

SS1.3:AR5/1

**State of Arizona**

**Title 1**

**ADMINISTRATIVE PROCEDURE ACT**



May 21, 1954

DISTRIBUTED BY  
**WESLEY BOLIN**  
*Secretary of State*  
State House  
Phoenix, Arizona

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State of Arizona  
House of Representatives  
Twentieth Legislature  
Second Regular Session

**CHAPTER 97**  
**HOUSE BILL NO. 173**  
**AN ACT**

**RELATING TO AGENCIES, BOARDS, COMMISSIONS, DEPARTMENTS AND QUASI-JUDICIAL BODIES OF THE STATE OF ARIZONA, AND CONCERNING RULES OF PRACTICE AND PROCEDURE AND REGULATIONS OF SUCH AGENCIES, BOARDS, COMMISSIONS AND QUASI-JUDICIAL BODIES AND THE PROMULGATION, COMPILATION AND FILING THEREOF.**

Be it Enacted by the Legislature of the State of Arizona :

Section 1. For the purposes of this Act, "agency" means every agency, board, commission, department or officer authorized by law to exercise rule-making powers or to adjudicate contested cases, whether created by constitutional provision or legislative enactment but does not include an agency in the judicial or legislative departments of the state government. Every agency shall be governed by the provisions of this Act.

Sec. 2. "Contested case" means a proceeding before an agency in which the legal rights, duties, or privileges of specific parties are required by law or constitutional right to be determined after an agency hearing.

Sec. 3. "Rule includes every regulation, standard, or statement of policy or interpretation of general application and future effect, including the amendment or repeal thereof, adopted by an agency, whether with or without prior hearing, to implement or make specific the law enforced or administered by it or to govern its organization or procedure, but does not include regulations concerning only the internal management of the agency and not directly affecting the right of or procedures available to the public.

Sec. 4. Except as specifically herein otherwise provided, this Act does not change the rule-making authority now granted by law governing rule-making procedure.

Sec. 5. Not later than six months after the effective date of this Act, each agency shall file in the office of the secretary of state a certified copy of every rule adopted by it, and in effect at the time of such filing. All rules not so filed shall be of no force or effect. All subsequent rules adopted by an agency shall be similarly certified and filed. The secretary of state shall keep a permanent register of all such rules.

Sec. 6. Nothing in this Act contained shall be construed to require the filing with the secretary of state of any rule which (1) establishes or fixes rates, prices or tariffs; or (2) relates to the use of public works including streets and highways, under the jurisdiction of any state agency when the effect of such order is indicated to the public by means of signs or signals.

Sec. 7. At least twenty (20) days prior to the adoption of any rule, notice of the proposed action shall be filed with the secretary of state. The notice shall include:

(a) A statement of the time, place and nature of the proceedings for adoption of the rule;

(b) reference to the authority under which the rule is proposed to be adopted;

(c) either an informative summary of the proposed rule, or the express terms thereof;

(d) such other matters as are prescribed by statute applicable to the specific state agency or to any specific rule or class of rules.

On the date and at the time designated in the notice, the agency shall afford any interested person or his duly authorized representative or both, the opportunity to present statements, arguments or contentions, in writing, with or without the opportunity to present the same orally.

Sec. 8. If, in any particular case, the state agency makes a finding that the adoption of a rule is necessary for the immediate preservation of the public peace, health and safety and that notice and public procedure thereon are impracticable, unnecessary or contrary to public interest, the rule may be adopted as an emergency rule, without the notice provided by section 7 of this Act.

Sec. 9. No rule hereafter adopted or promulgated by an agency shall become effective until a certified copy of the same shall have been filed in the office of the secretary of state, unless:

(a) Otherwise specifically provided by the statute pursuant to which the rule was adopted, in which event it becomes effective on the day prescribed by such statute;

(b) a later date is prescribed by the state agency in a written instrument filed with or as a part of the rule.

Sec. 10. The secretary of state shall periodically compile all rules filed in his office by each agency. Such compilations shall be made as often as necessary and at least every two years. Copies shall be made available to interested persons on request at a price fixed to cover the cost thereof to the office of secretary of state.

Sec. 11. Any person who is or may be affected by any rule may obtain a judicial declaration as to the validity of such rule by bringing an action for declaratory relief in the superior court of Maricopa county, in accordance with the provisions of Article 7, Chapter 27, Arizona Code of 1939, and in addition to any other ground which may exist, such rule may be declared to be invalid for a substantial failure to comply with the provisions of this Act, or in the case of an emergency rule, upon the ground that the findings and statement of emergency do not constitute an emergency within the provisions of section 8 of this Act.

The provisions of this section shall not be deemed to exclude other remedies which may be available in a particular case for testing the legality of any rule.

Sec. 12. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Sec. 13. All acts or parts of acts which are inconsistent with the provisions of this Act are hereby repealed but such repeal shall not affect pending proceedings.

Sec. 14. This Act may be cited as the Administrative Procedure Act.

Sec. 15. This Act shall take effect July 1, 1952.

Approved by the Governor — March 24, 1952

Filed in the Office of the Secretary of State — March 25, 1952