

HOUSE BILL NO. HB0198

Wyoming Administrative Procedure Act clarification.

Sponsored by: Representative(s) Piiparinen, Crank, Eyre,
Freeman, Northrup, Simpson and Zwonitzer and
Senator(s) Kost and Schuler

A BILL

for

1 AN ACT relating to the Wyoming Administrative Procedure Act;
2 specifying the applicability of the act to local and state
3 agencies; creating definitions; clarifying provisions; and
4 providing for an effective date.

5

6 *Be It Enacted by the Legislature of the State of Wyoming:*

7

8 **Section 1.** W.S. 16-3-101(b) by creating new paragraphs
9 (xiii) through (xv) and by renumbering (xiii) as (xvi),
10 16-3-102(b) and (c), 16-3-103(a)(i)(intro), (E), (F)(intro),
11 (H), (ii)(C)(II), (iii) and (f), 16-3-104(a), (b)(ii) and (c)
12 and 16-3-105(b) and (d) are amended to read:

13

14 **16-3-101. Short title; definitions.**

15

1 (b) As used in this act:

2

3 (xiii) "Local registrar of rules" means the county
4 clerk of the county in which the rule is to be effective;

5

6 (xiv) "Registrar of rules" means the local
7 registrar of rules or the state registrar of rules as
8 applicable;

9

10 (xv) "State registrar of rules" means the
11 secretary of state;

12

13 ~~(xiii)~~(xvi) "This act" means W.S. 16-3-101 through
14 16-3-115.

15

16 **16-3-102. General rulemaking requirements; assistance**
17 **and authority of attorney general.**

18

19 (b) No agency rule, order or decision is valid or
20 effective against any person or party, nor may it be invoked
21 by the agency for any purpose, until it has been filed with
22 the registrar of rules and made available for public
23 inspection as required by this act. This subsection does not

1 apply to orders or decisions in favor of any person or party
2 with actual knowledge of the rule, order or decision. State
3 agencies shall file with the state registrar of rules and
4 local agencies shall file with the local registrar of rules.

5

6 (c) In formulating rules of practice as required by
7 this section, each state agency may request the assistance of
8 the attorney general and upon request the attorney general
9 shall assist the state agency or agencies in the preparation
10 of rules of practice.

11

12 **16-3-103. Adoption, amendment and repeal of rules;**
13 **notice; hearing; emergency rules; proceedings to contest;**
14 **review and approval by governor.**

15

16 (a) Prior to an agency's adoption, amendment or repeal
17 of all rules other than interpretative rules or statements of
18 general policy, the agency shall:

19

20 (i) Give at least forty-five (45) days notice of
21 its intended action. Notice shall be mailed to all persons
22 making timely requests of the agency for advanced notice of
23 its rulemaking proceedings. ~~and to~~ State agencies shall

1 provide notice to the attorney general, the secretary of
2 state's office as registrar of rules, and the legislative
3 service office. ~~if a state agency. The~~ A state agency shall
4 submit a copy of the proposed rules, in a format conforming
5 to any requirements prescribed pursuant to subsection (f) of
6 this section, with the notice given to the legislative service
7 office. ~~The~~ Notice for all agencies, unless otherwise
8 specified, shall include:
9

10 (E) The place where an interested person may
11 obtain a copy of the proposed rules in a format conforming to
12 any requirements prescribed pursuant to subsection (f) of
13 this section if applicable;
14

15 (F) If the state agency asserts that all or
16 a portion of a rule is proposed to be adopted, amended or
17 repealed in order for the state to comply with federal law or
18 regulatory requirements:
19

20 (H) A statement that the state agency has
21 complied with the requirements of W.S. 9-5-304 and the
22 location where an interested person may obtain a copy of the

1 assessment used to evaluate the proposed rule pursuant to
2 W.S. 9-5-304;

3

4 (ii) Afford all interested persons reasonable
5 opportunity to submit data, views or arguments, orally or in
6 writing, provided this period shall consist of at least
7 forty-five (45) days from the later of the dates specified
8 under subparagraph (A) of this paragraph, and provided:

9

10 (C) If prior to final adoption any person
11 objects to the accuracy of a statement made by the agency
12 pursuant to W.S. 16-3-103(a)(i)(F)(I) or (II), the agency
13 shall:

14

15 (II) If a state agency, include with the
16 final rules submitted for review to the governor and
17 legislative service office a concise statement of the
18 objection and the agency's response.

