

House of Representatives. The Legislature shall, at the 2000 Regular Session, consider whether specific legislation authorizing the identified rules, or portions thereof, should be enacted. By January 1, 2001, each agency must initiate proceedings pursuant to s. 120.54, F.S., to repeal each rule, or portion thereof, identified as exceeding the rulemaking authority permitted by this section for which authorizing legislation does not exist. By February 1, 2001, the Administrative Procedures Committee must submit to the President of the Senate and the Speaker of the House of Representatives a report identifying those rules that an agency had previously identified as exceeding its rulemaking authority for which proceedings to repeal the rule have not been initiated. As of July 1, 2001, the Administrative Procedures Committee or any substantially affected person may petition an agency to repeal any rule, or portion thereof, because it exceeds the rulemaking authority permitted by this section. Not later than 30 days after the date of filing the petition if the agency is headed by an individual, or not later than 45 days if the agency is headed by a collegial body, the agency must initiate rulemaking proceedings to repeal the rule, or portion thereof, or deny the petition, giving a written statement of its reasons for the denial.

The DEP has reported that a provision of its Rule 62C-52.008(2), F.A.C., exceeds the statutory authority granted by the Legislature. This rule authorizes enforcement and penalties for violation of its rules regulating aquatic plant importation, transportation, non-nursery cultivation, and collection. The rule at issue, and the DEP's analysis follow:

- *Rule 62C-52.008(2), F.A.C., Enforcement and Penalties*

The text of the rule follows, with language in italics that the DEP reports exceeds statutory authority:

62C-52.008(2) Enforcement and Penalties.

- (2) The department shall initiate the appropriate corrective action to prevent the spread of noxious or prohibited aquatic plants, and to protect sovereignty lands from the excessive collection of native aquatic plants including the following:
 - (a) The department is authorized to issue a written notice of violation, and issue instructions as to the manner and time in which the violations shall be rectified.
 - (b) The department is authorized to order a quarantine of plants from a permitted wild collection site to prevent the dissemination of any prohibited aquatic plant. The quarantine order shall state the provisions of the quarantine and the conditions under which the quarantine may be lifted.
 - (c) The department is authorized to seize, without compensation, any prohibited aquatic plant regulated under this chapter which the department has determined is reasonably likely to be introduced into waters.
 - (d) The department is authorized to take the necessary action to destroy prohibited aquatic plants which threaten waters of the state without compensation to the owner.

(e) The department is authorized to require the revegetation of a site in sovereignty lands where excessive collection has occurred.

The DEP reports that s. 369.25, F.S., sets forth the department's enforcement powers regarding the importation, transportation, nonnursery cultivation, collection and possession of aquatic plants. Specifically, it authorizes the department to take enforcement action to seize, destroy, or declare a quarantine against prohibited aquatic plants to prohibit the dissemination of prohibited aquatic plants. Furthermore, any person who violates the provisions of ch. 62C-52, F.A.C., or s. 369.25 or 369.251 of the Florida Statutes may be guilty of a misdemeanor of the second degree.

In addition to the above enforcement authority, the Bureau of Invasive Plant Management within the Division of State Lands finds that it is necessary to protect sovereignty lands from the improper and excessive collection of native aquatic plants for purposes of sale, revegetation, restoration, or mitigation. Sovereignty lands, which are held in trust by the State of Florida for the citizens of this state, should be provided with protection from the excessive collection of native aquatic plants. Providing the department with enforcement authority to require revegetation of native aquatic plants where excessive collection has occurred on state lands will provide this needed protection.

The DEP has proposed amending s. 369.25, F.S., to authorize the department to require revegetation of a site in sovereignty lands where excessive collection has occurred.

III. Effect of Proposed Changes:

Subsection (4) of s. 369.25, F.S., is amended to direct the DEP to adopt rules providing enforcement penalties, sanctions and remedies for violations under this part. Such enforcement penalties, sanctions, and remedies may include the authority to require the revegetation of a site in sovereignty lands where excessive collection has occurred.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

There should be no impact, as DEP's rules currently allow revegetation to be required, when appropriate.

C. Government Sector Impact:

There should be no impact, as DEP's rules currently allow revegetation to be required, when appropriate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Natural Resources:

Deletes everything after the enacting clause; replaces the provisions with an authorization for the DEP to adopt rules requiring the revegetation of a site on sovereignty lands where excessive collection of aquatic plants has occurred. (WITH TITLE AMENDMENT)