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# Arizona Rulemaking Manual

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Created by the Office of the Secretary of State  
and the Rulewriters' Consortium

# Introduction

The *Arizona Rulemaking Manual* was developed in 1995 as a guide for state agencies when making, amending, or repealing rules. Last updated in 2001, in conjunction with the State Agency Rulewriters' Consortium, statutes and rules have changed to warrant a new edition in 2011. As sections are amended in the future, supplements to this manual will be available in paper copy and on the Secretary of State's web site.

The Rulewriters' Consortium meets to discuss legislative and administrative rulemaking issues. Meetings are open to any interested party. Meeting dates and locations are e-mailed to members of the Consortium. For more information about Consortium meetings or this manual, contact the Secretary of State's Office at (602) 542-4086.

This manual contains the following nine sections:

- Section 1: Rulemaking in General**
- Section 2: Definitions and Publishing Style**
- Section 3: Frequently Asked Questions; Renumbering; Supplementals**
- Section 4: Rulemaking Forms**
- Section 5: Checklists**
- Section 6: Administrative Procedure Act**
- Section 7: Rules of the Office of the Secretary of State**
- Section 8: Rules of G.R.R.C.**
- Section 9: Bibliography**

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# Section 1

## Rulemaking in General

This section briefly describes why rules exist, how they are created, and how they are organized. It is organized from a general understanding of rulemaking to a more specific understanding of rulemaking.

### Definition of *rule*

A.R.S. § 41-1001(17) states: “*Rule*” means an agency statement of general applicability that implements, interprets or prescribes law or policy, or describes the procedure or practice requirements of an agency. Rule includes prescribing fees or the amendment or repeal of a prior rule but does not include intraagency memoranda that are not delegation agreements.

For the purpose of this manual, the general term *agency* is used to refer to a state agency, board, or commission.

### The need for rules

- **Rules implement legislative policy.**

Usually, the legislature establishes broad policy and general standards for the operation of a program. The legislature may prefer to delegate responsibility to an agency to determine how a program should run. The legislature grants authority to an agency to define these details in accordance with the broad statutory guidelines.

*Example:*

A.R.S. § 8-126 requires the Department of Economic Security (DES) to make rules for licensing adoption agencies and for the form and content of investigations, reports, and studies concerning adoption placement. DES must define the requirements for licensure as an adoption agency: how to apply to become licensed; how often a license must be renewed; what procedures an agency must follow to renew a license; what circumstances will lead to suspension or revocation of a license; and what hearings or appeals are available to an agency to challenge disciplinary action. The rules also prescribe the requirements for certification of prospective adoptive parents, certification studies, placement investigations, and placement reports.

- **Rules tell the public how to do or obtain something, or what can happen if something is not done.**

*Example:*

A.R.S. §§ 5-525 and 42-133 give DES the right to collect debts owed to DES by the set-off of the debtor’s lottery winnings or income tax refund. DES has a rule that tells debtors how to protest the setoff: what papers to file, with whom to file them, the number of days in which the debtor must file the protest, etc. The rule also states that the setoff will become final if the debtor does not protest the setoff. (See A.A.C. R6-1-201 and R6-1-202)

- **Rules set standards and limits for the exercise of discretion.**

*Example:*

The DES child care rules allow DES to revoke a child care provider’s certificate if the provider fails to accept DES-referred children on three consecutive occasions. This rule ensures that the certification specialist does not revoke one provider’s certificate for three refusals and another provider’s certificate for five refusals. (See A.A.C. R6-5-5208(E))

### The limits of an agency’s rulemaking powers

- An agency can make rules only if the legislature or a court gives the agency the power to do so. That power can be **general** or **specific**.

*Example:*

**(General authority)** A.R.S. § 41-1952 establishes the Arizona Department of Economic Security. A.R.S. § 41-1954 contains a long list of powers and duties that the Legislature has conferred on DES, including the power to “[a]dopt rules [DES] deems necessary to further the objectives and programs of the department.”

*Example:*

**(Specific authority)** A.R.S. § 41-1992 specifies certain basic requirements for hearings and appeals of DES decisions. DES is required to “prescribe by regulation procedures for implementing the provisions of this section.”

- The statutory authority conferred by the Legislature always sets the boundaries of the

agency’s rulemaking authority. Agency rules must be consistent with, and cannot exceed or diminish, the statutory authority granted to the agency. Rules must also be consistent with the standards reflected in the legislative or congressional intent being implemented by rule.

*Example:*

A.R.S. § 41-1993(B) allows persons aggrieved by a decision of the DES Appeals Board to appeal that decision to the Arizona Court of Appeals by filing “an application for appeal . . . within thirty days of the date of mailing of the decision upon review.” The appeal time is fixed by statute. DES could not make a rule giving parties 45 days to file the appeal because a longer time-frame would be inconsistent with the statute. Similarly, DES could not make a rule requiring parties to file an appeal within 14 days. A more restrictive rule would also be inconsistent with legislative intent.

## What doesn’t belong in rules

- A statement of purpose, goals, or objectives that tends to be explanatory rather than regulatory. (Such a statement may, however, be included in the preamble, which is part of the notice of rulemaking activity.)
- A statement of, or citation to, statutory authority—although cross-references are allowed.

*Examples:*

*Wrong:* Any person may petition an agency for the adoption of a rule. (A.R.S. § 41-1033) Any person who wants the agency to adopt a rule shall file a written petition with the agency’s director.

*(This example simply cites and paraphrases the statute.)*

*Right:* To petition for rulemaking action, as provided in A.R.S. § 41-1033, a person shall file a written petition with the Department’s director. The petition shall specify the following . . .

*(This example provides guidance on which statute is the subject of the rule but does not unnecessarily repeat statutory language.)*

- Matters concerning “only the internal management of an agency” which do not “directly and substantially affect the procedural or substantive rights or duties of any segment of the public.” (A.R.S. § 41-1005(A)(4))

*Examples:*

Directions to agency employees on how to request a reasonable accommodation under the Americans With Disabilities Act;

Directions to agency employees on how to grieve employee performance evaluations; and

Directions to agency employees on the use of copy machines and telephones.

## Rule vs. policy

- **Examine the statutory authority.** Sometimes the Legislature will mandate that an agency make rules concerning a particular subject.

*Examples:*

The division shall establish rules for licensing agencies, including professional licensing, and suspending, revoking, and denying licenses.

The director shall make rules with respect to the time in which a recipient must notify the department of a change in circumstances affecting the recipient’s eligibility.

- **Without a statutory mandate, it is not always clear when something belongs in a rule and when something belongs in a policy manual.** Ask whether this requirement will bind only personnel within the agency, or will it bind the outside world? Will the agency use this rule to make distinctions in treatment? (Who is eligible for benefits and who is not? Who is subject to penalty and who is not? Who must comply and who is exempt?) If the answer is yes, the requirement belongs in a rule.
- If the requirement merely spells out **internal procedures**, such as advising an employee how to process an internal form or which supervisor to consult in a particular circumstance, the requirement or process does not belong in a rule.
- **Any requirement or interpretive opinion that directly and substantially affects the public should be in a rule.** Agencies have been successfully sued for relying on policies to control matters that should be made in rules.

## Notices of Substantive Policy Statement and Guidance Documents

- The Administrative Procedure Act (APA) requires the Secretary of State’s office to publish summaries of “substantive policy statements” and “guidance document publications” in the *Register*. (A.R.S. § 41-1013(B)(14)) A “substantive policy statement” is a “written expression” that explains the agency’s “current approach to, or opinion of,” a constitutional, statutory or regulatory requirement or a

judicial or administrative decision, or the agency's practices and procedures regarding such a requirement or decision. (A.R.S. § 41-1001(20))

- The APA requires an agency to submit summaries of substantive policy statements to the Secretary of State for publication. (A.R.S. § 41-1091) An agency must also publish a directory summarizing its rules and policy statements. (A.R.S. § 41-1091(C)) Although the APA does not penalize an agency for failing to do so, the agency should make a good faith effort to abide by these requirements and notify the public of such documents.

## The review process

After your agency determines who will be reviewing the rule, be certain that the reviewer is (or the reviewers are) involved in the entire rule process. Also assess who may be interested in the rule. Determine whether the agency will involve those interested and, if so, at which stages of the process.

### APA REQUIREMENTS

Rather than mandating public participation in the rulemaking process, the APA creates opportunities for public involvement in that process. The burden falls on the public to take advantage of those opportunities. Opportunities are created through the notice and comment process.

- The APA requires the agency to prepare and make available to the public the regulatory agenda that the agency expects to follow during the next calendar year. (A.R.S. § 41-1021.02)
- The APA requires the agency to inform the public that the agency intends to work on a particular rule by publishing a Notice of Rulemaking Docket Opening in the *Register*. (A.R.S. § 41-1021(C))
- After the agency has drafted the rule and is ready to begin the process of making the rule into law, the agency must tell the public what the rule says and what economic impact the rule is likely to have, by publishing a notice and the text of the proposed rule in the *Register*. (A.R.S. § 41-1022(A))
- If a person has asked to be notified of a proposed rulemaking, the agency must provide notice at the time the notice of proposed rulemaking is filed with the Office. (A.R.S. § 41-1022(C))
- The agency must provide copies of rulemaking documents to members of the public who request them. (A.R.S. § 39-121)
- The agency must maintain an official rulemaking record and make it available for public inspection. (A.R.S. § 41-1029)
- The agency must allow at least 30 days after publication of the proposed rule for public comment before closing the record. (A.R.S. §§ 41-1022(D) and 41-1023(B))
- The agency is required to conduct an oral proceeding (public hearing) on a proposed rule if the agency receives a written request for one. When the agency schedules an oral proceeding, the agency must give the public 30 days' notice of the scheduled proceeding. An oral proceeding must be held at a location and time that affords reasonable opportunity for persons to participate. It must be conducted in the manner described in (A.R.S. § 41-1023(D))
- Public comment is allowed at the Governor's Regulatory Review Council (G.R.R.C.) meetings within the parameters of (A.R.S. § 41-1052)

### INTERNAL AGENCY REVIEW AND EVALUATION

- Assess what effect the rule will have on the regulated public and whether the rule will be controversial. Determine the extent of public participation and resolve any controversial issues at the beginning of the process. At this point an agency should request a review by its agency attorney or assistant Attorney General.
- Establish an agency internal review process to evaluate the substance and legal accuracy of the rule.
- The review process should also evaluate the clarity of the rule:
  - Evaluate whether the rule is clear, concise, and understandable.
  - Determine whether the headings are helpful and the wording is clear and understandable. Do not rely on the headings to convey meaning. Because the heading is not legally part of the rule, the rule must stand alone.
  - Give reviewers a set of questions to answer from the rules and ask the reviewers how easy or difficult the rule is to use and understand.
  - Rewrite or reorganize a rule if any part is ambiguous, too specialized, or requires more knowledge of the subject matter than is possessed by the intended audience.

### INTERAGENCY REVIEW

When a rule affects more than one agency, the promulgating agency should ask each affected agency to review the rule and comment on it.

These reviews can eliminate overlaps or conflicts, assess cumulative impacts, and shape priorities.

### STAKEHOLDER AND PUBLIC REVIEW

Each agency determines the process it will use to obtain public involvement and comments. Some considerations relating to public involvement include the following:

- Assume interest, not disinterest, regardless of how far from the “heart” of the process some segments of the public may appear to be. Many government agencies think *only* of forming an advisory committee, or *only* of holding a hearing. The tendency to use only these techniques reflects a failure to clarify who needs to be involved. There is no single public, but different levels of public based on differing levels of interest and ability. Agencies that offer “one-size-fits-all” opportunities for public participation may find themselves dissatisfied with the content of that effort and may leave the public feeling frustrated by or discounted in the public decision-making process.
- Reviewers may say little or nothing to the rulemaking staff. They may work only from the agency’s public information releases or from agency responses to questions. They may be observing just for themselves, or they may be reporting their observations to other units of government, to public interest groups, or to special interest organizations. When agencies pare a mailing list to weed out those who do not seem to be actively involved, they weaken this area of participation.
- Reviewers may work by mail or telephone. If an agency wants a large number of public reviewers, it must increase its efforts enough to formulate questions and develop a response format that allows reviewers to participate at their own convenience. In responding, participants may commit to recording their opinions.
- There are some people for whom the decision is so important that their willingness to be involved goes beyond the effort of just replying to agency proposals or questions. For them, interest and knowledge make their direct involvement imperative in the rulemaking process.
- Develop a comprehensive mailing list at the outset of the process. Take into consideration those people who have chosen not to become involved but who may be interested in the process and may want to be informed of what is going on.
- Accept the fact that, often on geographically

diverse or controversial projects, varying groups will have different agendas. Repeatedly bringing these groups together for public meetings may deteriorate into unproductive “soap-boxing.” Acknowledging these agendas, if they exist, is more effective. Consider forming focus groups, identifying specific issues, and bringing these issues together via representatives of each group. Have a mechanism in place to publicize every group’s concerns and to respond to and publicize responses to those concerns.

- Establish and maintain as many strategically located repositories for rulemaking documents as can be managed. In theory, all members of the interested public should have reasonable access to the information.

### ADDITIONAL AGENCY PROCEDURES

Although the burden falls on the public to take advantage of the opportunities created by the APA, the agency can take affirmative steps to involve the interested public in its rulemaking activities. Public involvement can begin at the preliminary drafting stage and extend through the entire rulemaking process. Getting consensus before beginning to draft rules makes the writer’s task easier and saves an enormous amount of time and frustration later on.

- The agency may choose to have broad-based workgroups of internal and external stakeholders draft a set of rules. The more stakeholders, clients, and customers the agency involves in drafting the rules, the greater degree of “buy in” the agency is likely to have in the final product. At the same time, the difficulty and length of the drafting process increases in proportion to the number of people involved.

*Example:* When DES decided to update its foster homes licensing rules, DES assembled a large workgroup to draft the rules. The workgroup included people who must apply the rules (internal licensing staff), the people regulated by the rules (foster parents), the people protected by the rules (foster children), and other people who interact with these groups (the Attorney General’s office, the Department of Health Services, and the Administrative Office of the Courts.)

- The agency may solicit comments on the rules, either before or after publication of the proposed rules in the *Register*. The agency may want to identify affected stakeholders, send those stakeholders a set of draft rules (regardless of whether the stakeholders have asked for copies), and ask for comment.

*Example:* When DES makes rules involving welfare benefit programs, DES sends copies of the rules to law school legal clinics and

legal aid organizations throughout the state and requests comment. These groups rarely participate in drafting the rules; however, they welcome the opportunity to comment. These groups represent the interests of welfare beneficiaries who may lack the legal expertise to comment for themselves.

- Some agencies have existing mechanisms for informing their interested public that rule-making is occurring.

*Example:* The DES Division of Developmental Disabilities publishes a monthly newsletter that is distributed to providers, advocates, families, and clients. Any news about rule-making activity, including the dates and locations of public hearings, is included in the newsletter.

- The degree of public participation the agency may wish to invite will vary with the circumstances of the rulemaking. Are time constraints involved? Are the rules likely to be controversial? The benefits of obtaining public comment include:
  - **Saving time and effort.** The agency runs a risk of the public rebuking a final rule if it passively waits for the public to “take the initiative” to comment on the proposed rules. Interested members of the public may wait until adoption of the rule appears imminent to make their comments. If comments made at a G.R.R.C. meeting or public hearing result in “substantial changes” to the rules, the agency must notice the changes to the rules and open the public comment period again, which delays the rulemaking. By involving affected members of the public early in the drafting process, the agency may avoid future problems and delay.
  - **Obtaining G.R.R.C. approval.** The agency can potentially use these voluntary efforts to its advantage in proceedings before G.R.R.C. G.R.R.C. is more likely to approve a rule that is the product of negotiation and compromise between the agency and its stakeholders.
 

*Example:* DES used a stakeholder committee composed of internal staff, advocates, clients, and providers to draft a set of certification standards for persons providing in-home services to persons with developmental disabilities. Members of that group volunteered to appear at the G.R.R.C. meeting and to send letters to the G.R.R.C. supporting the proposed rules.
  - **Broadening an agency’s perspective.** An agency may lack a full perspective on the rules and not be aware that certain

regulatory requirements are burdensome, costly, or unworkable to the people who must follow them. Rules that are clear to agency staff may not be clear to members of the public who refer to them infrequently.

## Organizing the rules

### OUTLINE

Start with an outline of major points to cover and number the points in a logical sequence. A single rule should never address more than one subject. In the terminology of the *Code*, a Section is defined as a rule.

### RULE AS A REFERENCE DOCUMENT

Information should be organized and easy to find. Think of questions a reader might ask when fulfilling the rule requirements.

### PROCEDURAL RULES

If the rule is a series of procedures, present them in sequential order, going step-by-step through each procedure. Develop a flow chart of the steps to reveal “holes” in the procedures that can be corrected before the rule is completed. If the procedure is different for different groups of readers, write a rule for each group.

### ORGANIZING METHODS

After the information is gathered and the audience and information importance are determined, analyze the factors that affect how each individual rule should be organized. What factors are most important? Should these be placed first? Or would the rule be more understandable in one of the following methods of organization?

- General to specific (usually the preferred method). An example is 1 A.A.C. 1.
- Chronological order (helpful in explaining time relationships).
- Sequential order.
  - Place the actions in order to explain time relationships:

*Example:*

1. The physician shall perform an examination for assessing the medical and physical fitness of the candidates before conducting the physical examination.
2. The candidate shall undergo a physical examination that includes the following:
3. Upon completion of the physical examination, the candidate shall complete a medical examination that includes the following:
4. The Department shall place the name of the candidate who passes the medi-

- cal and physical examinations on the register for appointment.
- Give step-by-step instructions using the “cookbook method”:

*Example:*

To be considered for appointment, an applicant shall:

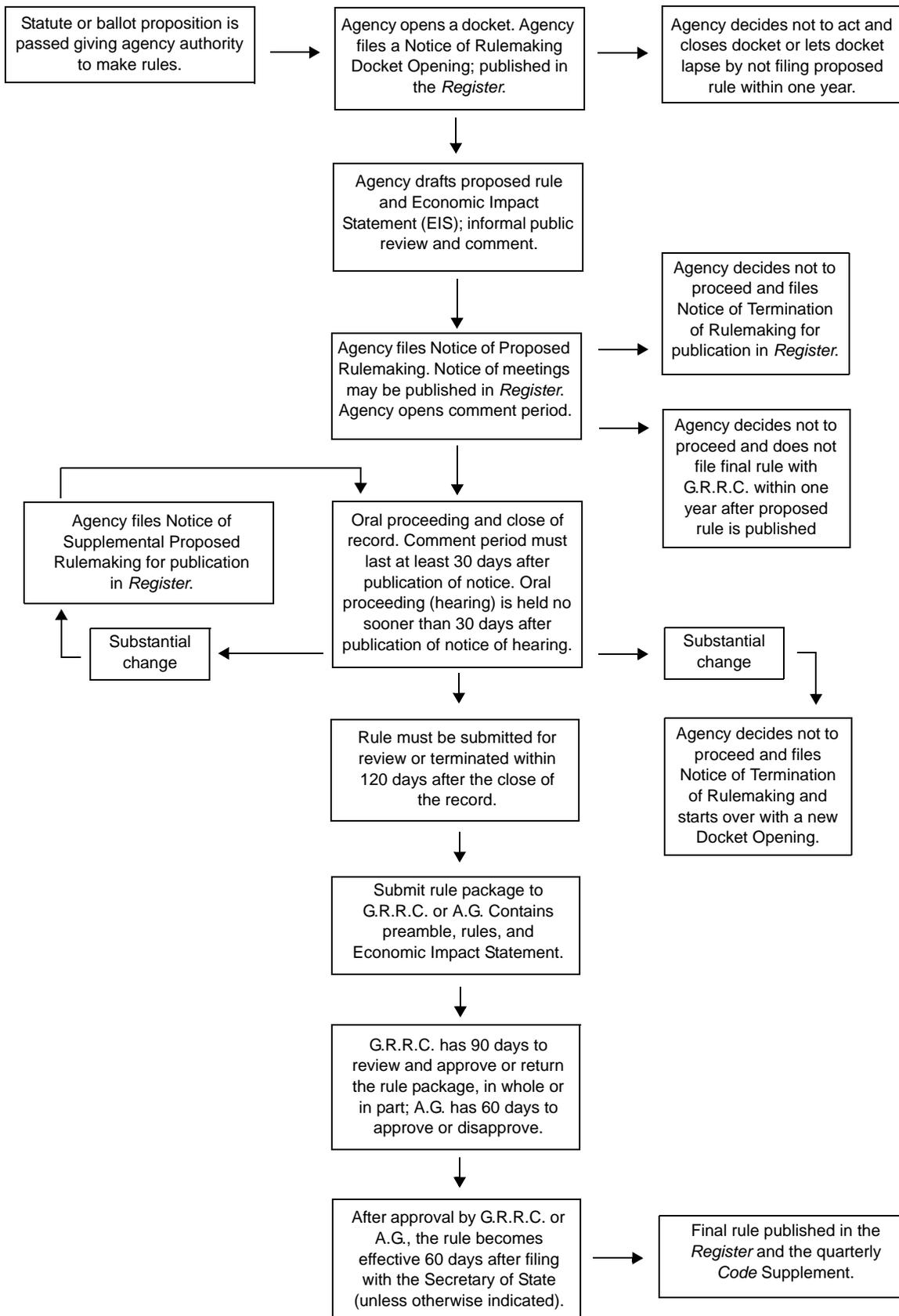
1. Complete the application form;
2. Attach relevant backup materials;
3. Sign and date the form;

4. Complete the affidavit and have it notarized; and
5. File the above materials with the agency.

#### **TABLE OF CONTENTS**

Show organization of the rules by using a table of contents. However, do not include the words “Table of Contents” in the rules when you submit them to the Secretary of State for publication. Section headings must reflect the subject.

## Regular Rulemaking Process



# Section 2 Key

## codification

The codification for the *Code* is established in R1-1-102, R1-1-301, and R1-1-402. The Office uses a codification which starts with general subject areas and goes to specific rules.

The Office is the ultimate authority for codification. The Office rarely interferes with the organization of a rule established by the drafter. However, please keep in mind:

Only the Office can create a new **Title**.

Agencies must contact the Office for the designation of a new **Chapter**.

Agencies must consult with and get the approval of the Office before creating **Subchapters** or **Parts**.

## coemployee

## colons

Use a colon between two independent clauses when the second clause explains or illustrates the first clause and there is no coordinating conjunction or transitional expression linking the two clauses. *The new rules will simplify filing: only electronic submissions will be required.*

Use colons to introduce a list or an example.

Do not use a colon when a form of the verb *to be* is used. *The three courses required in this program are accounting, business English, and Computer Science 22.*

Do not use a colon between two independent clauses when the two clauses are equal in value. Use instead a semi-colon or period.

See **semi-colon**.

Entry words, in alphabetical order, are in **boldface**. They represent the accepted word forms unless otherwise indicated.

Related topics are in **boldface**.

Many entries simply give the correct spelling, hyphenization, or capitalization.

Text explains usage.

Examples of correct and incorrect usage are in italics.

Many topics have cross references to other topics and the A.R.S. and A.A.C. at the end of the entry.

## Section 2

# Definitions and Publishing Style

The rule drafting and publishing style used in the *Arizona Administrative Code* and the *Arizona Administrative Register* is drawn from the sources listed in Section 9 of this manual and from members of the Rulewriters' Consortium. This section also contains useful definitions and explanations of rulemaking terms. It is organized alphabetically for quick reference and contains suggested cross reference terms in **boldface**.

Not every grammatical rule is included in this manual because, in most cases, standard grammatical rules apply. This manual does, however, include those rules where there may be conflicts in standard use so that the drafter will know which rule the Office and G.R.R.C. intend to follow. Above all, rules should be **clear, concise, and understandable**.

## A

### **a, an**

Use the article *a* before consonant sounds: *a historic event, a one-year term* (sounds as if it begins with a *w*), *a united stand* (sounds like *you*).

Use the article *an* before vowel sounds: *an energy crisis, an honorable man* (the *h* is silent), *an AHCCCS record* (sounds like it begins with the letter *a*), *an 1890s celebration*.

### **abbreviations**

As a general rule, define all abbreviations. The definition of each term must appear before the abbreviation by itself. In some instances, an abbreviation is specific to an Article or Section. While it is preferred that all abbreviations are defined at the beginning of a Chapter, you may want these Article- or Section-specific abbreviations and their definitions to appear at the beginning of the Article or Section to which they apply. If this is the case, specify in the Chapter's main definitions Section where additional definitions may be found in the Chapter.

Spell out an abbreviation that begins a sentence.

Define a term in the way it will be used. In other words, do not define the spelled-out version of an abbreviation and then use the abbreviation in the rules. If abbreviations have periods in the text, define with periods. If abbreviations do not have periods in the text, define without periods.

### *Examples:*

If you use "FDA" in your rules, don't define the term "Food and Drug Administration." Instead define "FDA."

Use F.D.A. (with periods) in the text if you have defined the term as "F.D.A." (with periods).

Use FDA (without periods) in the text if you have defined the term as "FDA" (without periods).

### **ability, capacity**

*Ability* means the state of being able to do something. *Capacity* means the power of receiving or containing.

### **able-bodied**

### **about, approximately**

*About* is inexact; it indicates a rough estimate. *Approximately* implies accuracy.

### **above, over**

When indicating quantity, avoid using prepositions that indicate direction or location.

See **over, more than**.

### **aboveground**

### **accept, except**

*Accept* means to receive, to agree with. *Except* means to exclude.

### **accommodate**

### **acknowledgment**

**action verbs**

In general, action verbs are shorter and more direct than passive verbs:

<i>Don't write:</i>	<i>Write:</i>
give consideration to	consider
is dependent on	depends on
make payment	pay
give recognition to	recognize
maximize	increase
compartmentalize	arrange
utilize	use

Use verbs instead of nouns to add action to your writing.

*Examples:*

*Wrong:* The Administrator shall develop and implement a preventative and general maintenance program at each institution and is responsible for the following activities:

1. *Construction, renovations, alterations or demolitions of institutions;*
2. *Evaluation of capital and building renewal needs;*
3. *Coordination of the preparation of the capital/building renewal request; and*
4. *Execution of capital project funding, or construction, or both.*

*Right:* The Administrator shall develop and implement a preventive and general maintenance program at each institution that includes the following activities:

1. *Constructing, renovating, altering or demolishing institutions;*
2. *Evaluating capital and building renewal needs;*
3. *Coordinating preparation of the capital/building renewal request; and*
4. *Administering capital project funding or construction.*

**active voice**

Write in the active voice. Active sentences are usually shorter and more forceful than passive sentences. Rules written in the active voice describe who shall do what.

- Active voice identifies an actor. Putting the actor before the verb clarifies who is responsible for an act. Rulewriting must identify the responsible party.

*Examples:*

*Wrong:* An appeal shall be filed in 30 days. *By whom?*

A plan shall be approved before beginning the program. *By whom?*

The regulation shall be explained to each applicant. *By whom?*

*Right:* The employee shall file an appeal in 30 days.

The director shall approve a plan before beginning the program.

The supervisor shall explain the regulation to each applicant.

- Passive voice is appropriate when the actor is unknown, unimportant, or obvious.

*Examples:*

Fees are refunded only when the application is withdrawn before the scheduled examination.

The applications have been mailed.

**adapt, adept, adopt**

*Adapt* means to alter; to adjust. *Adept* means skillful, proficient. *Adopt* means to take as one's own without change.

**addresses**

Follow these guidelines:

- Abbreviate state names in addresses using the two-letter postal code. *AZ*, not *Arizona* or *Ariz*.
- Abbreviate compass directions: *1700 W. Washington*.
- Use numerals in numeric street names: *4701 N. 7th Street*.
- Use one space after the state abbreviation and the ZIP code: *Phoenix, AZ 85007*.

Use the following format when listing an agency contact and address (note abbreviations and punctuation):

Name:	John Smith
Address:	Department of Rules 1700 W. Washington Phoenix, AZ 85007
Telephone:	(602) 555-1212
Fax:	(602) 555-1212
E-mail:	smith@state.az.us

**Administrative Procedure Act (APA)**

The Administrative Procedure Act is the group of statutes (A.R.S. §§ 41-1001 through 41-1092.12) that prescribes how agencies do rule-making. Substantial changes were made to the APA in 1995, including a publication change for the *Register* from "notice only" to "full text."

**admissible**

**adverbs**

Place an adverb before the word modified to ensure the correct meaning is communicated.

**advice, advise, inform**

*Advice* means suggestions or recommendations concerning a course of action. *Advise* means

to offer counsel and suggestions. *Inform* means to communicate information.

### **affect, effect**

*Affect* means to influence (usually a verb): *The rule will affect the public.* *Effect* means result (usually a noun): *The effect of this rule is cleaner air.*

### **afterward**

Not afterwards.

### **ages**

Always use numerals. Ages expressed as adjectives before a noun or as substitutes for a noun use hyphens. *A 5-year-old boy.* *The boy is 5 years old.* *The race is for 3-year-olds.*

### **Agency Certificate**

An Agency Certificate must accompany all rulemaking packages to indicate that an agency's chief executive officer or designee has approved the rules. An original and two **copies** of the certificate are required. Certain documents filed with the Office that are related to rulemaking but are not rulemaking packages do not require an Agency Certificate (for example, **Notice of Rulemaking Docket Opening, Notice of Public Information**).

A package is not formally filed in the Office if it does not have an Agency Certificate. The Office will not accept an Agency Certificate that contains one person's signature and another person's typed name.

See **forms**, R1-1-105, and the **Rulemaking Forms** section of this manual.

### **Agency Guidance Document, Notice of**

When an agency has a document that is used to provide information to "guide" people, it must submit a Notice of Agency Guidance Document to the Office for *Register* publication.

See A.R.S. § 41-1013(B)(14), R1-1-210, and the **Rulemaking Forms** section of this manual.

### **Agency Ombudsman, Notice of**

No later than February 1 each year, an agency with 100 or more employees shall submit the name of its ombudsman to the Office for *Register* publication. The name shall be submitted on a Notice form with the heading NOTICE OF AGENCY OMBUDSMAN in all capital letters, centered on a line one inch from the top of the page. The following items shall also appear on the Notice:

1. The agency's name;
2. The ombudsman's name;
3. The ombudsman's title;
4. The ombudsman's office address;
5. The ombudsman's office telephone number and fax number, if available.

See A.R.S. § 41-1006, R1-1-212, and the **Rulemaking Forms** section of this manual.

### **Agency Receipt**

Any document submitted to the Office specified in the APA must be accompanied by two copies of an Agency Receipt. Both copies are date-stamped, and one copy is returned to the agency.

If the agency's receipt is for a non-rulemaking notice, item #2 of the receipt may be answered with the subject of what is being submitted.

See **forms**, R1-1-106, and the **Rulemaking Forms** section of this manual.

### **airtight**

### **alternate, alternative**

*Alternate* means a substitute. *Alternative* means a choice between two or more possibilities.

### **alternately, alternatively**

*Alternately* is an adverb that means in turn; one after the other: *We alternately spun the wheel in the game.* *Alternatively* is an adverb that means on the other hand, one or the other: *You can choose a large bookcase or, alternatively, you can buy two small ones.*

### **altogether, all together**

*All together* is applied to people or things that are being treated as a group. *We put the pots and pans all together on the shelf.* *All together* is the form that must be used if the sentence can be reworded so that *all* and *together* are separated by other words: *We put all the pots and pans together on the shelf.* *Altogether* is used to mean entirely: *I am altogether pleased to be receiving this award.*

### **a.m. and p.m.**

See **time**.

### **Amend**

*Amend* is one of the four rulemaking actions listed in the column for rulemaking action in the **Agency Receipt, Agency Certificate**, and item #1 of the **Preamble**. It is used for an existing Section.

*Note:* If all of the text of a Section is stricken but the heading remains unchanged (or mostly unchanged), the rulemaking action is still *Amend*.

See R1-1-415 and R1-1-502.

### **amending words, phrases, and blocks of text**

- When amending words or portions of words, strike-out the entire word, insert one blank space, then underline the new version of the word. (It can be difficult to decipher what you mean if you just strike-out letters within a word.)

*Wrong:* The ~~D~~department.

*Right:* The ~~department~~ Department

*Wrong:* \$~~+~~2500.00.

*Receipts are date-stamped; one is returned to the agency.*  
See **Agency Receipt**.

### **Reminder**

Unless all the text in a Section is stricken and all the text of the heading is stricken, the rulemaking action is *Amend*.

*Right:* ~~\$150.00~~ \$200.00

- When amending a sentence, place stricken text in front of new text. Placing old text in front of new text is usually easier to understand than placing old text after the new text.

*Wrong:* The Department shall test all vehicles. ~~Division is responsible for vehicle testing.~~

*Right:* The ~~Division is responsible for vehicle testing.~~ Department shall test all vehicles.

- When amending a paragraph or large block of text, strike the old text first, then list the new, underlined text. If the changes to a subsection are extensive, it is preferable to edit (strike or add) by whole paragraph.

### **amid**

Not *amidst*.

### **among, between**

*Among* is used when things are shared by more than two people. *Between* is used when things are shared by two.

### **amount, number**

*Amount* tells “how much.” *Number* tells “how many.”

### **ampersand (&)**

Use the ampersand when it is part of a formal name: *Baltimore & Ohio Railroad*. Do not use the ampersand in place of *and*.

### **another**

*Another* is not a synonym for *additional*. It refers to an element that somehow duplicates a previously stated quantity.

*Right:* *Ten people took the test; another 10 refused.*

*Wrong:* *Ten people took the test; another 20 refused.*

*Right:* *Ten people took the text; 20 others refused.*

### **anticipate, expect**

*Anticipate* means to expect and prepare for something; *expect* does not include the notion of preparation: *They expect a record crowd. They have anticipated it by adding more seats to the auditorium.*

### **anticrime**

### **antipollution**

### **APA (Administrative Procedure Act)**

The Administrative Procedure Act is the group of statutes (A.R.S. §§ 41-1001 through 41-1092.12) that prescribes how agencies do rule-making. Substantial changes were made to the APA in 1995, including a publication change for the *Register* from “notice only” to “full text.”

### **apostrophes**

**POSSESSION:** Use apostrophes to indicate possession: *Driver’s license, the contractors’ licenses.*

**QUASI-POSSESSIVE:** Use apostrophes to indicate the passage of time: *One month’s time, three days’ pay.*

**FIGURES:** Do not use an apostrophe for plurals of letters, symbols, or figures: *Xs, #s, the 1990s.*

See **contractions**.

### **Appendix**

*Appendix* means **supplementary material** to a set of rules, written in prose style.

Appendices (or appendixes) are listed in the table of contents for the Chapter in the same format used for Sections, indented two spaces from the left. Number Appendices with either capital letters or Arabic numbers using a consistent numbering scheme. You may include an Appendix only if it is referred to in at least one Section.

An Appendix that appears *within* the text of a Section, as opposed to being separate from the Section, does not appear in the table of contents and does not have its own **Historical Note**. To reference such an Appendix, use the appropriate subsection label.

See R1-1-101 and R1-1-412.

### **apposition**

A decision on whether to put commas around a word, phrase, or clause used in apposition depends on whether it is essential to the meaning of the sentence (no commas) or not essential (use commas).

### **areawide**

### **Article**

An Article is a division of an agency’s rules under a Chapter containing a unified set of rules.

Always capitalize *Article* when referring to a division of the *Code*.

After you have used a **Chapter** and you repeal or renumber it in its entirety so that no text remains, you may not re-use that Chapter for one year.

See **Title, Chapter, Subchapter, Part, and Section**; and R1-1-101, R1-1-301, R1-1-402, and R1-1-501.

### **attorney general, attorneys general**

Capitalize only when used as a title before a name: *Attorney General John Smith.*

### **authority notes**

Authority notes appear immediately below the Chapter heading, the Subchapter heading, the Article heading, or the Part heading, as applicable,

in the Chapter's table of contents and specify the statutes that the rules are implementing (the specific authority) and the statutes that authorize the agency to do rulemaking (the general authority).

If you would like to place authority notes in your Chapter as published in the *Code*, include them in a final rulemaking package or send the Office a letter listing the notes.

See R1-1-101, R1-1-407.

### autofor­mat­ting

Turn off autofor­mat­ting in your word processing program. If a document contains autofor­mat­ted text, the subsection numbers and letters disappear when the file is imported into the Office's publishing program. Autofor­mat­ting can also insert **frac­tion** symbols ( $\frac{1}{2}$ ,  $\frac{3}{4}$ ) and super­script **ordinals** (7<sup>th</sup>) that disappear. Having the autofor­mat­ting option turned off will prevent these mistakes from happening.

In Microsoft Word, go to Format>AutoFor­mat... and click on "Options." In each of the four tabs, uncheck all of the boxes (leave them blank). Then click "OK" and "Close" -- **not "OK."** Then go back to each subsection label and make sure it is manually typed in. (If the text is autofor­mat­ted, you cannot highlight it with your cursor.) You may find that you have manual labels and autofor­mat­ted labels in the same document.

It's best to do this when the document is first created, but you can do it later as well.

See **Track Changes** and the **Frequently Asked Questions** section of this manual.

### automatic repeal dates

If a date is set for the automatic repeal of a Section, the last first-level subsection of the Section shall specify the date. Only complete Sections may have automatic repeal dates. An agency must notify the Office when the repeal date has passed so that the Office can remove the Section from the *Code*. Chapters from which Sections have been automatically repealed shall be updated in the next *Code* supplement.

