120.54 and 120.536(1) necessary to implement ~~carry out~~ the provisions of this chapter and chapter 455, including the establishment of a fee to defray the cost of duplicating any license certification or permit, not to exceed \$10 per duplication.

Section 129. Section 466.038, Florida Statutes, is amended to read:

466.038 Rules.—The department ~~may~~, upon consultation with the Board of Dentistry and industry representatives of the dental laboratory profession, has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) ~~promulgate all rules necessary to enforce the provisions of this chapter pertaining to and regulating dental laboratories.~~

Section 130. Section 467.005, Florida Statutes, is amended to read:

467.005 Authority to make rules.—The department has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of ~~is authorized to promulgate such rules not inconsistent with law as may be necessary to carry out the duties and authority conferred on the department by this chapter conferring duties upon it and as may be necessary to protect the health, safety, and welfare of the public.~~ The rules shall include, but not be limited to, the allowable scope of midwifery practice regarding use of equipment, procedures, and medication.

Section 131. Paragraph (a) of subsection (4) of section 468.1135, Florida Statutes, is amended to read:

468.1135 Board of Speech-Language Pathology and Audiology.—

(4)(a) The board has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of ~~is authorized to adopt such rules not inconsistent with law as may be necessary to carry out the duties and authority conferred upon the board by this part conferring duties upon it.~~

Section 132. Subsection (1) of section 468.1685, Florida Statutes, is amended to read:

468.1685 Powers and duties of board and department.—It is the function and duty of the board, together with the department, to:

(1) ~~Adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of Make such rules not inconsistent with law as are necessary to carry out the duties and authority conferred upon the board by this part conferring duties upon the board.~~

Section 133. Section 468.204, Florida Statutes, is amended to read:

468.204 Authority to adopt rules.—The board ~~has authority to~~ may adopt ~~such rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of not inconsistent with law as may be necessary to carry out the duties and authority conferred upon the board by this part conferring duties upon it and as may be necessary to protect the health, safety, and welfare of the public.~~

Section 134. Subsection (2) of section 468.384, Florida Statutes, is amended to read:

468.384 Florida Board of Auctioneers.—

(2) ~~The board has authority to~~ may adopt ~~such rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of,~~ not inconsistent with law, as may be necessary to carry out the duties and authority conferred upon the board by this act conferring duties upon it and as may be necessary to protect the health, safety, and welfare of the public.

Section 135. Subsection (3) of section 468.402, Florida Statutes, is amended to read:

468.402 Duties of the department; authority to issue and revoke license; adoption of rules.—

(3) ~~The department has authority to~~ may adopt ~~reasonable rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of for its own government in the exercise of its powers under this part and for the conduct of the business of talent agencies as specified by this part, and the department may amend such rules at its pleasure.~~

Section 136. Section 468.507, Florida Statutes, is amended to read:

468.507 Authority to adopt rules.—The board ~~has authority to~~ may adopt ~~such rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of not inconsistent with law as may be necessary to carry out the duties and authority conferred upon the board by this part and chapter 455 confering duties upon it.~~ The powers and duties of the board as set forth in this part shall in no way limit or interfere with the powers and duties of the board as set forth in chapter 458. All powers and duties of the board set forth in this part shall be supplemental and additional powers and duties to those conferred upon the board by chapter 458.

Section 137. Section 468.522, Florida Statutes, is amended to read:

468.522 Rules of the board.—The board ~~has authority to~~ shall adopt all rules ~~pursuant to ss. 120.54 and 120.536(1) necessary to~~ implement the

provisions of administer this part. Every licensee shall be governed and controlled by this part and the rules adopted by the board.

Section 138. Subsection (1) of section 468.606, Florida Statutes, is amended to read:

468.606 Authority of the board.—The board is authorized to:

(1) Adopt rules pursuant to ss. 120.54 and 120.536(1) as necessary to implement ~~carry out~~ the provisions of this part.

Section 139. Section 468.705, Florida Statutes, is amended to read:

468.705 Rulemaking authority.—The department is authorized to adopt ~~such rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of not inconsistent with law as may be necessary to carry out the duties and authority conferred on the department by this part conferring duties upon it and as may be necessary to protect the health, safety, and welfare of the public.~~ Such rules shall include, but not be limited to, the allowable scope of practice regarding the use of equipment, procedures, and medication.

Section 140. Section 468.802, Florida Statutes, is amended to read:

468.802 Authority to adopt rules.—The board shall adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of administer this act, including rules relating to standards of practice for orthotists, prosthetists, and pedorthists.

Section 141. Subsection (1) of section 470.005, Florida Statutes, is amended to read:

470.005 Rulemaking authority of board and department.—

(1) The board has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of ~~is authorized to adopt rules not inconsistent with law as may be necessary to carry out the duties and authority conferred upon the board by this chapter conferring duties upon it and as may be necessary to protect the health, safety, and welfare of the public.~~ The department has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of ~~is authorized to adopt rules not inconsistent with law as may be necessary to carry out the duties and authority conferred upon the department by this chapter conferring duties upon it and as may be necessary to protect the health, safety, and welfare of the public.~~

Section 142. Section 471.008, Florida Statutes, is amended to read:

471.008 Rules of the board.—The board has authority to ~~may~~ adopt ~~such rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of not inconsistent with law as may be necessary to carry out the duties and authority conferred upon the board by this chapter or chapter 455 conferring duties upon it.~~

Section 143. Section 472.008, Florida Statutes, is amended to read:

472.008 Rules of the board.—The board has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of shall adopt such rules not inconsistent with law as may be necessary to carry out the duties and authority conferred upon the board by this chapter conferring duties upon it.

Section 144. Subsection (1) of section 473.304, Florida Statutes, is amended to read:

473.304 Rules of board; powers and duties; legal services.—

(1) The board shall adopt all rules pursuant to ss. 120.54 and 120.536(1) necessary to implement the provisions of ~~administer~~ this act. Every licensee shall be governed and controlled by this act and the rules adopted by the board.

Section 145. Section 474.206, Florida Statutes, is amended to read:

474.206 Authority to make rules.—The board has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of is authorized to make such rules not inconsistent with law as may be necessary to carry out the duties and authority conferred upon the board by this chapter conferring duties upon it and as may be necessary to protect the health, safety, and welfare of the public.

Section 146. Section 475.05, Florida Statutes, is amended to read:

475.05 Power of commission to enact bylaws and, rules, and regulations and decide questions of practice.—The commission may enact bylaws and regulations for its own government and adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of law conferring powers or duties upon it rules in the exercise of its powers, not in conflict with the constitution and laws of the United States or of this state, and amend the same at its pleasure. The commission may decide questions of practice arising in the proceedings before it, having regard to this chapter and the rules then in force. Printed copies of rules, or written copies under the seal of the commission, shall be prima facie evidence of their existence and substance, and the courts shall judicially notice such rules. ~~The conferral or enumeration of specific powers elsewhere in this chapter shall not be construed as a limitation of the general powers conferred by this section.~~

Section 147. Section 475.614, Florida Statutes, is amended to read:

475.614 Power of board to adopt enact rules and decide questions of practice.—The board has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of law conferring duties upon it may enact rules for its own government and rules in the exercise of its powers, not in conflict with the constitutions and laws of the United States and this state, and may amend such rules at its pleasure. The board may decide questions of practice arising in the proceedings before it, having regard to this section and the rules then in force.