19

20 (iii) State agencies shall comply with the
21 requirements of W.S. 9-5-304.

22

1 (f) The state registrar of rules shall prescribe a
2 format for state agencies to follow in preparing proposed
3 amendments to existing rules which shall ensure that
4 additions to and deletions from existing language are clearly
5 indicated. A local agency shall use the format prescribed by
6 the state registrar of rules unless the local agency provides
7 notice to the state registrar of rules that the local agency
8 has opted out of using the state format. If a local agency
9 has opted out of using the state format it shall ensure that
10 additions to and deletions from existing language are clearly
11 indicated.

12

13 **16-3-104. Filing of copies of rules; permanent**
14 **register; effective dates; manner of preparation; advice and**
15 **assistance of attorney general.**

16

17 (a) Each agency shall file in the office of the
18 registrar of rules a certified copy of each rule. ~~adopted by~~
19 ~~it~~ If a state agency, the rules shall be adopted as approved
20 by the governor. ~~State~~ All agencies shall file each rule with
21 the registrar of rules within seventy-five (75) days of the
22 date of agency action adopting the rule or it is not
23 effective. There shall be noted upon the rule a citation of

1 the authority by which it or any part of it was adopted. The
2 registrar of rules shall keep a permanent register of the
3 rules open to public inspection. Not more than ten (10) days
4 after a state agency files a copy of a rule in the office of
5 the registrar of rules, the agency shall mail a notice that
6 the rule has been filed to each person who was sent a notice
7 under W.S. 16-3-103(a)(i). The notice shall contain a
8 citation to the rule and the date it was filed. Failure to
9 send the notice required under this subsection does not affect
10 the effectiveness of the rule.

11

12 (b) Each rule and any amendment or repeal adopted after
13 June 1, 1982 is effective after filing in accordance with
14 subsection (a) of this section and W.S. 28-9-108 except:

15

16 (ii) Where the state agency finds that an
17 emergency exists and the finding is concurred in by the
18 governor, a rule or amendment or repeal may be effective
19 immediately upon filing with the registrar of rules and ~~if a~~
20 ~~state agency, also~~ with the legislative service office. Where
21 a local agency finds that an emergency exists, a rule or
22 amendment or repeal may be effective when notice of the
23 emergency rule is filed with the local registrar of rules as

1 set forth in W.S. 16-3-103(b). Existing rules remain in effect
2 unless amended or repealed, subject to this section or W.S.
3 28-9-105 or 28-9-106.

4
5 (c) State agency rules shall be prepared in the manner
6 and form prescribed by the state registrar of rules. The state
7 registrar of rules may refuse to accept for filing any rule
8 that does not conform to the prescribed form. Local agencies
9 shall prepare rules in the manner and form prescribed by the
10 state registrar of rules unless the local agency provides
11 notice to the state registrar of rules that the local agency
12 has opted out of using the state format. A local registrar of
13 rules shall not refuse to accept for filing a rule that does
14 not conform to the form prescribed by the state registrar of
15 rules if additions to and deletions from existing language
16 are clearly indicated.

17
18 **16-3-105. Compilation and indexing of administrative**
19 **code; charges for copies; authentication by registrar.**

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21 (b) The state registrar of ~~state agency~~ rules may make
22 a reasonable charge for any rules published except those
23 furnished to state officers, agencies, members of the

1 legislature or the legislative service office and others in
2 the employment of the state and its political subdivisions
3 requiring the rules in the performance of their duties. The
4 local registrar of ~~local-agency~~ rules may make a reasonable
5 charge for copies of any rule on file.

6

7 (d) The state registrar of ~~state-agency~~ rules shall
8 maintain and publish a current index of all state agency rules
9 filed with the registrar. The index shall list the effective
10 date of each set of rules or the effective date of each set
11 of amendments to an agency's rules. Copies of the index shall
12 be distributed as provided by W.S. 16-3-105(b).

13

14 **Section 2.** W.S. 16-3-101(b)(viii) is repealed.

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16 **Section 3.** This act is effective July 1, 2019.

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18

(END)