See R1-1-411.

### average of

The phrase takes a plural verb in a construction such as: *An average of 100 new wells are dug yearly.*

### awhile, a while

*He plans to stay awhile. He plans to stay for a while.*

# B

### back up (v.), backup (n., adj.)

#### backward

Not *backwards*.

### balance, remainder

*Balance* is used in business to mean "the amount still owned after a partial payment" or "the excess of debits over credits." *Remainder* is what is left when a part is taken away.

### because, since

Use *because* to denote a specific cause-effect relationship: *He went because he was told.*

*Since* is acceptable in a causal sense when the first event in a sequence led logically to the second but was not its direct cause: *They went to the game, since they had been given the tickets.* (Replacing *since* with *because* in this example gives a different meaning.)

*Since* also refers to something that happened at a particular time in the past. Do not use "since" when you mean "because."

### beside, besides

*Beside* means at the side of. *Besides* means in addition to.

### biannually, biennially

*Biannually* means twice a year. *Biennially* means every two years.

### bimonthly, semimonthly

*Bimonthly* means every other month. *Semimonthly* means twice a month.

### bipartisan

### biweekly

### bollard

Any of a series of short posts set at intervals to delimit an area or to exclude vehicular traffic.

### bondholder

### bookmaking

### book titles

Place statutory quotations, book titles, and scientific names in italics.

### buildup (n.), build up (v.)

### bulkhead

### bus, buses

The verb forms: *bus, bused, busing*. *Busses* are kisses.

### businessperson

- bylaw (n.)**
- bypass (n., v.)**
- byproduct (n.)**

# C

**camera-ready material**

Camera-ready material is supplementary material that meets the requirements of R1-1-412(D). It must be clear and legible, in solid black ink on one side of an 8 1/2" x 11" sheet of paper with a one-inch margin on all edges of the page.

- cancel, canceled, canceling, cancellation**
- cannot**

**capital, capitol**

*Capital* means an uppercase letter, site of government, or money. *Capitol* means the main government building.

**capitalization**

DEFINED TERMS: Defined terms may be capitalized if they are defined with the first letters of each word in the term capitalized or with the key words of the term capitalized. If you define *State Plan* using capital letters for the first letter of each word, you may refer to this document elsewhere in the same Article with the same capital letters. If you define *State plan* with only the first word capitalized because it is the first word of the definition, refer to this document as *state plan* elsewhere in the Article.

Because definitions usually place the term being defined at the beginning of the sentence, single words being defined will have capital letters. You can therefore use the term either in all lower case or capitalize the first letter, but be consistent.

UNNECESSARY CAPITALIZATION: Do not capitalize *rule, law, state, or federal* unless the terms are part of an official name of an agency, an act, or some other proper noun.

NAMES OR TITLES: Lowercase *federal government* and *government* (referring specifically to the United States government). In government documents, however, and in other types of communications where these terms are intended to have the force of an official name, they are capitalized. Names of governmental units are usually capitalized, particularly in rules that contain references to the governing agency for those rules. Titles of individuals are capitalized when immediately preceding a person's name (Senator Smith) but not capitalized when following the name (Jane Smith, senator).

OTHER CAPITALIZATION: Capitalize the major divisions of the *Code* (*Title, Chapter, Subchapter, Article, Part, and Section*). A subsection is not a major division of the *Code*.

Capitalize *Director, Department, Board, and Commission* when referring to your agency and agency head.

For Section headings, capitalize the first letter of the first and last words, and the first letter of important intermediate words.

Capitalize the first letter of the first word of each subsection at any level.

Capitalize any term that you have defined in your rules with capital letters if you also use the term capitalized within your rules.

Capitalize the title of an individual when the title immediately precedes the person's name.

See R1-1-402.

**cardholder**

**caregiver**

**caretaker**

**carpool**

**carryforward (n.)**

**carryout (n., adj.)**

**carryover (n.)**

**caseworker**

**CD-ROM**

**Celsius (C)**

Use the degree symbol when using degrees in your rules.

*Wrong:* 21 degrees Celsius

*Right:* 21° C (space before the C and no period after the C)

**cement**

*Cement* is the powder mixed with water and sand or gravel to make *concrete*. The proper term is *concrete* (not *cement*) *pavement, block, foundation*.

**Chapter**

A Chapter is a division in the codification of the *Code* designating a state agency or, for a large agency, a major program.

Always capitalize *Chapter* when referring to a division of the *Code*.

The Secretary of State's Office assigns Title and Chapter designations to state agencies, boards, and commissions. An agency preparing to make rules for the first time must contact the Office for assignment of a Title and Chapter number within the codification system. An agency that already has at least one Chapter on file shall con-

*Capitol means the main government building. See capital, capitol.*

**Fast Fact**

Largest Chapters (as of 03-2)

- Title 12, Ch. 1: 203 pages
- Title 20, Ch. 6: 193 pages
- Title 18, Ch. 2: 167 pages
- Title 6, Ch. 5: 163 pages
- Title 14, Ch. 2: 151 pages

tact the Office, orally or by letter, when adding a new Chapter.

After you have used a Chapter and you repeal or renumber it in its entirety so that no text remains, you may not re-use that Chapter for one year.

See **Title, Subchapter, Article, Part, and Section**; and R1-1-101, R1-1-301, R1-1-402, R1-1-406, R1-1-501, and A.R.S. § 41-1011.

### Chapter headings

Within the *Code*, Chapter headings shall always contain the name of the agency. Large agencies with more than one Chapter may also specify the subheading, which is a program or subject division, for that Chapter.

*Wrong:* Chapter 2. Air Pollution

*Right:* Chapter 2. Department of Environmental Quality - Air Pollution

### checklist

### checkout (n., adj.)

### checkup (n., adj.)

### childrearing

### citations

**A.R.S. AND SESSION LAW CITATIONS:** Place subsection labels within separate sets of parentheses. The use of parentheses to enclose subsection labels is the format used by the Attorney General and results in a clear, concise citation.

*Wrong:* § 41-1041.C.2.b. or subparagraph b. of paragraph 2. of subsection C. of § 41-1041

*Right:* § 41-1041(C)(2)(b)

When referencing a law that has not yet been codified into the Arizona Revised Statutes, use the word “Laws” followed by the year the law was passed by the legislature, the Chapter number using the abbreviation “Ch.”, and the specific Section number using the Section symbol (§).

*Wrong:* Laws 1995, Chapter 6, Section 2

*Right:* Laws 1995, Ch. 6, § 2

When referencing a law that amends an existing law but that has not yet been codified into the Arizona Revised Statutes, use the phrase “as added by” if it is a new Section of the codified law, or “as amended by” if an existing Section is being amended, followed by “Laws” followed by the year the law was passed by the legislature, the Chapter number using the abbreviation “Ch.”, and the specific Section number using the Section symbol (§).

*Wrong:* Laws 1995, Chapter 6, Section 2, which amended A.R.S. § 42-1011

*Right:* as amended by Laws 1995, Ch. 6, § 2

*Wrong:* Section 2 of Chapter 6 of Laws 1995, which added A.R.S. § 42-1011

*Right:* as added by Laws 1995, Ch. 6, § 2

**CODE AND REGISTER CITATIONS:** Place subsection labels within separate sets of parentheses.

*Wrong:* R4-13-2121.B.1.a

*Right:* R4-13-2121(B)(1)(a)

When citing from the *Arizona Administrative Code*, use the abbreviation “A.A.C.” If you reference a Subchapter in the *Code*, however, you must also list the Chapter; if you reference a Part, you must also specify the Article.

*Right:* A.A.C. R9-22-210

*Right:* A.A.C. R9-22-210(A)(2)(a)(iii)

*Right:* 9 A.A.C. 22

If a Section in a *Code* Chapter refers to another Section in that *same* Chapter, do not use A.A.C. before the Section number. If a Section refers to another Section in a *different* Chapter, use A.A.C. before the Section number.

When citing several rules from the *Code*, write the entire Section number.

*Wrong:* R18-2-101, 102, 103, and 104

*Right:* R18-2-101, R18-2-102, R18-2-103, and R18-2-104 (or R18-2-101 through R18-2-104)

In the Preamble, do not refer to a Section with just the last three digits of the Section number (for example, “Section 128”), unless you indicate you intend to do so for simplicity’s sake (for example, “The Department intends to amend R18-4-101 (“Section 101”) . . .”

When citing the *Arizona Administrative Register*, use the abbreviation “A.A.R.” Include in the citation the volume number that will appear in front of the abbreviation, and the specific page number or numbers, which will appear after the abbreviation. Also include the date of publication.

*Wrong:* Volume 6, pages 2118-2119 of the *Arizona Administrative Register*, 7/11/00

*Right:* 6 A.A.R. 2118, July 11, 2000

**CFR AND FR CITATIONS:** When citing from the Code of Federal Regulations, use the abbreviation *CFR* (no periods). The federal government has specified this format. Do not use the terms “part” or “section” in CFR citations. In the CFR, part and section numbers are unique within each title. If you reference a Subchapter in the CFR, however, you must also list the Chapter.

*Wrong:* Section 221.102 of Title 33 of the Code of Federal Regulations

*Right:* 33 CFR 221.102

*Wrong:* Subchapter c of Chapter 3 of Title 33 of the Code of Federal Regulations

*Right:* 33 CFR, Chapter 3, Subchapter c

When citing from the Federal Register, use the abbreviation *FR*. Include the volume number that will appear in front of the abbreviation, and the specific page number or numbers, which will appear after the abbreviation. Also include the date of publication.

*Wrong:* Volume 78, pages 11829-11892 of the Federal Register, 7/11/89

*Right:* 78 FR 11829-11892, July 11, 1989

When the Federal Register amends part of the CFR, combine the two citation styles:

*Wrong:* 33 CFR 22.01, November 26, 2002.

*Right:* 33 CFR 221.01, amended at 79 FR 10477, November 26, 2002.

**U.S.C. CITATIONS:** When citing from the United States Code, use the abbreviation *U.S.C.* When citing from the United States Code Annotated, use the abbreviation *U.S.C.A.* The federal government has specified this format for the U.S.C. and the U.S.C.A. Do not use the terms “part” or “section” in U.S.C. citations. Part numbers and section numbers are unique within each title of the U.S.C.

*Wrong:* Section 21.1020 of Title 13 of the United States Code

*Right:* 13 U.S.C. 21.1020

*Wrong:* subparagraph iii of paragraph 2 of subsection a of Section 21.1020 of Title 13 of the United States Code

*Right:* 13 U.S.C. 21.1020(a)(2)(iii)

See R1-1-409.

**classwork**

**cleanup (n., adj.)**

**clearinghouse**

**close of record**

The close of the public record for a proposed rulemaking is the date an agency chooses as the last date it will accept public comments, either written or oral. An agency cannot make a rule until the rulemaking record is closed.

The close of record can be included in a Notice of Proposed Rulemaking if expedient and practical to do so (for example, in a simple, non-controversial rulemaking).

See A.R.S. § 41-1024(A) and R1-1-505.

**clubhouse**

**codefendant**

**Code (A.A.C.)**

The *Arizona Administrative Code (A.A.C.)* is the official compilation of rules that govern state agencies, boards, and commissions. The ten-volume set includes rules divided into 20 Titles and

230 Chapters. By law the Secretary of State must publish *Code* supplements at least once each calendar quarter.

The *Code* contains all rules promulgated by the regulatory agencies of the state and filed with the Office after either certification by the Attorney General or approval by the Governor’s Regulatory Review Council. The *Code* also contains rules exempt from the rulemaking process or exempt from certification or approval.

Laws 1972, Ch. 35, § 1 required all administrative rules in the state to be printed in one official publication. In 1975 the Secretary of State’s Office completed the codification of the rules and published the first multi-volume set referred to as the *Official Compilation of Administrative Rules and Regulations*. In January 1987 the name of the set was statutorily changed to its current title, the *Arizona Administrative Code*.

Until 1990 supplements were published on 6” x 9” paper as “replacement pages.” Since then the Office has published supplements by full Chapters on standard 8 1/2” x 11” paper, making *Code* set updates faster and easier. Starting in 1997 the *Code* was put online at the Secretary of State’s web site.

The *Code* uses a hyphenated numbering system. Each rule (Section) number is preceded by the letter “R” indicating “Rule.” The first number following the letter “R” indicates the Title (subject area) in which the rule appears. The middle number indicates the Chapter (agency or program). The last number indicates the Section number. For example: A.A.C. R18-2-101 is the citation for Section 101 of Chapter 2 of Title 18 of the *Code*.

Publication of a rule in the *Code* is prima facie evidence in court of the making, amendment, or repeal of that rule as provided by A.R.S. § 41-1012.

See **Register**, A.R.S. §§ 41-1011, 41-1012, and R1-1-301 and R1-1-302.

**Code of Federal Regulations (CFR)**

Do not use periods in the citation: *40 CFR 64*.

The *Code of Federal Regulations* is a codification of the general and permanent rules published in the *Federal Register* by the executive departments and agencies of the federal government. The CFR online is a joint project authorized by the publisher, the National Archives and Records Administration’s Office of the *Federal Register*, and the Government Printing Office.

The CFR is divided into 50 titles representing broad areas subject to federal regulation. Each title is divided into chapters that usually bear the name of the issuing agency.

 **Online**  
<http://www.archives.gov>  
 Click on Federal Register, then CFR.

**Fast Fact**  
 Total pages in *Code* Supps.

2003 Supps:	7000 (est.)
2002 Supps:	6725
2001 Supps:	6708
2000 Supps:	5567
1999 Supps:	5561
1998 Supps:	5452

**codification**

The codification for the *Code* is established in R1-1-102, R1-1-301, and R1-1-402. The codification starts with general subject areas and continues to specific rules.

The Office is the ultimate authority for codification. The Office rarely interferes with the organization of a rule established by the drafter. However, keep in mind:

Only the Office can create a new **Title**.

Agencies must contact the Office for the designation of a new **Chapter**.

Agencies must consult with and get the approval of the Office before creating a **Subchapter** or **Part**.

**coemployee****colons**

Use a colon between two independent clauses when the second clause explains or illustrates the first clause and there is no coordinating conjunction or transitional expression linking the two clauses. *The new rules will simplify filing: only electronic submissions will be required.*

Use colons to introduce a list or an example.

Do not use a colon when a form of the verb *to be* is used. *The three courses required in this program are accounting, business English, and Computer Science 22.*

Do not use a colon between two independent clauses when the two clauses are equal in value. Use a semi-colon or period instead.

See **semi-colon**.

**colored paper**

Until Supp. 01-2, the Code was published on four colors of paper to distinguish rules made, amended, or repealed under the regular rulemaking process and those changed under various statutory or court-ordered exemptions. Since September 1992 exempt rules were published on blue paper. Certain exempt rules of the Corporation Commission were printed on green paper.

Chapters are separated by goldenrod paper, and Titles are separated by blue tab pages.

Currently, all rules made, amended, or repealed are printed on white paper. Introductory materials such as the Title Index and APA are also printed on white paper.

See **exempt rulemaking**.

**commas**

Standard grammatical rules for commas apply to rulewriting:

- Use a comma to separate independent clauses in a compound sentence.

- Use a comma to separate three or more items in a series: *We ate turkey, stuffing, and yams.*
- Do not separate a month and year with a comma: *January 2001.*

See **lists** and **semi-colons**.

**commercial use of public records**

Any material from the *Code* or *Register* ordered from the Office is limited to your personal use. If you intend to use the material for a commercial purpose or knowingly allow it to be used for a commercial purpose, you may be in violation of Arizona law. Refer to the procedures in A.R.S. § 39-121.03 to obtain permission to use public records for a commercial purpose.

The fee for commercial use of an individual Chapter in the *Code* is \$84.00.

See **Price List**, R1-1-113, and R1-1-302.

**commingle****committeeperson****communitywide****complement, compliment**

*Complement* is a noun and a verb denoting completeness or the process of supplementing something: *This ship has a complement of 200 sailors. The tie complements his suit.*

*Compliment* is a noun or verb that denotes praise: *The captain complimented the sailors.*

**complementary, complimentary**

*The husband and wife have complementary careers. They received complimentary tickets.*

**compose, comprise, constitute**

*Compose* means to create or put together. *The United States is composed of 50 states.*

*Comprise* means to contain or to include all. *The United States comprises 50 states.*

*Constitute*, in the sense of make up, may be preferable to *compose* or *comprise*. *Fifty states constitute the United States.*

**compound words**

Compound words usually begin as two separate words with one space between the two words. As the two words are more frequently used together, a hyphen may be added to link them together. When the use of the compound word becomes common, the hyphen is usually dropped.

The following compound words are also listed individually in alphabetical order in this section of the manual.

See **hyphen**.

aboveground	firefighting	outreach
airtight	firehouse	overall
anticrime	fireproof	paperwork
antipollution	floodplain	passthrough
areawide	freestanding	percent
bipartisan	freshwater	policyholders
biweekly	fundraising	policymaking
bondholder	groundwater	postaudit
bookmaking	handgun	postclosure
buildup (n.)	highlight	postgraduate
bulkhead	horsepower	postsecondary
businessperson	infrastructure	powerhouse
bylaw (n.)	inpatient	praiseworthy
bypass (n., v.)	interagency	preaudit
cardholder	intrastate	preconstruction
caregiver	lifesaving	preempt
carpool	lifestyle	preexist
carryforward (n.)	lifetime	printout
carryout (n., adj.)	longstanding	rainwater
carryover (n.)	lowfat	ratemaking
caseworker	makeup	recordkeeping
checkout (n., adj.)	manmade	restroom
checkup (n., adj.)	manpower	retroactive
childrearing	marketplace	rulemaking
cleanup (n., adj.)	markup	runoff
clearinghouse	microcomputer	saltwater
clubhouse	microform	securityholders
classwork	multicounty	semiannual
codefendant	multidimensional	semiautomatic
coemployee	multifamily	semifinal
commingle	multistate	semimonthly
committeeperson	multiyear	setup
communitywide	nationwide	soundproof
co-officer	nonappropriated	springwater
co-owner	nonattainment	standby
copartnership	noncancelable	statewide
copayment	noncontact	stockholder
counterclaim	nongovernmental	subcommittee
countywide	nonmember	subcontract
coursework	nonprescription	videotape
courthouse	nonprofit	wastepaper
coworker	nonsupport	wastewater
creditworthiness	nonvoting	waterborne
database	offsite	watercourse
districtwide	offsite	whitewater
earthmoving	offtrack	workload
farmland	oneself	workspace
farmworker	onsite	wrongdoing
firefighter	outpatient	

**comprise, constitute, compose**

See **compose, comprise, constitute**.

**Concise Explanatory Statement (CES)**

The CES is no longer required as a separate document in a rulemaking package. The CES was formerly required by A.R.S. § 41-1036.

**concurrent, consecutive**

*Concurrent* is an adjective that means simultaneous: *The concurrent strikes of several unions crippled the economy.* *Consecutive* means successive: *The union called three consecutive strikes in one year.*

**conditional text**

If you have Tools>Track Changes turned on in Microsoft Word at any time during preparation of your rule package, the rule package you submit on disk will contain conditional text when the Office prepares it for publication. Conditional text is underlined or stricken, appears blue or red, and **does not match the hard copy** you submit to the Office. Significant inaccuracies can result from the use of these files, and the Office may delay publishing a rule package created with Track Changes or return the package to the agency.

In Word, go to Tools>Track Changes>Highlight Changes and make sure the boxes are not checked (remain white).

See **Track Changes**.

**conditions (lists)**

Rules often contain conditions that result in complex sentences containing many clauses.

- A list that follows introductory language that is an incomplete sentence should not contain a complete sentence with end punctuation within any item in the list.
- If only one or two simple conditions must be met before a rule applies, state the conditions first and then state the rule.

*Example:* If you are the owner or operator of a chemical manufacturing facility, you shall keep a daily inspection log.

- If two or more complex conditions must be met before a rule applies, state the rule first and then the conditions.

*Example:* The owner or operator of the plant shall record daily inspections in a log if the plant manufactures hazardous substances, employs 10 or more employees, and has equipment that is more than three years old.

- If several conditions or subordinate provisions must be met before a rule applies, use a list. Listing provides white space that separates the various conditions. Listing can help avoid the problems of ambiguity caused by the words “and” and “or.” Use the following rules when making a list:

- a. Each item in the list must fit the classification.
- b. Each item in the list must correspond, both in substance and form, to the introductory language for the list.
- c. If the introductory language for the list is a complete sentence, end the introduction with a colon and make each item in the list a separate sentence.
- d. If the introductory language for the list is an incomplete sentence:
  - i. End each item in the list, except the last item, with a comma if no item in the list contains a comma, or a semi-

colon if one or more items in the list contain a comma;

- ii. Capitalize the first word of each listed item;
- iii. Use parallel structure;
- iv. Write “and” or “or,” as appropriate, after the comma or semicolon in the next-to-last item in the list; and
- v. End the last item in the list with a period unless the next subsection is a continuation.

- Instead of trying to list every possible situation, develop broad categories.

**connote**

*Connote* is a verb that means to imply or suggest: *The word “espionage” connotes mystery and intrigue.* *Denote* is a verb that means to indicate or refer to specifically: *The symbol for “pi” denotes the number 3.14159.*

**consistency**

Make the reader’s job easier by writing clearly. Follow the guidelines in this manual, including:

- Don’t use different words to denote the same thing.

*Wrong:* Each *registered nurse* shall notify the agency if the *licensee’s* place of practice is changed.

*Right:* Each *registered nurse* shall notify the Board if the *registered nurse’s* place of practice is changed.

- Don’t use the same word to denote different things.

*Wrong:* The tank had a 200-gallon tank for fuel.

*Right:* The tank had a 200-gallon fuel container.

*Wrong:* The agency shall test these methods of presenting test materials by requiring each test taker to choose the testing method he prefers.

*Right:* The agency shall test these methods of presenting examination materials by requiring each examinee to choose the type of examination the examinee prefers.

**constitute, compose, comprise**

See **compose, comprise, constitute.**

**contents**

The contents of the *Register* are specified in A.R.S. §§ 41-1013 and 49-112. The Office will publish in the *Register* only those items mandated by law and those documents pertaining to rule-making in Arizona.

The contents of the *Code* are specified in A.R.S. § 41-1012.

**continual, continuous**

*Continual* means something that happens again and again, over a long period of time. *The statutes have been the source of continual rule-making.*

*Continuous* means without interruption, steady, unbroken. *Ahead of them was a continuous stretch of desert.*

**contractions**

Do not use contractions in rules.

**convince, persuade**

Strictly speaking, one convinces a person that something is true but persuades a person to do something. *Pointing out that I was overworked, my friends persuaded me to take a vacation. Now that I’m relaxing on the beach with my book, I am convinced that they were right.* Following this rule, *convince* should not be used with an infinitive.

**co-officer**

**co-owner**

**copartnership**

**copayment**

**copies (number of)**

An agency submitting materials for filing or publication in the *Register* or *Code* must send an original and two copies (R1-1-103). An **Agency Certificate** and two copies of the **Agency Receipt** must accompany the original of the rulemaking package (R1-1-105 and R1-1-106). An Agency Certificate must accompany each copy of the rule-making package. This means, for example, the materials for a Notice of Proposed Rulemaking are the following:

<p><i>Original:</i>                  Computer disk                  Two Agency Receipts                  Agency Certificate                  Rule package  <i>Filed in permanent storage</i></p>	
<p><i>Copy:</i>                  Agency Certificate                  Rule package  <i>Used by Register editor</i></p>	<p><i>Copy:</i>                  Agency Certificate                  Rule package  <i>Used by Code editor</i></p>

**correction of errors**

The Office can correct nonsubstantive errors. The Office may catch some of these errors when proofing the material, or you may catch some of them and notify the Office. The Office asks that you put in writing, for our records, any notice you give us about errors you would like us to correct.

After you have submitted a **Notice of Proposed Rulemaking** to the Office, you may correct a **substantive error** only by filing a **Notice of**

**Supplemental Proposed Rulemaking** specifying the change.

After you have filed a **final, summary, exempt, or emergency rulemaking** package with the Office, you may correct a **manifest typographical error** by filing the corrected page with the Office accompanied by a letter from the agency’s chief executive officer requesting the Office to make the change. The letter must also specify why you believe the error is a manifest typographical or clerical error.

In contrast, substantive errors must be corrected by the regular rulemaking process. If you request a change of what you consider to be a non-substantive error and the Office is unsure whether the error is substantive or nonsubstantive, the Office will contact the Attorney General’s Office or G.R.R.C. for clarification.

See R1-1-109 and R1-1-507.

**council, counsel**

*Council* means a group of people. *Counsel* means an attorney, advice, or to advise. A *councilor* is a member of a council, and a *counselor* is one who counsels.

**cover letter**

When delivering a rule package to G.R.R.C., an agency must include a cover letter (one original and one copy) with information specified in R1-6-104(A)(1) and signed by the agency head.

**creditworthiness**

**criterion, criteria**

**cross section (n.) cross-section (v.)**

# D

**database**

**dates**

When writing dates, spell out the date rather than write it in numerical form. See **commas**.

*Wrong:* 2/17/99

*Right:* February 17, 1999

*Wrong:* 4/01

*Right:* April 2001 (no comma)

**deadline**

See **publication deadline**.

**decades**

Use Arabic numerals to indicate decades of history. Use an apostrophe to indicate missing

numerals, and show the plural by adding the letter *s*: *the 1990s, the '60s, the mid-1980s*.

**definitions**

**WHEN TO USE A DEFINITION**

1. Define all terms specific to the rules that are necessary to help a member of the general public read and understand the rule.
2. Define all terms to which you are giving meaning outside of the normal, common meaning of the term.
3. Define all acronyms and shortened forms used in the rule.
4. Define only those terms actually used in the rules.

**PLACEMENT**

Definitions of terms or phrases applicable to an entire Chapter should appear in the first Article for the Chapter, usually as the first rule of the Chapter. Definitions applicable only to a specific Article or Section should appear at the beginning of that Article or Section.

**LEAD-IN STATEMENT**

1. Introduce definitions without using “shall” as a command.

*Examples:*

In this Chapter, unless otherwise specified:

In addition to the definitions provided in A.R.S. §§ 44-421, 49-521, 3-201, 3-231, 3-441 and 3-481, the following terms apply to this [Chapter, Article, Section]:

2. If you do not include a lead-in statement in your definitions Section, and you choose to label your definitions, you must label them as first-level subsections (capital letter labels).
3. You may leave lists of definitions unlabeled, although you must still indent them as if they were labeled. If you do not label your definitions, the subsections of those definitions must also be unlabeled. However, if you must refer to those subsections elsewhere in your rules, you may want to label your definitions.

**TERMS DEFINED BY STATUTE**

1. If it is necessary to use a term in a rule that has been defined by statute, use the following example.

*Example:* “Person” has the same meaning as prescribed in A.R.S. § 49-701(7).

2. Place all statutory definitions repeated verbatim within the text of the rule in italics, followed by the statutory citation. If the statutory language contains subsection labeling, retain the labeling.
3. If several definitions are used from a specific statute, include a reference to the statute in the rule lead-in statement. (See LEAD-IN STATEMENT examples.)

**ORDER**

List definitions in alphabetical order. Alphabetical definitions do not have to be labeled and therefore can be amended more easily. If you choose not to label definitions, do not use labels on any subsections of the definitions.

**FORMAT**

Place the terms defined in quotations and use the verb “means” to begin each definition.

*Example:* “Oral proceeding” means a public hearing held during the rulemaking process, as described by A.R.S. § 41-1023, at which members of the public may comment about proposed rules.

**TERMINOLOGY**

1. Use terms already understood to explain the meaning of a defined term. Do not use the term being defined to describe its meaning.
2. Define a term only when it is necessary to make its use clear and consistent.
3. Use the defined term throughout the rules.

*Example:* Rules governing school buses include a definition of “passenger.” Always refer to a person riding on a school bus as a passenger. Do not refer to a passenger as a “student,” “person,” or “youth.”

4. Define a term so it is mutually exclusive.
5. Do not include regulatory language within a definition.

Example:

[Note: The rule language in the example below is no longer in effect.—*Ed.*]

*Wrong:* Only employees in covered positions are eligible to receive on-call duty pay.

On-call duty hours are recorded on the Positive Attendance Report (PAR) by entering attendance code “OC” and the number of hours assigned to on-call duty.

On-call duty pay is paid with other earnings in the pay period during which it is earned.

*Right:* “On-Call Duty Pay” means a cash payment of \$1.00 per hour for the period of time when an eligible employee is assigned to on-call duty, calculated to the nearest tenth of an hour.

See R1-1-101.

**degrees**

Use the degree symbol.

*Wrong:* 102 degrees Fahrenheit

*Right:* 102° F (space before the F and no period after the F); 35° C

**dependent**

(Noun and adjective) Not *dependant*.

**different**

Takes the preposition *from*, not *than*.

**directness; imperative mood**

Direct the rule to the readers. Rules, especially those that provide procedures, how-to instructions, or a list of duties, lend themselves to use of the imperative mood. Directness avoids the passive voice. This style results in procedures that are more clearly concise and understandable.

*Examples:*

Sign all copies.

Attach a check to the application.

**discreet, discrete**

*Discreet* is an adjective that means prudent, circumspect, or modest: *Their discreet comments about the negotiations led the reporters to expect an early settlement.* *Discrete* is an adjective that means separate or individually distinct: *Each company in the conglomerate operates as a discrete entity.*

**disinterested, uninterested**

*Disinterested* is an adjective that means unbiased or impartial: *We appealed to the disinterested mediator to facilitate the negotiations.* *Uninterested* is an adjective that means not interested or indifferent: *They seemed uninterested in our offer.*

**disk**

R1-1-104(B) requires an agency to submit its rulemaking package or other notice in paper copy and electronic medium. All electronic media submissions shall be compatible with the Office’s computer system and software. Contact the Office for further help.

**districtwide****divisions of the Code**

The major divisions of the *Code* are defined in R1-1-101. Definitions for the major divisions of the *Code* are also in this section of the manual.

See **Title, Chapter, Subchapter, Article, Part, Section**, and R1-1-101, R1-1-301, R1-1-402, and R1-1-501.

**docket**

A docket is a public file for each rulemaking containing materials related to the proceedings of that rulemaking. The docket file is established and maintained by an agency from the time it begins to consider making a rule until the rulemaking is finished. The agency provides public notice of the docket by filing a **Notice of Rulemaking Docket Opening** with the Office for publication in the *Register*.

A docket is pending until any one of the following occurs: 1) The agency decides not to act and closes the docket; 2) The agency does not file

*The Office requires agencies to include a disk when submitting rule packages. See **disk**.*

a **Notice of Proposed Rulemaking** within one year after the Notice of Rulemaking Docket Opening is published; 3) The agency does not submit the final rule to G.R.R.C. within one year after the proposed rulemaking is published; 4) The rule becomes effective; 5) The agency files a **Notice of Termination of Rulemaking** (A.R.S. § 41-1021).

To renew the one-year docket period, an agency must file a new docket opening.

See **Notices** and the **Rulemaking Forms** section of this manual.

### Docket Opening, Notice of Rulemaking

There is no uniform way to open a docket. Some agencies simply label a file folder with the subject or rules under consideration. Some agencies establish a rulemaking docket number. Some agencies work with their governing boards to open a docket.

Once you have opened a docket, you must prepare a Notice of Rulemaking Docket Opening for publication in the *Register*. It is a “Rulemaking” Docket Opening because some agencies open other kinds of dockets that are not published in the *Register*.

When preparing the Notice of Rulemaking Docket Opening, place the heading NOTICE OF RULEMAKING DOCKET OPENING in all capital letters one inch from the top of the page and center it on the line. Below the Notice heading place the agency name, also capitalized, centered on the line. The remainder of the Notice contains information in a specified, numerical order. A sample of the Notice appears in Section 4 of this manual. Some of this information is explained below:

1. In the place where you list the Chapter, its label and heading, specify the agency name as it appears in the *Code*.

In the place for Articles, Parts, and Sections, do not use the term “et seq.” Specify the first and last numbers in the series. Do not specify any Sections, Parts, or Articles on which you are not opening rulemaking consideration. In other words, if you specify R1-1-201 through R1-1-208, you must consider every Section in that series. If one of these Sections has no text currently, it should not be listed unless you are considering adding text at that Section number. If you do not know the specific Section numbers, you may insert “Sections to be determined” instead of listing specific Section numbers. You may also insert the phrase, “Sections may be added, deleted, or modified as necessary.”

2. If you do not establish a docket number, you may omit that portion of the item.

3. In many instances you will answer this item, “None published.” If you had previously opened a docket or proposed rulemaking on some of the Sections specified in this docket, you should list those Notices here, specifying the date and *Register* citation.
4. This subsection is self-explanatory.
5. This subsection is self-explanatory. The APA requires you to list the time during which you will accept written comments and the time and place where oral comments may be made.
6. For item #6, specify the timetable for action on this rulemaking. If you do not know a specific timetable, specify this.

See R1-1-205.

### double space

All rulemaking packages submitted for publication shall meet the requirements in 1 A.A.C. 1. The Office will accept text that has line spacing of **space-and-a-half**, or text that is double-spaced. Spacing for the **EIS** is at the agency’s discretion.

See R1-1-103.

# E

### each

Takes a singular verb.

### each other, one another

Two people look at *each other*. More than two look at *one another*.

### earthmoving

### Economic, Small Business, and Consumer Impact Statement (EIS)

The EIS is prepared by an agency for most rules it makes and submits to G.R.R.C. or the Attorney General. It identifies the impact of the rule on private and public employment, on small businesses, and on consumers. It includes an analysis of the probable costs and benefits of the rule for these groups and for agencies and political subdivisions of the state. The agency must include a brief summary of the EIS in the **Preamble** to the rulemaking.

See A.R.S. §§ 41-1001(14), 41-1031, and 41-1035.

### editing and relabeling

The Office may edit rules for grammar, punctuation, gender-specific language, incorrect Section numbering, incorrect subsection labeling,

definitions not in alphabetical order, capitalization, proper rulemaking action, and other nonsubstantive errors.

See R1-1-108 and R1-1-415.

### effect, affect

*Affect* means to influence (usually a verb): *The rule will affect the public.* *Effect* means result (usually a noun): *The effect of this rule is cleaner air.*

### effective dates

- The effective date of a **final** or **emergency rule** is 60 days after the date of filing in the Office, unless G.R.R.C. or the Attorney General approves an effective date earlier or later than 60 days after the date of filing in the Office.
- The effective date of an **exempt rule** depends on the statutory exemption.
- A **summary rule** takes interim effect on the date the **Notice of Proposed Summary Rulemaking** is published in the *Register*. If G.R.R.C. approves the summary rule and files it in the Office, the interim effective date becomes the **permanent effective date** 60 days after the date of filing in the Office.
- Use the last first-level subsection to specify an effective date in the text of a Section if the effective date is required in the text of the Section.
- For a **Notice of Recodification**, the effective date is the date of filing in the Office.
- If you leave the effective date item in the Preamble blank, the Office will fill in the date.

See R1-1-110 and A.R.S. §§ 41-1027, 41-1031 and 41-1032.

### EIS

See **Economic, Small Business, and Consumer Impact Statement**.

### electronic media

*Electronic media* or *electronic medium* means any type of material for data storage used by a computer.

See R1-1-104, R1-1-112, and R1-1-113.

### e-mail

Lowercase in the middle of a sentence, but capitalize the *e* when it stands alone in the **Preamble**: *E-mail: rules@dot.state.az.us*. Do not underline or italicize an e-mail address.

### emergency rulemaking

If an agency determines that a rule must be made effective immediately to protect the public health, safety, or welfare; to comply with legislative deadlines; to avoid violation of another law; to avoid an imminent budget reduction; or to avoid serious prejudice to the public interest, it must send the rule to the Attorney General for approval before the emergency rule becomes

effective. (The attorney general may not approve the rule as an emergency measure if the emergency situation is created due to the agency's delay or inaction and the emergency situation could have been averted by timely compliance with the notice and public participation provisions of the APA.) A.R.S. § 41-1026 lists four other justifications for emergency rulemaking.

If the Attorney General approves the emergency rule and the agency files the rule with the Office, it is effective for 180 days. The rule may be renewed for one more 180-day period if several conditions are met.

See A.R.S. §§ 41-1026, 41-1026.01, R1-1-701, and the **Rulemaking Forms** section of this manual.

### Emergency Rulemaking, Notice of

When an agency determines that a rule falls within the emergency provisions of A.R.S. § 41-1026, the agency shall prepare a Notice of Emergency Rulemaking. The notice shall contain the heading NOTICE OF EMERGENCY RULEMAKING in all capital letters centered on a line approximately one inch from the top of the page. Below this heading shall be the word TITLE, the Title number, and the Title heading, all in capital letters and centered on the line. Below the Title shall be the word CHAPTER, the Chapter number, and the Chapter heading, all in capital letters and centered on the line.

If your agency uses Subchapters, place the word SUBCHAPTER, the Subchapter label, and the Subchapter heading below the Chapter.

If the rules have Parts, the Parts will appear in the table of contents for the rulemaking and in the text but not at the beginning of the Notice.

Under the Chapter, or the Subchapter if applicable, place the word PREAMBLE all in capital letters and centered on the line.

An emergency rulemaking package must be submitted to the Attorney General for approval. The package must contain one original and two copies of the Agency Certificate, two copies of the Agency Receipt, and a computer disk. The Office will not accept the rules without these items.