Section 148. Subsection (4) of section 476.064, Florida Statutes, is amended to read:

476.064 Organization; headquarters; personnel; meetings.—

(4) The board has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement ~~is authorized to adopt rules in accordance with the provisions of chapter 120 to carry out~~ the provisions of this chapter.

Section 149. Section 477.016, Florida Statutes, is amended to read:

477.016 Rulemaking.—The board has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of ~~is authorized to adopt such rules not inconsistent with law as may be necessary to carry out the duties and authority conferred upon the board by this chapter~~ conferring duties upon it.

Section 150. Subsection (1) of section 478.43, Florida Statutes, is amended to read:

478.43 Board of Medicine; powers and duties.—

(1) The board, with the assistance of the Electrolysis Council, is authorized to establish minimum standards for the delivery of electrolysis services and to adopt rules pursuant to ss. 120.54 and 120.536(1) necessary to ~~implement~~ administer the provisions of this chapter.

Section 151. Subsection (7) of section 480.035, Florida Statutes, is amended to read:

480.035 Board of Massage Therapy.—

(7) The board has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of ~~shall promulgate such rules as are necessary to implement~~ this chapter.

Section 152. Section 481.2055, Florida Statutes, is amended to read:

481.2055 Authority to make rules.—The board has authority to ~~may adopt such rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of,~~ not inconsistent with law, as may be necessary to carry out the duties and authority conferred upon the board by this part and chapter 455 conferring duties upon it.

Section 153. Section 481.306, Florida Statutes, is amended to read:

481.306 Authority to make rules.—The board has authority to ~~may adopt such rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of,~~ not inconsistent with law, as may be necessary to carry out the duties and authority conferred upon the board by this chapter and chapter 455 conferring duties upon it.

Section 154. Section 482.051, Florida Statutes, is amended to read:

482.051 Rules.—The department has authority to shall adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of ~~to carry out the intent and purpose of this chapter.~~ Prior to proposing the adoption of a rule, the department shall counsel with members of the pest control industry concerning the proposed rule. The department shall adopt rules for the protection of the health, safety, and welfare of pest control employees and the general public, ~~in conformity with this chapter and chapter 120,~~ which require:

(1) That all pesticides or economic poisons be used only in accordance with the registered labels and labeling or as directed by the United States Environmental Protection Agency or the department.

(2) That vehicles and trailers used in pest control be permanently marked with the licensee's name that is registered with the department.

(3) That written contracts be required for providing termites and other wood-destroying organisms pest control, that provisions necessary to assure consumer protection as specified by the department be included in such contracts, and that require licensees to comply with the contracts issued.

(4) That a licensee, before performing general fumigation, notify in writing the department inspector having jurisdiction over the location where the fumigation is to be performed, which notice must be received by the department inspector at least 24 hours in advance of the fumigation and must contain such information as the department requires. However, in an authentic and verifiable emergency, when 24 hours' advance notification is not possible, advance telephone or telegraph notice may be given; but such notice must be immediately followed by written confirmation providing the required information.

(5) That any pesticide used for preconstruction soil treatments for the prevention of subterranean termites be applied in the amount, concentration, and treatment area in accordance with the label; that a copy of the label of the registered pesticide being applied be carried in a vehicle at the site where the pesticide is being applied; and that the licensee maintain for 3 years the record of each preconstruction soil treatment, indicating the date of treatment, the location or address of the property treated, the total square footage of the structure treated, the type of pesticide applied, the concentration of each substance in the mixture applied, and the total amount of pesticide applied.

Section 155. Subsection (4) of section 483.805, Florida Statutes, is amended to read:

483.805 Board of Clinical Laboratory Personnel.—

(4) The board has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of ~~is authorized to adopt such rules not inconsistent with law as may be necessary to carry out the duties and authority conferred upon the board by this part conferring duties upon it.~~

Section 156. Section 484.005, Florida Statutes, is amended to read:

484.005 Authority to make rules.—The board has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of ~~is authorized to make such rules not inconsistent with law as may be necessary to carry out the duties and authority conferred upon it by this part conferring duties upon it and as may be necessary to protect the health, safety, and welfare of the public.~~ Such rules shall include, but not be limited to, rules relating to:

- (1) A standard of practice for opticians licensed pursuant to this part.
- (2) Minimum equipment which shall be utilized to prepare, fit, measure, and dispense lenses, spectacles, eyeglasses, contact lenses, and other optical devices allowed under the practice of opticianry.
- (3) Procedures for transfer of prescription files upon the going out of business of an optician, corporation, or other person.
- (4) A standard of practice for filling prescriptions for contact lenses and fitting, adapting, and dispensing contact lenses.

Section 157. Subsection (1) of section 484.044, Florida Statutes, is amended to read:

484.044 Authority to make rules.—

(1) The board has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of ~~is authorized to make such rules not inconsistent with law as may be necessary to carry out the duties and authority conferred upon the board by this part conferring duties upon it.~~

Section 158. Section 486.025, Florida Statutes, is amended to read:

486.025 Powers and duties of the Board of Physical Therapy Practice.—The board may administer oaths, summon witnesses, take testimony in all matters relating to its duties under this chapter, establish or modify minimum standards of practice, and adopt or amend rules pursuant to ss. 120.54 and 120.536(1) necessary to implement the provisions of ~~administer~~ this chapter. The board may also review the standing and reputability of any school or college offering courses in physical therapy and whether the courses of such school or college in physical therapy meet the standards established by the appropriate accrediting agency referred to in s. 486.031(3)(a). In determining the standing and reputability of any such school and whether the school and courses meet such standards, the board may investigate and make personal inspection of the same.

Section 159. Section 488.02, Florida Statutes, is amended to read:

488.02 Rules and regulations.—The Department of Highway Safety and Motor Vehicles has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) ~~is authorized to adopt rules and regulations necessary to implement the provisions of~~ this chapter.

Section 160. Section 489.108, Florida Statutes, is amended to read:

489.108 Rulemaking authority of the board.—~~The board has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of is authorized to make such rules not inconsistent with law which are necessary to carry out the duties and authority conferred upon it by this chapter conferring duties upon it.~~

Section 161. Subsection (3) of section 489.507, Florida Statutes, is amended to read:

489.507 Electrical Contractors' Licensing Board.—

(3) The board has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement ~~shall have the authority to make rules, consistent with law, as necessary to carry out~~ the provisions of this part.

Section 162. Subsection (4) of section 490.004, Florida Statutes, is amended to read:

490.004 Board of Psychology.—

(4) The board shall adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of this chapter.

