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**Sent:** Sunday, October 6, 2024 3:38 PM

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**Subject:** Section 1808.3.1 of the Florida Building Code

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Doesn't Section 1808.3.1 contravene the Section 553.899(11) provision and violate Section 120.52(8)(c) as shown below?

Section 120.52(8)(c) provides that an existing rule is an invalid exercise of delegated legislative authority if...the rule contravenes the specific provisions of law. I don't understand the Commission's current unwillingness to amend Section 1808.3.1 so that the milestone inspection repair deadline requires such repairs to commence within 365 days as required by Section 553.899(11). Section 1808.3.1 requires milestone inspection repairs to be completed within 180 days and Section 1808.3.2 allows a Building Official to grant a 185 day extension to complete the milestone inspection repairs.

I realize that Section 1808.2 repair provision mirrors the milestone inspection repair provision, but I don't understand why the Commission adopted a provision that contradicts the milestone inspection statute. It seems to me that the Commission is making a rule rather than implementing a statute, even if the Commission's intent is that milestone inspection repairs be completed in less than 365 days. That seems to require an amendment to the milestone inspection statute.

## 2024 Florida Statutes

[Title X](#)  
PUBLIC OFFICERS, EMPLOYEES,  
AND RECORDS

[Chapter 120](#)  
ADMINISTRATIVE PROCEDURE ACT  
[Entire Chapter](#)

**SECTION 52**  
**Definitions.**

**120.52 Definitions.**—As used in this act:

(1) “Agency” means the following officers or governmental entities if acting pursuant to powers other than those derived from the constitution:

(a) The Governor; each state officer and state department, and each departmental unit described in s. [20.04](#); the Board of Governors of the State University System; the Commission on Ethics; the Fish and Wildlife Conservation Commission; a regional water supply authority; a regional planning agency; a multicounty special district, but only if a majority of its governing board is comprised of nonelected persons; educational units; and each entity described in chapters 163, 373, 380, and 582 and s. [186.504](#).

(b) Each officer and governmental entity in the state having statewide jurisdiction or jurisdiction in more than one county.

(c) Each officer and governmental entity in the state having jurisdiction in one county or less than one county, to the extent they are expressly made subject to this chapter by general or special law or existing judicial decisions.

This definition does not include a municipality or legal entity created solely by a municipality; a legal entity or agency created in whole or in part pursuant to part II of chapter 361; a metropolitan planning organization created pursuant to s. [339.175](#); a separate legal or administrative entity created pursuant to s. [339.175](#) of which a metropolitan planning organization is a member; an expressway authority pursuant to chapter 348 or any transportation authority or commission under chapter 343 or chapter 349; or a legal or administrative entity created by an interlocal agreement pursuant to s. [163.01](#)(7), unless any party to such agreement is otherwise an agency as defined in this subsection.

(2) “Agency action” means the whole or part of a rule or order, or the equivalent, or the denial of a petition to adopt a rule or issue an order. The term also includes any denial of a request made under s. [120.54](#)(7).

(3) “Agency head” means the person or collegial body in a department or other governmental unit statutorily responsible for final agency action. An agency head appointed by and serving at the pleasure of an appointing authority remains subject to the direction and supervision of the appointing authority, but actions taken by the agency head as authorized by statute are official acts.

(4) “Committee” means the Administrative Procedures Committee.

(5) “Division” means the Division of Administrative Hearings. Any document filed with the division by a party represented by an attorney shall be filed by electronic means through the division’s website. Any document filed with the division by a party not represented by an attorney shall, whenever possible, be filed by electronic means through the division’s website.

(6) “Educational unit” means a local school district, a community college district, the Florida School for the Deaf and the Blind, or a state university when the university is acting pursuant to statutory authority derived from the Legislature.

(7) “Final order” means a written final decision which results from a proceeding under s. [120.56](#), s. [120.565](#), s. [120.569](#), s. [120.57](#), s. [120.573](#), or s. [120.574](#) which is not a rule, and which is not excepted from the definition of a rule, and which has been filed with the agency clerk, and includes final agency actions which are affirmative, negative, injunctive, or declaratory in form. A final order includes all materials explicitly adopted in it. The clerk shall indicate the date of filing on the order.

(8) “Invalid exercise of delegated legislative authority” means action that goes beyond the powers, functions, and duties delegated by the Legislature. A proposed or existing rule is an invalid exercise of delegated legislative authority if any one of the following applies:

(a) The agency has materially failed to follow the applicable rulemaking procedures or requirements set forth in this chapter;

(b) The agency has exceeded its grant of rulemaking authority, citation to which is required by s. [120.54](#)(3)(a)1.;

(c) The rule enlarges, modifies, or contravenes the specific provisions of law implemented, citation to which is required by s. [120.54](#)(3)(a)1.;