The Attorney General will indicate approval of the package by signing an approval form that is attached to the first page of the original of the notice. The Attorney General then submits the package (one original and two copies) to the Office for publication and filing.

Emergency rules are in effect for 180 days and may be renewed for one additional 180-day period under the provisions of A.R.S. § 41-1026.

If the text of a renewed emergency rule differs from the text of the previous emergency rule, you must submit to the Office, at the time the renewed

emergency rule is filed, a list of every change made to the latest emergency rule since the previous emergency rule was made.

A renewal of an emergency rule shall be prepared in the manner outlined in R1-1-701.

See A.R.S. §§ 41-1026, 41-1026.01, R1-1-701, and the **Rulemaking Forms** section of this manual.

**ensure, insure, assure**

Use *ensure* to mean guarantee: *The agency wants to ensure compliance.* Use *insure* for references to insurance: *Owners shall insure their vehicles.* *Assure* is an acceptable synonym for *ensure*, but it is used less often in rules.

**entitled**

Use it to mean a right to do or have something. Do not use it to mean *titled*.

**et seq.**

Not *et. seq.* Abbreviation of *et sequentes*, “and the following.”

**except, accept**

*Except* means to exclude. *Accept* means to receive or to agree with.

**exceptions**

- Avoid starting a sentence with an exception.
- State a rule or category directly rather than describing that rule or category.

*Wrong:* All applicants except those applicants who are 18 or older shall . . .

*Right:* Each applicant less than 18 shall . . .

- However, you may use an exception if it avoids a long and cumbersome list or elaborate description. When using an exception, state the rule or category first then state its exception.

*Wrong:* January, February, . . . and November (a list of ten months) are appropriate for . . .

*Right:* Each month except June and December is appropriate for . . . (Note that the category “each month” is established first and then the exceptions are stated.)

**exempt rulemaking**

If a proposed rule falls within any of the specific categories listed in A.R.S. § 41-1005 or other statute or session law, it is exempt from the APA and can be made without following APA procedures. However, an agency must follow the rules of the Office for the filing and publication of a Notice of Exempt Rulemaking. Chapters that contain these exempt rules were printed on blue paper in the *Code* until Supp. 01-2.

Some rules of the Corporation Commission have been exempt from the Attorney General certification provisions of the APA by a court order (*State ex. rel. Corbin v. Arizona Corporation*

*Commission, 174 Ariz. 216 848 P2d 301 (App. 1992)*). Chapters that contain these exempt rules were printed on green paper in the *Code* until Supp. 01-2.

See **colored paper**, A.R.S. § 41-1005, R1-1-901.

**Exempt Rulemaking, Notice of**

Any rule exempted from the provisions of the APA and initiated by the agency before September 30, 1992, is not filed with the Office and does not appear in the *Code*. Contact the specific agency for these early exempt rules. For agencies making rules under an exemption before September 30, 1992, there will be two versions of their rules: one that the agency maintains that contains the exempted rules and one that the Office has that does not contain any of the exempted rules.

Any rule exempted from the provisions of the APA and initiated by the agency after September 30, 1992, must be submitted to the Office for publication in the *Code*. These rules shall be submitted as final rules are filed. The notice shall be the same as that specified in R1-1-602 except that the heading of the notice shall be NOTICE OF EXEMPT RULEMAKING in all capital letters centered on a line approximately one inch from the top of the page, and it shall specify the authorization for the exemption.

The Office identifies each Chapter containing exempt rules initiated by the agency after September 30, 1992, by means of an introductory statement specifying the exemption at the beginning of the Chapter and before each Section or Article made under an exemption and by specifying the exemption in the Section’s **Historical Note**. Until Supp. 01-2, any Chapter containing rules exempted from the APA by legislation appeared on blue paper. Any Chapter containing rules exempted by other reasons appeared on green paper.

Agencies shall specify the reason for the exemption and the specific statute or other citation authorizing the exemption on the Notice of Exempt Rulemaking.

See A.R.S. § 41-1005, R1-1-901, and the **Rulemaking Forms** section of this manual.

**Exhibit**

An Exhibit is a form of **supplementary material** used for items that do not fit the definition of an **Appendix, Table, or Illustration**. (R1-1-101)

Exhibits are listed in the table of contents for the Chapter in the same format that Sections are listed, but they are indented two spaces from the left. Agencies shall number Exhibits with either capital letters or Arabic numbers using a consistent numbering scheme. An agency shall refer to an Exhibit within the text of one or more Sections.

An Exhibit that appears *within* the text of a Section, as opposed to being separate from the Section, does not appear in the table of contents and does not have its own **Historical Note**. To reference such an Exhibit, use the appropriate subsection label.

See R1-1-412.

### expiration of rules

When an agency's rules expire, the Office removes them from the *Code*. A.R.S. § 41-1011 states: "With the consent of the attorney general, the secretary of state may remove from the code a provision of a rule that a court of final appeal declares unconstitutional or otherwise invalid and a rule made by an agency that is abolished if the rule is not transferred to a successor agency."

If an agency does not include its rules in a scheduled five-year rule review, the rules scheduled for review expire and G.R.R.C. shall notify the Office that the rules have expired. The Office shall publish a notice of the expiration in the *Register* and remove the rules from the *Code*.

Emergency rules expire after 180 days unless the agency renews the rules for an additional 180 days.

See A.R.S. §§ 41-1011, 41-1026, and 41-1056(E).

## F

### Fahrenheit (F)

Use the degree symbol when using degrees in your rules.

*Wrong:* 102 degrees Fahrenheit

*Right:* 102° F (space before the F and no period after the F)

### farmland

### farmworker

### farther, further

*Farther* refers to physical distance that can be measured.

*Further* means "to a greater degree or extent" and refers to matters in which physical measurement is impossible or in which distance is figurative.

### fax (n., v.)

Preferred over facsimile.

### federal government

Lowercase in all uses.

### Federal Register (FR)

Federal Register citations do not use periods: 78 FR 11829-11892, July 11, 1989.

The *Federal Register* is a legal newspaper published every business day by the National Archives and Records Administration (NARA). It contains federal agency regulations; proposed rules and notices; and executive orders, proclamations, and other presidential documents. The *Federal Register* informs citizens of their rights and obligations and provides access to a wide range of federal benefits and opportunities for funding. NARA's Office of the Federal Register prepares the *Federal Register* for publication in partnership with the Government Printing Office (GPO), which distributes it on paper, microfiche, and the internet.

See **citations**.

### fees

The various fees for the *Register* and *Code* are listed in R1-1-113. Certain agencies receive copies of the *Register* and *Code* without charge (see R1-1-114).

An agency shall not make a rule establishing a fee unless the fee for the specific activity is expressly authorized by statute or state gaming compact (see A.R.S. § 41-1008).

### fewer, less

In general, use *fewer* for individual items, *less* for bulk or quantity.

*Wrong:* The trend is toward less people. She was fewer than 60 years old.

*Right:* Fewer than 10 applicants appealed. He had less than \$50 in his wallet.

### filing location

Filings can be hand delivered or mailed to the Office at the following location:

Office of the Secretary of State  
Public Services Division, Attn: Rules  
1700 W. Washington, 7th Floor  
Phoenix, AZ 85007

See R1-1-107.

### final rulemaking

An agency submits a Notice of Final Rulemaking to G.R.R.C. or the Attorney General for review and approval after a proposed rule is published and the agency has considered and addressed public comments. A final rule contains the **Preamble**, the text of the rule, and an **EIS** (A.R.S. § 41-1024). If approved by G.R.R.C. or the Attorney General, the final rule package must be filed with the Office for publication in the *Register* and *Code*. The **effective date** of the rule is 60 days after the date of filing unless otherwise specified by the agency (see A.R.S. § 41-1032).



If an agency's rules are subject to review by G.R.R.C., the adopted rules must be submitted to G.R.R.C. within 120 days after the close of the rulemaking record. After review and approval by G.R.R.C., G.R.R.C. submits the rules to the Office for filing and publication. Provide G.R.R.C. the appropriate number of copies of the rules, one original and two copies of the Agency Certificate, two copies of the Agency Receipt, and a computer disk. The Office cannot accept your rules without these items.

If an agency's rules are exempt from the rulemaking process under A.R.S. § 41-1005, the rules must be submitted to the Office within 120 days of the close of the rulemaking record.

If an agency's rules are exempt from G.R.R.C. review, the rules must be submitted to the Attorney General for approval within 120 days after the close of the rulemaking record. Once the Attorney General has approved the rules, that office will submit them directly to the Secretary of State for filing and publication. Make sure that you have submitted to the Attorney General one original and two copies of the Agency Certificate, two copies of the Agency Receipt, and a computer disk. The Office cannot accept your rules without these items.

See A.R.S. §§ 41-1031 and 41-1032; R1-1-601 and R1-1-602.

#### **Final Rulemaking, Notice of**

See A.R.S. §§ 41-1031 and 41-1032, R1-1-602, and the **Rulemaking Forms** section of this manual.

The Notice shall contain the heading NOTICE OF FINAL RULEMAKING all in capital letters and centered on a line approximately one inch from the top of the page. Below this heading shall be the word TITLE, the Title number, and the Title heading, all in capital letters and centered on the line. Below the Title shall be the word CHAPTER, the Chapter number, and the Chapter heading, all in capital letters and centered on the line.

If your agency has more than one Chapter, the Chapter heading always includes the statutorily designated agency name with the subheading for the Chapter below the agency name.

If your agency uses Subchapters, place the word SUBCHAPTER, the Subchapter label, and the Subchapter heading below the Chapter.

If your agency uses Parts, the Parts will appear in the table of contents for the rulemaking and in the text but not at the beginning of the Notice.

Under the Chapter, or the Subchapter if applicable, place the word PREAMBLE all in capital letters and centered on the line.

The following items must appear on the Notice. For further explanation of these items, see the entry for Notice of Proposed Rulemaking.

1. Item #1 has two columns. The first column is headed **Sections Affected**. The second column is headed **Rulemaking Action**.
2. Item #2 asks for the specific statutory authority for the rulemaking, including both the implementing and the authorizing statutes. List the authorizing statute or statutes first and, on the next line (one double-space below) the statutes the rules are implementing.
3. In item #3 specify the effective date of your rules. If you do not know the effective date, leave this item blank, and the Office will insert the appropriate date when the Office publishes the rules in the *Register*.
4. In item #4 list all previous notices that appeared in the *Register* concerning this final rule. You need to specify the heading of the notice and then give the *Register* citation for each notice listed.
5. In item #5 list the name and address of a specific person in your agency whom the public can call with questions or comments about the rulemaking.
6. In item #6 explain the rule and your agency's reasons for initiating the rule.
7. In item #7 provide a reference to any study your agency relied on or did not rely on in its evaluation of or justification for the rule and information for the public on how to access the study.
8. In item #8 show good cause why this rulemaking is necessary to promote a statewide interest if the rule or rules will diminish a previous grant of authority of a political subdivision of this state.
9. In item #9 give the summary of the economic, small business, and consumer impact. Your full statement must also be submitted to the Office for filing but is not published. A summary of that statement is what must appear here.
10. In item #10 describe the changes made to the rules between proposed and final rules including all supplemental notices.
11. In item #11 summarize the principal comments received from the public and your agency's response to them.
12. In item #12 list any other matters prescribed by statute that are applicable to

your agency or to the specific set of rules.

13. In item #13 list the material you have incorporated by reference and the Sections in which those incorporations by reference appear.
14. In item #14 specify whether the rule was previously made as an emergency rule. If your answer is “yes,” specify whether you made any changes to the rule between adoption as an emergency rule and this final rule.
15. The full text of the rules, which actually begins with a table of contents for the rulemaking, starts on the page following item #15.

- In the table of contents, show the Title, its number, and its heading on the first line approximately one inch from the top of the page. Under the Title, show the Chapter, its number, and its heading. Under the Chapter, show the Subchapter, its label, and its heading, if applicable, or the first Article contained in this rulemaking, its number, and its heading. Under the Article show the first Part in the Article involved in the rulemaking, its label, and its heading, if applicable. These shall all be centered on their respective lines. Under the first Article or the first Part of the first Article, show the word “Section.” On the next line show the first Section involved in the rulemaking. List all Sections in numerical order under their respective Parts or Articles. Do not list any Section, Part, or Article not involved in this particular rulemaking. Do list all supplementary material that appears in the rulemaking.

All Articles and Parts that have Sections undergoing rulemaking in this package must be shown in the table of contents. Do not list any Article or Part that has no Sections undergoing rulemaking unless you are amending the heading of the Article or Part or renumbering the Article or Part.

- The full text of the Sections begins on the next page following the last item in the table of contents. At the top of this page list the first Article and its heading. Then all the Articles, Parts, and Sections involved in this particular rulemaking are listed in order. The Articles, and Parts if applicable, must be shown if one Section within the Article or Part is undergoing rulemaking activity.
- When you are renumbering entire Sections, show the entire old number with strike-outs and the entire new number with underlining.

Place renumbered Sections in the text at their new number locations.

If the only action being taken on a Section is renumbering of the entire Section and no

changes are being made to the text of the Section, show the renumbering and the Section heading. Then list “No change” for each subsection in that Section.

Each final rulemaking submitted to the Office for publication and filing must contain one original package and two copies. You also must include the following:

1. The **Agency Certificate** (one original and two copies).
2. The **Agency Receipt** (one original and two copies).
3. A Certificate of Approval from G.R.R.C. if the rules are subject to G.R.R.C. review (one original and two copies).
4. A Certificate of Approval from the Attorney General if the rules are not subject to Council review (one original and two copies).
5. The **disk** containing the **Preamble** and text of the rules.

See A.R.S. §§ 41-1031 and 41-1032, R1-1-602, the entry for **copies (number of)**, and the **Rulemaking Forms** section of this manual.

**firefighter**

**firefighting**

**firehouse**

**fireproof**

**flammable, inflammable**

These two words are actually synonyms, both meaning easily set on fire. *The flammable [inflammable] fuel shall be stored in a specially built tank.*

**flaunt, flout**

To *flaunt* means to show off shamelessly: *She was eager to flaunt her knowledge of a wide range of topics.* To *flout* means to show scorn or contempt for: *He disliked boarding school and took every opportunity to flout the house rules.*

**floodplain**

**footnotes**

Do not use footnotes or endnotes in a rulemaking package. Only the **EIS** and material incorporated by reference may contain footnotes.

See R1-1-103(E)(4).

**Formal Rulemaking Advisory Committee, Notice of**

Agencies sometimes create rulemaking advisory committees to help prepare rules for the rulemaking process. If an agency creates a committee, the APA requires the agency to publish notice of the committee in the *Register*.

Use the Notice of Formal Rulemaking Advisory Committee in the Rulemaking Forms section of this manual.

If you establish a formal rulemaking advisory committee, you must prepare and submit for publication the Notice of Formal Rulemaking Advisory Committee each year.

See the **Rulemaking Forms** of this manual and R1-1-206.

**forms**

Sample rulemaking forms can be found in Section 4 of this manual. The Office will not accept any rule package if it does not contain all required forms (for example, **Agency Receipt, Agency Certificate, G.R.R.C. Certificate of Approval**).

All items on these forms must appear just as they appear on the samples, and all items must be answered. Attachment pages for answers are not permitted.

The agency’s chief executive officer must sign the Agency Certificate in the designated place. The officer’s name and title shall appear under the signature and the date the officer signed the certificate shall be noted. If a designee signs the form, the designee’s name and title shall appear under the signature. *The Office will not accept a certificate form containing one person’s signature and another person’s typed name.*

**forms in rules**

Avoid including forms in your rules as **Exhibits**. If your rules refer to a particular form used by your agency, indicate where an interested party can obtain a copy.

**forward**

Not *forwards*.

**founder, flounder**

In its primary sense *founder* means to sink below the surface of the water: *The ship foundered after colliding with an iceberg.* By extension, *founder* means to fail utterly. *Flounder* means to move about clumsily, or to act or proceed with confusion. A good synonym for *flounder* is blunder: *After floundering through the first half of the course, the student finally passed with the help of a tutor.*

**fractions**

Spell out a fraction at the beginning of a sentence. For most uses, use Arabic numbers: *6 2/3, 1/2 inch, 1/8 mile.* Spell out when a fraction detracts from readability: *the first half of the year.*

Do not use a hyphen to separate a whole number from a fraction: *8 1/2” by 11”.*

Do not use fraction symbols: (*1/2, 3/4*). These symbols sometimes disappear when your files are prepared for publication by the Office.

See **ordinals** and **numbers**.

**freestanding**

**freshwater**

**full time, full-time**

Hyphenate when used as a compound modifier: *He works full time. She has a full-time job.*

**fundraising**

**further, farther**

See **farther, further**.

**G**

**gender-specific terminology**

- Do not use words that unnecessarily distinguish between male and female.

<i>Avoid:</i>	<i>Use:</i>
chairman	chair, chairperson
crewman	crew member
draftsman	drafter
fireman	firefighter
foreman	supervisor
man-hours	hours worked, work-hours, staff-hours
mankind	humanity, humankind
manpower	personnel, workforce
policeman	police officer

- Avoid the gender-specific pronoun when the antecedent could be male or female.

*Wrong:* The Director or his designee shall complete the evaluation form.

*Right:* The Director or the Director’s designee shall complete the evaluation form.

- Be careful when you rewrite to avoid the problem. The following examples do not necessarily have the same meaning.

*Examples:*

Each assistant Director shall announce his or her recommendations at the conference.

The Assistant Directors shall announce their recommendations at the conference.

- Do not attempt to avoid using a gender-specific pronoun by using a plural pronoun with a singular noun.

*Wrong:* The applicant shall submit their documents.

*Right:* The applicant shall submit the applicant’s documents.

- Do not use *s/he, he/she, or his or her*.

**government**

Lowercase *government* unless it is part of a formal title: *the U.S. government, the state gov-*

ernment, the United States Government Printing Office.

### grammar

- Use “a” or “an” when you mean any item or individual. Use “the” when referring to a specific subject already described.
- Avoid split infinitives.
- Make the verb agree with its subject in number and person. The following words are singular and take a singular verb:

anyone	anybody	each
everyone	everybody	either
no one	nobody	neither
one	somebody	someone

The following “group” words take a singular verb:

audience	family	kind
band	flock	lot
class	group	number
committee	heap	none
crowd	herd	public
dozen	jury	team

The following words are plural and take a plural verb: *media, data, criteria, phenomena.*

- Do not use **contractions**. Write out each verb.

### gray

Not *grey*. But: *greyhound*.

### groundwater

### group

Takes singular verbs and pronouns: *The group is reviewing its position.*

### G.R.R.C. (Governor’s Regulatory Review Council)

Write G.R.R.C., not GRRC.

The Governor’s Regulatory Review Council was created by Executive Order in May 1981. Composed of six members, the Council is chaired by the director of the Department of Administration or the director’s designee, who serves ex-officio.

For most agencies, G.R.R.C. is the final step in the rulemaking process. G.R.R.C. reviews rules to ensure that they are necessary and to avoid unnecessary duplication and adverse impact on the public. G.R.R.C. also assesses whether the rules are clear, concise, understandable, legal, consistent with legislative intent, and whether the benefits of a rule outweigh the cost. If a rule does not meet these criteria, G.R.R.C. returns it to the agency for further consideration.

See 1 A.A.C. 6 and A.R.S. §§ 41-1051 through 41-1057.

### G.R.R.C. Certificate of Approval

A G.R.R.C. Certificate of Approval must accompany all final and summary rulemaking packages approved by the Council and submitted to the Office.

See **forms**, R1-1-105, and the **Rulemaking Forms** section of this manual.

# H

### handgun

### harass, harassment

### headings

Headings of each division of the *Code* shall explain what is in that division. Because the divisions of the *Code* are, by definition, sets of rules (**Title, Chapter, Subchapter, Article, and Part**) or a single rule (Section), the word *rule* or *regulation* shall not appear in the heading of the division.

Use a heading for each Section to describe briefly the subject of the Section. If the heading is too long or contains different topics, the Section itself is probably too long or too broad and should be broken into two or more Sections. Limit Section headings to 10 or fewer words.

Subsections may be used and are a good idea for long Sections. If a heading is used for one subsection, give headings to all subsections within the Section.

### health care

Two words.

### highlight

### historic, historical

In general usage, *historic* refers to what is important in history, while *historical* applies more broadly to whatever existed in the past whether it was important or not: *A historic summit meeting between the prime ministers; historical buildings torn down in the redevelopment.*

### Historical Note

A Historical Note appears after each Section in the *Code* that gives the cumulative history of the Section, including the rulemaking action, the *Register* citation, effective date, and *Code Supplement* number in which the Section was published.

#### Historical Note

Adopted as Section R9-20-502 and renumbered as Section R18-4-102 effective October 23, 1987 (Supp. 87-4). R18-4-102 recodified to R18-5-102 (Supp. 95-2). New Section adopted effective April 28, 1995 (Supp. 95-2). Amended effective June 3, 1998 (Supp. 98-3).

#### Reminder

Do not use the article *an* before the word *history*, *historic*, or *historical*. Use *a*.

Amended by final rulemaking at 8 A.A.R. 973, effective February 19, 2002 (Supp. 02-1).

See R1-1-101 and R1-1-415.

### horsepower

### hyphens

The following general rules should be used:

- Use hyphens to connect words:  
*Nouns:* brother-in-law, follow-up, one-half  
*Verbs:* double-space, tape-record
- Compound adjectives appearing before a noun: *all-inclusive list, black-and-white picture, decision-making authority, long-range goals, part-time employees, up-to-date record.*
- Use a hyphen when two or more words act together to create a new meaning.
- Use a hyphen when the first part of a compound adjective contains a number: *third-party liability, two-party system.*
- Use a hyphen after a prefix when the prefix precedes a capitalized word: *pre-World War II.*
- Do not use a hyphen between adverbs ending in *-ly* and adjectives they modify: *a fully informed applicant, a badly damaged foundation.*
- The following list shows some common compound words that should be hyphenated. Those that are adjectives are usually hyphenated when they immediately precede the nouns they modify, not hyphenated when they appear after the noun they modify but before the verb, and not hyphenated when they appear after both the noun they modify and the verb.

See **suspensive hyphenation.**

<i>able-bodied (adj.)</i>	<i>county-owned (adj.)</i>
<i>agreed-upon (adj.)</i>	<i>cross-examine (v.)</i>
<i>air-condition (v.)</i>	<i>cross-examination (n.)</i>
<i>all-time (adj.)</i>	<i>day-care (adj.)</i>
<i>animal-drawn (adj.)</i>	<i>degree-granting (adj.)</i>
<i>at-large (adj.)</i>	<i>drug-related (adj.)</i>
<i>base-year (adj.)</i>	<i>energy-saving (adj.)</i>
<i>child-care (adj.)</i>	<i>even-numbered (adj.)</i>
<i>civic-minded (adj.)</i>	<i>fact-finding (n., adj.)</i>
<i>computer-related (adj.)</i>	<i>fire-resistant (adj.)</i>
<i>cost-effective (adj.)</i>	<i>fire-retardant (adj.)</i>
<i>cost-efficient (adj.)</i>	

See **compound words.**

# I

### if, whether

*If* introduces a conditional clause. *Whether* introduces a noun clause involving choices.

### Illustration

An Illustration **supplementary material** used for diagrams, pictures, and other graphics. (R1-1-101)

An Illustration that appears *within* the text of a Section, as opposed to being separate from the Section, does not appear in the table of contents and does not have its own **Historical Note**. To reference such an Illustration, use the appropriate subsection label.

Illustrations are listed in the table of contents for the Chapter in the same format that Sections are listed, indented two spaces from the left. Label Illustrations with either capital letters or Arabic numbers using a consistent identification scheme. You must refer to an Illustration within the text of one or more Sections.

See R1-1-101 and R1-1-412.

### inappropriate words

Because of the need for precision in legal writing, certain words are not used in Arizona rules. *Can* should be used only to indicate ability. *Should* and *could* are not allowed in rules. *Will* may be used only in limited circumstances. Do not use *must*; use *shall* instead. *May* is used to indicate discretion. When using *may*, specify the standards under which the agency will use that discretion.

### include

Use *include* to introduce a series when the items that follow are only part of the total: *The form includes a signature line and a fee.*

Use *comprise* when the full list on individual elements is given: *The form comprises 10 questions, a signature line, and a fee.*

### incorporation by reference

- Items that may be incorporated by reference are specified in A.R.S. § 41-1028. The Office keeps incorporated by reference material on file for viewing only. An agency must keep one copy of any item incorporated by reference. As of September 18, 2003 it is no longer necessary to file a copy with the Office (Laws 2003, Ch.104, § 26).

- When incorporating items by reference, cite the items as specified in R1-1-414. The material must be identified by a date and include information about where to obtain a copy of the material.

See A.R.S. § 41-1028, R1-1-409 and R1-1-414.

**indent levels**

Rules submitted to the Office for publication and filing should be indented similarly to the way the Office publishes the material. This means the following:

The opening paragraph (implied **A.**) begins at the 1-inch left-hand margin and continues across the page to the 1-inch right-hand margin. Each line goes from the 1-inch margin on the left to the 1-inch margin on the right.

The first level of subsection has the label (**A., B., C.,** etc.) at the 1-inch left-hand margin with the text beginning 1/4 inch to the right of the left-hand margin. Each successive line of text at the first level of subdivision begins 1/4 inch from the left-hand margin and continues across the page to the right-hand margin.

The second level of subsection has the label (1., 2., 3., etc.) 1/4 inch to the right of the left-hand margin with the text beginning 1/2 inch to the right of the left-hand margin. Each successive line of text at the second level of subdivision begins 1/2 inch from the left-hand margin and continues across the page to the right-hand margin.

The third level of subsection has the label (a., b., c., etc.) 1/2 inch to the right of the left-hand margin with the text beginning 3/4 inch to the right of the left-hand margin. Each successive line of text at the third level of subdivision begins 3/4 inch from the left-hand margin and continues across the page to the right-hand margin.

The fourth level of subsection has the label (i., ii., iii., etc.) 3/4 inch to the right of the left-hand margin with the text beginning one inch to the right of the left-hand margin. Each successive line of text at the fourth level of subdivision begins one inch from the left-hand margin and continues across the page to the right-hand margin.

See R1-1-408.

**indispensable****indoor (adj.), indoors (adv.)**

*He plays indoor tennis. He went indoors.*

**infant**

Applicable to children from birth to 12 months old.

**infrastructure****inoculate****inpatient****interagency****interim effective date**

A rule made by **summary rulemaking** takes interim effect on the date the **Notice of Proposed Summary Rulemaking** is published in the *Register*. If G.R.R.C. approves a final summary rule and

files it in the Office, the interim effective date becomes the **permanent effective date** 60 days after the date of filing in the Office.

If G.R.R.C. returns or remands the rule, the proposed summary rule's interim effect is revoked as of the date of initial publication of the rule. If G.R.R.C. disapproves the summary rulemaking and orders initiation of regular rulemaking, the proposed summary rule's interim effect is revoked as of the date of initial publication of the rule.

See A.R.S. §§ 41-1027 and 41-1053 and R1-1-801.

**internet**

Lowercase *i*. The *Code* and *Register* are online at [www.sos.state.az.us](http://www.sos.state.az.us). The *Register* is published in PDF format. The *Code* is published in HTML, PDF, and RTF formats.

**intrastate****irregardless**

A double negative. *Regardless* is correct.

**italics**

Place the following in italics:

- Verbatim statutory language
- Book titles
- Scientific names
- The name of a legal case: *Brown v. Board of Education* (the *v.* is not in italics)

See R1-1-413.

**J****jargon, technical language, foreign phrases, legalese, and other inappropriate language**

- Use plain English when drafting rules. The plainer the English, the less confusing the material is to the reader. Although all agencies draft their rules for specific audiences, even the most technical information should be written plainly because there will always be people other than an agency's specific audience who will need to understand the material.
- Unlike legitimate technical terms, which outsiders could look up in a dictionary, jargon is a private language that has meaning only to a particular group. If these special words or phrases are necessary to the understanding of your rule, define the jargon.
- Avoid redundant phrases, long sentences, passive voice, and topic-specific acronyms unless you first define each one. Use concrete or common use

words and phrases, and make sentences short, direct, and clear.

- Do not add *-ize* to a noun to make it into a verb. The list below contains several *-ize* words that are unacceptable.
- Do not use a foreign phrase if an everyday English equivalent can be used.
- Avoid unclear words and phrases that sound like “legalese”: *aforesaid, hereby, hereinabove, pursuant to, said, such, thereof, to wit, whatsoever, and wherein.*

**judgment**

Not *judgement.*

# L

**labeling subsections**

- There are usually only four levels of subsections allowed:
  1. The first level of subsection is labeled with capital letters followed by a period, both in boldface. The label for this level appears at the one-inch left-hand margin and the text begins 1/4 inch to the right of the left-hand margin.
  2. The second level of subsection is labeled with Arabic numbers followed by a period. The label for this level appears 1/4 inch from the left-hand margin and the text begins 1/2 inch to the right of the left-hand margin.
  3. The third level of subsection is labeled with small (lower case) letters followed by a period. The label for this level appears 1/2 inch from the left-hand margin and the text begins 3/4 inch to the right of the left-hand margin.
  4. The fourth level of subsection is labeled with small Roman numerals followed by a period. The label for this level appears 3/4 inch from the left-hand margin and the text begins one inch to the right of the left-hand margin.
- The Office prefers that rules do not contain levels of subsection below the fourth level.
- For a subsection reference that contains several labels for different levels of subsection, list the labels in order, each within its own set of parentheses with no space between the parentheses.

*Wrong:* subsection (a)

*Right:* subsection (B)(1)(a)

*Right:* subsections (C)(1) and (2)

*Wrong:* subsection (A) (6) (c) (vii)

*Right:* subsection (A)(6)(c)(vii)

- A list of definitions may be unlabeled, but the items in the list must still be indented as if they were labeled. If definitions are unlabeled, the subsections of those definitions must also be unlabeled. However, if you must refer to those subsections elsewhere in rules, you may want to label the definitions.

See R1-1-408 and **subsection levels.**

**laid, lain, lay**

*Laid* is the past tense and the past participle of the verb *lay* and not the past tense of *lie*. *Lay* is the past tense of the verb *lie* and *lain* is the past participle: *He laid his books down and lay down on the couch, where he has lain for an hour.*

**landfill**

**Latin words**

Italicize scientific names in Latin. Do not italicize Latin phrases (such as *ad hoc, et seq., ex parte, de jure*).

**legislature**

Capitalize when preceded by the name of a state or a specific number: *the Arizona Legislature, the 45th Legislature*. Keep capitalization when the state name is dropped but the reference is specifically to that state’s legislature.

**less, fewer**

In general, use *fewer* for individual items, *less* for bulk or quantity.

*Wrong:* The trend is toward less people. She was fewer than 60 years old.

*Right:* Fewer than 10 applicants appealed. He had less than \$50 in his wallet.

**lifesaving**

**lifestyle**

**lifetime**

**lists**

- You may leave a list of three or fewer items within the text of the paragraph, but do not individually label each item. Lists of more than three items must appear in a “displayed” list: that is, at the next subsection level. Each item in a displayed list must be labeled.
- In a displayed list, capitalize the first word of each item.
- When each item in a list completes the thought that you began in the introductory sentence, use semicolons (when one or more of the items in the list contains an internal comma) or commas (when none of the items in the list contains an internal comma) after all but the last item and use a period after the last item. When using a

**When labeling rules, remember:**

- Do not leave a paragraph unlabeled (except an opening paragraph). You cannot cite an unlabeled paragraph (except as noted in the **definitions** entry).
- Do not use **A** without **B**, **1** without **2**, and so on.
- You may leave definitions unlabeled as long as the definitions are listed in alphabetical order.

list of items that complete the introductory sentence, make sure each item is parallel in structure.

- When each item in a list is a complete thought by itself, end each item with a period.

See **commas** and **semi-colons**.

## longstanding

### long-term

Long-term is hyphenated. Lowercase *-term*: *Arizona Long-term Care System*. If a statute applicable to your agency includes this term in a different style, notify the Office.

# M

## makeup (n., adj.)

### manageable

### manifest typographical error

Under A.R.S. § 41-1011 the Office may correct manifest typographical errors, in contrast to **substantive errors**, within the text of the *Register* or *Code*. The Office consults with the Attorney General's office or G.R.R.C. when clarification about an error is required.

See **correction of errors**, R1-1-109 and R1-1-507.

### manmade

### manpower

### mantel, mantle

A *mantel* is a shelf. A *mantle* is a cloak. Mickey Mantle played center field and first base for the New York Yankees from 1951 to 1968.

### marketplace

### markup

### may, shall, must

See **shall, must, may** and **active voice**.

### microcomputer

### microform

### millennium

### misdemeanor

### months

When a phrase lists only a month and a year, do not separate the month and year with a comma. *The license expires in January 2005.*

See **dates**.

### more than, over

*Over* generally refers to a spatial relationship: *The plane flew over the city. The cow jumped over the moon.*

*Over* can be used with numbers: *She is over 30. I paid over \$200 for this suit. But more than may be better: Their salaries went up more than \$20 a week.* The AP Stylebook states, "Let your ear be your guide."

### multicounty

### multidimensional

### multifamily

### multistate

### multiyear

### must, shall, may

See **shall, must, may** and **active voice**.

# N

### nationwide

### New Section (or Article)

*New Section* is one of the four rulemaking actions that is listed in the column for rulemaking action in the **Agency Receipt, Agency Certificate**, and item #1 of the **Preamble**. It is used only for a Section that is *entirely new text* (not recycled from somewhere else in the Code) at a pre-existing Section number or a new Section number.

See R1-1-502.

### nighttime

### No change

An agency may omit the text of subsections that are not undergoing revision and insert the phrase "No change" (no period). If an agency chooses this option, it must list *every* subsection level omitted and insert "No change" at those subsection levels. See A.R.S. § 41-1013(D).

*Wrong:*

#### R4-15-106. Record and Transcript

- A. No change
- B. Transcripts: Oral proceedings or any part thereof shall be recorded manually or by a recording device and shall be transcribed on request of any party. ~~The cost of such transcript shall be paid in accordance with the provisions of R4-15-109(B).~~

*Right:*

#### R4-15-106. Record and Transcript

- A. No change
  1. No change

2. No change
  3. No change
  4. No change
  5. No change
  6. No change
  7. No change
- B.** Transcripts: Oral proceedings or any part thereof shall be recorded manually or by a recording device and shall be transcribed on request of any party. ~~The cost of such transcript shall be paid in accordance with the provisions of R4-15-109(B).~~

If the Section has definitions that do not have subsection labeling, insert the term being defined followed by “No change”.

*Right:*

**R18-4-101. Definitions**

~~The terms in this Chapter have the following meanings. In addition to the definitions in A.R.S. § 49-201, in this Chapter, unless otherwise specified:~~

- ~~“Action level” No change~~
- ~~“ADHS” No change~~
- ~~“Air-gap separation” No change~~
- ~~“ANSI/NSF Standard 60” No change~~
- ~~“ANSI/NSF Standard 61” No change~~
- ~~“Backflow” No change~~
- ~~“Backflow-prevention assembly” No change~~
- ~~“Baseline sampling” No change~~
- ~~“BAT” No change~~
- ~~“Best available technology” No change~~
- ~~“CCR” No change~~
- ~~“Certified operator” No change~~
- ~~“Coagulation” No change~~
- ~~“Community water system” No change~~
- ~~“Compliance cycle” No change~~
- ~~“Compliance period” No change~~
- ~~“Comprehensive performance evaluation” means a thorough review and analysis of a water treatment plant’s performance-based capabilities and associated administrative, operation and maintenance practices. A comprehensive performance evaluation consists of at least the following components: assessment of water treatment plant performance, evaluation of major unit processes, identification and prioritization of performance limiting factors, assessment of the applicability of comprehensive technical assistance, and preparation of a comprehensive performance evaluation report.~~

**nonappropriated**

**nonattainment**

**noncancelable**

**noncontact**

**none**

It usually means no single one and takes a singular verb and pronoun: *None of the seats was in its right place.*

Use a plural verb only if the sense is no two or no amount: *None of the consultants agree on the same approach. None of the taxes have been paid.*

**nongovernmental**

**nonmember**

**nonprescription**

**nonprofit**

**nonsupport**

**nonvoting**

**Notices**

All Notices submitted to the Office for publication in the *Register* or *Code* shall be double-spaced or spaced “space and a half” and have a one inch margin on all sides. This includes the information in the **Preamble** and all pages of text. **Incorporated by reference materials and Economic Impact Statements** submitted with final rules are not included in this requirement. Notices submitted that are single-spaced will be returned for correction before the Office will accept them for filing and publication.

See the following entries for more information on Notices, and the **Rulemaking Forms** section of this manual for samples:

- Notice of Rulemaking Docket Opening
- Notice of Proposed Rulemaking
- Notice of Supplemental Proposed Rulemaking
- Notice of Proposed Summary Rulemaking
- Notice of Final Summary Rulemaking
- Notice of Termination of Rulemaking
- Notice of Exempt Rulemaking
- Notice of Emergency Rulemaking
- Notice of Final Rulemaking
- Notice of Recodification
- Notice of Formal Rulemaking Advisory Committee
- Notice of Proposed Delegation Agreements
- Notice of Oral Proceeding on Proposed Rulemaking
- Notice of Public Workshop on Proposed Rulemaking
- Notice of Public Meeting on Open Rulemaking Docket
- Notice of Oral Proceeding on Proposed Delegation Agreement
- Notice of Agency Guidance Document
- Notice of Substantive Policy Statement
- Notice of Agency Ombudsman
- Notice of Public Information

See the **Rulemaking Forms** section of this manual for other Notices not listed in this entry.