Section 163. Subsection (5) of section 491.004, Florida Statutes, is amended to read:

491.004 Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling.—

(5) The board shall adopt rules pursuant to ss. 120.54 and 120.536(1) to implement and enforce the provisions of this chapter.

Section 164. Section 492.104, Florida Statutes, is amended to read:

492.104 Authority to make rules.—~~The Board of Professional Geologists has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement is authorized to make such rules not inconsistent with law as may be necessary to carry out the duties and authority conferred upon the board by~~ ss. 492.101-492.1165. Every licensee shall be governed and controlled by ss. 492.101-492.1165 and the rules adopted by the board. The board is authorized to set, by rule, fees for application, examination, certificate of authorization, late renewal, initial licensure, and license renewal. These fees should not exceed the cost of implementing the application, examination, initial licensure, and license renewal or other administrative process.

(1) The application fee shall not exceed \$150 and shall be nonrefundable.

(2) The examination fee shall not exceed \$250 and shall be refundable if the applicant is found to be ineligible to take the licensure examination.

(3) The initial license fee shall not exceed \$100.

(4) The biennial renewal fee shall not exceed \$150.

(5) The fee for a certificate of authorization shall not exceed \$350 and the fee for renewal of the certificate shall not exceed \$350.

(6) The fee for reactivation of an inactive license shall not exceed \$50.

(7) The fee for a provisional license shall not exceed \$400.

(8) The fee for application, examination, and licensure for a license by endorsement shall be as provided in this section for licenses in general.

Section 165. Subsection (2) of section 494.0011, Florida Statutes, is amended to read:

494.0011 Powers and duties of the department.—

(2) The department has authority to may adopt rules pursuant to ss. 120.54 and 120.536(1) to implement and perform other acts necessary for the proper administration, enforcement, and interpretation of ss. 494.001-494.0077.

Section 166. Section 496.424, Florida Statutes, is amended to read:

496.424 Rulemaking authority.—The department has the authority to adopt rules pursuant to ss. 120.54 and 120.536(1) chapter 120 to implement the provisions of ss. 496.401-496.424 or s. 496.426.

Section 167. Subsection (1) of section 497.103, Florida Statutes, is amended to read:

497.103 Rulemaking authority of board and department.—

(1) The board has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of is authorized to adopt rules not inconsistent with law as may be necessary to carry out the duties and authority conferred upon the board by this chapter conferring duties upon it and as may be necessary to protect the health, safety, and welfare of the public. The department may adopt rules pursuant to ss. 120.54 and 120.536(1) to administer provisions of is authorized to adopt rules not inconsistent with law as may be necessary to carry out the duties and authority conferred upon the department by this chapter conferring duties upon it and as may be necessary to protect the health, safety, and welfare of the public.

Section 168. Subsection (5) of section 497.105, Florida Statutes, is amended to read:

497.105 Department of Banking and Finance; powers and duties.—The Department of Banking and Finance shall:

(5) Adopt all rules pursuant to ss. 120.54 and 120.536(1) necessary to implement the provisions of administer the department's duties under this chapter conferring duties upon it.

Section 169. Subsection (1) of section 498.007, Florida Statutes, is amended to read:

498.007 General powers and duties.—

(1) The division ~~has authority to may adopt, amend, or repeal reasonable rules pursuant to ss. 120.54 and 120.536(1) to administer the as necessary to carry out all provisions of this act, pursuant to the Administrative Procedure Act.~~

Section 170. Paragraph (a) of subsection (6) of section 500.459, Florida Statutes, is amended to read:

500.459 Water vending machines.—

(6) DUTIES AND RESPONSIBILITIES OF THE DEPARTMENT.—

(a) The department ~~has authority to may adopt such additional rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of not inconsistent with law as may be necessary to carry out the duties and authority conferred on the department by this section conferring duties upon it or as may be necessary to protect the health, safety, and welfare of the public.~~

Section 171. Subsection (2) of section 501.014, Florida Statutes, is amended to read:

501.014 Health studios; powers and duties of the department.—

(2) The department has the authority to adopt rules pursuant to ss. 120.54 and 120.536(1) ~~chapter 120~~ to implement ss. 501.012-501.019.

Section 172. Subsection (12) of section 501.143, Florida Statutes, is amended to read:

501.143 Dance Studio Act.—

(12) RULEMAKING AUTHORITY.—The department has the authority to adopt rules pursuant to ss. 120.54 and 120.536(1) ~~chapter 120~~ to implement this section.

Section 173. Section 501.626, Florida Statutes, is amended to read:

501.626 Rulemaking power.—The department has the authority to adopt rules pursuant to ss. 120.54 and 120.536(1) ~~chapter 120~~ to implement this part.

Section 174. Subsection (7) of section 502.014, Florida Statutes, is amended to read:

502.014 Powers and duties.—

(7) The department ~~has authority to may adopt rules pursuant to ss. 120.54 and 120.536(1) to implement and enforce the provisions as necessary for the implementation and enforcement of this chapter.~~ In adopting these rules, the department shall be guided by and may conform to the definitions and standards of the administrative procedures and provisions of the pasteurized milk ordinance. The rules shall include, but are not limited to:

(a) Standards for milk and milk products.

(b) Provisions for the production, transportation, processing, handling, sampling, examination, grading, labeling, and sale of all milk and milk products and imitation and substitute milk and milk products sold for public consumption in this state.

(c) Provisions for the inspection of dairy herds, dairy farms, and milk plants.

(d) Provisions for the issuance and revocation of permits issued by the department pursuant to this chapter.

Section 175. Subsection (1) of section 503.031, Florida Statutes, is amended to read:

503.031 Powers of department.—The department may:

(1) Adopt rules pursuant to ss. 120.54 and 120.536(1) necessary to implement ~~administer~~ and enforce the provisions of this chapter. The rules must, to the extent possible, conform to applicable federal requirements.

Section 176. Section 504.32, Florida Statutes, is amended to read:

504.32 Rulemaking authority.—The department has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) ~~is authorized to prescribe and adopt all reasonable rules which are needed to implement, make specific, and interpret the provisions of this part in a manner consistent with rules those of nationally recognized organic grower groups, such as the Organic Food Producers Association of North America, after such notice as may be required by chapter 120.~~

Section 177. Section 516.22, Florida Statutes, is amended to read:

516.22 Rules ~~Regulations~~; certified copies.—

(1) RULES REGULATIONS.—The department has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of law conferring duties upon it ~~shall have the power and authority to issue regulations.~~

(2) CERTIFIED COPIES OF OFFICIAL DOCUMENTS.—On application of any person and payment of the costs thereof, at the same rate and fees as allowed clerks of the circuit court by statute, the department shall furnish a certified copy of any license, regulation, or order. In any court or proceeding, such copy shall be prima facie evidence of the fact of the issuance of such license, regulation, or order.

Section 178. Subsection (3) of section 516.23, Florida Statutes, is amended to read:

516.23 Subpoenas; enforcement actions; rules.—

(3) The department has authority to may adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions and perform such other

acts as are necessary for the proper administration, enforcement, and interpretation of this chapter.