**number of copies**

When G.R.R.C. files approved rules with the Office, it submits an original and two copies of the agency’s items, two copies of the agency receipt, and one copy of any incorporated by reference materials (R1-6-1108).

An agency submitting materials for filing or publication in the *Register* or *Code* must send an original and two copies (R1-1-103). An **Agency Certificate** must accompany each rulemaking

package (R1-1-105), except for certain Notices, as well as two copies of an **Agency Receipt** (R1-1-106). This means, for example, the materials for a Notice of Proposed Rulemaking are the following:

<p><i>Original:</i>            Computer disk            Two Agency Receipts            Agency Certificate            Rule package  <i>Filed in permanent storage</i></p>	
<p><i>Copy:</i>            Agency Certificate            Rule package  <i>Used by Register editor</i></p>	<p><i>Copy:</i>            Agency Certificate            Rule package  <i>Used by Code editor</i></p>

## numbers

Spell out whole numbers below 10. Exceptions to this style include numbers in tabular material, equations, and measurements. Contact the Office for guidance on numbers in text.

- Do not use both the number spelled out and its Arabic number equivalent in parentheses.
- Avoid beginning a sentence with a number.
- For expressions of time, use the abbreviations *a.m.* and *p.m.* in lower case.
- When using numbers that are 1 million or greater, use a combination of figures and words (*The amount of insurance shall be \$5 million.*).
- Use a comma to separate groups of three digits: *109,278,345*. The exception to this rule is for numbers of four figures: *1000*. In this instance, you may omit the comma, but be consistent throughout your rules.

See **fractions** and **ordinals**.

# O

## occur, occurred, occurring

### office

Capitalize when part of an agency's formal name: *on file with the Office of the Secretary of State*.

In this manual *Office* refers to the Office of the Secretary of State.

### off of

The *of* is unnecessary. *He fell off the bed*. Not: *He fell off of the bed*.

### offset

### offsite

## offtrack

### on

Do not use *on* before a date or day of the week when its absence would not lead to confusion: *The hearing will be held Monday. The application is due September 1, 2005.*

Use *on* to avoid any suggestion that a date is the object of a transitive verb: *The House killed on Tuesday a bid to raise taxes. The Senate postponed on Wednesday its consideration of a bill to reduce import duties.*

### one-

Hyphenate when used in writing fractions: *one-half, one-fourth*.

See **fractions**.

## oneself

## one-sided

## online

One word in all cases for the computer connection term.

## onsite

*Onsite* is not hyphenated as an adjective or adverb.

## oral proceeding

An agency may schedule one or more oral proceedings on a proposed rulemaking. A proceeding notice must be published in the *Register* at least 30 days before the proceeding. The heading is usually noticed in the **Preamble** of the Notice of Proposed Rulemaking, but it can also be submitted as part of a **Notice of Oral Proceeding on Proposed Rulemaking**.

See A.R.S. § 41-1023 and R1-1-209 and R1-1-504.

## Oral Proceedings, Public Workshops, or Other Meetings, Notices of

If an agency needs to conduct an oral proceeding, a public workshop, or another type of meeting on a proposed rulemaking, a rulemaking docket opening, or a proposed delegation agreement, it must prepare a Notice of Oral Proceeding, a Notice of Public Workshop, or Notice of Meeting (specify the type of meeting) for publication in the *Register*.

Use the appropriate notice form in the Rulemaking Forms section of this manual.

See R1-1-209 and the **Rulemaking Forms** section of this manual.

## ordinals

Spell out ordinals below *10th* except if it would detract from readability (such as in a Table): *The first applicant, third-party liability*.

See **numbers** and **fractions**.

**outpatient**

**outreach**

**over, more than**

*Over* generally refers to a spatial relationship: *The plane flew over the city. The cow jumped over the moon.*

*Over* can be used with numbers: *She is over 30. I paid over \$200 for this suit. But more than* may be better: *Their salaries went up more than \$20 a week.* The AP Stylebook states, "Let your ear be your guide."

**overall**

*Overall, the Department succeeded. Overall policy.*

# P

**page numbers**

If you do not know the page number or publication date for a *Register* citation in the Preamble because the notice you are citing has not yet been published, you may leave it blank. The Office will fill in the appropriate page number.

Example: *Notice of Rulemaking Docket Opening: 8 A.A.R. xxxx, (date)*

**palate, palette, pallet**

*Palate* is the roof of the mouth. A *palette* is an artist's paint board. A *pallet* is a bed.

**paperwork**

**paragraph**

Use *subsection*, not *paragraph*, when referring to a part of a rule in the Code. However, *paragraph* is acceptable when referring to a part of the *United States Code*, *Code of Federal Regulations*, or *Federal Register*.

**parallel, paralleled, paralleling**

**parallel structure**

Arrange items in a list so that parallel ideas have parallel construction.

NONPARALLEL:

*Wrong:* The duties of the Executive Secretary of the Administrative Committee are:

1. To take minutes of all the meetings, (*phrase*)
2. The Executive Secretary answers all the correspondence, and (*clause*)
3. Writing of monthly reports. (*topic*)

PARALLEL CONSTRUCTION:

*Right:* The duties of the Executive Secretary of the Administrative Committee are to:

1. Take minutes of all the meetings,
2. Answer all the correspondence, and
3. Write the monthly reports.

**Part**

A Part is a division of the *Code* between **Article** and **Section**. Parts are designated by capital letters that precede the last numbers of the Section number: *R18-2-B201*. An agency must request and receive approval from the Office before using Part divisions.

Always capitalize *Part* when referring to a division of the *Arizona Administrative Code*.

After you have used a **Chapter** and you repeat or renumber it in its entirety so that no text remains, you may not re-use that Chapter for one year.

See **Title, Chapter, Subchapter, Article, and Section**; and R1-1-101, R1-1-301, R1-1-402, R1-1-406, and R1-1-501.

**part time, part-time**

Hyphenate when used as a compound modifier: *She works part time. She has a part-time job.*

**passthrough**

**percent**

The Office no longer prefers that you spell out *percent* instead of using the symbol %, as long as you are consistent within your rule package.

*Percent* takes a singular verb when standing alone or when a singular word follows an *of* construction: *The Department said 95 percent is a passing test result. It said 80 percent of the population complies.*

It takes a plural verb when a plural word follows an *of* construction: *The Department said 80 percent of the cars were tested.*

Repeat % with each individual figure: *The Department said 10% to 30% of the vehicles were tested.*

**permanent effective date**

A rule made by **summary rulemaking** takes interim effect on the date the **Notice of Proposed Summary Rulemaking** is published in the *Register*. If G.R.R.C. approves a final summary rule and files it in the Office, the interim effective date becomes the **permanent effective date** 60 days after the date of filing in the Office.

See A.R.S. §§ 41-1027 and 41-1053 and R1-1-801.

**permissible**

**permissive examples**

A.R.S. § 41-1021.01 states: *An agency may include a diagram, example, table, chart or formula in a rule, preamble, economic impact, small business and consumer impact statement or concise explanatory statement to the extent that it assists in making the document understandable by the persons affected by the rule.*

**persuade, convince**

Strictly speaking, one convinces a person that something is true but persuades a person to do something. *Pointing out that I was overworked, my friends persuaded [not convinced] me to take a vacation. Now that I'm relaxing on the beach with my book, I am convinced [not persuaded] that they were right.* Following this rule, *convince* should not be used with an infinitive.

**phenomenon, phenomena****plurals**

Do not make a noun or a verb plural by adding the plural form in parentheses. Use either the singular form or the plural form. The Office will edit your rules to delete the parentheses if you use them.

*Wrong:* paragraph(s), ability(ies), or run(s)

*Right:* paragraph, ability, or run

*Right:* paragraphs, abilities, or runs

*Right:* paragraph or paragraphs, ability or abilities, run or runs

See **singular form**.

**p.m., a.m.**

See **time**.

**policyholder****policymaking****positive writing**

- Negative sentences can be difficult to understand.

*Wrong:* No application shall be accepted unless it is signed by the owner.

*Wrong:* The application shall not be signed by a person who is not the owner.

*Right:* The owner shall sign the application.

- A negative statement can be clear. Use it if you are cautioning the reader: *No smoking.*
- Avoid several negatives in one sentence.

*Wrong:* A license may not be issued if all application requirements are not met.

*Right:* A license shall be issued only if the applicant meets all requirements.

**possessives**

- Avoid using *of* phrases (*grades of students*) when an apostrophe and *s* construction is possible:

*driver's license, drivers' licenses, contractor's license, parent's responsibility.*

- Certain phrases indicating the passage of time are possessives: *a day's pay, two years' experience.*

**postaudit****postclosure****postgraduate****postsecondary****powerhouse****praiseworthy****Preamble**

The Preamble is the part of a rulemaking package that contains information about the rulemaking and provides agency justification and regulatory intent. It includes reference to the specific statutes authorizing the agency to make the rule, an explanation of the rule, reasons for proposing the rule, and the preliminary Economic Impact Statement. The information in the Preamble differs depending on the rulemaking procedure used and the stage of the rulemaking.

See A.R.S. § 41-1001 and the **Rulemaking Forms** section of this manual.

**preaudit****preconstruction****preempt****preexist****present tense**

A rule of continuing effect speaks of the time it is applied, not of the time it is drafted or when it becomes effective.

*Wrong:* The fine for employing an unlicensed person shall be \$100.

*Right:* The fine for employing an unlicensed person is \$100.

*Wrong:* When it has been determined by the Director that the application that was submitted by the applicant is complete . . .

*Right:* When the Director determines that the person's application is complete . . .

**Price List**

When *Code* supplements are published, the Office publishes a new price list that shows all Chapters in numerical order, the last supplement in which the Chapter appeared, and the price for each Chapter. Price Lists are available free from the Office.

See **commercial use of public records** and R1-1-302.

**Fast Fact**

Perhaps the **longest uninterrupted sentence** in the Code is in R19-1-205 with **206 words**.

**principal, principle**

*Principal* means main or chief, or the sum of money on which interest accrues. *Principle* means moral standard or belief.

**printout**

**Proposed Delegation Agreement, Notice of**

Some agencies have been given legislative authority to delegate functions, powers, or duties to political subdivisions within Arizona. When an agency proposes a delegation agreement, the agency must submit to the Office for *Register* publication a Notice of Proposed Delegation Agreement.

Use the Notice of Proposed Delegation form in the Rulemaking Forms section of this manual and follow the procedures specified in A.R.S. § 41-1081.

See the **Rulemaking Forms** section of this manual and R1-1-208.

**proposed rulemaking**

For rulemaking that is not exempt from the APA, an agency must file a Notice of Proposed Rulemaking with the Office for publication in the *Register*. The notice includes the **Preamble** and the text of the rule. The **public comment period** begins on the day the proposed rulemaking is published in the *Register*.

See A.R.S. § 41-1022 and R1-1-502.

**Proposed Rulemaking, Notice of**

See R1-1-502 and the **Rulemaking Forms** section of this manual.

- The Notice shall contain the heading NOTICE OF PROPOSED RULEMAKING all in capital letters and centered on a line approximately one inch from the top of the page. Below this heading shall be the word TITLE, the Title number, and the Title heading, all in capital letters and centered on the line. Below the Title shall be the word CHAPTER, the Chapter number, and the Chapter heading, all in capital letters and centered on the line.

Under the Chapter, or the Subchapter if applicable, place the word PREAMBLE all in capital letters and centered on the line.

1. Item #1 has two columns. The first column is headed **Sections Affected**. The second column is headed **Rulemaking Action**.
  - a. In the first column, list all Sections on which you are taking rulemaking action in numerical order. If one or more Articles or Parts are involved in the rulemaking because their labels or headings are being added, repealed, amended, or renumbered, list the Articles and Parts in the Sec-

tions Affected column in the proper location. List each Article undergoing rulemaking above the Sections in that Article undergoing rulemaking, if any. The same thing applies to Parts.

If you are also adding, amending, repealing, or renumbering any Appendix, Exhibit, Illustration, or Table that appears at the end of a Section, an Article, a Part, or the Chapter as a whole, list it in the Sections Affected column.

If you are repealing a Section and making a new Section in its place or renumbering a Section to another Section number and replacing the first one with text, the Section number will appear twice. You could list a Section three times depending on the action you are taking. For example, a Section could be repealed, another Section could be renumbered to where the first one was, and then you could amend the renumbered Section. Because only one rulemaking action can appear per line in the second column, a Section number may appear one, two, or three times, depending on what you are doing to the Section.

Note: Previously repealed, reserved, or renumbered Sections where no text currently appears cannot be amended. (You cannot amend what does not exist.) A previously repealed Section cannot be repealed again unless you have subsequently made new text at that Section number.

You cannot renumber a Section where no text currently exists.

- b. In the second column, list the rulemaking action you are taking on each Section. The proper terms and listing order for each type of action are as follows:

**Repeal:** used when you are deleting the entire text of a Section *and* its heading.

**Renumber:** used when you are changing the Section number.

**New Section:** used when you are making completely new text at a Section number. This includes new text after a Section has been repealed or renumbered and new text in a previously nonexistent Section.

**Amend:** used when you are chang-

- ing existing text within a Section but not changing the entire text.
2. This item asks for the specific statutory authority for the rulemaking, including both the implementing and the authorizing statutes. List the authorizing statute or statutes first and, on the next line (one double-space below) the statutes the rules are implementing.
  3. In this item, list all previous notices appearing in the *Register* addressing the proposed rule.
  4. List in this item the name and address of a specific person in your agency whom the public can call with questions or comments about the rulemaking.
  5. In this item, explain your agency's reasons for initiating the rule.
  6. Provide in this item a reference to any study your agency proposes to rely on or not rely on in its evaluation of or justification for the proposed rule and information for the public on how to access the study.
  7. In this item, show good cause why this rulemaking is necessary to promote a statewide interest if the rule or rules will diminish a previous grant of authority of a political subdivision of this state.
  8. In this item, give a preliminary summary of the economic, small business, and consumer impact statement. Your full statement will be submitted to G.R.R.C. later in the rulemaking process.
  9. In this item, give the name and address of a specific person or persons in your agency whom the public can call with questions or comments concerning the accuracy of the economic, small business, and consumer impact statement.
  10. In this item, list the time, place, and nature of the proceedings for this rulemaking. If you do not schedule a proceeding, you must list where, when, and how persons may request an oral proceeding on the proposed rule. Many agencies schedule at least one oral proceeding.
  11. In this item, list any other matters prescribed by statute that are applicable to your agency or to the specific set of rules.
  12. In this item, list the material you have incorporated by reference in this rulemaking and the Sections in which those incorporations by reference appear.
  13. The full text of the rules, which actually begins with a table of contents for the rulemaking, starts on the page *following*

item #13.

- a. In the table of contents, show the Title, its number, and its heading on the first line approximately one inch from the top of the page. Under the Title, show the Chapter, its number, and its heading. Under the Chapter, show the Subchapter, its label, and its heading, if applicable, or the first Article contained in this rulemaking, its number, and its heading. Under the Article shall be the first Part in the Article involved in the rulemaking, its label, and its heading, if applicable. These shall all be centered on their respective lines, capitalized. Under the first Article or the first Part of the first Article, shall be the word "Section" under which is the first Section involved in the rulemaking. List all Sections in numerical order under their respective Parts or Articles. *Do not list any Section, Part, or Article not involved in this particular rulemaking, unless you are amending the heading or renumbering the item.*
- b. The full text of the Sections shall begin on the *next page* following the last item in the table of contents. At the top of this page list the first Article and its heading. Then all the Articles, Parts, and Sections involved in this particular rulemaking shall be listed in order. The Articles, and Parts if applicable, must be shown if one Section within the Article or Part is undergoing rulemaking activity.
- c. Show new language by underlining the text. Show language being deleted from the rule with strike-outs.
- d. If you are renumbering entire Sections, show the entire old number with strike-outs and the entire new number with underlining.

Place renumbered Sections in the text at their new number locations.

If the only action being taken on a Section is renumbering of the entire Section and no changes are being made to the text of the Section, show the renumbering and the Section heading. Then list "No change" for *each* subsection in that Section.

See R1-1-502 and the **Rulemaking Forms** section of this manual.

### publication deadline

The publication schedule for materials submitted to the Office is published in each *Register*. Generally, all materials submitted during a given week will be published in the *Register* three weeks from that week's Friday. However, the Office may take longer to publish larger rule packages or other materials that require more time to process.

If an agency schedules a proceeding for proposed rules, it must take place at least 30 days after the publication date of the proposed rules in the *Register*.

The Office publishes *Code* supplements approximately four weeks after each calendar quarter has passed.

If an agency erroneously submits a proposed rule, it must submit a **Notice of Termination of Rulemaking**. There is no means to terminate a summary, exempt, final, or emergency rulemaking except to go through rulemaking again.

See R1-1-201.

### publication requirements

All rulemaking packages submitted for publication shall meet the requirements in 1 A.A.C. 1. The Office accepts text that is double-spaced and text that has line spacing of **space and a half**. Spacing for the **EIS** is at the agency's discretion.

See 1 A.A.C. 1.

### public comment period

After a proposed rulemaking is published in the *Register*, a public comment period begins. During the period, an agency must take oral and written comment from the public for at least 30 days before holding an oral proceeding or hearing or submitting the rules to G.R.R.C. or to the Attorney General.

See A.R.S. § 41-1023 and R1-1-503.

### public hearing

See **oral proceeding**.

### public inspection of documents

All documents filed with the Office are available for public inspection during business hours. Copies of documents are available for a charge of 10¢ per page. The Office will not photocopy any copyrighted material incorporated by reference.

See R1-1-112 and R1-1-414.

### public participation in the rulemaking process

The public is encouraged to participate in the rulemaking process by which administrative rules are made, amended, or repealed. The following are some of the ways in which to participate:

- By inspecting a copy of the Notice of Proposed Rulemaking filed with the Secretary of State. (See A.R.S. § 41-1022.)

- By making oral comments, if an oral proceeding is held, or written comments to the agency proposing the rule. In order for the agency to consider comments, the agency must receive them by the close of record. Comments must reach the agency within the 30-day (or longer) comment period following *Register* publication of the Notice of Proposed Rulemaking. Send your comments to the agency representative whose name and address are printed in the Notice of Proposed Rulemaking. (See A.R.S. § 41-1022.)

- By requesting, in writing, an oral proceeding on a proposed rule within 30 days after the Notice of Proposed Rulemaking has been published in the *Register* if the agency has not scheduled a proceeding. (See A.R.S. § 41-1023.)

- By submitting to the Governor's Regulatory Review Council written comments that are relevant to the Council's power to review a given rule (see A.R.S. § 41-1052). The Council reviews the rule at the end of the rulemaking process and before the rule is filed with the Secretary of State.

- By petitioning an agency to make, amend, or repeal a rule. The agency must respond to the petition. (See A.R.S. § 41-1033.)

### public record

"Public record . . . means the rulemaking documents as filed by state agencies with the Secretary of State, the rules as published by the Secretary of State in either the *Code* or the *Register*, or the rules as generated in any electronic format by the Secretary of State." (R1-1-101)

### pursuant to

Avoid using *pursuant to*. Use *according to*, *under*, *following*, or *by*.

## Q

### questionnaire

### quotation marks

As the *Associated Press Stylebook* states, follow these long-established printers' rules:

- The period and the comma always go within the quotation marks.
- The dash, the semicolon, the question mark, and the exclamation point go within the quotation marks when they apply to the quoted matter only. They go outside when they apply to the whole sentence.

# R

**rainwater**

**ratemaking**

**retroactive**

**Receipt**

See **Agency Receipt**.

**recodification**

If an agency is changing the codification of part or all of a division of the *Code* from one Chapter to a different Chapter, the change is called a *recodification*. An agency shall file with the Office a **Notice of Recodification** for publication in the *Register*. The Office will publish the codification changes in the next available supplement of the *Code*. Only entire Sections (or other divisions) may be renumbered in this manner.

See R1-1-404 and R1-1-1001.

**Recodification, Notice of**

A Notice of Recodification shall contain information on the recodification of entire Chapters, Subchapters, Articles, Parts, or Sections from one Chapter to a different Chapter. The Notice shall contain no other rulemaking action. An agency Receipt and Agency Certificate shall accompany the Notice.

The following items shall be listed in the Notice:

1. A list of Chapters, Subchapters, Articles, Parts, and Sections being recodified along with their respective headings.
2. A list of Chapters, Subchapters, Articles, Parts, and Sections as recodified along with their respective headings.
3. A conversion table between the old numbering scheme and the new numbering scheme. (This table shall contain two columns listing the Old Numbering Scheme and the New Numbering Scheme.)
4. The name and address of agency personnel with whom persons may communicate regarding the recodification.

See **recodification**, R1-1-404, R1-1-1001, and the **Rulemaking Forms** section of this manual.

**recordkeeping**

*Recordkeeping* is not hyphenated, either as a noun or adjective.

**recur, recurred, recurring**

**Register (A.A.R.)**

The *Arizona Administrative Register* (A.A.R.) is an official state publication and contains the rulemaking activity of the state's agencies, including proposed, final, emergency, summary, and exempt rules. The Secretary of State's Office prints the *Register* weekly.

The full text of rulemakings initiated under the APA as effective January 1, 1995 is published in the *Register*. In addition, the *Register* contains the full text of the Governor's Executive Orders and Proclamations of general applicability, summaries of Attorney General opinions, notices of rules terminated by the agency, and the Governor's appointments of state officials and members of state boards and commissions. Other documents may be included if the documents are concerned with rulemaking or if statute requires their publication in the *Register*.

The *Register* is cited by volume, page number, and issue date. For example: 8 A.A.R. 4834, November 22, 2002 refers to Volume 8, page 4834, dated November 22, 2002. Pagination of the *Register* is consecutive throughout each volume year. An index to rulemaking activity is published in each issue and is cumulated every six months in a separately published index. The Office also publishes biennially an index to the Governor's documents, the Attorney General's summaries of opinions, and the Governor's appointments to boards and commissions.

The Secretary of State began publishing the *Arizona Administrative Digest* in 1976. The *Digest* was a monthly publication containing "notice only" notices of rulemaking activity in the state. In January 1987, the title was changed to the *Arizona Administrative Register*. The *Register* was modified to a full-text, weekly format in January 1995 after significant changes were made to the APA.

See A.R.S. §§ 41-1011 and 41-1013 and R1-1-202.

**regulation**

Headings for any division of the Code shall not contain the words "Rule" or "Regulation."

See R1-1-402.

**relabeling**

See **editing and relabeling**.

**Renumber**

*Renumber* is one of the four rulemaking actions listed in the column for rulemaking action in the **Agency Receipt**, **Agency Certificate**, and item #1 of the **Preamble**. It is used to change the number for an entire, existing Section or Article (but not the labels of subsections within a Section).

### Fast Fact

Total pages in the *Register*

2002:	5268
2001:	6025
2000:	4861
1999:	4735
1998:	4379

The heading for a repealed Section is **Repealed**, not **Reserved**. A repealed Section has a **Historical Note** because text has existed at that Section number. A reserved Section does not have a Historical Note because no text has ever existed at that Section number.

*Note:* If all of the text of a Section is stricken but the heading remains unchanged (or mostly unchanged), the rulemaking action is **Amend**, not **Repeal**.

See R1-1-101, R1-1-404 and R1-1-502 and Section 3 of this manual.

### renumbering Sections

For samples of complicated renumbering in rules, see Section 3 of this manual.

You do not have to renumber Sections when you are repealing Sections. The Office prefers that you not renumber unless there is a specific reason for doing so. (Renumbering usually makes your rules harder to “figure out” when the Office must reconstruct them as they were in effect on a particular date.) However, if you must renumber, follow the procedures listed below.

The rulemaking action intended by an agency must be accurate in the Preamble, table of contents, and body of the rules. It matters because the rulemaking action is reflected in the Historical Note and the index of the *Register*. The types of rulemaking action listed in the Preamble are the following: **Repeal, Renumber, Amend, and New Section** (or Article).

The maximum number of actions on a Section is three, taken as applicable in this order: Repeal, Renumber, Amend, New Section.

#### Single Rulemaking Action

For a **single** rulemaking action, follow these guidelines:

**Repeal** -- If all of the text of a Section and all of the Section heading is stricken, it is a simple repeal. The Section number is not stricken, and the word **Repealed** (underlined) is placed after the stricken heading. The Preamble uses the word *Repeal*.

**Renumber** -- If a Section is renumbered to another Section number, and no text is going in the old place, it is a simple renumber. The Section number is not stricken, and the word **Renumbered** (underlined) is placed after the stricken heading. The Preamble uses the word *Renumber*.

**Amend** -- If the only rulemaking action on a Section is amend, it is a simple amend. Note, however, that if all of the text of a Section is stricken but the heading remains unchanged (or partly unchanged), the rulemaking action is Amend, not Repeal.

**New Section** -- If the text of a Section is brand new (it hasn't existed somewhere else before), it is

a simple New Section. If the Section number is not currently in the Code, underline the number in the table of contents and the body of the rules. If the Section number currently exists in the Code, with the word *Repealed, Renumbered, or Expired* next to it, do not underline the number, and strike the word *Repealed, Renumbered, or Expired*.

#### Double Rulemaking Action

For a **double** rulemaking action, follow these guidelines:

**Repeal - Renumber** -- In this case, Section 101 is repealed and Section 102 is renumbered into the place of Section 101, with no amendments. Here's how item #1 of the Preamble and the table of contents should appear:

<u>Sections Affected</u>	<u>Rulemaking Action</u>
R1-1-101	Repeal
R1-1-101	Renumber
R1-1-102	Renumber

Section  
~~R1-1-101.~~ Definitions  
~~R1-1-102.~~~~R1-1-101.~~ Certificates  
R1-1-102. Renumbered

**Repeal - New Section** -- In this case, Section 101 is repealed and a brand new Section is put into the place of Section 101.

<u>Sections Affected</u>	<u>Rulemaking Action</u>
R1-1-101	Repeal
R1-1-101	New Section

Section  
 R1-1-101. ~~Definitions~~ Certificates

**Renumber - Amend** -- In this case, Section 101 is renumbered, and Section 102 is renumbered into the place of old Section 101 and amended. Therefore, the rulemaking action Renumber applies to what's happening to the Section leaving *and* to what's happening to the Section coming in.

<u>Sections Affected</u>	<u>Rulemaking Action</u>
R1-1-101	Renumber ( <i>moving to R1-1-130, and receiving R1-1-102</i> )
R1-1-101	Amend
R1-1-102	Renumber ( <i>moving to R1-1-101</i> )
R1-1-130	Renumber ( <i>coming from R1-1-101</i> )

Section  
~~R1-1-102.~~~~R1-1-101.~~ Certificates  
R1-1-102. Renumbered  
~~R1-1-101.~~~~R1-1-130.~~ Definitions

#### Triple Rulemaking Action

For a **triple** rulemaking action, follow these guidelines:

**Repeal - Renumber - Amend --** In the previous example, R1-1-101 only had two rulemaking actions listed in the Preamble, but in effect three actions took place. A repeal-renumber-amend is the only occasion in which all three rulemaking actions appear in the Preamble. In this case, Section 101 is repealed, and Section 102 is renumbered into the place of Section 101 and amended.

<u>Sections Affected</u>	<u>Rulemaking Action</u>
R1-1-101	Repeal
R1-1-101	Renumber ( <i>coming from R1-1-102</i> )
R1-1-101	Amend
R1-1-102	Renumber ( <i>going to R1-1-101</i> )

Section

~~R1-1-101.~~ **Definitions**

~~R1-1-102.~~~~R1-1-101.~~ **Certificates and Licenses**

R1-1-102. **Renumbered**

- The table of contents for the rulemaking shall show the Section numbers in their new order. Disregard the old numbers (which are shown with strike-outs) and only consider the new numbers to place the Sections in numerical order.
- Show the rules in the text in numerical order as renumbered. The Sections in the text must appear in the same new order as they are shown in the table of contents for the rulemaking.
- If you renumber some rules but make no other changes to the rules, you may do either of the following:
  1. Prepare a Notice of Recodification as specified in R1-1-1001, or
  2. Go through the regular rulemaking process to make the numbering changes.
- You may only renumber full Sections. If you want to split Sections into two or more Sections, combine two or more Sections into one Section, or take portions of one Section and move them to one or more other Sections, you must go through the regular rulemaking process to make these changes.

See R1-1-404.

## Repeal

*Repeal* is one of the four rulemaking actions listed in the column for rulemaking action in the **Agency Receipt, Agency Certificate**, and item #1 of the **Preamble**. It is used for an existing Section.

The heading for a repealed Section is **Repealed**, not **Reserved**. A repealed Section has a **Historical Note** because text has existed at that Section number. A reserved Section does not have

a **Historical Note** because no text has ever existed at that Section number.

*Note:* If all of the text of a Section is stricken but the heading remains unchanged (or mostly unchanged), the rulemaking action is **Amend**, not **Repeal**.

See R1-1-502.

## repealing supplementary material

You have two options when repealing **supplementary material**. First, you may, if possible, strike through all text in the material as you would normal text in a Section. Second, you may use a single slash mark (/) drawn from the lower left to the upper right sufficiently to cover all of the material.

See R1-1-412.

## rescission

### Reserved

When the Sections in an Article are not consecutive, the Office will list the “missing” Section numbers with the heading *Reserved*.

The heading for a repealed Section is **Repealed**, not **Reserved**. A reserved Section does not have a **Historical Note** because no text has ever existed at that Section number.

## restroom

### re-using a Chapter

After you have used a Chapter and you repeal or renumber the Chapter in its entirety so that no text remains, you must wait at least one year before re-using that Chapter.

If you use a Section number and either repeal or renumber the Section in its entirety, you may re-use the Section number immediately.

See R1-1-406.

## rule

Always write *rule* in lowercase. If the text of a rule refers to itself, use **Section** (always uppercase), not *rule*: *An applicant shall meet all requirements of this Section*. Headings for any division of the Code shall not contain the words “Rule” or “Regulation.”

A.R.S. § 41-1001(17) states: “*Rule*” means an agency statement of general applicability that implements, interprets or prescribes law or policy, or describes the procedure or practice requirements of an agency. Rule includes prescribing fees or the amendment or repeal of a prior rule but does not include intraagency memoranda that are not delegation agreements.

See **headings** and R1-1-402.

**rulemaking**

*Rulemaking* is not hyphenated, either as a noun or adjective in the *Register* and *Code*. Arizona Revised Statutes prefers *rule making*.

**rulemaking action**

There is a column for rulemaking action in the **Agency Receipt**, **Agency Certificate**, and item #1 of the **Preamble**. The types of rulemaking action listed are the following: **Repeal**, **Renumber**, **Amend**, **New Section** (or **Article**).

See R1-1-502.

**rule package, rulemaking package**

*Rule package* is the term the Office uses to refer to the material filed with the Office as part of a rulemaking action. In the circumstances under A.R.S. § 41-1024, a rule package must contain the **Preamble**, the text of the rule, and the **EIS**. (The Office also requires **Agency Receipts** and **Agency Certificates**.)

**runoff**

S

**saltwater**

**scientific names**

Place statutory quotations, book titles, and scientific names in italics.

**seasons**

Lowercase *spring*, *summer*, *fall*, *winter*, and derivatives such as *springtime* unless part of a formal name: *Tucson's Spring Fling*.

**second-hand (adj.)**

**Section**

A Section is a complete, individual rule in the *Code*. Always capitalize Section when referring to part of the *Code*.

See **subsection**, **Title**, **Chapter**, **Subchapter**, **Article**, and **Part**; and R1-1-101, R1-1-301, R1-1-402, and R1-1-501.

**Sections Affected**

There is a column for Sections Affected in the **Agency Receipt**, **Agency Certificate**, and item #1 of the **Preamble**. List only the Sections and **supplementary material** contained in the rule package.

See R1-1-502.

**Section numbers**

A Section number is not complete unless all parts of the Section number appear.

*Wrong*: R12-1-101, -102, -103, and -104

*Right*: R12-1-101, R12-1-102, R12-1-103, and R12-1-104

or

R12-1-101 through R12-1-104

**Sections between existing Sections**

An agency must request permission from the Office before inserting a new Section between two existing, consecutively numbered Sections. The new Section uses the number of the preceding Section followed by a decimal point and a two-digit number. See R1-1-405.

*Example*:

- R18-2-306. Permit Contents
- R18-2-306.01. Permits with Standards
- R18-2-306.02. Establishment of an Emissions Cap
- R18-2-307. Permit Review by the EPA

**securityholders**

**semiannual**

**Semiannual Index**

The Semiannual Index is published biannually. It contains an index to all rulemaking activity during the last six months and an index to the Governor's documents, the Attorney General's summaries of opinions, and the Governor's appointments to boards and commissions.

See A.R.S. § 41-1013(A).

**semiautomatic**

**semifinal**

**semimonthly**

**semi-colons**

- Use a semi-colon when two independent clauses are related and emphasis is placed equally on both clauses.
- Use a semi-colon at the end of each subsection that completes the thought of the next previous level of subsection if none of the items in the list is a complete sentence and if one of the items in the list contains a comma.
- If no item in the list contains a comma, use commas at the end of each item.

See **commas** and **lists**.

**serviceable**

**set up (v.), setup (n., adj.)**

**sewage, sewerage**

*Sewage* is waste matter. *Sewerage* is the draining system.

**shall, must, may**

In Arizona, both in statutes and in rules, *shall* is the proper term to use, not *must*. *May* is permissive and confers a right, privilege, or power. When using *may*, give the standards under which the dis-

**Fast Fact**  
Of 592 packages filed in 2002:

---

**Title 9:** 20% of total  
**DEQ:** 18% of total  
**Title 4:** 15% of total  
**ADOT:** 12% of total

**Fast Fact**  
Of 641 packages filed in 2001:

---

**Title 9:** 18% of total  
**ADOT:** 15% of total  
**Title 4:** 13% of total  
**DEQ:** 8% of total

cretion will be used: *The Director may approve an incomplete application after assessing the following factors:*

- Use *shall* instead of *may* when you require specific action. *Shall* is used to impose a mandatory duty, direction, or command. (*The Director shall approve each completed application.*)
- Use *shall not* to indicate an obligation not to act or a prohibition against acting. (*The Director shall not delegate the duty described in this subsection.*)

- Avoid using *shall* to confer a right.

*Wrong:* The applicant shall receive compensation.

*Right:* The applicant is eligible to receive compensation.

*Wrong:* Committee members shall serve for two years.

*Right:* The term of office of committee members is two years.

- Avoid the negative subject with the affirmation *shall*.

*Wrong:* No person shall . . .

*Right:* A person shall not . . .

See **active voice**.

## shut down (v.), shutdown (n.)

### shut-in

## shut off (v.), shut-off (n., adj.)

### singular form

- In the absence of specific language to the contrary, the singular implies the plural. A rule should be written using the singular form.

*Avoid:* Applicants may . . .

*Use:* An applicant may . . .

*Wrong:* The guard shall issue security badges to the examinees who shall be tested in Building D and Building E.

*Right:* The guard shall issue a security badge to each examinee who shall be tested in Building D and each examinee who shall be tested in Building E.

*or*

The guard shall issue a security badge to each examinee who shall be tested in both Building D and Building E.

See **plurals**.

### sizable

### soundproof

### space and a half

All rulemaking packages submitted for publication shall meet the requirements in 1 A.A.C. 1.

The Office accepts text that has line spacing of “space and a half,” and text that is **double-spaced**. Spacing for the **EIS** is at the agency’s discretion.

See R1-1-103(B).

### spacing

Never use two spaces after a colon, period, or state abbreviation. It is an obsolete printing style. However, the headings for **supplementary material** listed in the table of contents should be indented two spaces from the left.

### spelling

The Office corrects misspelled words. Remember that spelling checkers are not accurate for Latin names, many scientific terms, and other words.

See **Latin words**.

### springwater

### standby

### staples

Do not staple the *original* elements of a filing. This means the receipts, the original Agency Certificate, and the original rule package. The *copies* of these elements may be stapled.

The Office scans the original documents for permanent digital storage, so it’s preferable not to have to remove staples.

See **number of copies**.

### state

Lowercase in all *state of* constructions: *the state of Arizona, licensees in this state*. Capitalize when it is part of an agency title: *State Board of Education*.

### statewide

### stationary, stationery

To stand still is to be *stationary*. Writing paper is *stationery*.

### statutory quotations

Place statutory quotations, book titles, scientific names, and the names of court cases in italics. If the statutory language contains subsection labeling, retain the labeling.

### stockholder

### striking in rules

In general, place stricken text before underlined text. When striking a subsection label, **strike the period as well**:

~~A.~~ (Text here)

~~B.A.~~ (Text here)

~~C.B.~~ (Text here)

See **amending words, phrases, and blocks of text**.

### striking (repealing) supplementary

### material

You have two options when repealing **supplementary material**. First, you may, if possible, strike through all text in the material as you would normal text in a Section. Second, you may use a single slash mark (/) drawn from the lower left to the upper right sufficiently to cover all of the material.

See R1-1-412.

### Subchapter

A Subchapter is a division of the *Code* between **Chapter** and **Article**. A Subchapter is designated by a capital letter after the Chapter number before the hyphen: *R15-2A-201*. An agency must request and receive approval from the Office before using a Subchapter division.

Always capitalize *Subchapter* when referring to a division of the *Code*.

After you have used a **Chapter** and you repeal or renumber it in its entirety so that no text remains, you may not re-use that specific Chapter for one year.

See **Title, Chapter, Article, Part, and Section**; R1-1-101, R1-1-301, R1-1-402, and R1-1-501; and **re-using Chapter, Subchapter, Article, Part, or Section numbers**.

### subcommittee

### subcontract

### submission requirements

When submitting material to the Office, provide an original and two copies of the material and a **disk**. The disk should not contain the **Agency Receipt** or **Agency Certificate**.

All pages of the original document and all copies shall be printed on only one side. Each page shall have margins of one inch on each edge of the page.

When filing a rulemaking package with the Office, place only one Chapter on a single Notice. The Office prefers that agencies do not file more than one Notice per Chapter per week for each type of rulemaking activity.

### subsection

A subsection is a division of a Section of the *Code*. Lowercase *subsection* when referring to a part of a rule in the *Code*. Do not use **paragraph** to refer to a subsection of the *Code*.

### subsection levels

The Office prefers that rules do not contain levels of subsection below the fourth level. If an agency submits a proposed rule with more than four levels of subsection, the Office may ask the agency to split the rules into additional Sections to avoid exceeding four levels of subsection.

See **labeling subsections**.

### substantial change

A.R.S. § 41-1025 states that an agency shall not make a rule that is “substantially different” from the proposed rule published in the Notice of Proposed Rulemaking or Supplemental Notice of Proposed Rulemaking, and G.R.R.C. shall not approve a final rule that contains a “substantial change” from the proposed rule.

In determining whether there is a substantial change, three factors must be considered: 1) the extent to which all persons affected by the final rule should have understood that the published proposed rule would affect their interests; 2) the extent to which the subject matter of the final rule or the issues determined by it are different from the subject matter or issues involved in the proposed rule; and 3) the extent to which the effects of the final rule differ from those of the proposed rule.

See A.R.S. §§ 41-1022 and 41-1025.

### substantive error

A substantive error is a mistake in the text of the *Register* or *Code* significant enough that correcting it would change the meaning of the text. The Office consults with the Attorney General’s office when clarification about an error is required.

See **correction of errors**, R1-1-109 and R1-1-507.

### Substantive Policy Statement

A.R.S. § 41-1001 states: “*Substantive policy statement*” means a written expression which informs the general public of an agency’s current approach to, or opinion of, the requirements of the federal or state constitution, federal or state statute, administrative rule or regulation, or final judgment of a court of competent jurisdiction, including, where appropriate, the agency’s current practice, procedure or method of action based upon that approach or opinion. A substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents which only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties, confidential information or rules made in accordance with this chapter.

- The APA requires the Office to publish summaries of substantive policy statements and guidance document publications in the *Register*. A.R.S. § 41-1013(B)(14).
- A.R.S. § 41-1091 requires an agency to submit summaries of substantive policy statements to the Office for publication. An agency must also publish a directory summarizing its rules and policy statements. Although the APA does not penalize an agency for failing to do so, the agency should make a good faith effort to abide by these

requirements and notify the public of these documents.

- You do not need to file a copy of the actual policy statement with the Office, only the Notice.

See the **Rulemaking Forms** section of this manual.

### **Substantive Policy Statement, Notice of**

Use the Notice of Substantive Policy Statement form in the Rulemaking Forms section of this manual. The Office does not need a copy of your actual policy statement.

See R1-1-210 and the **Rulemaking Forms** section of this manual.

### **summary rulemaking**

If an agency's rules are subject to review by G.R.R.C., the agency may use the summary rulemaking process in A.R.S. § 41-1027 for repeals of rules made obsolete by repeal or supersession of the agency's statutory authority or the making, amendment, and repeal of rules that repeat verbatim existing statutory authority granted to the agency.

An agency files a Notice of Proposed Summary Rulemaking with G.R.R.C. and the Office, and the rule takes interim effect on the date of publication in the *Register*. Within 90 days after publication, after consideration of public comment, the agency files the summary rules with G.R.R.C. as final summary rules. If G.R.R.C. approves the summary rule and files it in the Office, the interim effective date becomes the **permanent effective date** 60 days after the date of filing in the Office.

See A.R.S. § 41-1027, R1-1-801, and the **Rulemaking Forms** section of this manual.

### **Summary Rulemaking, Notice of Proposed**

Within 90 days after publication of the Notice of Proposed Summary Rulemaking in the *Register*, you must submit the summary rules to G.R.R.C. as final summary rules. You must also submit the preamble, the concise explanatory statement, and the economic, small business, and consumer impact statement (the economic, small business, and consumer impact statement is not necessary if you are only repealing existing rule language).

After G.R.R.C. reviews the summary rule, it will place the summary rule on its consent agenda unless a member of G.R.R.C. requests a hearing. If a hearing is requested, G.R.R.C. shall act on the summary rule and issue its approval or return the rule to the agency for initiation of the rule under the regular rulemaking process. If G.R.R.C. returns the rule to the agency, the interim effect of the rule is revoked as of the date of initial publication of the proposed summary rule in the *Register* unless G.R.R.C. orders otherwise.

See A.R.S. § 41-1027, R1-1-801, and the **Rulemaking Forms** section of this manual.

### **Summary Rulemaking, Notice of Final**

If G.R.R.C. approves a summary rule, an agency must submit a Notice of Final Summary Rulemaking to the Office for publication and filing.

See A.R.S. § 41-1027, R1-1-801, and the **Rulemaking Forms** section of this manual.

### **supersede**

### **supplemental proposed rulemaking**

A.R.S. § 41-1025 states that an agency shall not make a rule that is "substantially different" from the proposed rule published in the Notice of Proposed Rulemaking or Supplemental Notice of Proposed Rulemaking, and G.R.R.C. shall not approve a final rule that contains a "substantial change" from the proposed rule.

If there is a **substantial change** made to a rule after it is proposed, an agency has three options:

1. Do nothing. The docket for the rulemaking will expire one year after the proposed is published if the agency does not submit the final rule to G.R.R.C.

2. File a **Notice of Termination of Rulemaking**. The agency then has the option of starting the rulemaking over with a new docket and a new proposed.

3. File a **Notice of Supplemental Proposed Rulemaking** and provide for additional public comment under A.R.S. § 41-1023.

**Sections included:** In the past, the Office advised rulewriters to include only the Sections undergoing change *after* the publication of the proposed rule (or supplemental). The Office now advises that the supplemental include every Section undergoing change. Rather than being considered an addendum to the proposed, the supplemental should be considered a "do-over" – as if you were resubmitting the original proposed, but now with new changes.

**Changes to the text:** In the past, the Office advised rulewriters to show *all changes*, interpreted to mean the changes (striking and underlining) from the proposed rule and the "new" changes that required the supplemental notice – but only for Sections undergoing change in the supplemental. These two sets of changes were seen to exist essentially as two separate layers. Some text, therefore, might have had both underlining and striking if multiple changes were made to the same words.

The Office now advises that the supplemental simply appear as if it were the original proposed rule package. Include all desired changes from the original Code text (the base text from which all

proposed rulemakings start) as if the supplemental were your first version of the proposed rule.

**Rulemaking timetable:** A.R.S. § 41-1021 states that a rulemaking docket expires one year after publication of the proposed rulemaking if the agency does not submit a final rule to G.R.R.C. within that time. The start date of that one-year period is reset upon publication of a supplemental rulemaking.

For more information on supplementals, see the **Guide for Notices of Supplemental Proposed Rulemaking** in Section 3 of this manual.

See A.R.S. §§ 41-1022, 41-1023, and 41-1025, R1-1-507, and the **Rulemaking Forms** section of this manual.

**Supplemental Proposed Rulemaking, Notice of**

See the entry for **supplemental proposed rulemaking** above.

Be sure to include the citation to the original proposed rules and any supplemental notices.

See A.R.S. §§ 41-1022, 41-1023, and 41-1025, R1-1-507, and the **Rulemaking Forms** section of this manual.

**supplementary material**

**CAMERA-READY MATERIAL:** If it is necessary to include a table, an illustration, a diagram, or other material that appears in a form other than prose, submit a camera-ready copy of the item with the final rules. **Camera-ready material** is supplementary material that meets the requirements of R1-1-412(D). It must be clear and legible, in solid black ink on one side of an 8 1/2” by 11” sheet of paper with a one-inch margin on all edges of the page.

**SUPPLEMENTARY MATERIAL:** Supplementary material that has a heading and a Historical Note should be listed in the Chapter’s table of contents. If the material is supplementary to a particular Section, it shall appear immediately after the Section and be included in the Chapter’s table of contents slightly indented under the Section to which it belongs. If the material is supplementary to the entire Article, place it at the end of the Article and list it in the table of contents slightly indented under the last Section. Use one of the following four terms for supplementary material:

- **Appendix:** Use with material in prose form.
- **Exhibit:** Use for forms. Note that forms described in statutes or in expository form in the rules need not be filed with or contained in your rules as a form.
- **Illustration:** Use for pictures, maps, drawings, etc.
- **Table:** Use for material in tabular format.

**REPEALING SUPPLEMENTARY MATERIAL:** You have two options when repealing supplementary material. First, you may, if possible, strike through all text in the material. Second, you may use a single slash mark (/) drawn from the lower left to the upper right sufficiently to cover all of the material.

See R1-1-412.

**suspensive hyphenation**

The form: *The 5- and 6-year-olds attend morning classes.*

**symbols**

Contact the Office when using special symbols, fonts, or formats in the text of a rule.

Some signs and symbols disappear from the electronic file when the Office formats rule packages from agency disks, especially certain symbols inserted by **autoformatting** in word processing programs. Turn off autoformatting when drafting your rules.

See R1-1-408(N).

**T**

**Table**

A Table is **supplementary material** containing tabular information. Create a Table using a spreadsheet program or the table function in your word processing program.

List a Table in the **table of contents** for the Chapter in the same format that a Section is listed, but indent it two spaces from the left. Number a Table with either a capital letter or Arabic number using a consistent identification scheme, and refer to a Table within the text of one or more Sections.

A Table does not have to be placed at the end of an Article. If a Table appears *within* the text of a Section, as opposed to being separate from the Section, it does not appear in the table of contents and does not have its own **Historical Note**. To reference such an Table, use the appropriate subsection label.

Keep the rows in Tables connected to each other.

See R1-1-101 and R1-1-412.

**table of contents**

The table of contents in a rulemaking package is the list of Articles and Sections that follows the Preamble and precedes the full text of the Articles and Sections. The table of contents must start on the page following the last item of the Preamble.

The table of contents in a Code Chapter is the list of Articles and Sections at the beginning of the Chapter that precedes the full text of the Articles and Sections.

### telephone numbers

The form: (602) 542-4751. If there is an extension, (602) 542-4751, ext. 24 (abbreviated and lowercase *ext.*). The parentheses around the area code are based on a format that telephone companies have agreed upon for domestic and international communications.

### temperature

See **Celsius** and **Fahrenheit**.

### termination

If an agency terminates a rulemaking after the proposed rule has been submitted to the Office for filing and publication and before the final rule has been submitted, the agency shall submit to the Office a **Notice of Termination of Rulemaking**. No rule may be terminated after the agency has submitted the final rule to the Office.

See A.R.S. § 41-1021 and R1-1-506.

### Termination of Rulemaking, Notice of

The Notice shall contain the following:

- The *Register* citation and the date of the Notice of Proposed Rulemaking.
- The Section numbers and their appropriate Articles or Parts or both in numerical and, in the case of Parts, in alphabetical order in one column and the original rulemaking action in the second column. Be sure that you list the *original* rulemaking action; the term “Termination” is not allowed for this rulemaking action because it is not the original rulemaking action.
- The original and each of the two copies of this Notice of Termination of Rulemaking shall be attached to a copy of the Notice of Proposed Rulemaking.

Both the original Notice of Proposed Rulemaking and the Notice of Termination of Rulemaking remain on file in the Office.

The Office publishes a list of terminated rules in the *Register*, but not the text of the terminated rules.

See A.R.S. § 41-1021, R1-1-506, and the **Rulemaking Forms** section of this manual.

### that (conjunction)

Use the conjunction *that* to introduce a dependent clause if the sentence sounds or looks awkward without it. *That* is often unnecessary, but in general:

- *That* should be used when a time element intervenes between the verb and the dependent clause: *The president said Monday that he had signed the bill.*

- *That* usually is necessary after some verbs. They include: *advocate, assert, contend, declare, estimate, make clear, point out, propose, and state.*

- *That* is required before subordinate clauses beginning with conjunctions such as *after, although, because, before, in addition to, until, and while*: *The Department said that after the applicant passes the test, the Department shall process the application.*

### that, which

- Use *who* and *whom* for references to people. Use *that* and *which* for inanimate objects and animals: *This is the owner who drove the car that was not registered.*

- *That* sets off a restrictive or essential clause and is used without commas: *The Nile is the river that gives Egypt life.* (restrictive)

- *Which* sets off a non-restrictive or non-essential clause and is used with commas: *The Nile, which flows into the Mediterranean, gives Egypt life.* (non-restrictive)

### third-party (adj.), third party (n.)

Hyphenate when used as an adjective. Always lowercase *-party*.

### through, thru

You may see *thru* in the Code, but for several years the Office has been changing to *through*.

### time

Lowercase *a.m.* and *p.m.*, and use periods and minute numbers. *2:00 p.m.*, not *2 PM*.

*Lowercase a.m. and p.m.*

### time-frame

*Time-frame* is hyphenated when used as a noun or adjective. Lowercase *-frame* in all uses: *Licensing Time-frame*.

### Title

A Title is a subject area in the codification of the Code. Titles are divided into Chapters.

Always capitalize *Title* when referring to a division of the *Code*.

The Secretary of State’s Office assigns Title and Chapter designations to state agencies, boards, and commissions. An agency preparing to make rules for the first time shall contact the Office for assignment of a Title and Chapter number within the codification system. An agency that already has at least one Chapter on file shall contact the Office when the agency needs a new Chapter assignment.

See **Chapter, Subchapter, Article, Part, Section, capitalization**; and R1-1-101, R1-1-301, R1-1-402, and R1-1-501.

### total, totaled, totaling

### toward

Not *towards*.

**Track Changes**

Do not turn on Track Changes under Tools in Word. Files created with Track Changes cannot be imported properly into the Office’s publishing software. The Office may delay publishing a rule package created with Track Changes, or return the package to the agency.

See **conditional text**.

**transfer, transferred, transferring**

**travel, traveled, traveling**

# U

**under, below**

Avoid using prepositions that indicate direction or location when indicating quantity.

See **over, more than**.

**underlining in rules**

• Underlining is used in the text of rules filed with the Secretary of State only to indicate new language being added to an existing rule. Do not use underlining in the text of rules for any other purpose.

• All new Section numbers, headings, and text shall be underlined (R1-1-501(B)(13)(b)(i)). If a Section number currently exists in the Code, it shall not be underlined.

• If your agency has rules that were exempted from the rulemaking process before September 30, 1992 (which by law the Office could not publish), and now you amend your rules, you must show all changes between the version the Office has *on file in the Office* and what you are doing in the new rulemaking. You will include in these changes all language you deleted and all language you added or otherwise changed during the exemption. Thus, text that you have been operating under since you made your rules under the exemption will have to be shown as either repealed text or new language. This is the only way the Office can ensure that the appropriate changes are made when the Office publishes the rules in the *Register* and *Code*.

See **amending words, phrases, and blocks of text**; and R1-1-103 and R1-1-104.

**unique**

It means one of a kind. Avoid describing something as *rather unique* or *most unique*.

**United States Code (U.S.C.)**

Citations use periods: *16 U.S.C. 792*.

The Office of the Law Revision Counsel of the U.S. House of Representatives prepares and publishes the United States Code under 2 U.S.C.

285b. The Code is a consolidation and codification by subject matter of the general and permanent laws of the United States. The Code does not include regulations issued by executive branch agencies, decisions of the federal courts, treaties, or laws enacted by state or local governments. Regulations issued by executive branch agencies are available in the *Code of Federal Regulations*. Proposed and recently adopted regulations may be found in the *Federal Register*.

**unnecessary words**

• If it is possible to omit a word and preserve the desired meaning, always omit the word.

*Example:*

~~Make sure to eliminate~~ Eliminate unnecessary words

~~In order to~~ to eliminate unnecessary words

• Omit language that is meaningless or confusing.

*Wrong:* The Department shall maximize its deficit reduction program and enforce a positive downsizing in the personnel pool.

*Right:* The Department shall cut costs and lay off employees.

**upward**

Not *upwards*.

**U.S.**

U.S. in all uses when abbreviating United States, not US. Do not use U.S. as a noun.

# V

**v. or vs.**

Do not italicize in the formal title of a legal case: *Brown v. Board of Education*.

**vacuum**

**verb tense and voice**

A rule of continuing effect speaks of the time it is applied, not of the time it is drafted or when it becomes effective. Place verbs in the present tense and use the active voice.

*Wrong:* The fine for employing an unlicensed person shall be \$100.

*Right:* The fine for employing an unlicensed person is \$100.

*Wrong:* When it has been determined by the Director that the application that was submitted by the applicant is complete . . .

Lowercase state in all state of constructions: the state of Arizona...



*Right:* When the Director determines that the applicant's application is complete . . .

**vice versa**

**videotape**

# W

**wastepaper**

**wastewater**

**waterborne**

**watercourse**

**web site**

**whac-a-mole**

R3-12-206: "Whac-A-Mole. A player hits as many moles as possible with a rubber mallet in the five-hole target area. The animated moles pop up and down at random in the holes. The first player to hit a predetermined number of moles wins the designated prize."

**which, that**

See **that, which**.

**whitewater**

**who, whom**

- Use *who* and *whom* for references to people. Use *that* and *which* for inanimate objects and animals: *This is the owner who drove the car that was not registered.*

- Use *who* when someone is the subject of a sentence, clause, or phrase: *The Director who approves the license shall notify the applicant by mail.*

- Use *whom* when someone is the object of a verb or preposition: *The Director shall determine to whom the case will be assigned.*

**wildlife**

**workers' compensation**

**workload**

**workspace**

**wrongdoing**

# XYZ

**yearlong**

**years**

Years are the lone exception to the general rule in numerals that a figure is not used to start a sentence: *2002 marked the first year of the program.*

Use Arabic figures to indicate decades of history. Use an apostrophe to indicate missing numerals, and show the plural by adding the letter *s*: *the 1990s, the '60s, the mid-1980s.*

**ZIP code**

Put one space between the state abbreviation and the ZIP code: *Phoenix, AZ 85007.*

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## Section 3

# Frequently Asked Questions; Renumbering; Supplementals

These frequently asked questions were compiled from the Rule-writers' Consortium and the Secretary of State's Office. For more detailed information, see Section 2 of this manual.

### 1. I'm a new rulewriter. Where do I start?

Read this manual carefully and then give the editors a call with your questions. **No question is unimportant.** Remember to check that you have updated copies of the APA and the rules for the Secretary of State and G.R.R.C.

### 2. We're a new agency. How do we get a Chapter number?

Contact the Office, and we will assign a Title and Chapter number for your rules.

### 3. I submitted a Docket Opening, but now I want to add some Sections. Can I pull the Docket and start over?

No. Once a Docket Opening has been date stamped and logged in, it cannot be pulled. To add Sections to an open Docket, either file another Docket Opening with the additional Sections, or include, under the Sections Affected part of the Docket, the phrase, "Additional Sections may be added, deleted, or modified as necessary." This phrase gives you room to add Sections in the future.

### 4. Can I split one Docket into two Proposed (or Final) packages, or take two Dockets and combine them into one Proposed (or Final)?

Yes, but you should explain that you did so in the Preamble so the history of the rulemaking can be traced more easily. You can also combine multiple Proposed packages and combine them into one Final.

### 5. What exactly has to be on the disk I submit with the package?

Only the Notice (Preamble and text of the rule). The Agency Receipt, Agency Certificate, and EIS do not have to be on the disk you submit because they are not published in the *Register*.

### 6. Do I always have to submit a disk?

The Office prefers that you always send a disk with materials that will be published in the *Register*. Submitting

both a disk and hard copy better ensures that your rules will be published correctly and on schedule.

At the time of this writing, the Office has submitted a proposed rule for R1-1-104 that requires an agency to submit its rulemaking package or other notice in paper copy and electronic medium. All electronic media submissions shall be compatible with the Office's computer system and software. Contact the Office for further help.

### 7. Can I submit a Docket and Proposed on the same day?

Yes. Usually they will be published in the same issue of the *Register*. However, it was probably the intent of the legislature when it wrote the APA that a docket be open before a proposed rule is filed. This provides notice to the public of future rulemaking.

### 8. Why wasn't my notice published in this week's *Register*?

There are several explanations. First, notices are not published the week they are filed: they are usually published three weeks from the Friday of the week they are filed. Second, if an agency files two like notices for the same Chapter in the same week, the Office may hold one notice for a week. The Office will contact you to determine which notice to hold. Third, you may not have submitted a disk with your notice, which can delay publishing. Fourth, your notice may be particularly large or complicated, which can delay publishing.

### 9. What parts of my notice will the *Register* editor fill in for me?

The *Register* editor will fill in the items in the Preamble listing *Register* citations and the effective date of the rules if you cannot answer those questions at the time you file your notice. Sometimes an agency will file a proposed rule package before the docket opening has been published, and agencies usually cannot answer item #3 of the preamble in a final rule package because they do not know when G.R.R.C. or the A.G.'s Office will file the package with the Office and therefore when it will be published in the *Register*.

**10. Who can sign an agency certificate?**

The certificate must contain the signature, in ink, of the agency chief executive officer or the officer's designee. Certificates that contain one person's signature and another person's typed name will not be accepted.

**11. How many copies of my materials should I bring to the Office?**

An agency submitting materials for filing or publication in the *Register* or *Code* must send an original and two copies. An **Agency Certificate** and two copies of the **Agency Receipt** must accompany the original of the rulemaking package (R1-1-105 and R1-1-106). An Agency Certificate must accompany each copy of the rulemaking package.

**12. Can I correct an error in a rule package I submitted, either before or after publication in the *Register* or *Code*?**

Sometimes. Contact the Office about the error, and we will advise you on your options. Depending on the error, you may be required to do a variety of things to correct it. See the **correction of errors** entry in Section 2 of this manual.

**13. Can I get a courtesy review of my rule before it is published in the *Register*?**

Sometimes. Depending on the workload in the Office, the editors may be able to provide a courtesy review of your rule package. But if you are especially concerned about your rule package, or if it is particularly complex, the Office will probably spend additional time on it. It benefits everyone if you are in contact with the Office during the time you are doing the rulemaking.

**14. How long will it take for my rule to get published in the *Register* and *Code*?**

Usually the turnaround time for *Register* publication is three weeks from the Friday of the week you submit it. (Refer to the calendar in the back of the *Register*.) *Code* supplements are published approximately one month after the close of the quarter.

**15. When is a final rule effective?**

Laws 2002, Ch. 334, §§ 7 and 8 (SB 1339) changed the effective date of final rules. The effective date is now 60 days after the date of filing in the Office, unless G.R.R.C. or the Attorney General approves an effective date earlier or later than 60 days after the date of filing in the Office.

**16. There was an error in my rule in the *Register*. Can it be corrected before appearing in the *Code*?**

If the error is minor, it will be corrected in the *Code*. If it is substantive, you will have to do additional rulemaking to make the correction. Contact the Office regarding corrections.

**17. My agency is exempt from the APA. Do I still have to file rules with the Office?**

Yes. Under A.R.S. §§ 41-1005 and 41-1012, your agency must file a Notice of Exempt Rulemaking and follow the Secretary of State's rules for filing notices. Some agencies are only partially exempt from the APA, and others are exempt but choose to follow the normal rulemaking process (for example, submitting proposed rules and holding a hearing).

**18. What changes have to be in the Notice of Supplemental Proposed Rulemaking?**

See the entry for **supplemental proposed rulemaking** in Section 2 of this manual.

**19. Can I repeal a rule by letting it expire?**

Yes, under the circumstances described in A.R.S. § 41-1056(E). The Historical Note, however, will indicate that the rule expired, not that it has been repealed.

**20. Can I insert a Section between two already existing Sections?**

Yes. You must request permission from the Office to insert a new Section between two existing, consecutively numbered Sections. The new Section uses the number of the preceding Section followed by a decimal point and a two-digit number.

**21. Can I get a free copy of my agency's rules?**

Under R1-1-114, each agency is entitled to one free paper copy of its rules. The Office will send the rules to the agency's chief executive officer unless the Office receives other instructions from the agency.

**22. How do I make sure my document doesn't contain autoformatted text?**

In Microsoft Word, go to Format>AutoFormat... and click on "Options." In each of the four tabs, uncheck all of the boxes (leave them blank). Then click "OK" and "Close" -- **not "OK."** Then go back to each subsection label and make sure it is manually typed in. (If the text is autoformatted, you cannot highlight it with your cursor.) You may find that you have manual labels and autoformatted labels in the same document.

It's best to do this when the document is first created, but you can do it later as well.

# Renumbering Examples

The following excerpts from the *Register* contain renumbering that is more complicated than the examples shown in the **renumbering Sections** entry in Section 2 of this manual. When renumbering in a rule package, be sure that the rulemaking action in item #1 of the Preamble matches the striking and underlining in the table of contents and the text of the rules. For more details about renumbering, see the **renumbering Sections** entry in Section 2 of this manual.

## NOTICE OF FINAL RULEMAKING

### TITLE 9. HEALTH SERVICES

#### CHAPTER 6. DEPARTMENT OF HEALTH SERVICES COMMUNICABLE DISEASES

##### PREAMBLE

<u>1. Sections Affected</u>	<u>Rulemaking Action</u>
R9-6-101	Amend
R9-6-102	Amend
R9-6-103	Amend
R9-6-104	Repeal
R9-6-308	Amend
R9-6-309	Amend
R9-6-323	Amend
R9-6-330	Amend
R9-6-331	Amend
R9-6-360	Amend
Article 4	Amend
R9-6-401	Renumber
R9-6-401	New Section
R9-6-402	Renumber
R9-6-402	Amend
R9-6-403	Renumber
R9-6-403	Amend
R9-6-404	Renumber
R9-6-404	Amend
R9-6-405	Renumber
R9-6-405	Amend
R9-6-406	Renumber
R9-6-406	Amend
R9-6-407	Repeal
R9-6-407	Renumber
R9-6-407	Amend
R9-6-408	Renumber
R9-6-408	New Section
R9-6-409	Renumber
R9-6-409	Amend
Exhibit A	Renumber
Exhibit B	Renumber
R9-6-410	Renumber
Article 9	New Article
R9-6-901	New Section
R9-6-902	Renumber
R9-6-902	Amend
Exhibit A	Renumber
Exhibit A	Amend
Exhibit B	Renumber
Exhibit B	Amend
R9-6-903	Renumber

**15. The full text of the rules follows:**

**TITLE 9. HEALTH SERVICES**

**CHAPTER 6. DEPARTMENT OF HEALTH SERVICES  
COMMUNICABLE DISEASES**

**ARTICLE 1. DEFINITIONS**

Section

- R9-6-101. General Definitions
- R9-6-102. Communicable Disease Reporting
- R9-6-103. Control Measures for Communicable Diseases
- R9-6-104. ~~Human Immunodeficiency Virus (HIV)/Acquired Immunodeficiency Syndrome (AIDS)~~ Repealed

**ARTICLE 3. CONTROL MEASURES FOR COMMUNICABLE AND PREVENTABLE DISEASES**

Section

- R9-6-308. Chancroid (*Haemophilus ducreyi*)
- R9-6-309. Chlamydia Infection
- R9-6-323. Gonorrhea
- R9-6-330. Herpes Genitalis
- R9-6-331. Human Immunodeficiency Virus (HIV) Infection and Related Disease
- R9-6-360. Syphilis

**~~ARTICLE 4. HUMAN IMMUNODEFICIENCY VIRUS (HIV) / ACQUIRED IMMUNODEFICIENCY SYNDROME (AIDS)~~ AIDS DRUG ASSISTANCE PROGRAM (ADAP)**

Section

- R9-6-401. Definitions.
- ~~R9-6-401~~R9-6-402. Limitations and Termination of Program
- ~~R9-6-402~~R9-6-403. Eligibility Requirements
- ~~R9-6-403~~R9-6-404. Application Process
- ~~R9-6-404~~R9-6-405. Eligibility Determination and Enrollment Process
- ~~R9-6-405~~R9-6-406. Period of Eligibility Continuing Enrollment
- R9-6-407. Appeal
- ~~R9-6-406~~R9-6-407. Distribution Requirements
- R9-6-408. Time-frames
- ~~R9-6-408~~R9-6-409. Confidentiality
- Exhibit A. Consent for HIV-Related Testing Renumbered
- Exhibit B. Consentimiento para la Prueba de VIH Renumbered
- R9-6-410. Human Immunodeficiency Virus Testing Renumbered

**ARTICLE 9. HIV-RELATED TESTING**

Section

- R9-6-901. Definitions
- ~~R9-6-409~~R9-6-902. Consent for HIV-related Testing
  - ~~Exhibit A~~Exhibit A. Consent for HIV Testing
  - ~~Exhibit B~~Exhibit B. Consentimiento Para la Prueba de VIH
- ~~R9-6-410~~R9-6-903. Human Immunodeficiency Virus Court-ordered HIV-related Testing

## NOTICE OF FINAL RULEMAKING

### TITLE 18. ENVIRONMENTAL QUALITY

#### CHAPTER 15. DEPARTMENT OF ENVIRONMENTAL QUALITY WATER INFRASTRUCTURE FINANCE AUTHORITY

##### PREAMBLE

<u>1. Sections Affected</u>	<u>Rulemaking Action</u>
R18-15-101	Amend
R18-15-103	Amend
R18-15-104	Amend
R18-15-105	Amend
R18-15-106	Amend
R18-15-108	Repeal
R18-15-108	Renumber
R18-15-109	Renumber
R18-15-110	Renumber
R18-15-110	Amend
R18-15-111	Renumber
R18-15-111	Amend
R18-15-112	Renumber
R18-15-112	Amend
R18-15-113	Renumber
R18-15-201	Amend
R18-15-202	Amend
R18-15-203	Amend
R18-15-204	Amend
R18-15-205	Repeal
R18-15-205	Renumber
R18-15-205	Amend
R18-15-206	Renumber
R18-15-206	New Section
R18-15-207	Repeal
R18-15-207	New Section
R18-15-208	Amend
R18-15-301	Amend
R18-15-302	Amend
R18-15-303	Amend
R18-15-304	Amend
R18-15-305	Repeal
R18-15-305	Renumber
R18-15-305	Amend
R18-15-306	Renumber
R18-15-306	New Section
R18-15-307	Repeal
R18-15-307	New Section
R18-15-308	Amend
R18-15-403	Repeal
R18-15-501	Amend
R18-15-502	Amend
R18-15-503	Amend
R18-15-504	Repeal
R18-15-504	Renumber
R18-15-504	Amend
R18-15-505	Renumber
R18-15-505	New Section
R18-15-506	Repeal
R18-15-506	New Section
R18-15-507	Repeal
R18-15-507	New Section
R18-15-508	New Section
R18-15-509	New Section
R18-15-510	New Section

Section 3. Frequently Asked Questions; Renumbering; Supplementals

R18-15-511	New Section
R18-15-601	Amend
R18-15-602	Amend
R18-15-603	Amend
R18-15-701	Amend

**15. The full text of the rules follows:**

**TITLE 18. ENVIRONMENTAL QUALITY**

**CHAPTER 15. DEPARTMENT OF ENVIRONMENTAL QUALITY  
WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA**

**ARTICLE 1. MANAGEMENT**

Section

R18-15-101. Definitions  
R18-15-103. Legal Capability  
R18-15-104. Financial Capability  
R18-15-105. Technical Capability  
R18-15-106. Managerial and Institutional Capability  
~~R18-15-108. Readiness to Proceed~~  
~~R18-15-109. R18-15-108. Interest Rate Determinations~~  
~~R18-15-110. R18-15-109. Bid Document Review~~  
~~R18-15-111. R18-15-110. Disbursements and Repayments~~  
~~R18-15-112. R18-15-111. Administration~~  
~~R18-15-113. R18-15-112. Disputes~~  
R18-15-113. Renumbered

**ARTICLE 2. CLEAN WATER REVOLVING FUND**

Section

R18-15-201. Types of Financial Assistance Available  
R18-15-202. Eligibility Requirements for Financial Assistance  
R18-15-203. Clean Water Revolving Fund Intended Use Plan  
R18-15-204. Clean Water Revolving Fund Priority List  
~~R18-15-205. Clean Water Revolving Fund Priority Classes~~  
~~R18-15-206. R18-15-205. Ranking Criteria for the Clean Water Revolving Fund Priority List Ranking Criteria~~  
R18-15-206. Fundable Range for Clean Water Revolving Fund Design Financial Assistance  
~~R18-15-207. Project Construction Fundable Range for Clean Water Revolving Fund Construction Financial Assistance~~  
R18-15-208. Clean Water Revolving Fund Requirements

**ARTICLE 3. DRINKING WATER REVOLVING FUND**

Section

R18-15-301. Types of Financial Assistance Available  
R18-15-302. Eligibility Requirements for Financial Assistance  
R18-15-303. Drinking Water Revolving Fund Intended Use Plan  
R18-15-304. Drinking Water Revolving Fund Priority List  
~~R18-15-305. Drinking Water Revolving Fund Priority Classes~~  
~~R18-15-306. R18-15-305. Ranking Criteria for the Drinking Water Revolving Fund Priority List Ranking Criteria~~  
R18-15-306. Fundable Range for Drinking Water Revolving Fund Design Financial Assistance  
~~R18-15-307. Project Construction Fundable Range for Drinking Water Revolving Fund Construction Financial Assistance~~  
R18-15-308. Drinking Water Revolving Fund Requirements

**ARTICLE 4. OTHER FINANCIAL ASSISTANCE**

Section

~~R18-15-403. Project Construction Repealed~~

**ARTICLE 5. TECHNICAL ASSISTANCE**

Section

R18-15-501. Technical Assistance Intended Use Plan  
R18-15-502. Eligibility Requirements for Project Technical Assistance

R18-15-503. Types of Project Technical Assistance Available

~~R18-15-504. Maximum Amount of Project Technical Assistance~~

~~R18-15-505. R18-15-504. Clean Water Project Technical Assistance Priority List~~

~~R18-15-505. Ranking Criteria for Clean Water Project Technical Assistance Priority List~~

~~R18-15-506. Project Technical Assistance Priority Classes Fundable Range for Clean Water Project Technical Assistance Grants~~

~~R18-15-507. Project Technical Assistance Priority Scoring Criteria Fundable Range for Clean Water Project Technical Assistance Loans~~

~~R18-15-508. Drinking Water Project Technical Assistance Priority List~~

~~R18-15-509. Ranking Criteria for Drinking Water Project Technical Assistance Priority List~~

~~R18-15-510. Fundable Range for Drinking Water Project Technical Assistance Grants~~

~~R18-15-511. Fundable Range for Drinking Water Project Technical Assistance Loans~~

#### **ARTICLE 6. HARDSHIP GRANT FUND**

Section

R18-15-601. Types of Assistance Available

R18-15-602. Eligibility Requirements for Hardship Grant Financial Assistance

R18-15-603. Hardship Grant Financial Assistance Awards

#### **ARTICLE 7. INTEREST RATE SETTING AND FORGIVABLE PRINCIPAL**

Section

R18-15-701. Interest Rate Setting and Forgivable Principal

## NOTICE OF FINAL RULEMAKING

### TITLE 9. HEALTH SERVICES

#### CHAPTER 14. DEPARTMENT OF HEALTH SERVICES LABORATORIES

##### PREAMBLE

<u>1. Section Affected</u>	<u>Rulemaking Action</u>
R9-14-601	Amend
R9-14-602	Amend
R9-14-603	Amend
R9-14-604	Amend
R9-14-605	Renumber
R9-14-605	New Section
R9-14-606	Renumber
R9-14-606	Amend
R9-14-607	Renumber
R9-14-607	Amend
R9-14-608	Renumber
R9-14-608	New Section
R9-14-609	Renumber
R9-14-609	Amend
R9-14-610	Renumber
R9-14-610	Amend
R9-14-611	Renumber
R9-14-611	Amend
R9-14-612	Renumber
R9-14-612	Amend
R9-14-613	Renumber
R9-14-613	Amend
R9-14-614	Renumber
R9-14-614	Amend
R9-14-615	Renumber
R9-14-615	Amend
R9-14-616	Repeal
R9-14-616	Renumber
R9-14-616	Amend
R9-14-617	Renumber
R9-14-617	Amend
R9-14-618	Renumber
R9-14-618	Amend
R9-14-619	Renumber
R9-14-619	Amend
R9-14-620	New Section
Table 1	New Table

##### 15. The full text of the rules follows:

### TITLE 9. HEALTH SERVICES

#### CHAPTER 14. DEPARTMENT OF HEALTH SERVICES LABORATORIES

##### ARTICLE 6. LICENSING OF ENVIRONMENTAL LABORATORIES

- R9-14-601. Definitions  
R9-14-602. ~~License~~ Applicability  
R9-14-603. Initial ~~Licensure~~ License Process  
R9-14-604. ~~Licensure~~ Regular License Renewal Process  
R9-14-605. Compliance Monitoring  
~~R9-14-605.~~ R9-14-606. Provisional ~~License~~ License  
~~R9-14-606.~~ R9-14-607. ~~Licensure fees~~ Fees

R9-14-608. Payment of Fees  
~~R9-14-607.~~ ~~R9-14-609.~~ Proficiency Evaluation  
~~R9-14-608.~~ ~~R9-14-610.~~ Approved Methods and References  
~~R9-14-609.~~ ~~R9-14-611.~~ Drinking Water Sample ~~Matrix~~ Methods  
~~R9-14-610.~~ ~~R9-14-612.~~ Wastewater Sample ~~Matrix~~ Methods  
~~R9-14-611.~~ ~~R9-14-613.~~ Solid, Liquid, and Hazardous Waste Sample ~~Matrix~~ Methods  
~~R9-14-612.~~ ~~R9-14-614.~~ Air Sample ~~Matrix~~ Methods  
~~R9-14-613.~~ ~~R9-14-615.~~ Quality Assurance  
~~R9-14-616.~~ ~~Laboratory Safety~~  
~~R9-14-614.~~ ~~R9-14-616.~~ Operation  
~~R9-14-615.~~ ~~R9-14-617.~~ Laboratory Records and Reports  
~~R9-14-617.~~ ~~R9-14-618.~~ Mobile Laboratories  
~~R9-14-618.~~ ~~R9-14-619.~~ Out-of-State Environmental Laboratory ~~Licensure~~ Licensing  
R9-14-620. Time-frames  
Table 1. Time-frames (in days)

# Guide for Notices of Supplemental Proposed Rulemaking (September 12, 2002)

The APA states that an agency shall not make a rule that is “substantially different” from the proposed rule published in the Notice of Proposed Rulemaking or Notice of Supplemental Proposed Rulemaking. G.R.R.C. shall not approve a final rule that contains a “substantial change” from the proposed rule or supplemental notice.