Section 179. Subsection (1) of section 517.03, Florida Statutes, is amended to read:

517.03 Power of department to make rules.—

(1) The Department of Banking and Finance shall administer and provide for the enforcement of all the provisions of this chapter. The department has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of shall make, adopt, promulgate, amend, and repeal all rules necessary or convenient for the carrying out of the duties, obligations, and powers conferred on said department and perform any other acts necessary or convenient for the proper administration, enforcement, or interpretation of this chapter conferring powers or duties upon it, including, without limitation, adopting rules and forms governing reports. The department shall also have the nonexclusive power to define by rule any term, whether or not used in this chapter, insofar as the definition is not inconsistent with the provisions of this chapter.

Section 180. Subsection (5) of section 520.994, Florida Statutes, is amended to read:

520.994 Powers of department.—

(5) The department shall administer and enforce this chapter. The department has authority to may adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions and perform such other acts as are necessary or convenient for the proper administration, enforcement, and interpretation of this chapter.

Section 181. Section 526.09, Florida Statutes, is amended to read:

526.09 Department to enforce law; rules and regulations.—The Department of Agriculture and Consumer Services shall enforce the provisions of this chapter. The department has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement is authorized to adopt, promulgate, and enforce such rules and regulations not inconsistent with the provisions of this chapter as in its judgment may be necessary to the proper enforcement of this chapter.

Section 182. Subsection (3) of section 531.41, Florida Statutes, is amended to read:

531.41 Powers and duties of the department.—The department shall:

(3) Adopt reasonable rules pursuant to ss. 120.54 and 120.536(1) to implement, interpret, or make specific the provisions of this chapter, which rules shall have the force and effect of law.

The provisions of this chapter and rules adopted thereunder notwithstanding, scales routinely used by providers of weight control services shall not



be considered commercial weights and measures when used to determine human weight or to compute charges or payments for services rendered by such providers on the basis of said weight, measure, or count.

Section 183. Subsection (2) of section 548.003, Florida Statutes, is amended to read:

548.003 State Athletic Commission.—

(2) The State Athletic Commission, as created by subsection (1), shall administer the provisions of this chapter. The commission has authority to may adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of this chapter.

Section 184. Section 553.76, Florida Statutes, is amended to read:

553.76 General powers of the board.—The board is authorized to:

(1) Adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions ~~Promulgate, in cooperation with the department, rules and regulations for the administration of this part, pursuant to chapter 120.~~

(2) Issue memoranda ~~Provide rules of procedure for its internal management and control.~~

(3) Enter into contracts and do such things as may be necessary and incidental to the discharge of its responsibilities under this part.

Section 185. Subsection (3) of section 560.105, Florida Statutes, is amended to read:

560.105 Supervisory powers of the department; rulemaking.—Consistent with the purposes of the code, the department shall have:

(3) Power to issue ~~and publish rules, orders, and declaratory statements, disseminate information, and otherwise exercise its discretion to effectuate the purposes, policies, and provisions of the code and to~~ adopt rules pursuant to ss. 120.54 and 120.536(1) to interpret and implement the provisions of the code.

Section 186. Subsection (1) of section 561.11, Florida Statutes, is amended to read:

561.11 Power and authority of division.—

(1) The division has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions ~~shall have full power and authority to make, adopt, amend, or repeal rules, regulations, or administrative orders to carry out the purposes of the Beverage Law. All such rules, regulations, or orders adopted in accordance with chapter 120 shall have the full force and effect of law.~~

Section 187. Subsection (23) of section 570.07, Florida Statutes, is amended to read:

570.07 Department of Agriculture and Consumer Services; functions, powers, and duties.—The department shall have and exercise the following functions, powers, and duties:

(23) To adopt rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of law conferring duties upon it ~~enact, amend, and repeal administrative rules as necessary.~~

Section 188. Section 571.05, Florida Statutes, is amended to read:

571.05 Rules.—The department by rule may design, determine, and adopt seals of quality for use in publicizing, advertising, and promoting agricultural products; prescribe minimum standards of quality and grade of agricultural products with which a seal of quality may be used; name and define market packages of agricultural products; fix a reasonable and equitable advertising and promotion fee for such market package of agricultural products; and otherwise adopt rules pursuant to ss. 120.54 and 120.536(1) to interpret, implement, and make specific the provisions of this part.

Section 189. Subsection (9) of section 571.24, Florida Statutes, is amended to read:

571.24 Purpose; duties of the division.—The purpose of this part is to authorize the division to establish and coordinate the Florida Agricultural Promotional Campaign. The duties of the division shall include, but are not limited to:

(9) Adopting rules pursuant to ss. 120.54 and 120.536(1) ~~Promulgating rules necessary~~ to implement the provisions of this part.

Section 190. Section 574.14, Florida Statutes, is amended to read:

574.14 Rules.—The Department of Agriculture and Consumer Services may adopt rules pursuant to ss. 120.54 and 120.536(1) to implement, ~~make specific, or interpret~~ the provisions of this chapter.

Section 191. Section 578.11, Florida Statutes, is amended to read:

578.11 Duties, authority, and ~~rules and regulations~~ of the department.—

(1) The duty of administering this law and enforcing its provisions and requirements shall be vested in the Department of Agriculture and Consumer Services, which is hereby authorized to employ such agents and persons as in its judgment shall be necessary therefor. It shall be the duty of the department, which may act through its authorized agents, to sample, inspect, make analyses of, and test agricultural, vegetable, flower, or forest tree seed transported, sold, offered or exposed for sale, or distributed within this state for sowing or planting purposes, at such time and place and to such extent as it may deem necessary to determine whether said agricultural, vegetable, flower or forest tree seed are in compliance with the provisions of this law, and to notify promptly the person who transported, distributed, sold, offered or exposed the seed for sale, of any violation.

(2) The department is authorized:

(a) ~~To enforce this act and prescribe and adopt reasonable rules, which shall have the full force and effect of law, for the enforcement of this act, governing the methods of sampling, inspecting, testing, and examining agricultural, vegetable, flower, or forest tree seed. The department shall, on a one-time basis after the effective date of this act, notify those previously receiving personal notice of such rules that they will no longer be receiving such notice.~~

(b) To establish standards and tolerances to be followed in the administration of this law, which shall be in general accord with officially prescribed practices in interstate commerce.

(c) To prescribe uniform labels.

(d) To adopt prohibited and restricted noxious weed seed lists.

(e) To prescribe limitations for each restricted noxious weed to be used in enforcement of this act and to add or subtract therefrom from time to time as the need may arise.

(f) To make commercial tests of seed and to fix and collect charges for such tests.

(g) To list the kinds of flower and forest tree seed subject to this law.

(h) To analyze samples, as requested by a consumer. The department shall establish, by rule, a fee schedule for analyzing samples at the request of a consumer. The fees shall be sufficient to cover the costs to the department for taking the samples and performing the analysis, not to exceed \$150 per sample.