If there is a substantial change made to a rule after it is proposed, an agency has three options:

- 1. Do nothing.** The docket for the rulemaking will expire one year after the proposed is published if the agency does not submit the final rule to G.R.R.C.
- 2. File a Notice of Termination of Rulemaking.** The agency then has the option of starting the rulemaking over with a new docket and a new proposed.
- 3. File a Notice of Supplemental Proposed Rulemaking** and provide for additional public comment.

Supplemental notices have raised publishing questions because of the SOS instructions on how to prepare them. To answer these questions and promote consistency among rulewriters and the Office, SOS provides this brief guide on the requirements for supplemental notices. **These requirements differ from past instructions on supplementals.**

## 1. If I need to make changes to my proposed rule, do I have to do a supplemental?

Maybe. If the changes you want to make are not considered “substantial” under A.R.S. § 41-1025, you may simply make the changes in the Notice of Final Rulemaking and explain the changes in item #10 of the Preamble. But if the changes are substantial, a supplemental is necessary to continue the rulemaking process -- unless you terminate the rules and start over.

## 2. What Sections go in a supplemental?

In the past, SOS advised rulewriters to include only the Sections undergoing change *after* the publication of the proposed rule (or supplemental). SOS now advises that the supplemental include every Section undergoing change. Rather than being considered an addendum to the proposed, the supplemental should be considered a “do-over” -- as if you were resubmitting the original proposed, but now with new changes.

## 3. What changes to the text do I show?

In the past, SOS advised rulewriters to show *all changes*, interpreted to mean the changes (striking and

underlining) from the proposed rule and the “new” changes that required the supplemental notice -- but only for Sections undergoing change in the supplemental. These two sets of changes were seen to exist essentially as two separate layers. Some text, therefore, might have had both underlining and striking if multiple changes were made to the same words.

SOS now advises that the supplemental simply appear as if it were the original proposed rule package. Include all desired changes from the original Code text (the base text from which all proposed rulemakings start) as if the supplemental were your first version of the proposed rule.

## 4. How do I distinguish the changes in the proposed from the changes in the supplemental?

There are three ways readers can understand the changes in text:

1. Compare the two (or more) texts from the Registers in which they appeared.
2. Look at item #6 of the Preamble of the supplemental(s) for an explanation of the substantial change that resulted in the supplemental notice.
3. Look at item #10 of the Preamble of the final notice for a description of the changes between the proposed rules, including supplemental notices, and final rules.

The Preamble is therefore very important to the public as the quickest and easiest resource for understanding the agency’s actions.

## 5. What should be in the Preamble and table of contents?

The Preamble should list all Sections appearing in the text of the supplemental, regardless of whether the Sections appeared in the proposed. The Preamble should list the rulemaking action that is taking place in the supplemental -- not the rulemaking action that occurred in the proposed. The table of contents should reflect what is in the text of the rules (what follows the table of contents).

Publishing the supplemental as a “do-over” (that is, including all Sections) may mean republication of Sections that are identical to the proposed. However, showing all

Sections together gives the public a more complete understanding of the agency's intentions and the effects of the rulemaking. It also provides for public comment on the rulemaking as a whole, not just Sections undergoing change in the supplemental.

**6. What happens to the rulemaking timetable?**

A.R.S. § 41-1021 states that a rulemaking docket expires one year after publication of the proposed rulemaking if the agency does not submit a final rule to G.R.R.C. within that time. The start date of that one-year period is reset upon publication of a supplemental rulemaking.

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## Section 4

# Rulemaking Forms

Use the forms on the following pages when preparing materials for submission to the Office for filing and publication. The questions and answers must appear in the order published here.

Double-space or space-and-a-half both the questions and answers, and take as many pages as you need to complete each Notice. The forms in this manual are printed on both sides of the page, but you should use one side of the page when submitting material to the Office.

See Section 1 of this manual for more information on the rulemaking process, or contact our office at (602) 542-4086.

*Editor's Note: The forms were updated in September 2011. Users are encouraged to review A.R.S. Title 41, Chapter 6, Articles 1 through 10 to ensure the documents prepared using these forms meet all legal requirements.*

### FORM LEGAL REFERENCE MATRIX

<b>Form Name</b>	<b>A.R.S.</b>	<b>A.A.C.</b>
Agency Certificate		R1-1-105
Agency Guidance Document, Notice of	§ 41-1013	R1-1-210
Agency Ombudsman, Notice of	§ 41-1006	R1-1-212
Agency Receipt		R1-1-106
Emergency Rulemaking, Notice of	§ 41-1026, § 41-1026.01	R1-1-701
Exempt Rulemaking, Notice of	§ 41-1005, § 41-1011	R1-1-901, R1-1-902
Final Delegation Agreement, Notice of – <i>Optional form</i>	§ 41-1081	R1-1-208
Final Rulemaking, Notice of	§ 41-1024, § 41-1025	R1-1-601, R1-1-602
Final Summary Rulemaking, Notice of	§ 41-1027	R1-1-801
Formal Rulemaking Advisory Committee, Notice of	§ 41-1022	R1-1-206
Oral Proceeding on Proposed Delegation Agreement, Notice of	§ 41-1081	R1-1-208
Oral Proceeding on Proposed Rulemaking, Notice of	§ 41-1023	R1-1-504, R1-1-901
Proposed Delegation Agreement, Notice of	§ 41-1081	R1-1-208
Proposed Rulemaking, Notice of	§ 41-1022	R1-1-502
Proposed Summary Rulemaking, Notice of	§ 41-1027	R1-1-801
Public Meeting on Open Rulemaking Docket, Notice of	§ 41-1023	R1-1-504, R1-1-901
Public Workshop on Proposed Rulemaking, Notice of	§ 41-1023	R1-1-504, R1-1-901
Recodification, Notice of		R1-1-404, R1-1-1001
Rulemaking Docket Opening, Notice of	§ 41-1021	R1-1-205
Substantive Policy Statement, Notice of	§ 41-1013	R1-1-210
Supplemental Proposed Rulemaking, Notice of	§ 41-1022, § 41-1025	R1-1-507
Termination, Notice of	§ 41-1024	R1-1-506

**NOTICE OF RULEMAKING DOCKET OPENING**

**AGENCY NAME**

**1. Title and its heading:**

**Chapter and its heading:**

**Subchapter and its heading (if applicable):**

**Article and its heading:**

**Part and its heading (if applicable):**

**Section numbers:**

**IF THE SUBCHAPTER  
AND PARTS ARE NOT  
APPLICABLE, OMIT  
FROM SUBMISSION.**

**2. The subject matter of the proposed rule:**

The agency docket number, if applicable:

**3. A citation to all published notices relating to the proceeding:**

(Notice name): (volume #) A.A.R. (page #), (date)

**4. The name and address of agency personnel with whom persons may communicate regarding the rule:**

Name:

Address:

Telephone:      Include area code, (xxx) xxx-xxxx

Fax:

E-mail:

**5. The time during which the agency will accept written comments and the time and place where oral comments may be made:**

**6. A timetable for agency decisions or other action on the proceeding, if known:**

**NOTICE OF PROPOSED RULEMAKING**

**TITLE #. HEADING**

**CHAPTER #. HEADING**

**SUBCHAPTER LABEL. HEADING (IF APPLICABLE)**

**PREAMBLE**

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action**
  
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**  

Authorizing statute:

Implementing statute:
  
- 3. Citations to all related notices published in the *Register* as specified in R1-1-409(A) that pertain to the record of the proposed rule:**  

Notice of Rulemaking Docket Opening: (volume #) A.A.R. (page #)
  
- 4. The agency's contact person who can answer questions about the rulemaking:**  

Name:

Address:

Telephone:        Include area code, (xxx) xxx-xxxx

Fax:                (if applicable), include area code, (xxx) xxx-xxxx

E-mail:            (if applicable)

Web site:         (if applicable)
  
- 5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**
  
- 6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
  
- 7. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**
  
- 8. The preliminary summary of the economic, small business, and consumer impact:**

**9. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:**

Name:

Address:

Telephone: Include area code, (xxx) xxx-xxxx

Fax: (if applicable), include area code, (xxx) xxx-xxxx

E-mail: (if applicable)

Web site: (if applicable)

**10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

**11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

- a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**
- b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**
- c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**

*(Editor's Note: If the answer is "yes" to Preamble item (11)(c), then the analysis should be filed with the rulemaking package)*

**12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**

**13. The full text of the rules follows:**

*(Editor's Note: Rule text begins per R1-1-502(B)(18).)*

**NOTICE OF SUPPLEMENTAL PROPOSED RULEMAKING**

**TITLE #. HEADING**

**CHAPTER #. HEADING**

**SUBCHAPTER LABEL. HEADING (IF APPLICABLE)**

**PREAMBLE**

- 1. Citations to the agency's Notice of Rulemaking Docket Opening, the Notice of Proposed Rulemaking, and any other Notices of Supplemental Proposed Rulemaking (if applicable) as published in the Register as specified in R1-1-409(A). A list of any other related notices published in the Register to include the as specified in R1-1-409(A):**

Notice of Rulemaking Docket Opening: (volume #) A.A.R. (page #)

Notice of Proposed Rulemaking: (volume #) A.A.R. (page #)

Notice of Supplemental Proposed Rulemaking (if applicable): (volume #) A.A.R. (page #)

- 2. Articles, Parts, or Sections Affected (as applicable) Rulemaking Action**

- 3. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**

Authorizing statute:

Implementing statute:

- 4. The agency's contact person who can answer questions about the rulemaking:**

Name:

Address:

Telephone: Include area code, (xxx) xxx-xxxx

Fax: (if applicable), include area code, (xxx) xxx-xxxx

E-mail: (if applicable)

Web site: (if applicable)

- 5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**

- 6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

- 7. An explanation of the substantial change which resulted in the supplemental notice:**

**8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision:**

**9. The preliminary summary of the economic, small business, and consumer impact:**

**10. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:**

Name:

Address:

Telephone: Include area code, (xxx) xxx-xxxx

Fax: (if applicable), include area code, (xxx) xxx-xxxx

E-mail: (if applicable)

Web site: (if applicable)

**11. The time, place, and nature of the proceedings to make, amend, renumber or repeal the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the supplemental proposed rule:**

Date:

Time:

Location:

Nature:

Close of record: (optional)

**12. All agencies shall list any other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

- a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**
- b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**
- c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**

*(Editor's Note: If the answer is "yes" to Preamble item (12)(c), then the analysis should be filed with the rulemaking package)*

**13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**

**14. The full text of the rules follows:**

*(Editor's Note: Rule text begins per R1-1-502(B)(18).)*

**NOTICE OF TERMINATION OF RULEMAKING**

**TITLE #. HEADING**

**CHAPTER #. HEADING**

**SUBCHAPTER LABEL. HEADING (IF APPLICABLE)**

**1. The Register citation and the date of the Notice of Rulemaking Docket Opening:**

Notice of Rulemaking Docket Opening: (volume #) A.A.R. (page #)

**2. The Register citation and the date of the Notice of Proposed Rulemaking:**

Notice of Proposed Rulemaking: (volume #) A.A.R. (page #)

**3. Article, Part, or Section Affected (as applicable) Rulemaking Action**

**NOTICE OF FINAL RULEMAKING**

**TITLE #. HEADING**

**CHAPTER #. HEADING**

**SUBCHAPTER LABEL. HEADING (IF APPLICABLE)**

**PREAMBLE**

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action**
- 2. Citations to the agency's statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):**

Authorizing statute:

Implementing statute:
- 3. The effective date of the rule:**
  - a. If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):**
  - b. If the agency selected a date later than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):**
- 4. Citations to all related notices published in the Register to include the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:**

Notice of Rulemaking Docket Opening: (volume #) A.A.R. (page #)

Notice of Proposed Rulemaking: (volume #) A.A.R. (page #)
- 5. The agency's contact person who can answer questions about the rulemaking:**

Name:

Address:

Telephone:        Include area code, (xxx) xxx-xxxx

Fax:                (if applicable), include area code, (xxx) xxx-xxxx

E-mail:            (if applicable)

Web site:         (if applicable)
- 6. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**

- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
- 8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**
- 9. A summary of the economic, small business, and consumer impact:**
- 10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:**
- 11. An agency's summary of the public stakeholder comments made about the rulemaking and the agency response to the comments:**
- 12. All agencies shall list any other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**
  - a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**
  - b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**
  - c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**

*(Editor's Note: If the answer is "yes" to Preamble item (12)(c),  
then the analysis should be filed with the rulemaking package)*
- 13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rule:**
- 14. Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:**

Notice of Emergency Rulemaking: (Volume #) A.A.R. (page #)
- 15. The full text of the rules follows:**

*(Editor's Note: Rule text begins per R1-1-502(B)(18).)*

**NOTICE OF EMERGENCY RULEMAKING**

**TITLE #. HEADING**

**CHAPTER #. HEADING**

**SUBCHAPTER LABEL. HEADING (IF APPLICABLE)**

**PREAMBLE**

- 1. Article, Part, or Section Affected (as applicable)      Rulemaking Action**
  
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**  
    Authorizing statute:  
  
    Implementing statute:
  
- 3. The effective date of the rule:**
  - a. If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):**
  
  - b. If the agency selected a date later than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):**
  
- 4. Citations to all related emergency rulemaking notices published in the Register as specified in R1-1-409(A) that pertain to the record of this notice of emergency rulemaking:**  
    Notice of Emergency Rulemaking: (volume #) A.A.R. (page #)
  
- 5. The agency's contact person who can answer questions about the rulemaking:**  
    Name:  
  
    Address:  
  
    Telephone:      Include area code, (xxx) xxx-xxxx  
  
    Fax:              (if applicable), include area code, (xxx) xxx-xxxx  
  
    E-mail:           (if applicable)  
  
    Web site:        (if applicable)
  
- 6. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**
  
- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its**

**evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

- 8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**
- 9. A summary of the economic, small business, and consumer impact:**
- 10. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include but are not limited to:**
  - a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**
  - b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**
  - c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**

*(Editor's Note: If the answer is "yes" to Preamble item (10)(c),  
then the analysis should be filed with the rulemaking package)*

- 11. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rule:**
- 12. An agency explanation about the situation justifying the rulemaking as an emergency rule:**
- 13. The date the Attorney General approved the rule:**
- 14. The full text of the rules follows:**

*(Editor's Note: Rule text begins per R1-1-502(B)(18).)*

**NOTICE OF PROPOSED SUMMARY RULEMAKING**

**TITLE #. HEADING**

**CHAPTER #. HEADING**

**SUBCHAPTER LABEL. HEADING (IF APPLICABLE)**

**PREAMBLE**

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action**
  
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**  
Authorizing statute:  
  
Implementing statute:
  
- 3. The interim effective date of the summary rule as specified in A.R.S. § 41-1027(D):**
  
- 4. The agency's contact person who can answer questions about the rulemaking:**  
Name:  
  
Address:  
  
Telephone: Include area code, (xxx) xxx-xxxx  
  
Fax: (if applicable), include area code, (xxx) xxx-xxxx  
  
E-mail: (if applicable)  
  
Web site: (if applicable)
  
- 5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**
  
- 6. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**
  
- 7. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
  
- 8. If required, a preliminary summary of the economic, small business, and consumer impact. If not required, a statement of exemption under A.R.S. § 41-1055(D):**
  
- 9. Agency personnel to contact about the accuracy of the summary of the economic, small business and consumer impact statement:**  
Name:

Section 4. Rulemaking Forms

Address:

Telephone: Include area code, (xxx) xxx-xxxx

Fax: (if applicable), include area code, (xxx) xxx-xxxx

E-mail: (if applicable)

Web site: (if applicable)

**10. The time, place, and nature of the proceedings to make, amend, or repeal the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed summary rule:**

Date:

Time:

Location:

Nature:

Close of record: (optional)

**11. A justification to the use of summary proceedings:**

**12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. Additional matters include, but are not limited to:**

- a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**
- b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**
- c. Whether a person submitted an analysis to the agency that compares the rule's impact on the competitiveness of business in this state to the impact on business in other states:**

*(Editor's Note: If the answer is "yes" to Preamble item (12)(c),*

*then the analysis should be filed with the rulemaking package.)*

**13. The full text of the rules follows:**

*(Editor's Note: Rule text begins per R1-I-502(B)(18).)*

NOTICE OF FINAL SUMMARY RULEMAKING

TITLE #. HEADING

CHAPTER #. HEADING

SUBCHAPTER LABEL. HEADING (IF APPLICABLE)

PREAMBLE

1. Article, Part, or Section Affected (as applicable)      Rulemaking Action
  
2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):  
    Authorizing statute:  
  
    Implementing statute:
  
3. The permanent effective date of the summary rule as specified in A.R.S. § 41-1027(D):
  
4. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the Notice of Final Summary Rulemaking package:
  
5. The agency's contact person who can answer questions about the rulemaking:  
    Name:  
  
    Address:  
  
    Telephone:      Include area code, (xxx) xxx-xxxx  
  
    Fax:              (xxx) xxx-xxxx (if applicable)  
  
    E-mail:           Include area code, (if applicable)  
  
    Web site:        (if applicable)
  
6. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:
  
7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:
  
8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:
  
9. If required, a summary of the economic, small business, and consumer impact. If not required, a statement of exemption under A.R.S. § 41-1055(D):
  
10. A description of any changes between the proposed summary rulemaking and the final summary rulemaking:

**11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:**

**12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. Additional matters include but are not limited to:**

- a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**
- b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**
- c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**

*(Editor's Note: If the answer is "yes" to Preamble item (12)(c),  
then the analysis should be filed with the rulemaking package.)*

**13. The full text of the rules follows:**

*(Editor's Note: Rule text begins per R1-1-502(B)(18).)*

**NOTICE OF EXEMPT RULEMAKING**

**TITLE #. HEADING**

**CHAPTER #. HEADING**

**SUBCHAPTER LABEL. HEADING (IF APPLICABLE)**

**PREAMBLE**

- 1. Article, Part, or Section Affected (as applicable)      Rulemaking Action**
  
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific), and the statute or session law authorizing the exemption:**  
    Authorizing statute:  
  
    Implementing statute:  
  
    Statute or session law authorizing the exemption:
  
- 3. The effective date of the rule and the agency's reason it selected the effective date:**
  
- 4. A list of all notices published in the Register as specified in R1-1-409(A) that pertain to the record of the exempt rulemaking:**  
    (Notice name): (volume #) A.A.R. (page #), (date)
  
- 5. The agency's contact person who can answer questions about the rulemaking:**  
    Name:  
  
    Address:  
  
    Telephone:      Include area code, (xxx) xxx-xxxx  
  
    Fax:              (if applicable), include area code, (xxx) xxx-xxxx  
  
    E-mail:            (if applicable)  
  
    Web site:         (if applicable)
  
- 6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:**
  
- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
  
- 8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**
  
- 9. The summary of the economic, small business, and consumer impact, if applicable:**

- 10. A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and the final rulemaking package (if applicable):**
- 11. An agency’s summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:**
- 12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:**
- a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**
  - b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**
  - c. Whether a person submitted an analysis to the agency that compares the rule’s impact of the competitiveness of business in this state to the impact on business in other states:**

*(Editor’s Note: If the answer is “yes” to Preamble item (12)(c),  
then the analysis should be filed with the rulemaking package.)*

- 13. A list of any incorporated by reference material and its location in the rule:**
- 14. Whether the rule was previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:**

(Notice name): (volume #) A.A.R. (page #), (date)

- 15. The full text of the rules follows:**

*(Editor’s Note: Rule text begins per RI-1-502(B)(18).)*

**NOTICE OF RECODIFICATION**

**TITLE #. HEADING**

**CHAPTER #. HEADING**

**SUBCHAPTER LABEL. HEADING (IF APPLICABLE)**

- 1. A list of the Subchapters (if applicable), Articles, Parts (if applicable), and Sections being recodified along with their respective headings:**
  
- 2. A list of the Subchapters (if applicable), Articles, Parts (if applicable), and Sections as recodified along with their respective headings:**
  
- 3. A conversion table between the two numbering schemes:**  
  

<u>Old Numbering Scheme</u>	<u>New Numbering Scheme</u>
-----------------------------	-----------------------------
  
- 4. The name and address of agency personnel with whom persons may communicate regarding the recodification.**

Name:

Address:

Telephone (optional):      Include area code, (xxx) xxx-xxxx

Fax:

E-mail:

**NOTICE OF ORAL PROCEEDING ON PROPOSED RULEMAKING**

**1. Name of the agency:**

**2. Title and its heading:**

**Chapter and its heading:**

**Subchapter and its heading, if applicable:**

**Article and its heading:**

**Part and its heading, if applicable:**

If the subchapter and parts are not applicable, omit from submission.

**3. Articles, Parts, or Sections (as applicable) being proposed \_\_\_\_\_ Rulemaking Action**

**4. Citations to all notices published in the *Register* concerning the proposed rulemaking:**

(Notice name): (volume #) A.A.R. (page #), (date)

**5. The date, time, and location of the oral proceeding:**

**6. The name and address of agency personnel to whom questions and comments on the proposed rules may be addressed:**

Name:

Address:

Telephone (optional):      Include area code, (xxx) xxx-xxxx

**NOTICE OF PUBLIC WORKSHOP ON PROPOSED RULEMAKING**

**1. Name of the agency:**

**2. Title and its heading:**

**Chapter and its heading:**

**Subchapter and its heading, if applicable:**

**Article and its heading:**

**Part and its heading, if applicable:**

If the subchapter and parts are not applicable, omit from submission.

**3. Articles, Parts, or Sections (as applicable) being proposed**

**Rulemaking Action**

**4. Citations to all notices published in the *Register* concerning the proposed rulemaking:**

(Notice name): (volume #) A.A.R. (page #), (date)

**5. The date, time, and location of the public workshop:**

**6. The name and address of agency personnel to whom questions and comments on the proposed rules may be addressed:**

Name:

Address:

Telephone (optional):      Include area code, (xxx) xxx-xxxx

**NOTICE OF PUBLIC MEETING ON OPEN RULEMAKING DOCKET**

**1. Name of the agency:**

**2. Title and its heading:**

**Chapter and its heading:**

**Subchapter and its heading, if applicable:**

**Article and its heading:**

**Part and its heading, if applicable:**

Note: If the subchapter and parts are not applicable, omit from submission.

**3. Articles, Parts, or Sections (as applicable) being proposed**

**Rulemaking Action**

**4. Citations to all notices published in the *Register* concerning the proposed rulemaking:**

(Notice name): (volume #) A.A.R. (page #)

**5. The date, time, and location of public meeting:**

**6. The name and address of agency personnel to whom questions and comments on the subject matter of the rules may be addressed:**

Name:

Address:

Telephone (optional):      Include area code, (xxx) xxx-xxxx

**NOTICE OF ORAL PROCEEDING ON PROPOSED DELEGATION AGREEMENT**

- 1. Name of the agency proposing the delegation agreement:**
- 2. The name of the political subdivision to which the agency is proposing to delegate functions, powers, or duties:**
- 3. A summary of the proposed delegation agreement:**
- 4. Citation and date of the notice of proposed delegation agreement and all supplemental notices published in the *Register*:**

Notice of Proposed Delegation Agreement: (volume #) A.A.R. (page #), (date)

(Notice name): (volume #) A.A.R. (page #), (date)

- 5. The date, time, and location of the oral proceeding:**
- 6. The name and address of agency personnel to whom questions and comments on the proposed delegation agreement may be addressed:**

Name:

Address:

Telephone (optional):      Include area code, (xxx) xxx-xxxx

**NOTICE OF FORMAL RULEMAKING ADVISORY COMMITTEE**

- 1. The agency name:**
- 2. The specific rule or subject matter on which the committee is to comment, if known:**
- 3. The names of the committee members:**
- 4. The date the committee was formed:**

**NOTICE OF PROPOSED DELEGATION AGREEMENT**

- 1. Name of the agency proposing the delegation agreement:**
  
- 2. The name of the political subdivision to which functions, powers, or duties of the agency are proposed to be delegated:**
  
- 3. The name and address of agency personnel to whom persons may direct questions or comments:**  
  
    Name:  
  
    Address:  
  
    Telephone (optional):     Include area code, (xxx) xxx-xxxx
  
- 4. Summary of the delegation agreement and the subjects and issues involved:**
  
- 5. Copies of the proposed delegation agreement may be obtained from the agency as follows:**
  
- 6. The schedule of public hearings on the proposed delegation agreement:**

**NOTICE OF FINAL DELEGATION AGREEMENT**

**(\*\* OPTIONAL FORM \*\*)**

- 1. Name of the agency entering into the final delegation agreement:**
- 2. The name of the political subdivision to which functions, powers, or duties of the agency are being delegated:**
- 3. Citation to the Notice of Proposed Delegation Agreement:**
- 4. The name and address of agency personnel to whom persons may direct questions or comments:**  
Name:  
  
Address:  
  
Telephone (optional):     Include area code, (xxx) xxx-xxxx
- 5. Summary of the delegation agreement and the subjects and issues involved:**
- 6. Copies of the final delegation agreement may be obtained from the agency as follows:**
- 7. Date of issuance of the agency's final decision to enter into the delegation agreement:**
- 8. The date the delegation agreement becomes effective:**

**NOTICE OF AGENCY GUIDANCE DOCUMENT**

**AGENCY NAME**

- 1. Title of the guidance document and the guidance document number by which the document is referenced:**
- 2. Date of the publication of the guidance document and the effective date of the document if different from the publication date:**
- 3. Summary of the contents of the guidance document:**
- 4. Statement as to whether the guidance document is a new document or a revision:**
- 5. The agency contact person who can answer questions and comments about the agency guidance document:**
  - Name:
  - Address:
  - Telephone:      Include area code, (xxx) xxx-xxxx
  - Fax:              (if applicable), include area code, (xxx) xxx-xxxx
  - E-mail:          (if applicable)
  - Web site:        (if applicable)
- 6. Information about where a person may obtain a copy of the guidance document and the costs for obtaining the guidance document:**

**NOTICE OF SUBSTANTIVE POLICY STATEMENT**

**AGENCY NAME**

- 1. Title of the Substantive Policy Statement and the substantive policy statement number by which the substantive policy statement is referenced:**
  
- 2. Date the substantive policy statement was issued and the effective date of the policy statement if different from the issuance date:**
  
- 3. Summary of the contents of the substantive policy statement:**
  
- 4. Federal or state constitutional provision; federal or state statute, administrative rule, or regulation; or final court judgment that underlies the substantive policy statement:**
  
- 5. A statement as to whether the substantive policy statement is a new statement or a revision:**
  
- 6. The agency contact person who can answer questions about the substantive policy statement:**  
  
Name:  
  
Address:  
  
Telephone:        Include area code, (xxx) xxx-xxxx  
  
Fax:                (if applicable), include area code, (xxx) xxx-xxxx  
  
E-mail:            (if applicable)  
  
Web site:         (if applicable)
  
- 7. Information about where a person may obtain a copy of the substantive policy statement and the costs for obtaining the policy statement:**

**NOTICE OF AGENCY OMBUDSMAN**

**1. The agency name:**

**2. The ombudsman's:**

**a. Name:**

**b. Title:**

**c. Specific agency division, if applicable:**

**3. The ombudsman's office address to include the city, state and zip code:**

**4. The ombudsman's area code and telephone number, fax number and e-mail address, if available:**

Telephone:        Include area code, (xxx) xxx-xxxx

Fax:                Include area code, (xxx) xxx-xxxx

E-mail:

## NOTICE OF PUBLIC INFORMATION

**1. The agency name:**

*Notices of Public Information contain corrections that agencies wish to make to their notices of rulemaking; miscellaneous rulemaking information that does not fit into any other category of notice; and other types of information required by statute to be published in the Register. Because of the variety of material that is contained in a Notice of Public Information, the Office of the Secretary of State has not established a specific format for these notices.*

**AGENCY CERTIFICATE**

*(Editor's Note: Specify in capital letters the type of notice accompanying this certificate. Choose only one:*

- NOTICE OF RULEMAKING DOCKET OPENING**
- NOTICE OF PROPOSED RULEMAKING**
- NOTICE OF FINAL RULEMAKING**
- NOTICE OF EXEMPT RULEMAKING**
- NOTICE OF EMERGENCY RULEMAKING, etc.)**

- 1. Agency name:**
- 2. Chapter heading:**
- 3. Code citation for the Chapter:     *(Code Title #) A.A.C. (Code Chapter #)***
- 4. The Subchapters, if applicable; the Articles; the Parts, if applicable; and the Sections involved in the rulemaking, in numerical order:**  
**Article, Part, or Section Affected (as applicable)     Rulemaking Action**  
(in numerical order)
- 5. The rules contained in this package are true and correct as (choose one: proposed or made):**
- 6.** \_\_\_\_\_  
Signature of Agency Chief Executive Officer in ink     Date signed  
  
\_\_\_\_\_  
Printed or typed name of signer     Title of signer
- 7. No changes have been made to these rules since the Governor's Regulatory Review Council approved the rules.**

*(Editor's Note: This statement is only to be included when the rules being submitted are final rules or summary rules approved by the Council.)*

*Editor's Note: Under R1-1-105(D), the Agency Certificate accompanying a Notice of Exempt Rulemaking shall include a statement specifying why the rules are exempt from review along with a citation to the statutory or constitutional provision or a citation to a court decision specifying the exemption.*

**AGENCY RECEIPT**

*Editor's Note: Receipts shall be used with all filings. Specify in capital letters the type of filing accompanying this receipt.*

- 1. Agency name:**
  
- 2. The Subchapters, if applicable; the Articles; the Parts, if applicable; and the Sections involved in the rulemaking, listed in alphabetical and numerical order:**  
**Article, Part, or Section Affected (as applicable) Rulemaking Action**  
(in numerical order)

*Editor's Note: For filings that do not conform to this Agency Receipt (e.g., a Notice of Public Information),*

*please use the following for item 2:*

- 3. Identifying information for the type of notice filed, such as a title or subject:**







**GOVERNOR'S REGULATORY REVIEW COUNCIL  
APPROVAL OF SUMMARY RULES**

- 1. Agency name:**
  
- 2. Chapter heading:**
  
- 3. Code citation for the Chapter:    *(Code Title #) A.A.C. (Code Chapter #)***
  
- 4. The Subchapters, if applicable; the Articles; the Parts, if applicable; and the Sections involved in the rulemaking, listed in alphabetical and numerical order:**  

<u>Article, Part, or Section Affected (as applicable)</u>	<u>Rulemaking Action</u>
(in numerical order)	
  
- 5. The rules contained in this package are approved as final rules.**

**6.** \_\_\_\_\_  
Signature of \_\_\_\_\_ Date signed \_\_\_\_\_

\_\_\_\_\_  
Typed Name of \_\_\_\_\_

# Section 5

## Checklists

This section of the manual contains checklists for the various rulemaking packages you prepare under the Arizona Administrative Procedure Act. You can photocopy these checklists and use them each time you prepare a rulemaking package.

This section also contains a checklist for other documents you may submit to the Secretary of State's Office for publication in the *Register*. Because all documents other than rulemaking packages are handled the same way in the Office, only one checklist is outlined here. Use this generic checklist for every document *except* a rulemaking document.

# Notice of Proposed Rulemaking

*This checklist was last updated in 2002. The user is encouraged to read carefully the current versions of A.R.S. § 41-1022 and R1-1-502 to be certain the documents prepared using this checklist meet all modern legal requirements.*

- \_\_\_\_\_ Is the first page of your package headed “NOTICE OF PROPOSED RULEMAKING” all in capital letters, centered on the line approximately one inch from the top of the page?
- \_\_\_\_\_ Does the Title in which these rules appear in the *Code* appear below the Notice heading, along with the Title number and Title heading, all in capital letters centered on the line?
- \_\_\_\_\_ Does the Chapter in which these rules appear in the *Code* appear below the Title, along with the Chapter number and Chapter heading, all in capital letters centered on the line?
  - \_\_\_\_\_ If your agency has more than one Chapter, does the name of your agency appear on the same line with the Chapter and its number?
  - \_\_\_\_\_ If your agency has more than one Chapter, does the subheading of the Chapter appear on the line below the name of your agency?
- \_\_\_\_\_ Does the word PREAMBLE appear below the Chapter, all in capital letters and centered on the line?
- \_\_\_\_\_ Does item #1 have the headings SECTIONS AFFECTED and RULEMAKING ACTION in two columns?
  - \_\_\_\_\_ If this Chapter has Subchapters, are the Subchapters listed in alphabetical order, if they are being newly proposed, repealed in their entirety, or the heading is changing?
    - \_\_\_\_\_ Are the Articles listed in numerical order under the Subchapters, if the Articles are being newly proposed, repealed in their entirety, or the heading is changing?
    - \_\_\_\_\_ Are the Sections on which rulemaking action is occurring listed in numerical order?
      - \_\_\_\_\_ Does each Section listed have only one rulemaking action in the second column?
      - \_\_\_\_\_ If more than one action is occurring on a Section, is the Section listed separately for each action?
      - \_\_\_\_\_ Are the Sections on which more than one action is occurring listed in order of action (repealed before new Section or renumbering, renumbered before amended)?
- \_\_\_\_\_ Are items #1 through #13 listed in the correct order with the correct language (see the Rulemaking Forms section)?
- \_\_\_\_\_ Have you answered all the items?
- \_\_\_\_\_ Does the text begin on the page *following* the last page of the Notice?
- \_\_\_\_\_ Does the text begin with a table of contents showing the Subchapters (if applicable), the Articles, the Parts (if applicable), and the Sections contained in this rulemaking?
  - \_\_\_\_\_ Are there Sections or Articles (or Subchapters or Parts, if applicable) listed on which no rulemaking action is occurring? If so, delete them.
  - \_\_\_\_\_ Do the appropriate Subchapters, Articles, and Parts appear in their proper location in the text?
  - \_\_\_\_\_ If you are amending language, does the language to be repealed have strike-outs and does the language being proposed for making have underlining?
  - \_\_\_\_\_ If you are repealing entire Sections with no other action, does your text have strike-outs? If so, you may delete the strike-outs because they are not necessary when repealing is the only action.
  - \_\_\_\_\_ If you are proposing new Sections with no other action, does your text have underlining? If so, you may delete the underlining because it is not necessary when you are only proposing entire new Sections.
  - \_\_\_\_\_ If you are amending only a portion of a word, have you used strike-outs for the entire word and placed the new word beside the old and used underlining for the new word? Do not strike-out or underline partial words.