(i) ~~To adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of prescribe such other rules as may be necessary to secure the efficient enforcement of this act.~~

(3) For the purpose of carrying out the provisions of this law, the department, through its authorized agents, is authorized:

(a) To enter upon any public or private premises, where agricultural, vegetable, flower, or forest tree seed is sold, offered, exposed, or distributed for sale during regular business hours, in order to have access to seed subject to this law and the rules and regulations hereunder.

(b) To issue and enforce a stop-sale notice or order to the owner or custodian of any lot of agricultural, vegetable, flower, or forest tree seed, which the department finds or has good reason to believe is in violation of any provisions of this law, which shall prohibit further sale, barter, exchange, or distribution of such seed until the department is satisfied that the law has been complied with and has issued a written release or notice to the owner or custodian of such seed. After a stop-sale notice or order has been issued against or attached to any lot of seed and the owner or custodian of such seed has received confirmation that the seed does not comply with this law, she

or he shall have 15 days beyond the normal test period within which to comply with the law and obtain a written release of the seed. The provisions of this paragraph shall not be construed as limiting the right of the department to proceed as authorized by other sections of this law.

(c) To establish and maintain a seed laboratory, employ seed analysts and other personnel, and incur such other expenses as may be necessary to comply with these provisions.

Section 192. Subsection (2) of section 580.036, Florida Statutes, is amended to read:

580.036 Powers and duties.—

(2) The department is authorized to adopt rules pursuant to ss. 120.54 and 120.536(1) to enforce the provisions as necessary for the enforcement of this chapter. These rules shall be consistent with the rules and standards of the United States Food and Drug Administration and the United States Department of Agriculture, when applicable, and shall include:

(a) Establishing definitions and reasonable standards for commercial feed or feedstuff and permissible tolerances for pesticide chemicals, chemical additives, nonnutritive ingredients, or drugs in or on commercial feed or feedstuff in such amounts as will ensure the safety of livestock and poultry and the products thereof used for human consumption.

(b) Adopting standards for the manufacture and distribution of medicated feed.

(c) Establishing definitions and reasonable standards for the certification of laboratories for the conduct of testing and analyses as required in this chapter.

(d) Establishing product labeling requirements for distributors.

(e) Limiting the use of drugs in commercial feed and prescribing feeding directions to be used to ensure safe usage of medicated feed.

(f) Establishing standards for evaluating quality-assurance/quality-control plans, including testing protocols, for exemptions to certified laboratory testing requirements.

Section 193. Section 583.04, Florida Statutes, is amended to read:

583.04 Promulgation of rules.—The department has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement ~~may make and promulgate such rules as may be necessary to carry out the provisions of this chapter.~~

Section 194. Subsection (4) of section 585.002, Florida Statutes, is amended to read:

585.002 Department control; continuance of powers, duties, rules, orders, etc.—

(4) The department shall adopt rules pursuant to ss. 120.54 and 120.536(1) to implement ~~promulgate rules to carry out~~ the provisions of this chapter.

Section 195. Subsection (2) of section 593.103, Florida Statutes, is amended to read:

593.103 Powers and duties of department.—The department has the power and duty to:

(2) Adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions ~~Promulgate rules necessary to the enforcement of~~ ss. 593.101-593.117.

Section 196. Section 616.165, Florida Statutes, is amended to read:

616.165 Rules.—The department shall adopt ~~all~~ rules pursuant to ss. 120.54 and 120.536(1) necessary to implement ~~carry out~~ the provisions of this chapter.

Section 197. Paragraph (j) of subsection (1) of section 616.256, Florida Statutes, is amended to read:

616.256 Powers of authority.—

(1) The authority shall have power to:

(j) Adopt rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of law conferring duties upon it, ~~pursuant to chapter 120, rules necessary to carry out its duties and responsibilities.~~

Section 198. Subsection (4) of section 617.01301, Florida Statutes, is amended to read:

617.01301 Powers of Department of State.—

(4) The Department of State shall have the power and authority reasonably necessary to enable it to administer this act efficiently, to perform the duties herein imposed upon it, and to adopt reasonable rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of ~~necessary to carry out its duties and functions under this act~~ conferring duties upon it.

Section 199. Subsection (4) of section 620.1835, Florida Statutes, is amended to read:

620.1835 Powers of Department of State; interrogatories.—

(4) The Department of State shall have the power and authority reasonably necessary to enable it to administer this act efficiently, to perform the duties herein imposed upon it, and to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of ~~reasonable rules necessary to carry out its duties and functions under this act~~ conferring duties upon it.

Section 200. Subsection (2) of section 620.81055, Florida Statutes, is amended to read:

620.81055 Fees for filing documents and issuing certificates; powers of the Department of State.—

(2) The Department of State has the power and authority reasonably necessary to enable it to administer this act efficiently, to perform the duties imposed upon it by this act, and to adopt reasonable rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of necessary to carry out its duties and functions under this act conferring duties upon it.

Section 201. Subsection (1) of section 624.308, Florida Statutes, is amended to read:

624.308 Rules.—

(1) The department has authority to may adopt reasonable rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of law conferring duties upon it necessary to effect any of the statutory duties of the department. Such rules shall not extend, modify, or conflict with any law of this state or the reasonable implications of such laws.

Section 202. Section 624.4431, Florida Statutes, is amended to read:

624.4431 Administration; rules.—The administration of ss. 624.436-624.446 is vested in the department. The department has authority to may adopt reasonable rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of ss. 624.436-624.446.

Section 203. Subsection (1) of section 626.943, Florida Statutes, is amended to read:

626.943 Powers and duties of the department.—It is the function of the department to:

(1) Adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of Promulgate rules necessary to carry out the duties conferred upon it under this part conferring duties upon it to protect the public health, safety, and welfare.

Section 204. Section 627.805, Florida Statutes, is amended to read:

627.805 Departmental regulation of variable and indeterminate value contracts; rules.—The department, notwithstanding any other provision of law, shall have the sole authority to regulate the issuance and sale of variable and indeterminate value contracts and has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the to issue such reasonable rules as may be necessary to carry out the purposes and provisions of this part.

Section 205. Section 627.9408, Florida Statutes, is amended to read:

627.9408 Rules.—The department has authority to may adopt such rules pursuant to ss. 120.54 and 120.536(1) to implement as are necessary and proper in furtherance of the provisions of this part.

Section 206. Section 628.535, Florida Statutes, is amended to read:

628.535 Authority to promulgate rules.—The department has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions ~~may promulgate rules to carry out the purposes~~ of this chapter.

Section 207. Section 633.01, Florida Statutes, is amended to read:

633.01 State Fire Marshal; powers and duties; rules.—

(1) The head of the Department of Insurance shall be designated as “State Fire Marshal.” The State Fire Marshal has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) shall make and promulgate all rules necessary to implement the provisions of this chapter conferring powers or which grant powers and impose duties upon the department on the State Fire Marshal and to effectuate the enforcement of such powers and duties. Rules shall be in substantial conformity with generally accepted standards of firesafety; shall take into consideration the direct supervision of children in nonresidential child care facilities; and shall balance and temper the need of the State Fire Marshal to protect all Floridians from fire hazards with the social and economic inconveniences that may be caused or created by the rules. However, the department shall not adopt minimum firesafety standards, except to the extent required by s. 394.879.

(2) ~~Subject to the limitations of subsection (1), rules promulgated by the State Fire Marshal shall be such as are reasonably necessary for the protection of the health, welfare, and safety of the public and shall be in substantial conformity with generally accepted standards of firesafety. In the promulgation of rules, the State Fire Marshal shall give consideration to generally accepted standards of firesafety.~~

(2)(3) Subject to the limitations of subsection (1), it is the intent of the Legislature that the State Fire Marshal shall have the responsibility to minimize the loss of life and property in this state due to fire. The State Fire Marshal shall enforce all laws and provisions of this chapter, and any rules adopted pursuant thereto, relating to:

(a) The prevention of fire and explosion through the regulation of conditions which could cause fire or explosion, the spread of fire, and panic resulting therefrom;

(b) Installation and maintenance of fire alarm systems and fire protection systems, including fire suppression systems, fire-extinguishing equipment, and fire sprinkler systems;

(c)1. Servicing, repairing, recharging, testing, marking, inspecting, installing, maintaining, and tagging of fire extinguishers, preengineered systems, and individually designed fire protection systems;

2. The training and licensing of persons engaged in the business of servicing, repairing, recharging, testing, marking, inspecting, installing, maintaining, and tagging fire extinguishers, preengineered systems, and individually designed fire protection systems;

(d) The maintenance of fire cause and loss records; and

(e) Suppression of arson and the investigation of the cause, origin, and circumstances of fire.

(3)(4) The State Fire Marshal shall establish by rule guidelines and procedures for triennial renewal of firesafety inspector requirements for certification.

~~(4)(5) It is the intent of the Legislature that the rules promulgated by the State Fire Marshal pursuant to this section be enforced in such a manner as to prohibit the displacement of currently placed mobile homes unless there is a threat of imminent danger to the health, safety, or welfare of the general public. Furthermore, it is the intent of the Legislature that consideration be given to the social and economic inconveniences which may be caused or created by the rules promulgated by the State Fire Marshal pursuant to this section.~~

~~(6) It is the intent of the Legislature that the rules adopted by the State Fire Marshal pursuant to this section be promulgated in such a manner as to take into consideration the direct supervision of children in nonresidential child care facilities and to balance and temper the need of the State Fire Marshal to protect all citizens from fire hazards with the social and economic inconveniences which may be caused or created by the rules promulgated by the State Fire Marshal pursuant to this section.~~

Section 208. Subsection (1) of section 633.517, Florida Statutes, is amended to read:

633.517 Authority of State Fire Marshal to adopt rules, administer oaths, and take testimony.—

(1) The State Fire Marshal is authorized, with the advice of the board, to adopt rules pursuant to ss. 120.54 and 120.536(1) and regulations to implement carry out the provisions of this act.

Section 209. Section 634.021, Florida Statutes, is amended to read:

634.021 Powers of department; rules.—The department shall administer this act and to that end it has authority to may adopt, promulgate, and enforce rules pursuant to ss. 120.54 and 120.536(1) to implement the necessary and proper to effectuate any provisions of this act.

Section 210. Section 634.302, Florida Statutes, is amended to read:

634.302 Powers of department; rules.—The department shall administer this part, and, to that end, it has authority to may adopt, promulgate, and enforce rules pursuant to ss. 120.54 and 120.536(1) to implement the necessary and proper to effectuate any provisions of this part.

Section 211. Section 634.402, Florida Statutes, is amended to read:

634.402 Powers of department; rules.—The department shall administer this part, and to that end it has authority to may adopt and enforce rules



pursuant to ss. 120.54 and 120.536(1) to implement the provisions necessary and proper to effectuate any provision of this part.

Section 212. Section 635.081, Florida Statutes, is amended to read:

635.081 Administration and enforcement.—~~The department has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement shall adopt such rules as are necessary to carry out the provisions of this chapter~~ and shall have the same powers of administration and enforcement of the provisions of this chapter as it has with respect to casualty or surety insurers in general under the Florida Insurance Code.

Section 213. Section 636.067, Florida Statutes, is amended to read:

636.067 Rules.—~~The department has authority to may, after notice and hearing, adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of administer~~ this act. A violation of any such rule subjects the violator to the provisions of s. 636.048.

Section 214. Section 641.403, Florida Statutes, is amended to read:

641.403 Promulgation of rules.—~~The Department of Insurance has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement shall promulgate rules necessary to carry out the provisions of this part.~~

Section 215. Section 641.56, Florida Statutes, is amended to read:

641.56 Rulemaking authority.—~~The Agency for Health Care Administration has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of is authorized to make rules, not inconsistent with law, which may be necessary to carry out the duties and authority conferred upon it by this part conferring duties upon it and to protect the health, safety, and welfare of the public.~~

Section 216. Paragraph (a) of subsection (1) of section 648.26, Florida Statutes, is amended to read:

648.26 Department of Insurance; administration.—

(1) The department shall administer the provisions of this chapter as provided in this chapter.

(a) ~~The department has authority to may adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of necessary and proper to effect any of the duties or powers of the department provided in this chapter conferring powers or duties upon it.~~

Section 217. Subsection (3) of section 651.015, Florida Statutes, is amended to read:

651.015 Administration; forms; fees; rules; fines.—The administration of this chapter is vested in the department, which shall:

(3) ~~Adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions, within the standards of this chapter, necessary to effect the~~

~~purposes of this chapter. Specific provisions in this chapter relating to any subject shall not preclude the department from adopting rules concerning such subject if such rules are within the standards and purposes of this chapter.~~

Section 218. Subsection (3) of section 655.012, Florida Statutes, is amended to read:

655.012 General supervisory powers of the department; rulemaking.—In addition to other powers conferred by the financial institutions codes, the department shall have:

(3) ~~Power to issue and publish rules, orders, and declaratory statements, disseminate information, and otherwise exercise its discretion to effectuate the purposes, policies, and provisions of the financial institutions codes and to adopt rules pursuant to ss. 120.54 and 120.536(1) to interpret and implement the provisions of such codes consistently with such purposes, policies, and provisions.~~

Section 219. Section 681.118, Florida Statutes, is amended to read:

681.118 Rulemaking authority.—The Department of Legal Affairs shall adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of this chapter.