- \_\_\_\_\_ Have you consecutively numbered your pages from the first page of the Notice through the last page of text?
- \_\_\_\_\_ Have you made one original and two copies of the package?
- \_\_\_\_\_ Are all pages of the original and the two copies printed on only one side of the page?
- \_\_\_\_\_ Is an original of the agency certificate attached to the original rulemaking package and a copy of the agency certificate attached to both copies of the rulemaking package?
- \_\_\_\_\_ Do you have two copies of the agency receipt?
- \_\_\_\_\_ Have you double-checked the dates for any hearings and oral proceedings so that you schedule them at least 30 days after publication of this Notice in the Register?
- \_\_\_\_\_ Have you included a computer disk?
  - \_\_\_\_\_ Have you attached a label to the disk?
  - \_\_\_\_\_ Have you written on the label the name of your agency, the material on the disk, and the software and its version?
- \_\_\_\_\_ Have you compiled your original and each copy as follows?
  - Agency certificate
  - Notice (including preamble)
  - Text of rules
  - Any other information to be filed with this proposed rulemaking package

# Notice of Supplemental Proposed Rulemaking

*This checklist was last updated in 2002. The user is encouraged to read carefully the current versions of A.R.S. § 41-1022 and R1-1-507 to be certain the documents prepared using this checklist meet all modern legal requirements.*

- \_\_\_\_\_ Is the first page of your package headed “NOTICE OF SUPPLEMENTAL PROPOSED RULEMAKING” all in capital letters, centered on the line approximately one inch from the top of the page?
- \_\_\_\_\_ Does the Title in which these rules appear in the *Code* appear below the Notice heading, along with the Title number and Title heading, all in capital letters centered on the line?
- \_\_\_\_\_ Does the Chapter in which these rules appear in the *Code* appear below the Title, along with the Chapter number and Chapter heading, all in capital letters centered on the line?
  - \_\_\_\_\_ If your agency has more than one Chapter, does the name of your agency appear on the same line with the Chapter and its number?
  - \_\_\_\_\_ If your agency has more than one Chapter, does the subheading of the Chapter appear on the line below the name of your agency?
- \_\_\_\_\_ Does the word PREAMBLE appear below the Chapter, all in capital letters and centered on the line?
- \_\_\_\_\_ Does your answer to item #1 list the citation and date for the original Notice of Proposed Rulemaking? If there are more than one original, list them.
- \_\_\_\_\_ Does item #2 have the headings SECTIONS AFFECTED and RULEMAKING ACTION in two columns?
  - \_\_\_\_\_ If this Chapter has Subchapters, are the Subchapters listed in alphabetical order, if they are being newly proposed, repealed in their entirety, or the heading is changing because of this supplemental rulemaking?
    - \_\_\_\_\_ Are the Articles listed in numerical order under the Subchapters, if the Articles are being newly proposed, repealed in their entirety, or the heading is changing?
    - \_\_\_\_\_ Are the Sections on which rulemaking action is occurring listed in numerical order?
      - \_\_\_\_\_ Does each Section listed have only one rulemaking action in the second column?
      - \_\_\_\_\_ If more than one action is occurring on a Section, is the Section listed separately for each action?
      - \_\_\_\_\_ Are the Sections on which more than one action is occurring listed in order of action (repealed before new Section or renumbering, renumbered before amended)?
- \_\_\_\_\_ Does item #6 explain the substantial change that resulted in the supplemental notice? You may use this item to explain the changes between the proposed rule package and the supplemental rule package.
- \_\_\_\_\_ Are items #1 through #13 listed in the correct order with the correct language (see the Rulemaking Forms section)?
- \_\_\_\_\_ Have you answered all the questions?
- \_\_\_\_\_ Does the text begin on the page *following* the last page of the Notice?
- \_\_\_\_\_ Does the text begin with a table of contents showing the Subchapters (if applicable), the Articles, the Parts (if applicable), and the Sections contained only in this supplemental rulemaking?
  - \_\_\_\_\_ Are there Sections or Articles (or Subchapters or Parts, if applicable) listed on which no rulemaking action is occurring in this supplemental rulemaking? If so, delete them.
  - \_\_\_\_\_ Do the appropriate Subchapters, Articles, and Parts appear in their proper location in the text?
  - \_\_\_\_\_ If you are amending language, does the language to be repealed have strike-outs and does the language being proposed for making have underlining? Note: In a supplemental proposed package,

you must list *all* changes to the rules, from the original proposed rule to the supplemental. As a result, some text might be underlined and stricken?

- \_\_\_\_\_ If you are repealing entire Sections with no other action, does your text have strike-outs? If so, you may delete the strike-outs because they are not necessary when repealing is the only action.
- \_\_\_\_\_ If you are proposing new Sections with no other action, does your text have underlining? If so, you may delete the underlining because it is not necessary when you are only proposing entire new Sections.
- \_\_\_\_\_ If you are amending only a portion of a word, have you used strike-outs for the entire word and placed the new word beside the old and used underlining for the new word? Do not strike-out or underline partial words.
- \_\_\_\_\_ Have you consecutively numbered your pages from the first page of the Notice through the last page of text?
- \_\_\_\_\_ Have you made one original and two copies of the package?
- \_\_\_\_\_ Are all pages of the original and the two copies printed on only one side of the page?
- \_\_\_\_\_ Is an original of the agency certificate attached to the original rulemaking package and a copy of the agency certificate attached to both copies of the rulemaking package?
- \_\_\_\_\_ Do you have two copies of the agency receipt?
- \_\_\_\_\_ Have you double-checked the dates for any hearings and oral proceedings so that you schedule them at least 30 days after publication of this Notice in the Register?
- \_\_\_\_\_ Have you included a computer disk?
  - \_\_\_\_\_ Have you attached a label to the disk?
  - \_\_\_\_\_ Have you written on the label the name of your agency, the material on the disk, and the software and its version?
- \_\_\_\_\_ Have you compiled your original and each copy as follows?
  - Agency certificate
  - Notice (including preamble)
  - Text of rules
  - Any other information to be filed with this supplemental proposed rulemaking package

# Notice of Termination of Proposed Rulemaking

*This checklist was last updated in 2002. The user is encouraged to read carefully the current versions of A.R.S. § 41-1024 and R1-1-506 to be certain the documents prepared using this checklist meet all modern legal requirements.*

- \_\_\_\_\_ Is the first page of your package headed “NOTICE OF TERMINATION OF RULEMAKING” all in capital letters, centered on the line approximately one inch from the top of the page?
- \_\_\_\_\_ Does the Title in which these rules appear in the *Code* appear below the Notice heading, along with the Title number and Title heading, all in capital letters centered on the line?
- \_\_\_\_\_ Does the Chapter in which these rules appear in the *Code* appear below the Title, along with the Chapter number and Chapter heading, all in capital letters centered on the line?
  - \_\_\_\_\_ If your agency has more than one Chapter, does the name of your agency appear on the same line with the Chapter and its number?
  - \_\_\_\_\_ If your agency has more than one Chapter, does the subheading of the Chapter appear on the line below the name of your agency?
- \_\_\_\_\_ Does item #1 list the Register citation and the date of publication of the Notice of Proposed Rulemaking?
- \_\_\_\_\_ Does question #2 have the headings SECTIONS AFFECTED and RULEMAKING ACTION in two columns? (The rulemaking action shall be that listed on the Notice of Proposed Rulemaking.)
  - \_\_\_\_\_ If this Chapter has Subchapters, are the Subchapters listed in alphabetical order, if they are being newly proposed, repealed in their entirety, or the heading is changing?
    - \_\_\_\_\_ Are the Articles listed in numerical order under the Subchapters, if the Articles are being newly proposed, repealed in their entirety, or the heading is changing?
    - \_\_\_\_\_ Are the Sections on which rulemaking action is occurring listed in numerical order?
      - \_\_\_\_\_ Does each Section listed have only one rulemaking action in the second column?
      - \_\_\_\_\_ If more than one action is occurring on a Section, is the Section listed separately for each action?
      - \_\_\_\_\_ Are the Sections on which more than one action is occurring listed in order of action (repealed before new Section or renumbering, renumbered before amended)?
- \_\_\_\_\_ Have you made one original and two copies of the Notice of Termination?
- \_\_\_\_\_ Are all pages of the original and the two copies printed on only one side of the page?
- \_\_\_\_\_ Is an original of the agency certificate attached to the original termination of rulemaking package and a copy of the agency certificate attached to both copies of the termination of rulemaking package?
- \_\_\_\_\_ Do you have two copies of the agency receipt?
- \_\_\_\_\_ Have you compiled your original and each copy as follows?
  - Agency certificate
  - Notice of Termination

# Notice of Final Rulemaking

*This checklist was last updated in 2002. The user is encouraged to read carefully the current versions of A.R.S. § 41-1024 and R1-1-601 to be certain the documents prepared using this checklist meet all modern legal requirements.*

- \_\_\_\_\_ Is the first page of your package headed “NOTICE OF FINAL RULEMAKING” all in capital letters, centered on the line approximately one inch from the top of the page?
- \_\_\_\_\_ Does the Title in which these rules appear in the *Code* appear below the Notice heading, along with the Title number and Title heading, all in capital letters centered on the line?
- \_\_\_\_\_ Does the Chapter in which these rules appear in the *Code* appear below the Title, along with the Chapter number and Chapter heading, all in capital letters centered on the line?
- \_\_\_\_\_ If your agency has more than one Chapter, does the name of your agency appear on the same line with the Chapter and its number?
- \_\_\_\_\_ If your agency has more than one Chapter, does the subheading of the Chapter appear on the line below the name of your agency?
- \_\_\_\_\_ Does the word PREAMBLE appear below the Chapter, all in capital letters and centered on the line?
- \_\_\_\_\_ Does item #1 have the headings SECTIONS AFFECTED and RULEMAKING ACTION in two columns?
- \_\_\_\_\_ If this Chapter has Subchapters, are the Subchapters listed in alphabetical order, if they are being newly proposed, repealed in their entirety, or the heading is changing?
- \_\_\_\_\_ Are the Articles listed in numerical order under the Subchapters, if the Articles are being newly proposed, repealed in their entirety, or the heading is changing?
- \_\_\_\_\_ Are the Sections on which rulemaking action is occurring listed in numerical order?
- \_\_\_\_\_ Does each Section listed have only one rulemaking action in the second column?
- \_\_\_\_\_ If more than one action is occurring on a Section, is the Section listed separately for each action?
- \_\_\_\_\_ Are the Sections on which more than one action is occurring listed in order of action (repealed before new Section or renumbering, renumbered before amended)?
- \_\_\_\_\_ Are items #1 through #15 listed in the correct order with the correct language (see the Rulemaking Forms section)?
- \_\_\_\_\_ Have you answered all the items?
- \_\_\_\_\_ Does the text begin on the page *following* the last page of the Notice?
- \_\_\_\_\_ Does the text begin with a table of contents showing the Subchapters (if applicable), the Articles, the Parts (if applicable), and the Sections contained in this rulemaking?
- \_\_\_\_\_ Are there Sections or Articles (or Subchapters or Parts, if applicable) listed on which no rulemaking action is occurring? If so, delete them.
- \_\_\_\_\_ Do the appropriate Subchapters, Articles, and Parts appear in their proper location in the text?
- \_\_\_\_\_ If you are amending language, does the language to be repealed have strike-outs and does the language being proposed for making have underlining?
- \_\_\_\_\_ If you are repealing entire Sections with no other action, does your text have strike-outs? If so, you may delete the strike-outs because they are not necessary when repealing is the only action.
- \_\_\_\_\_ If you are proposing new Sections with no other action, does your text have underlining? If so, you may delete the underlining because it is not necessary when you are only proposing entire new Sections.

Section 5. Checklists

- If you are amending only a portion of a word, have you used strike-outs for the entire word and placed the new word beside the old and used underlining for the new word? Do not strike-out or underline partial words.
- Have you consecutively numbered your pages from the first page of the Notice through the last page of text?
- Have you made one original and two copies of the package?
- Are all pages of the original and the two copies printed on only one side of the page?
- Is an original of the agency certificate attached to the original rulemaking package and a copy of the agency certificate attached to both copies of the rulemaking package?
- Do you have two copies of the agency receipt?
- Does the original package and the two copies contain your Concise Explanatory Statement (not required after 8-21-02) and your Economic, Small Business, and Consumer Impact Statement, each printed on only one side of the page? (Each of these documents should be individually paginated.)
- Have you included one copy of any material you have incorporated by reference in these rules?
- Have you included a computer disk?
  - Have you attached a label to the disk?
  - Have you written on the label the name of your agency, the material on the disk, and the software and its version?
- Have you compiled your original and each copy as follows?
  - Agency certificate
  - Notice (including preamble)
  - Text of rules
  - Concise Explanatory Statement (not required after 8-21-02)
  - Economic, Small Business, and Consumer Impact Statement
  - Incorporated by Reference material
  - Any other information to be filed with this final rulemaking package

# Notice of Emergency Rulemaking

*This checklist was last updated in 2002. The user is encouraged to read carefully the current versions of A.R.S. §§ 41-1026 and 41-1026.01 and R1-1-701 to be certain the documents prepared using this checklist meet all modern legal requirements. Use this checklist together with the checklist for submission of materials to the Attorney General's Office found in the Agency Handbook.*

- \_\_\_\_\_ Is the first page of your package headed "NOTICE OF EMERGENCY RULEMAKING" all in capital letters, centered on the line approximately one inch from the top of the page?
- \_\_\_\_\_ Does the Title in which these rules appear in the *Code* appear below the Notice heading, along with the Title number and Title heading, all in capital letters centered on the line?
- \_\_\_\_\_ Does the Chapter in which these rules appear in the *Code* appear below the Title, along with the Chapter number and Chapter heading, all in capital letters centered on the line?
- \_\_\_\_\_ If your agency has more than one Chapter, does the name of your agency appear on the same line with the Chapter and its number?
- \_\_\_\_\_ If your agency has more than one Chapter, does the subheading of the Chapter appear on the line below the name of your agency?
- \_\_\_\_\_ Does the word PREAMBLE appear below the Chapter, all in capital letters and centered on the line?
- \_\_\_\_\_ Does item #1 have the headings SECTIONS AFFECTED and RULEMAKING ACTION in two columns?
- \_\_\_\_\_ If this Chapter has Subchapters, are the Subchapters listed in alphabetical order, if they are being newly proposed, repealed in their entirety, or the heading is changing?
- \_\_\_\_\_ Are the Articles listed in numerical order under the Subchapters, if the Articles are being newly proposed, repealed in their entirety, or the heading is changing?
- \_\_\_\_\_ Are the Sections on which rulemaking action is occurring listed in numerical order?
- \_\_\_\_\_ Does each Section listed have only one rulemaking action in the second column?
- \_\_\_\_\_ If more than one action is occurring on a Section, is the Section listed separately for each action?
- \_\_\_\_\_ Are the Sections on which more than one action is occurring listed in order of action (repealed before new Section or renumbering, renumbered before amended)?
- \_\_\_\_\_ Are items #1 through #13 listed in the correct order with the correct language (see the Rulemaking Forms section)?
- \_\_\_\_\_ Have you answered all the items?
- \_\_\_\_\_ Does the text begin on the page *following* the last page of the Notice?
- \_\_\_\_\_ Does the text begin with a table of contents showing the Subchapters (if applicable), the Articles, the Parts (if applicable), and the Sections contained in this rulemaking?
- \_\_\_\_\_ Are there Sections or Articles (or Subchapters or Parts, if applicable) listed on which no rulemaking action is occurring? If so, delete them.
- \_\_\_\_\_ Do the appropriate Subchapters, Articles, and Parts appear in their proper location in the text?
- \_\_\_\_\_ If you are amending language, does the language to be repealed have strike-outs and does the language being proposed for making have underlining?
- \_\_\_\_\_ If you are repealing entire Sections with no other action, does your text have strike-outs? If so, you may delete the strike-outs because they are not necessary when repealing is the only action.

Section 5. Checklists

- \_\_\_\_\_ If you are proposing new Sections with no other action, does your text have underlining? If so, you may delete the underlining because it is not necessary when you are only proposing entire new Sections.
- \_\_\_\_\_ If you are amending only a portion of a word, have you used strike-outs for the entire word and placed the new word beside the old and used underlining for the new word? Do not strike-out or underline partial words.
- \_\_\_\_\_ Have you consecutively numbered your pages from the first page of the Notice through the last page of text?
- \_\_\_\_\_ Have you made one original and two copies of the package?
- \_\_\_\_\_ Are all pages of the original and the two copies printed on only one side of the page?
- \_\_\_\_\_ Is an original of the agency certificate attached to the original rulemaking package and a copy of the agency certificate attached to both copies of the rulemaking package?
- \_\_\_\_\_ Do you have two copies of the agency receipt?
- \_\_\_\_\_ Does the original package and the two copies contain your Concise Explanatory Statement (not required after 8-21-02) and your Economic, Small Business, and Consumer Impact Statement, each printed on only one side of the page? (Each of these documents should be individually paginated.)
- \_\_\_\_\_ Have you included one copy of any material you have incorporated by reference in these rules?
- \_\_\_\_\_ Have you included a computer disk?
  - \_\_\_\_\_ Have you attached a label to the disk?
  - \_\_\_\_\_ Have you written on the label the name of your agency, the material on the disk, and the software and its version?
- \_\_\_\_\_ Have you compiled your original and each copy as follows?
  - Agency certificate
  - Notice (including preamble)
  - Text of rules
  - Concise Explanatory Statement (not required after 8-21-02)
  - Economic, Small Business, and Consumer Impact Statement
  - Incorporated by Reference material
  - Any other information to be filed with this emergency rulemaking package

# Notice of Proposed Summary Rulemaking

*This checklist was last updated in 2002. The user is encouraged to read carefully the current versions of A.R.S. § 41-1027 and R1-1-801 to be certain the documents prepared using this checklist meet all modern legal requirements.*

- \_\_\_\_\_ Is the first page of your package headed “NOTICE OF PROPOSED SUMMARY RULEMAKING” all in capital letters, centered on the line approximately one inch from the top of the page?
- \_\_\_\_\_ Does the Title in which these rules appear in the *Code* appear below the Notice heading, along with the Title number and Title heading, all in capital letters centered on the line?
- \_\_\_\_\_ Does the Chapter in which these rules appear in the *Code* appear below the Title, along with the Chapter number and Chapter heading, all in capital letters centered on the line?
- \_\_\_\_\_ If your agency has more than one Chapter, does the name of your agency appear on the same line with the Chapter and its number?
- \_\_\_\_\_ If your agency has more than one Chapter, does the subheading of the Chapter appear on the line below the name of your agency?
- \_\_\_\_\_ Does the word PREAMBLE appear below the Chapter, all in capital letters and centered on the line?
- \_\_\_\_\_ Does item #1 have the headings SECTIONS AFFECTED and RULEMAKING ACTION in two columns?
- \_\_\_\_\_ If this Chapter has Subchapters, are the Subchapters listed in alphabetical order, if they are being newly proposed, repealed in their entirety, or the heading is changing?
- \_\_\_\_\_ Are the Articles listed in numerical order under the Subchapters, if the Articles are being newly proposed, repealed in their entirety, or the heading is changing?
- \_\_\_\_\_ Are the Sections on which rulemaking action is occurring listed in numerical order?
- \_\_\_\_\_ Does each Section listed have only one rulemaking action in the second column?
- \_\_\_\_\_ If more than one action is occurring on a Section, is the Section listed separately for each action?
- \_\_\_\_\_ Are the Sections on which more than one action is occurring listed in order of action (repealed before new Section or renumbering, renumbered before amended)?
- \_\_\_\_\_ Are items #1 through #13 listed in the correct order with the correct language (see the Rulemaking Forms section)?
- \_\_\_\_\_ Have you answered all the items?
- \_\_\_\_\_ Does the text begin on the page following the last page of the Notice?
- \_\_\_\_\_ Does the text begin with a table of contents showing the Subchapters (if applicable), the Articles, the Parts (if applicable), and the Sections contained in this rulemaking?
- \_\_\_\_\_ Are there Sections or Articles (or Subchapters or Parts, if applicable) listed on which no rulemaking action is occurring? If so, delete them.
- \_\_\_\_\_ Do the appropriate Subchapters, Articles, and Parts appear in their proper location in the text?
- \_\_\_\_\_ If you are amending language, does the language to be repealed have strike-outs and does the language being proposed for making have underlining?
- \_\_\_\_\_ If you are repealing entire Sections with no other action, does your text have strike-outs? If so, you may delete the strike-outs because they are not necessary when repealing is the only action.
- \_\_\_\_\_ If you are proposing new Sections with no other action, does your text have underlining? If so, you may delete the underlining because it is not necessary when you are only proposing entire new Sections.

Section 5. Checklists

- \_\_\_\_\_ If you are amending only a portion of a word, have you used strike-outs for the entire word and placed the new word beside the old and used underlining for the new word? Do not strike-out or underline partial words.
- \_\_\_\_\_ Have you consecutively numbered your pages from the first page of the Notice through the last page of text?
- \_\_\_\_\_ Have you made one original and two copies of the package?
- \_\_\_\_\_ Are all pages of the original and the two copies printed on only one side of the page?
- \_\_\_\_\_ Is an original of the agency certificate attached to the original rulemaking package and a copy of the agency certificate attached to both copies of the rulemaking package?
- \_\_\_\_\_ Do you have two copies of the agency receipt?
- \_\_\_\_\_ Have you double-checked the dates for any hearings and oral proceedings so that you schedule them at least 30 days after publication of this Notice in the Register?
- \_\_\_\_\_ Have you included a computer disk?
  - \_\_\_\_\_ Have you attached a label to the disk?
  - \_\_\_\_\_ Have you written on the label the name of your agency, the material on the disk, and the software and its version?
- \_\_\_\_\_ Have you compiled your original and each copy as follows?
  - Agency certificate
  - Notice (including preamble)
  - Text of rules
  - Any other information to be filed with this proposed summary rulemaking package

# Notice of Final Summary Rulemaking

*This checklist was last updated in 2002. The user is encouraged to read carefully the current versions of A.R.S. § 41-1027 and R1-1-801 to be certain the documents prepared using this checklist meet all modern legal requirements.*

- \_\_\_\_\_ Is the first page of your package headed “NOTICE OF FINAL SUMMARY RULEMAKING” all in capital letters, centered on the line approximately one inch from the top of the page?
- \_\_\_\_\_ Does the Title in which these rules appear in the *Code* appear below the Notice heading, along with the Title number and Title heading, all in capital letters centered on the line?
- \_\_\_\_\_ Does the Chapter in which these rules appear in the *Code* appear below the Title, along with the Chapter number and Chapter heading, all in capital letters centered on the line?
- \_\_\_\_\_ If your agency has more than one Chapter, does the name of your agency appear on the same line with the Chapter and its number?
- \_\_\_\_\_ If your agency has more than one Chapter, does the subheading of the Chapter appear on the line below the name of your agency?
- \_\_\_\_\_ Does the word PREAMBLE appear below the Chapter, all in capital letters and centered on the line?
- \_\_\_\_\_ Does item #1 have the headings SECTIONS AFFECTED and RULEMAKING ACTION in two columns?
- \_\_\_\_\_ If this Chapter has Subchapters, are the Subchapters listed in alphabetical order, if they are being newly proposed, repealed in their entirety, or the heading is changing?
- \_\_\_\_\_ Are the Articles listed in numerical order under the Subchapters, if the Articles are being newly proposed, repealed in their entirety, or the heading is changing?
- \_\_\_\_\_ Are the Sections on which rulemaking action is occurring listed in numerical order?
- \_\_\_\_\_ Does each Section listed have only one rulemaking action in the second column?
- \_\_\_\_\_ If more than one action is occurring on a Section, is the Section listed separately for each action?
- \_\_\_\_\_ Are the Sections on which more than one action is occurring listed in order of action (repealed before new Section or renumbering, renumbered before amended)?
- \_\_\_\_\_ Are items #1 through #13 listed in the correct order with the correct language (see the Rulemaking Forms section)?
- \_\_\_\_\_ Have you answered all the items?
- \_\_\_\_\_ Does the text begin on the page following the last page of the Notice?
- \_\_\_\_\_ Does the text begin with a table of contents showing the Subchapters (if applicable), the Articles, the Parts (if applicable), and the Sections contained in this rulemaking?
- \_\_\_\_\_ Are there Sections or Articles (or Subchapters or Parts, if applicable) listed on which no rulemaking action is occurring? If so, delete them.
- \_\_\_\_\_ Do the appropriate Subchapters, Articles, and Parts appear in their proper location in the text?
- \_\_\_\_\_ If you are amending language, does the language to be repealed have strike-outs and does the language being proposed for making have underlining?
- \_\_\_\_\_ If you are repealing entire Sections with no other action, does your text have strike-outs? If so, you may delete the strike-outs because they are not necessary when repealing is the only action.
- \_\_\_\_\_ If you are proposing new Sections with no other action, does your text have underlining? If so, you may delete the underlining because it is not necessary when you are only proposing entire new Sections.

Section 5. Checklists

- If you are amending only a portion of a word, have you used strike-outs for the entire word and placed the new word beside the old and used underlining for the new word? Do not strike-out or underline partial words.
- Have you consecutively numbered your pages from the first page of the Notice through the last page of text?
- Have you made one original and two copies of the package?
- Are all pages of the original and the two copies printed on only one side of the page?
- Is an original of the agency certificate attached to the original rulemaking package and a copy of the agency certificate attached to both copies of the rulemaking package?
- Do you have two copies of the agency receipt?
- Have you included a computer disk?
  - Have you attached a label to the disk?
  - Have you written on the label the name of your agency, the material on the disk, and the software and its version?
- Have you compiled your original and each copy as follows?
  - Agency certificate
  - Notice (including preamble)
  - Text of rules
  - Concise Explanatory Statement, if applicable
  - Economic, Small Business, and Consumer Impact Statement (if applicable)
  - Incorporated by Reference material
  - Any other information required to be filed with this final summary rulemaking package

# Notice of Exempt Rulemaking

*This checklist was last updated in 2002. The user is encouraged to read carefully the current versions of A.R.S. §§ 41-1005 and 41-1011 and R1-1-901 to be certain the documents prepared using this checklist meet all modern legal requirements.*

- \_\_\_\_\_ Is the first page of your package headed “NOTICE OF EXEMPT RULEMAKING” all in capital letters, centered on the line approximately one inch from the top of the page?
- \_\_\_\_\_ Does the Title in which these rules appear in the *Code* appear below the Notice heading, along with the Title number and Title heading, all in capital letters centered on the line?
- \_\_\_\_\_ Does the Chapter in which these rules appear in the *Code* appear below the Title, along with the Chapter number and Chapter heading, all in capital letters centered on the line?
- \_\_\_\_\_ If your agency has more than one Chapter, does the name of your agency appear on the same line with the Chapter and its number?
- \_\_\_\_\_ If your agency has more than one Chapter, does the subheading of the Chapter appear on the line below the name of your agency?
- \_\_\_\_\_ Does the word PREAMBLE appear below the Chapter, all in capital letters and centered on the line?
- \_\_\_\_\_ Does item #1 have the headings SECTIONS AFFECTED and RULEMAKING ACTION in two columns?
- \_\_\_\_\_ If this Chapter has Subchapters, are the Subchapters listed in alphabetical order, if they are being newly proposed, repealed in their entirety, or the heading is changing?
- \_\_\_\_\_ Are the Articles listed in numerical order under the Subchapters, if the Articles are being newly proposed, repealed in their entirety, or the heading is changing?
- \_\_\_\_\_ Are the Sections on which rulemaking action is occurring listed in numerical order?
- \_\_\_\_\_ Does each Section listed have only one rulemaking action in the second column?
- \_\_\_\_\_ If more than one action is occurring on a Section, is the Section listed separately for each action?
- \_\_\_\_\_ Are the Sections on which more than one action is occurring listed in order of action (repealed before new Section or renumbering, renumbered before amended)?
- \_\_\_\_\_ Are items #1 through #15 listed in the correct order with the correct language (see the Rulemaking Forms section)?
- \_\_\_\_\_ Have you answered all the items?
- \_\_\_\_\_ Does the text begin on the page following the last page of the Notice?
- \_\_\_\_\_ Does the text begin with a table of contents showing the Subchapters (if applicable), the Articles, the Parts (if applicable), and the Sections contained in this rulemaking?
- \_\_\_\_\_ Are there Sections or Articles (or Subchapters or Parts, if applicable) listed on which no rulemaking action is occurring? If so, delete them.
- \_\_\_\_\_ Do the appropriate Subchapters, Articles, and Parts appear in their proper location in the text?
- \_\_\_\_\_ If you are amending language, does the language to be repealed have strike-outs and does the language being proposed for making have underlining?
- \_\_\_\_\_ If you are repealing entire Sections with no other action, does your text have strike-outs? If so, you may delete the strike-outs because they are not necessary when repealing is the only action.
- \_\_\_\_\_ If you are proposing new Sections with no other action, does your text have underlining? If so, you may delete the underlining because it is not necessary when you are only proposing entire new Sections.

Section 5. Checklists

- \_\_\_\_\_ If you are amending only a portion of a word, have you used strike-outs for the entire word and placed the new word beside the old and used underlining for the new word? Do not strike-out or underline partial words.
- \_\_\_\_\_ Have you consecutively numbered your pages from the first page of the Notice through the last page of text?
- \_\_\_\_\_ Have you made one original and two copies of the package?
- \_\_\_\_\_ Are all pages of the original and the two copies printed on only one side of the page?
- \_\_\_\_\_ Is an original of the agency certificate attached to the original rulemaking package and a copy of the agency certificate attached to both copies of the rulemaking package?
- \_\_\_\_\_ Do you have two copies of the agency receipt?
- \_\_\_\_\_ Does the original package and the two copies contain your Concise Explanatory Statement (not required after 8-21-02) and your Economic, Small Business, and Consumer Impact Statement, each printed on only one side of the page? (Each of these documents should be individually paginated.)
- \_\_\_\_\_ Have you included one copy of any material you have incorporated by reference in these rules?
- \_\_\_\_\_ Have you included a computer disk?
  - \_\_\_\_\_ Have you attached a label to the disk?
  - \_\_\_\_\_ Have you written on the label the name of your agency, the material on the disk, and the software and its version?
- \_\_\_\_\_ Have you compiled your original and each copy as follows?
  - Agency certificate
  - Notice (including preamble)
  - Text of rules
  - Concise Explanatory Statement (not required after 8-21-02)
  - Economic, Small Business, and Consumer Impact Statement
  - Incorporated by Reference material
  - Any other information to be filed with this final rulemaking package

# Notice of Recodification

*This checklist was last updated in 2002. The user is encouraged to contact the Office to be certain that documents prepared using this checklist meet all modern legal requirements.*

- \_\_\_\_\_ Is the first page of your package headed "NOTICE OF RECODIFICATION" all in capital letters, centered on the line approximately one inch from the top of the page?
- \_\_\_\_\_ Does the Title in which these rules appear in the *Code* appear below the Notice heading, along with the Title number and Title heading, all in capital letters centered on the line?
- \_\_\_\_\_ Does the Chapter in which these rules appear in the *Code* appear below the Title, along with the Chapter number and Chapter heading, all in capital letters centered on the line?
- \_\_\_\_\_ If your agency has more than one Chapter, does the name of your agency appear on the same line with the Chapter and its number?
- \_\_\_\_\_ If your agency has more than one Chapter, does the subheading of the Chapter appear on the line below the name of your agency?
- \_\_\_\_\_ Does item #1 contain a list of Subchapters, Articles, Parts, and Sections being recodified along with their respective headings?
- \_\_\_\_\_ Does item #2 contain a list of Subchapters, Articles, Parts, and Sections as recodified along with their respective headings?
- \_\_\_\_\_ Does item #3 contain a conversion table between the old numbering scheme and the new numbering scheme?
- \_\_\_\_\_ Does the column on the left list the old numbering scheme, with the Articles and Sections in numerical order?
- \_\_\_\_\_ Does the column on the right list the new numbering scheme, with the Articles and Sections corresponding to the Articles and Sections in the left column?
- \_\_\_\_\_ Does item #4 contain the name and address of agency personnel with whom persons may communicate regarding the recodification?
- \_\_\_\_\_ Have you also listed the telephone, fax, and e-mail of the agency personnel?
- \_\_\_\_\_ Are items #1 through #4 listed in the correct order with the correct language (see the Rulemaking Forms section)?
- \_\_\_\_\_ Have you answered all the items?
- \_\_\_\_\_ Have you consecutively numbered your pages from the first page of the Notice through the last page of text?
- \_\_\_\_\_ Have you made one original and two copies of the package?
- \_\_\_\_\_ Are all pages of the original and the two copies printed on only one side of the page?
- \_\_\_\_\_ Is an original of the agency certificate attached to the original rulemaking package and a copy of the agency certificate attached to both copies of the rulemaking package?
- \_\_\_\_\_ Do you have two copies of the agency receipt?
- \_\_\_\_\_ Have you included a computer disk?
- \_\_\_\_\_ Have you attached a label to the disk?
- \_\_\_\_\_ Have you written on the label the name of your agency, the material on the disk, and the software and its version?

## Other Notices Submitted for Publication

*This checklist was last updated in 2002. The user is encouraged to contact the Office to be certain that documents prepared using this checklist meet all modern legal requirements.*

- \_\_\_\_\_ Is the first page of your package headed with the appropriate Notice heading, all in capital letters, centered on the line approximately one inch from the top of the page?
- \_\_\_\_\_ For Notices of Rulemaking Docket Openings:
  - \_\_\_\_\_ Does the name of your agency appear under the Notice heading?
  - \_\_\_\_\_ Are all six items as specified in R1-1-205 listed using the same language as specified in R1-1-205?
  - \_\_\_\_\_ Have you listed more than one Chapter on a single Notice of Rulemaking Docket Opening? If so, your Notice will not be accepted for publication.
  - \_\_\_\_\_ Is everything on the Notice double-spaced or space-and-a-half?
  - \_\_\_\_\_ Have you made one original and two copies of the Notice (unless you are submitting a computer disk)?
    - \_\_\_\_\_ Have you included a computer disk?
      - \_\_\_\_\_ Have you attached a label to the disk?
      - \_\_\_\_\_ Have you written on the label the name of your agency, the material on the disk, and the software and its version?
  - \_\_\_\_\_ Are all pages of the original and the two copies printed on only one side of the page?
  - \_\_\_\_\_ Do you have two copies of the agency receipt?
  - \_\_\_\_\_ Have you double-checked the dates for any hearings and oral proceedings so that you schedule them at least 30 days after publication of this Notice in the Register?
- \_\_\_\_\_ For Notices of Formal Rulemaking Advisory Committees:
  - \_\_\_\_\_ Does the name of your agency appear under the Notice heading?
  - \_\_\_\_\_ Are all three questions as specified in R1-1-206 listed using the same language as specified in R1-1-206?
  - \_\_\_\_\_ Have you listed more than one committee on a single Notice of Rulemaking Advisory Committee? If so, your Notice will not be accepted for publication.
  - \_\_\_\_\_ Is everything on the Notice double-spaced or space-and-a-half?
  - \_\_\_\_\_ Have you made one original and two copies of the Notice?
  - \_\_\_\_\_ Have you included a computer disk?
    - \_\_\_\_\_ Have you attached a label to the disk?
    - \_\_\_\_\_ Have you written on the label the name of your agency, the material on the disk, and the software and its version?
  - \_\_\_\_\_ Are all pages of the original and the two copies printed on only one side of the page?
  - \_\_\_\_\_ Do you have two copies of the agency receipt?
- \_\_\_\_\_ For Notices of Proposed Delegation Agreement:
  - \_\_\_\_\_ Does the name of your agency appear under the Notice heading?
  - \_\_\_\_\_ Are all six questions as specified in R1-1-208(A) listed using the same language as specified in R1-1-208(A)?

- \_\_\_\_\_ Have you listed more than one delegation agreement on a single Notice of Proposed Delegation Agreement? If so, your Notice will not be accepted for publication.
- \_\_\_\_\_ Is everything on the Notice double-spaced or space-and-a-half?
- \_\_\_\_\_ Have you double-checked hearing dates to allow at least 30 days after publication of the Notice in the Register?
- \_\_\_\_\_ Have you made one original and two copies of the Notice?
- \_\_\_\_\_ Have you included a computer disk?
- \_\_\_\_\_ Have you attached a label to the disk?
- \_\_\_\_\_ Have you written on the label the name of your agency, the material on the disk, and the software and its version?
- \_\_\_\_\_ Are all pages of the original and the two copies printed on only one side of the page?
- \_\_\_\_\_ Do you have two copies of the agency receipt?
- \_\_\_\_\_ For Notices of Oral Proceeding on Proposed Rulemaking, Notices of Public Workshop on Proposed Rulemaking, Notices of Public Meeting on Open Rulemaking Docket, and Notices of Oral Proceeding on Proposed Delegation Agreement:
- \_\_\_\_\_ Does the name of your agency appear under the appropriate Notice heading?
- \_\_\_\_\_ Are all six questions as specified in the appropriate subsection of R1-1-209(B) listed using the same language as specified in R1-1-208(B)?
- \_\_\_\_\_ Is everything on the Notice double-spaced or space-and-a-half?
- \_\_\_\_\_ Have you double-checked hearing dates to allow at least 30 days after publication of the Notice in the Register?
- \_\_\_\_\_ Have you made one original and two copies of the Notice?
- \_\_\_\_\_ Have you included a computer disk?
- \_\_\_\_\_ Have you attached a label to the disk?
- \_\_\_\_\_ Have you written on the label the name of your agency, the material on the disk, and the software and its version?
- \_\_\_\_\_ Are all pages of the original and the two copies printed on only one side of the page?
- \_\_\_\_\_ Do you have two copies of the agency receipt?
- \_\_\_\_\_ For Notices of Agency Guidance Documents and Notices of Substantive Policy Statements:
- \_\_\_\_\_ Does the name of your agency appear under the appropriate Notice heading?
- \_\_\_\_\_ Are all six questions as specified in R1-1-210 listed using the same language as specified in R1-1-210?
- \_\_\_\_\_ Have you listed more than one agency guidance document or more than one substantive policy statement per Notice? If so, your Notices will not be accepted. Only one document or statement per Notice is allowed.
- \_\_\_\_\_ Is everything on the Notice double-spaced or space-and-a-half?
- \_\_\_\_\_ Have you made one original and two copies of the Notice?
- \_\_\_\_\_ Have you included a computer disk?
- \_\_\_\_\_ Have you attached a label to the disk?
- \_\_\_\_\_ Have you written on the label the name of your agency, the material on the disk, and the software and its version?