Section 220. Section 717.138, Florida Statutes, is amended to read:

717.138 Rulemaking authority.—The Department of Banking and Finance shall administer and provide for the enforcement of this chapter. The department has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions ~~is authorized to make rules and to perform such other acts as are necessary or convenient for the proper administration, enforcement, and interpretation of this chapter.~~

Section 221. Paragraph (f) of subsection (1) of section 718.501, Florida Statutes, is amended to read:

718.501 Powers and duties of Division of Florida Land Sales, Condominiums, and Mobile Homes.—

(1) The Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation, referred to as the “division” in this part, in addition to other powers and duties prescribed by chapter 498, has the power to enforce and ensure compliance with the provisions of this chapter and rules promulgated pursuant hereto relating to the development, construction, sale, lease, ownership, operation, and management of residential condominium units. In performing its duties, the division has the following powers and duties:

(f) ~~The division has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement and enforce the provisions of~~ is authorized to promulgate rules, pursuant to chapter 120, necessary to implement, enforce, and interpret this chapter.

Section 222. Paragraph (f) of subsection (1) of section 719.501, Florida Statutes, is amended to read:

719.501 Powers and duties of Division of Florida Land Sales, Condominiums, and Mobile Homes.—

(1) The Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation, referred to as the “division” in this part, in addition to other powers and duties prescribed by chapter 498, has the power to enforce and ensure compliance with the provisions of this chapter and rules promulgated pursuant hereto relating to the development, construction, sale, lease, ownership, operation, and management of residential cooperative units. In performing its duties, the division shall have the following powers and duties:

(f) The division has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement and enforce the provisions of ~~is authorized to promulgate rules, pursuant to chapter 120, necessary to implement, enforce, and interpret this chapter.~~

Section 223. Subsection (6) of section 721.26, Florida Statutes, is amended to read:

721.26 Regulation by division.—The division has the power to enforce and ensure compliance with the provisions of this chapter using the powers provided in this chapter, as well as the powers prescribed in chapters 498, 718, and 719. In performing its duties, the division shall have the following powers and duties:

(6) The division has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement and enforce the provisions of ~~is authorized to adopt, amend, or repeal rules pursuant to chapter 120 as necessary to implement, enforce, and interpret this chapter.~~

Section 224. Subsection (7) of section 723.006, Florida Statutes, is amended to read:

723.006 Powers and duties of division.—In performing its duties, the division has the following powers and duties:

(7) The division has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement and enforce the provisions of ~~is authorized to promulgate rules, pursuant to chapter 120, which are necessary to implement, enforce, and interpret this chapter.~~

Section 225. Section 916.20, Florida Statutes, is amended to read:

916.20 Operation and administration; rules.—

(1) The department is authorized to ~~promulgate rules,~~ enter into contracts, and do such things as may be necessary and incidental to assure compliance with and to carry out the provisions of this chapter in accordance with the stated legislative intent.

(2) ~~The department has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of this chapter~~ Rules of the department shall be adopted in accordance with the provisions of chapter 120, the Administrative Procedure Act.

Section 226. Subsection (4) of section 943.03, Florida Statutes, is amended to read:

943.03 Department of Law Enforcement.—

(4) ~~Pursuant to chapter 120, The department shall adopt the rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of and regulations deemed necessary to carry out its duties and responsibilities under this chapter conferring duties upon it.~~

Section 227. Subsection (1) of section 944.09, Florida Statutes, is amended to read:

944.09 Rules of the department; offenders, probationers, and parolees.—

(1) ~~The department has authority to shall adopt rules pursuant to ss. 120.54 and 120.536(1) to implement its statutory authority. The rules must include rules relating to governing the administration of the correctional system and the operation of the department, which rules shall relate to:~~

- (a) The rights of inmates.
- (b) The ~~rules of~~ conduct to be observed by inmates and the categories of violations according to degrees or levels of severity, as well as the degrees of punishment applicable and appropriate to such violations.
- (c) Disciplinary procedures and punishment.
- (d) Grievance procedures which shall conform to 42 U.S.C. s. 1997e.
- (e) The operation and management of the correctional institution or facility and its personnel and functions.
- (f) The development of a staffing formula for security positions in its residential facilities, taking into account the factors of leave time, security needs, and training requirements.
- (g) Mail to and from the state correctional system.
- (h) Gain-time for good conduct of, release payments to, and release transportation of inmates.
- (i) Uniforms for inmates and custodial personnel.
- (j) ~~Rules of~~ Conduct of custodial and other personnel.
- (k) Classification of personnel and duties assigned thereto and classification and separation of offenders according to age, sex, and such other factors as are deemed advisable.

(l) Credits for confinement prior to commitment to the department.

(m) Payments to prisoners for work performed. Such payments, if any, shall include restrictions on the use of earnings, including payments for support of dependents and release reserves. The rules shall provide that no payment shall be made to any prisoner who fails to perform the work assigned satisfactorily.

(n) Visiting hours and privileges. The rules shall provide that any inmate with a current or prior conviction for any offense contained in chapter 794, chapter 800, chapter 827, or chapter 847 for committing or attempting to commit aggravated child abuse or committing or attempting to commit a sex act on, in the presence of, or against a child under the age of 16 years, shall not be allowed visitation with anyone under the age of 18 years, unless special visitation is approved by the superintendent. The authorization for special visitation shall be based on extenuating circumstances that serve the interest of the children. If visiting is restricted by court order, permission for special visitation may be granted only by the judge issuing the order.

(o) Mail to and from inmates, including rules specifying the circumstances under which an inmate must pay for the cost of postage for mail that the inmate sends. The department may not adopt a rule that requires an inmate to pay any postage costs that the state is constitutionally required to pay.

(p) The feeding of prisoners, including diet and menus, and the furnishing of health and comfort items to indigent prisoners.

(q) The determination of restitution, including the amount and to whom it should be paid. The rules shall provide necessary explanation to support recommendations regarding restitution.

~~(r) Such other rules as in the opinion of the department may be necessary for the efficient operation and management of the correctional system.~~

Section 228. Section 947.07, Florida Statutes, is amended to read:

947.07 Rules and regulations.—~~The commission has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) shall have power to make such rules and regulations as it deems best for its governance, including among other things rules of practice and procedure and rules prescribing qualifications to be possessed by its employees.~~

Section 229. Paragraph (b) of subsection (1) of section 960.045, Florida Statutes, is amended to read:

960.045 Department of Legal Affairs; powers and duties.—It shall be the duty of the department to assist persons who are victims of crime.

(1) The department shall:

(b) Adopt, promulgate, amend, and rescind such rules pursuant to ss. 120.54 and 120.536(1) to implement as are necessary to carry out the provisions of this chapter.

Section 230. Section 985.405, Florida Statutes, is amended to read:

985.405 Rules for implementation.—The Department of Juvenile Justice shall adopt rules pursuant to ~~ss. 120.54 and 120.536(1) to implement the provisions of for the efficient and effective management of all programs, services, facilities, and functions necessary for implementing this chapter.~~ Such rules may not conflict with the Florida Rules of Juvenile Procedure. All rules and policies must conform to accepted standards of care and treatment.

Section 231. Subsection (1) of section 633.70, Florida Statutes, is amended to read:

633.70 Jurisdiction of State Fire Marshal over alarm system contractors and certified unlimited electrical contractors.—

(1) When the State Fire Marshal, in the course of its activities pursuant to ~~s. 633.01 (2) s. 633.01(3)~~ determines that an alarm system contractor or a certified unlimited electrical contractor working with an alarm system has violated any provision of this chapter or the rules of the State Fire Marshal, the State Fire Marshal shall have jurisdiction, notwithstanding any other provision of this chapter, to order corrective action by the alarm system contractor or the certified unlimited electrical contractor to bring the alarm system into compliance with applicable standards set forth in this chapter and the rules of the State Fire Marshal.

Section 232. Present subsections (15) through (30) of section 334.044, Florida Statutes, are renumbered as subsections (16) through (31), respectively, and a new subsection (15) is added to that section, to read:

334.044 Department; powers and duties.—The department shall have the following general powers and duties:

(15) To regulate and prescribe conditions for the transfer of stormwater to the state right-of-way as a result of man-made changes to adjacent properties.

(a) Such regulation shall be through a permitting process designed to ensure the safety and integrity of the Department of Transportation facilities and to prevent an unreasonable burden on lower properties.

(b) The department is specifically authorized to adopt rules which set forth the purpose, necessary definitions, permit exceptions, permit and assurance requirements, permit application procedures, permit forms, general conditions for a drainage permit, provisions for suspension or revocation of a permit, and provisions for department recovery of fines, penalties and costs incurred due to permittee actions. In order to avoid duplication and overlap with other units of government, the department shall accept a surface water management permit issued by a water management district, the Department of Environmental Protection, a surface water management permit issued by a delegated local government or a permit issued pursuant to an approved Stormwater Management Plan or Master Drainage Plan; provided issuance is based on requirements equal to or more stringent than those of the department.

Section 233. Subsection (15) of section 334.044, Florida Statutes, as created by section 1 of Committee Substitute for Senate Bill 846 as enacted by the Legislature during 1998 Regular Session is repealed.

Section 234. Subsection (3) of section 370.092, Florida Statutes, is amended to read:

370.092 Carriage of proscribed nets across Florida waters.—

(3)(a) Notwithstanding subsections (1) and (2), unless authorized by rule of the Marine Fisheries Commission, it is a major violation under this section, punishable as provided in subsection (4), for any person, firm, or corporation to possess any gill or entangling net, or any seine net larger than 500 square feet in mesh area, on any airboat or on any other vessel less than 22 feet in length and on any vessel less than 25 feet if primary power of the vessel is mounted forward of the vessel center point. Gill or entangling nets shall be as defined in s. 16, Art. X of the State Constitution, s. 370.093(2)(b), or in a rule of the Marine Fisheries Commission implementing s. 16, Art. X of the State Constitution. Vessel length shall be determined in accordance with current U.S. Coast Guard regulations specified in the Code of Federal Regulations or as titled by the State of Florida. The Marine Fisheries Commission is directed to initiate by July 1, 1998, rulemaking to adjust by rule the use of gear on vessels longer than 22 feet where the primary power of the vessel is mounted forward of the vessel center point in order to prevent the illegal use of gill and entangling nets in state waters and to provide reasonable opportunities for the use of legal net gear in adjacent federal waters.

~~(b)(a)~~ It shall be a major violation pursuant to this section and shall be punished as provided in subsection (4) for any person, firm, or corporation to be simultaneously in possession of any species of mullet in excess of the recreational daily bag limit and any gill or other entangling net as defined in s. 16(c), Art. X of the State Constitution. Simultaneous possession under this provision shall include possession of mullet and gill or other entangling nets on separate vessels or vehicles where such vessels or vehicles are operated in coordination with one another including vessels towed behind a main vessel. This subsection does not prohibit a resident of this state from transporting on land, from Alabama to this state, a commercial quantity of mullet together with a gill net if:

1. The person possesses a valid commercial fishing license that is issued by the State of Alabama and that allows the person to use a gill net to legally harvest mullet in commercial quantities from Alabama waters.

2. The person possesses a trip ticket issued in Alabama and filled out to match the quantity of mullet being transported, and the person is able to present such trip ticket immediately upon entering this state.

3. The mullet are to be sold to a wholesale saltwater products dealer located in Escambia County or Santa Rosa County, which dealer also possesses a valid seafood dealer's license issued by the State of Alabama. The dealer's name must be clearly indicated on the trip ticket.

4. The mullet being transported are totally removed from any net also being transported.

~~(c)~~(b) It shall be a major violation pursuant to this section for any person to be in possession of any species of trout, snook, or redfish which is three fish in excess of the recreational or commercial daily bag limit.

(d) The Marine Fisheries Commission shall adopt rules to prohibit the possession and sale of mullet taken in illegal gill or entangling nets. Violations of such rules shall be punishable as provided in subsection (4).

Section 235. Section 370.093, Florida Statutes, is amended to read:

370.093 Illegal use of nets.—

(1) It is unlawful to take or harvest, or to attempt to take or harvest, any marine life in Florida waters with any net that is not consistent with the provisions of s. 16, Art. X of the State Constitution.

(2)(a) Beginning July 1, 1998, it is also unlawful to take or harvest, or to attempt to take or harvest, any marine life in Florida waters with any net, as defined in subsection (3) and any attachments to such net, that combined are larger than 500 square feet and have not been expressly authorized for such use by rule of the Marine Fisheries Commission under s. 370.027. The use of currently legal shrimp trawls and purse seines outside nearshore and inshore Florida waters shall continue to be legal until the commission implements rules regulating those types of gear.

(b) The use of gill or entangling nets of any size is prohibited, as such nets are defined in s. 16, Art. X of the State Constitution. Any net constructed wholly or partially of monofilament or multifilament material, other than a hand thrown cast net, or a handheld landing or dip net, shall be considered to be an entangling net within the prohibition of s. 16, Art. X of the State Constitution unless specifically authorized by rule of the commission. Multifilament material shall not be defined to include nets constructed of braided or twisted nylon, cotton, linen twine, or polypropylene twine.

(c) This subsection shall not be construed to apply to aquaculture activities licenses issued pursuant to s. 370.26.

(3) As used in s. 16, Art. X of the State Constitution and this subsection, the term “net” or “netting” must be broadly construed to include all manner or combination of mesh or webbing or any other solid or semisolid fabric or other material used to comprise a device that is used to take or harvest marine life.

(4) Upon the arrest of any person for violation of this subsection, the arresting officer shall seize the nets illegally used. Upon conviction of the offender, the arresting authority shall destroy the nets.

(5) Any person who violates this section shall be punished as provided in s. 370.092(4).



(6) The Marine Fisheries Commission is granted authority to adopt rules pursuant to ss. 370.025 and 370.027 implementing this section and the prohibitions and restrictions of s. 16, Art. X of the State Constitution.

Section 236. This act shall take effect July 1 of the year in which enacted.

Became a law without the Governor's approval May 24, 1998.

Filed in Office Secretary of State May 22, 1998.