Section 5. Checklists

- Are all pages of the original and all copies printed on only one side of the page?
- Do you have two copies of the agency receipt?
- For County Notices pursuant to A.R.S. § 49-112:
  - Does the name of your county appear under the appropriate Notice heading?
  - Are all questions as specified on the handout sent to all counties listed using the same language as specified in those handouts?
  - Is everything on the Notice double-spaced or space-and-a-half?
  - Have you made one original and two copies of the Notice?
  - Have you included a computer disk?
    - Have you attached a label to the disk?
    - Have you written on the label the name of your agency, the material on the disk, and the software and its version?
  - Are all pages of the original and all copies printed on only one side of the page?
  - Do you have two copies of the agency receipt?

**Governor's Regulatory Review Council  
1400 West Washington, Suite 270  
Phoenix, AZ 85007  
(602) 542-2058**

**CHECKLIST FOR SUBMISSION OF FINAL REGULAR RULES FOR:**

**AGENCY:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**TO BE PLACED ON AGENDA:**

1. Two (2) packages, each assembled in the following order:
  - \_\_\_\_\_ Cover letter
  - \_\_\_\_\_ Notice of Final Rulemaking including:
    - \_\_\_\_\_ Preamble
    - \_\_\_\_\_ Table of Contents for the rule
    - \_\_\_\_\_ Text of rule
  - \_\_\_\_\_ Economic, small business, and consumer impact statement
  - \_\_\_\_\_ Concise explanatory statement (**Not required after 8-21-02**)
  - \_\_\_\_\_ Existing rule (if not shown as part of the revised text)
  - \_\_\_\_\_ Authorizing statutes
  - \_\_\_\_\_ Definitions of terms (if applicable)
2. \_\_\_\_\_ One (1) copy of all written comments submitted by the public concerning the rule
3. \_\_\_\_\_ One (1) copy of incorporation by reference material

**BEFORE MEETING:**

ELEVEN (11) packages of the materials listed in item 1 above assembled in the specified order.

**POST-MEETING:**

1. \_\_\_\_\_ One (1) original letter identifying each change made after the pre-meeting submission. If no changes are made, no letter is needed.
2. Original plus three (3) packages, each assembled in the following order:
  - \_\_\_\_\_ Agency certificate (include item #7)
  - \_\_\_\_\_ Notice of Final Rulemaking including:
    - \_\_\_\_\_ Preamble
    - \_\_\_\_\_ Table of contents for the rule
    - \_\_\_\_\_ Text of rule with changes, if any
  - \_\_\_\_\_ Concise explanatory statement (**Not required after 8-22-02**)
  - \_\_\_\_\_ Economic, small business, and consumer impact statement
3. One (1) original and one (1) copy of:
  - \_\_\_\_\_ Agency receipt

## **G.R.R.C. Checklist for Submission of Proposed Summary Rules**

One package assembled in the following order and double-spaced:

- \_\_\_\_\_ Notice of Proposed Summary Rulemaking including:
  - \_\_\_\_\_ Preamble
  - \_\_\_\_\_ Table of contents for the rule
  - \_\_\_\_\_ Text of proposed summary rule filed with the Secretary of State
- \_\_\_\_\_ Authorizing statutes (statute that repeals or supersedes the authority under which the original rule was enacted or the statute that is repealed verbatim in the original rule or proposed summary rule)

**Governor's Regulatory Review Council**  
**1400 West Washington, Suite 270**  
**Phoenix, AZ 85007**  
**(602) 542-2058**

**CHECKLIST FOR SUBMISSION OF FINAL SUMMARY RULES FOR:**

**AGENCY:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**PRE-MEETING:**

1. Eleven (11) packages assembled in the following order  
    \_\_\_\_\_ Notice of Summary Rulemaking including:  
        \_\_\_\_\_ Preamble  
        \_\_\_\_\_ Table of contents for the rule  
        \_\_\_\_\_ Text of summary rule  
    \_\_\_\_\_ Economic, small business, and consumer impact statement  
    \_\_\_\_\_ Concise explanatory statement
2. One (1) copy of:  
    \_\_\_\_\_ All written comments submitted by the public

**POST-MEETING:**

1. \_\_\_\_\_ One (1) original letter identifying each change made
2. Original plus three (3) packages, each assembled in the following order:  
    \_\_\_\_\_ Agency certificate  
    \_\_\_\_\_ Notice of Summary Rulemaking including:  
        \_\_\_\_\_ Preamble  
        \_\_\_\_\_ Table of contents for the rule  
        \_\_\_\_\_ Text of summary rule with Council  
    \_\_\_\_\_ Economic, small business, and consumer impact statement  
    \_\_\_\_\_ Concise explanatory statement
3. One (1) original and one (1) copy of:  
    \_\_\_\_\_ Agency receipt

**Governor's Regulatory Review Council  
1400 West Washington, Suite 270  
Phoenix, AZ 85007  
(602) 542-2058**

**CHECKLIST FOR SUBMISSION OF:  
FIVE-YEAR-REVIEW REPORT  
FOR:**

**AGENCY:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**TO BE PLACED ON AGENDA:**

**TWO (2) copies of:**

\_\_\_\_\_ **Five-year-review report**

\_\_\_\_\_ **Rules being reviewed**

\_\_\_\_\_ **Authorizing statutes**

**BEFORE MEETING:**

**ELEVEN (11) copies of materials listed above.**

# Section 6

## Administrative Procedure Act

### ADMINISTRATIVE PROCEDURE ACT

Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10, as effective July 20, 2011.

A.R.S. § 41-1008.01 will automatically be repealed from and after September 30, 2016 (Laws 2011, Ch. 333, § 6).

*Editor's Note: The statutes printed here are not the official text of the Administrative Procedure Act; they are copied from the Arizona Legislative Information Service web site, [www.azleg.gov](http://www.azleg.gov). The Administrative Procedure Act became effective January 1, 1995 and is updated as of the date listed above.*

#### ARTICLE 1. GENERAL PROVISIONS

Section	
§ 41-1001.	Definitions
§ 41-1001.01.	Regulatory bill of rights
§ 41-1002.	Applicability and relation to other law
§ 41-1003.	Required rule making
§ 41-1004.	Waiver
§ 41-1005.	Exemptions
§ 41-1006.	Employees providing agency assistance; identification and publication
§ 41-1007.	Award of costs and fees against a department in administrative hearings; exceptions; definitions
§ 41-1008.	Fees; specific statutory authority
§ 41-1008.01.	State agency fee commission; membership; duties; report
§ 41-1009.	Inspections; applicability
§ 41-1010.	Complaints; public record

#### ARTICLE 2. PUBLICATION OF AGENCY RULES

Section	
§ 41-1011.	Publication and distribution of code and register
§ 41-1012.	Code; publication of rules; distribution
§ 41-1013.	Register

#### ARTICLE 3. RULE MAKING

Section	
§ 41-1021.	Public rule making docket; notice
§ 41-1021.01.	Permissive examples
§ 41-1021.02.	State agencies; annual regulatory agenda
§ 41-1022.	Notice of proposed rule making, amendment or repeal; contents of notice
§ 41-1023.	Public participation; written statements; oral proceedings
§ 41-1024.	Time and manner of rule making
§ 41-1025.	Variance between rule and published notice of proposed rule
§ 41-1026.	Emergency rule making, amendment or repeal
§ 41-1026.01.	Emergency adoption, amendment or termination of delegation agreements; definition
§ 41-1027.	Summary rule making
§ 41-1028.	Incorporation by reference
§ 41-1029.	Agency rule making record
§ 41-1030.	Invalidity of rules not made according to this chapter; prohibited agency action
§ 41-1031.	Filing rules and preamble with secretary of state; permanent record
§ 41-1032.	Effective date of rules
§ 41-1033.	Petition for a rule or review of a practice or policy
§ 41-1034.	Declaratory judgment

§ 41-1035.	Rules affecting small businesses; reduction of rule impact
§ 41-1036.	Preamble; justifications for rule making
§ 41-1037.	General permits; issuance of traditional permit

#### ARTICLE 4. ATTORNEY GENERAL REVIEW OF RULE MAKING

Section	
§ 41-1044.	Attorney general review of certain exempt rules

#### ARTICLE 4.1. ADMINISTRATIVE RULES OVERSIGHT COMMITTEE

Section	
§ 41-1046.	Administrative rules oversight committee; membership; appointment; staffing; meetings
§ 41-1047.	Committee review of rules; practices alleged to constitute rules; substantive policy statements
§ 41-1048.	Committee review of duplicative or onerous statutes, rules, practices alleged to constitute rules and substantive policy statements

#### ARTICLE 5. GOVERNOR'S REGULATORY REVIEW COUNCIL

Section	
§ 41-1051.	Governor's regulatory review council; membership; terms; compensation; powers
§ 41-1052.	Council review and approval
§ 41-1053.	Council review of summary rules
§ 41-1055.	Economic, small business and consumer impact statement
§ 41-1056.	Review by agency
§ 41-1056.01.	Impact statements; appeals
§ 41-1057.	Exemptions

#### ARTICLE 6. ADJUDICATIVE PROCEEDINGS

Section	
§ 41-1061.	Contested cases; notice; hearing; records
§ 41-1062.	Hearings; evidence; official notice; power to require testimony and records; rehearing
§ 41-1063.	Decisions and orders
§ 41-1064.	Licenses; renewal; revocation; suspension; annulment; withdrawal
§ 41-1065.	Hearing on denial of license or permit
§ 41-1066.	Compulsory testimony; privilege against self-incrimination
§ 41-1067.	Applicability of article

**ARTICLE 7. MILITARY ADMINISTRATIVE RELIEF**

Section

§ 41-1071. Military relief from administrative procedures; process

**ARTICLE 7.1. LICENSING TIME FRAMES**

Section

§ 41-1072. Definitions  
§ 41-1073. Time frames; exception  
§ 41-1074. Compliance with administrative completeness review time frame  
§ 41-1075. Compliance with substantive review time frame  
§ 41-1076. Compliance with overall time frame  
§ 41-1077. Consequence for agency failure to comply with overall time frame; refund; penalty  
§ 41-1078. Reporting; compliance with time frames  
§ 41-1079. Information required to be provided

**ARTICLE 7.2. LICENSING ELIGIBILITY**

Section

41-1080. Licensing eligibility; authorized presence; documentation; applicability; definitions

**ARTICLE 8. DELEGATION OF FUNCTIONS, POWERS, OR DUTIES**

Section

§ 41-1081. Standards for delegation  
§ 41-1082. Existing delegation agreements  
§ 41-1083. No presumption of funding authority  
§ 41-1084. Prohibition on subdelegation

**ARTICLE 9. SUBSTANTIVE POLICY STATEMENTS**

Section

§ 41-1091. Substantive policy statements; directory

**ARTICLE 10. UNIFORM ADMINISTRATIVE HEARING PROCEDURES**

Section

§ 41-1092. Definitions  
§ 41-1092.01. Office of administrative hearings; director; powers and duties; fund  
§ 41-1092.02. Appealable agency actions; application of procedural rules; exemption from article  
§ 41-1092.03. Notice of appealable agency action or contested case; hearing; informal settlement conference; applicability  
§ 41-1092.04. Service of documents  
§ 41-1092.05. Scheduling of hearings; prehearing conferences  
§ 41-1092.06. Appeals of agency actions; informal settlement conferences; applicability  
§ 41-1092.07. Hearings  
§ 41-1092.08. Final administrative decisions; review  
§ 41-1092.09. Rehearing or review  
§ 41-1092.10. Compulsory testimony; privilege against self-incrimination  
§ 41-1092.11. Licenses; renewal; revocation; suspension; annulment; withdrawal  
§ 41-1092.12. Private right of action; recovery of costs and fees; definitions

**ARTICLE 1. GENERAL PROVISIONS**

**§ 41-1001. Definitions**

In this chapter, unless the context otherwise requires:

1. "Agency" means any board, commission, department, officer or other administrative unit of this state, including the agency head and one or more members of the agency head or agency employees or other persons directly or indirectly purporting to act on behalf or under the authority of the agency head, whether created under the Constitution of Arizona or by enactment of the legislature. Agency does not include the legislature, the courts or the governor. Agency does not include a political subdivision of this state or any of the administrative units of a political subdivision, but does include any board, commission, department, officer or other administrative unit created or appointed by joint or concerted action of an agency and one or more political subdivisions of this state or any of their units. To the extent an administrative unit purports to exercise authority subject to this chapter, an administrative unit otherwise qualifying as an agency must be treated as a separate agency even if the administrative unit is located within or subordinate to another agency.
2. "Code" means the Arizona administrative code.
3. "Committee" means the administrative rules oversight committee.
4. "Contested case" means any proceeding, including rate making, price fixing and licensing, in which the legal rights, duties or privileges of a party are required or permitted by law, other than this chapter, to be determined by an agency after an opportunity for an administrative hearing.
5. "Council" means the governor's regulatory review council.
6. "Delegation agreement" means an agreement between an agency and a political subdivision that authorizes the political subdivision to exercise functions, powers or duties conferred on the delegating agency by a provision of law. Delegation agreement does not include intergovernmental agreements entered into pursuant to title 11, chapter 7, article 3.
7. "Emergency rule" means a rule that is made pursuant to section 41-1026.
8. "Fee" means a charge prescribed by an agency for an inspection or for obtaining a license.
9. "Final rule" means any rule filed with the secretary of state and made pursuant to an exemption from this chapter in section 41-1005, made pursuant to section 41-1026, approved by the council pursuant to section 41-1052 or 41-1053 or approved by the attorney general pursuant to section 41-1044. For purposes of judicial review, final rule includes proposed summary rules having interim effect pursuant to section 41-1027.
10. "General permit" means a regulatory permit, license or agency authorization that is for facilities, activities or practices in a class that are substantially similar in nature and that is issued or granted by an agency to a qualified applicant to conduct identified operations or activities if the applicant meets the applicable requirements of the general permit, that requires less information than an individual or traditional permit, license or authorization and that does not require a public hearing.
11. "License" includes the whole or part of any agency permit, certificate, approval, registration, charter or similar form of permission required by law, but it does not include a license required solely for revenue purposes.

12. "Licensing" includes the agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal or amendment of a license.
  13. "Party" means each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party.
  14. "Person" means an individual, partnership, corporation, association, governmental subdivision or unit of a governmental subdivision, a public or private organization of any character or another agency.
  15. "Preamble" means:
    - (a) For any rule making subject to this chapter, a statement accompanying the rule that includes:
      - (i) Reference to the specific statutory authority for the rule.
      - (ii) The name and address of agency personnel with whom persons may communicate regarding the rule.
      - (iii) An explanation of the rule, including the agency's reasons for initiating the rule making.
      - (iv) A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study and any analysis of each study and other supporting material.
      - (v) The economic, small business and consumer impact summary, or in the case of a proposed rule, a preliminary summary and a solicitation of input on the accuracy of the summary.
      - (vi) A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state.
      - (vii) Such other matters as are prescribed by statute and that are applicable to the specific agency or to any specific rule or class of rules.
    - (b) In addition to the information set forth in subdivision (a) of this paragraph, for a proposed rule, the preamble also shall include a list of all previous notices appearing in the register addressing the proposed rule, a statement of the time, place and nature of the proceedings for the making, amendment or repeal of the rule and where, when and how persons may request an oral proceeding on the proposed rule if the notice does not provide for one.
    - (c) In addition to the information set forth in subdivision (a) of this paragraph, for a proposed summary rule, the preamble also shall include a statement of the time, place and nature of the proceedings for the making, amendment or repeal of the rule and an explanation of why summary proceedings are justified.
    - (d) For a final rule, except an emergency rule, the preamble also shall include, in addition to the information set forth in subdivision (a), the following information:
      - (i) A list of all previous notices appearing in the register addressing the final rule.
      - (ii) A description of the changes between the proposed rules, including supplemental notices and final rules.
      - (iii) A summary of the comments made regarding the rule and the agency response to them.
      - (iv) A summary of the council's action on the rule.
      - (v) A statement of the rule's effective date.
    - (e) In addition to the information set forth in subdivision (a) of this paragraph, for an emergency rule, the preamble also shall include an explanation of the situation justifying the rule being made as an emergency rule, the date of the attorney general's approval of the rule and a statement of the emergency rule's effective date.
  16. "Provision of law" means the whole or a part of the federal or state constitution, or of any federal or state statute, rule of court, executive order or rule of an administrative agency.
  17. "Register" means the Arizona administrative register.
  18. "Rule" means an agency statement of general applicability that implements, interprets or prescribes law or policy, or describes the procedure or practice requirements of an agency. Rule includes prescribing fees or the amendment or repeal of a prior rule but does not include intraagency memoranda that are not delegation agreements.
  19. "Rule making" means the process for formulation and finalization of a rule.
  20. "Small business" means a concern, including its affiliates, which is independently owned and operated, which is not dominant in its field and which employs fewer than one hundred full-time employees or which had gross annual receipts of less than four million dollars in its last fiscal year. For purposes of a specific rule, an agency may define small business to include more persons if it finds that such a definition is necessary to adapt the rule to the needs and problems of small businesses and organizations.
  21. "Substantive policy statement" means a written expression which informs the general public of an agency's current approach to, or opinion of, the requirements of the federal or state constitution, federal or state statute, administrative rule or regulation, or final judgment of a court of competent jurisdiction, including, where appropriate, the agency's current practice, procedure or method of action based upon that approach or opinion. A substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents which only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties, confidential information or rules made in accordance with this chapter.
  22. "Summary rule" means a rule that is made pursuant to section 41-1027.
- § 41-1001.01. Regulatory bill of rights**
- A. To ensure fair and open regulation by state agencies, a person:
    1. Is eligible for reimbursement of fees and other expenses if the person prevails by adjudication on the merits against an agency in a court proceeding regarding an agency decision as provided in section 12-348.
    2. Is eligible for reimbursement of the person's costs and fees if the person prevails against any agency in an administrative hearing as provided in section 41-1007.
    3. Is entitled to have an agency not charge the person a fee unless the fee for the specific activity is expressly authorized as provided in section 41-1008.
    4. Is entitled to receive the information and notice regarding inspections prescribed in section 41-1009.
    5. May review the full text or summary of all rule making activity, the summary of substantive policy statements

## Section 6. Administrative Procedure Act

and the full text of executive orders in the register as provided in article 2 of this chapter.

6. May participate in the rule making process as provided in articles 3, 4, 4.1 and 5 of this chapter, including:
  - (a) Providing written or oral comments on proposed rules to an agency as provided in section 41-1023 and having the agency adequately address those comments as provided in section 41-1052, subsection D.
  - (b) Filing an early review petition with the governor's regulatory review council as provided in article 5 of this chapter.
  - (c) Providing written or oral comments on rules to the governor's regulatory review council during the mandatory sixty-day comment period as provided in article 5 of this chapter.
7. Is entitled to have an agency not base a licensing decision in whole or in part on licensing conditions or requirements that are not specifically authorized by statute, rule or state tribal gaming compact as provided in section 41-1030, subsection B.
8. Is entitled to have an agency not make a rule under a specific grant of rule making authority that exceeds the subject matter areas listed in the specific statute or not make a rule under a general grant of rule making authority to supplement a more specific grant of rule making authority as provided in section 41-1030, subsection C.
9. May allege that an existing agency practice or substantive policy statement constitutes a rule and have that agency practice or substantive policy statement declared void because the practice or substantive policy statement constitutes a rule as provided in section 41-1033.
10. May file a complaint with the administrative rules oversight committee concerning:
  - (a) A rule's, practice's or substantive policy statement's lack of conformity with statute or legislative intent as provided in section 41-1047.
  - (b) An existing statute, rule, practice alleged to constitute a rule or substantive policy statement that is alleged to be duplicative or onerous as provided in section 41-1048.
11. May have the person's administrative hearing on contested cases and appealable agency actions heard by an independent administrative law judge as provided in articles 6 and 10 of this chapter.
12. May have administrative hearings governed by uniform administrative appeal procedures as provided in articles 6 and 10 of this chapter.
13. May have an agency approve or deny the person's license application within a predetermined period of time as provided in article 7.1 of this chapter.
14. Is entitled to receive written notice from an agency on denial of a license application:
  - (a) That justifies the denial with references to the statutes or rules on which the denial is based as provided in section 41-1076.
  - (b) That explains the applicant's right to appeal the denial as provided in section 41-1076.
15. Is entitled to receive information regarding the license application process at the time the person obtains an application for a license as provided in section 41-1079.
16. May receive public notice and participate in the adoption or amendment of agreements to delegate agency functions, powers or duties to political subdivisions as provided in section 41-1026.01 and article 8 of this chapter.

17. May inspect all rules and substantive policy statements of an agency, including a directory of documents, in the office of the agency director as provided in section 41-1091.
  18. May file a complaint with the office of the ombudsman-citizens aide to investigate administrative acts of agencies as provided in chapter 8, article 5 of this title.
  19. Unless specifically authorized by statute, may expect state agencies to avoid duplication of other laws that do not enhance regulatory clarity and to avoid dual permitting to the extent practicable as prescribed in section 41-1002.
- B.** The enumeration of the rights listed in subsection A of this section does not grant any additional rights that are not prescribed in the sections referenced in subsection A of this section.

### **§ 41-1002. Applicability and relation to other law**

- A.** This article and articles 2 through 5 of this chapter apply to all agencies and all proceedings not expressly exempted.
- B.** This chapter creates only procedural rights and imposes only procedural duties. They are in addition to those created and imposed by other statutes. To the extent that any other statute would diminish a right created or duty imposed by this chapter, the other statute is superseded by this chapter, unless the other statute expressly provides otherwise.
- C.** An agency may grant procedural rights to persons in addition to those conferred by this chapter so long as rights conferred on other persons by any provision of law are not substantially prejudiced.
- D.** Unless specifically authorized by statute, an agency shall avoid duplication of other laws that do not enhance regulatory clarity and shall avoid dual permitting to the extent practicable.

### **§ 41-1003. Required rule making**

Each agency shall make rules of practice setting forth the nature and requirements of all formal procedures available to the public.

### **§ 41-1004. Waiver**

Except to the extent precluded by another provision of law, a person may waive any right conferred on that person by this chapter.

### **§ 41-1005. Exemptions**

- A.** This chapter does not apply to any:
  1. Rule that relates to the use of public works, including streets and highways, under the jurisdiction of an agency if the effect of the order is indicated to the public by means of signs or signals.
  2. Order of the Arizona game and fish commission that opens, closes or alters seasons or establishes bag or possession limits for wildlife.
  3. Rule relating to section 28-641 or to any rule regulating motor vehicle operation that relates to speed, parking, standing, stopping or passing enacted pursuant to title 28, chapter 3.
  4. Rule concerning only the internal management of an agency that does not directly and substantially affect the procedural or substantive rights or duties of any segment of the public.
  5. Rule that only establishes specific prices to be charged for particular goods or services sold by an agency.
  6. Rule concerning only the physical servicing, maintenance or care of agency owned or operated facilities or property.

7. Rule or substantive policy statement concerning inmates or committed youths of a correctional or detention facility in secure custody or patients admitted to a hospital, if made by the state department of corrections, the department of juvenile corrections, the board of executive clemency or the department of health services or a facility or hospital under the jurisdiction of the state department of corrections, the department of juvenile corrections or the department of health services.
  8. Form whose contents or substantive requirements are prescribed by rule or statute, and instructions for the execution or use of the form.
  9. Capped fee-for-service schedule adopted by the Arizona health care cost containment system administration pursuant to title 36, chapter 29.
  10. Fees prescribed by section 6-125.
  11. Order of the director of water resources adopting or modifying a management plan pursuant to title 45, chapter 2, article 9.
  12. Fees established under section 3-1086.
  13. Fee-for-service schedule adopted by the department of economic security pursuant to section 8-512.
  14. Fees established under sections 41-2144 and 41-2189.
  15. Rule or other matter relating to agency contracts.
  16. Fees established under section 32-2067 or 32-2132.
  17. Rules made pursuant to section 5-111, subsection A.
  18. Rules made by the Arizona state parks board concerning the operation of the Tonto natural bridge state park, the facilities located in the Tonto natural bridge state park and the entrance fees to the Tonto natural bridge state park.
  19. Fees or charges established under section 41-511.05.
  20. Emergency medical services protocols except as provided in section 36-2205, subsection C.
  21. Fee schedules established pursuant to section 36-3409.
  22. Procedures of the state transportation board as prescribed in section 28-7048.
  23. Rules made by the state department of corrections.
  24. Fees prescribed pursuant to section 32-1527.
  25. Rules made by the department of economic security pursuant to section 46-805.
  26. Schedule of fees prescribed by section 23-908.
  27. Procedure that is established pursuant to title 23, chapter 6, article 5 or 6.
  28. Rules, administrative policies, procedures and guidelines adopted for any purpose by the Arizona commerce authority pursuant to chapter 10 of this title if the authority provides, as appropriate under the circumstances, for notice of an opportunity for comment on the proposed rules, administrative policies, procedures and guidelines.
  29. Rules made by a marketing commission or marketing committee pursuant to section 3-414.
- B.** Notwithstanding subsection A, paragraph 22 of this section, at such time as the federal highway administration authorizes the privatization of rest areas, the state transportation board shall make rules governing the lease or license by the department of transportation to a private entity for the purposes of privatization of a rest area.
- C.** Coincident with the making of a rule pursuant to an exemption under this section, the agency shall file a copy of the rule with the secretary of state for publication pursuant to section 41-1012.
- D.** Unless otherwise required by law, articles 2, 3, 4 and 5 of this chapter do not apply to the Arizona board of regents and the institutions under its jurisdiction, except that the Arizona board of regents shall make policies or rules for the board and

the institutions under its jurisdiction that provide, as appropriate under the circumstances, for notice of and opportunity for comment on the policies or rules proposed.

- E.** Unless otherwise required by law, articles 2, 3, 4 and 5 of this chapter do not apply to the Arizona state schools for the deaf and the blind, except that the board of directors of all the state schools for the deaf and the blind shall adopt policies for the board and the schools under its jurisdiction that provide, as appropriate under the circumstances, for notice of and opportunity for comment on the policies proposed for adoption.
- F.** Unless otherwise required by law, articles 2, 3, 4 and 5 of this chapter do not apply to the state board of education, except that the state board of education shall adopt policies or rules for the board and the institutions under its jurisdiction that provide, as appropriate under the circumstances, for notice of and opportunity for comment on the policies or rules proposed for adoption. In order to implement or change any rule, the state board of education shall provide at least two opportunities for public comment.

**§ 41-1006. Employees providing agency assistance; identification and publication**

Each state agency shall publish annually in the register, in the state directory and in a telephone directory for Maricopa county the name or names of those employees who are designated by the agency to assist members of the public or regulated community in seeking information or assistance from the agency.

**§ 41-1007. Award of costs and fees against a department in administrative hearings; exceptions; definitions**

- A.** Except as provided in section 42-2064, subsection G, a hearing officer or administrative law judge shall award fees and other costs to any prevailing party in a contested case or an appealable agency action brought pursuant to any state administrative hearing authority. For purposes of this subsection, a person is considered to be a prevailing party only if both:
1. The agency's position was not substantially justified.
  2. The person prevails as to the most significant issue or set of issues unless the reason that the person prevailed is due to an intervening change in the law.
- B.** Reimbursement under this section may be denied if during the course of the proceeding the party unduly and unreasonably protracted the final resolution of the matter.
- C.** A party that seeks an award of fees or other costs shall apply to the hearing officer or administrative law judge, within thirty days after the final decision or order, providing:
1. Evidence of the party's eligibility for the award.
  2. The amount sought.
  3. An itemized statement from the attorneys and experts stating:
    - (a) The actual time spent representing the party.
    - (b) The rate at which the fees were computed.
- D.** The award of reasonable attorney fees pursuant to subsection A of this section need not equal or relate to the attorney fees actually paid or contracted, but an award may not exceed the amount paid or agreed to be paid.
- E.** A decision of a hearing officer or administrative law judge under this section is subject to judicial review. If fees and other costs were denied by the hearing officer or administrative law judge because the party was not the prevailing party but the party prevails on appeal, the court may award fees and other costs for the proceedings before the hearing officer or administrative law judge if the court finds that fees and other costs should have been awarded under subsection A of this section.
- F.** The department shall pay the fees and costs awarded pursuant to this section from any monies appropriated to the department

## Section 6. Administrative Procedure Act

and available for that purpose, or from other operating costs of the department. If the department fails or refuses to pay the award within thirty days after the demand, and if no further review or appeals of the award are pending, the person may file a claim for the award with the department of administration which shall pay the claim within thirty days in the same manner as an uninsured property loss under chapter 3.1, article 1 of this title, except that the department shall be responsible for the total amount awarded and shall pay it from operating monies. If the department had appropriated monies available for paying the award at the time it failed or refused to pay, the legislature shall reduce the department's operating appropriation for the following fiscal year by the amount of the award and appropriate that amount to the department of administration as reimbursement for the loss.

- G.** This section does not apply to:
1. Any grievance and appeal procedure pursuant to title 36, chapter 29.
  2. Any appeal procedure pursuant to chapter 4, article 6 of this title.
  3. Any administrative appeal filed by an inmate in an Arizona state prison.
- H.** As used in this section:
1. "Department" includes a state agency, department, board or commission, and the universities.
  2. "Party" includes an individual, partnership, corporation, association and public or private organization.

### § 41-1008. Fees; specific statutory authority

- A.** Beginning on July 1, 1999, except as provided in subsection C, an agency shall not:
1. Charge or receive a fee or make a rule establishing a fee unless the fee for the specific activity is expressly authorized by statute or tribal state gaming compact.
  2. Make a rule establishing a fee that is solely based on a statute that generally authorizes an agency to recover its costs or to accept gifts or donations.
- B.** Beginning on July 1, 1999, an agency shall identify the statute or tribal state gaming compact that authorizes the fee on documents relating to collection of the fee.
- C.** An agency authorized by statute or tribal state gaming compact to conduct background checks may charge a fingerprint fee without a statute expressly authorizing the fee.

### § 41-1008.01. State agency fee commission; membership; duties; report (Rpld. 10/1/16)

- A.** The state agency fee commission is established consisting of the following members:
1. Six members who are appointed by the governor, four who are private sector professionals from diverse sectors who represent entities that are licensed or permitted by the state and two who are state agency executives.
  2. Three members of the senate who are appointed by the president of the senate, not more than two of whom are members of the same political party.
  3. Three members of the house of representatives who are appointed by the speaker of the house of representatives, not more than two of whom are members of the same political party.
  4. The director of the governor's office of strategic planning and budgeting.
- B.** The governor shall appoint one member of the commission as chairperson of the commission. Commission members serve at the pleasure of that person's appointing officer and are not eligible to receive compensation or reimbursement of expenses.
- C.** The commission shall:

1. Review all state agencies, except those exempted in the commission bylaws, at least once in each five-year period, beginning October 1, 2011 or whenever the commission deems necessary.
  2. Establish a fee review process of state agencies.
  3. Issue an annual, comprehensive report that includes all of the following:
    - (a) An analysis of the fees assessed by each of the reviewed agencies. The analysis shall include a comparison of this state's agencies with other, similar agencies in other southwestern states as well as a comparison with nationwide trends.
    - (b) An analysis of the methods used by agencies to set fees.
    - (c) An analysis of the effects that fees currently have on regulated industries, businesses or consumer groups for each agency.
    - (d) An analysis of the long-term sustainability of the regulated program based on all fund sources.
    - (e) A list of agencies to be reviewed in the following year.
    - (f) An analysis of the effects recent budget reductions and fund transfers have had on agencies.
- D.** At its first meeting, the commission shall adopt bylaws to govern issues related to the conduct of the commission business and potential conflicts of interest.
- E.** Agencies selected for review by the commission shall cooperate with the commission and shall provide information as requested by the commission.
- F.** The commission may use the services of the staff of the governor's office of strategic planning and budgeting as required.
- G.** On or before December 31, 2011, the commission shall submit its first annual report to the governor, the president of the senate and the speaker of the house of representatives. The commission shall provide a copy of the report to the secretary of state.

### § 41-1009. Inspections; applicability

- A.** An agency inspector or regulator who enters any premises of a regulated person for the purpose of conducting an inspection shall:
1. Present photo identification on entry of the premises.
  2. On initiation of the inspection, state the purpose of the inspection and the legal authority for conducting the inspection.
  3. Disclose any applicable inspection fees.
  4. Afford an opportunity to have an authorized on-site representative of the regulated person accompany the agency inspector or regulator on the premises, except during confidential interviews.
  5. Provide notice of the right to have on request:
    - (a) Copies of any original documents taken by the agency during the inspection if the agency is permitted by law to take original documents.
    - (b) A split of any samples taken during the inspection if the split of any samples would not prohibit an analysis from being conducted or render an analysis inconclusive.
    - (c) Copies of any analysis performed on samples taken during the inspection.
    - (d) Copies of any documents to be relied on to determine compliance with licensure or regulatory requirements if the agency is otherwise permitted by law to do so.

6. Inform each person whose conversation with the agency inspector or regulator during the inspection is tape recorded that the conversation is being tape recorded.
  7. Inform each person interviewed during the inspection that statements made by the person may be included in the inspection report.
- B.** On initiation of an inspection of any premises of a regulated person, an agency inspector or regulator shall provide the following in writing:
1. The rights described in subsection A of this section.
  2. The name and telephone number of a contact person available to answer questions regarding the inspection.
  3. The due process rights relating to an appeal of a final decision of an agency based on the results of the inspection, including the name and telephone number of a person to contact within the agency and any appropriate state government ombudsman.
- C.** An agency inspector or regulator shall obtain the signature of the regulated person or on-site representative of the regulated person on the writing prescribed in subsection B of this section indicating that the regulated person or on-site representative of the regulated person has read the writing prescribed in subsection B of this section and is notified of the regulated person's or on-site representative of the regulated person's inspection and due process rights. The agency shall maintain a copy of this signature with the inspection report and shall leave a copy with the regulated person or on-site representative of the regulated person. If a regulated person or on-site representative of the regulated person is not at the site or refuses to sign the writing prescribed in subsection B of this section, the agency inspector or regulator shall note that fact on the writing prescribed in subsection B of this section.
- D.** An agency that conducts an inspection shall give a copy of the inspection report to the regulated person or on-site representative of the regulated person either:
1. At the time of the inspection.
  2. Notwithstanding any other state law, within thirty working days after the inspection.
  3. As otherwise required by federal law.
- E.** The inspection report shall contain deficiencies identified during an inspection. Unless otherwise provided by law, the agency may provide the regulated person an opportunity to correct the deficiencies unless the agency determines that the deficiencies are:
1. Committed intentionally.
  2. Not correctable within a reasonable period of time as determined by the agency.
  3. Evidence of a pattern of noncompliance.
  4. A risk to any person, the public health, safety or welfare or the environment.
- F.** If the agency allows the regulated person an opportunity to correct the deficiencies pursuant to subsection E of this section, the regulated person shall notify the agency when the deficiencies have been corrected. Within thirty days of receipt of notification from the regulated person that the deficiencies have been corrected, the agency shall determine if the regulated person is in substantial compliance and notify the regulated person whether or not the regulated person is in substantial compliance. If the regulated person fails to correct the deficiencies or the agency determines the deficiencies have not been corrected within a reasonable period of time, the agency may take any enforcement action authorized by law for the deficiencies.
- G.** For agencies with authority under title 49, if the agency does not allow the regulated person an opportunity to correct deficiencies pursuant to subsection E of this section, on the request of the regulated person, the agency shall provide a written explanation of the reason that an opportunity to correct was not allowed.
- H.** An agency decision pursuant to subsection E or F of this section is not an appealable agency action.
- I.** At least once every month after the commencement of the inspection an agency shall provide a regulated person with an update on the status of any agency action resulting from an inspection of the regulated person. An agency is not required to provide an update after the regulated person is notified that no agency action will result from the agency inspection or after the completion of agency action resulting from the agency inspection.
- J.** For agencies with authority under title 49, if, as a result of an inspection or any other investigation, an agency alleges that a regulated person is not in compliance with licensure or other applicable regulatory requirements, the agency shall provide written notice of that allegation to the regulated person. The notice shall contain the following information:
1. A citation to the statute, regulation, license or permit condition on which the allegation of noncompliance is based, including the specific provisions in the statute, regulation, license or permit condition that are alleged to be violated.
  2. Identification of any documents relied on as a basis for the allegation of noncompliance.
  3. An explanation stated with reasonable specificity of the regulatory and factual basis for the allegation of noncompliance.
  4. Instructions for obtaining a timely opportunity to discuss the alleged violation with the agency.
- K.** Subsection J of this section applies only to inspections necessary for the issuance of a license or to determine compliance with licensure or other regulatory requirements. Subsection J of this section does not apply to an action taken pursuant to section 11-871, 11-876, 11-877, 49-457.01, 49-457.03 or 49-474.01. Issuance of a notice under subsection J of this section is not a prerequisite to otherwise lawful agency actions seeking an injunction or issuing an order if the agency determines that the action is necessary on an expedited basis to abate an imminent and substantial endangerment to public health or the environment and documents the basis for that determination in the documents initiating the action.
- L.** This section does not authorize an inspection or any other act that is not otherwise authorized by law.
- M.** Except as otherwise provided in subsection K of this section, this section applies only to inspections necessary for the issuance of a license or to determine compliance with licensure or other regulatory requirements applicable to a licensee. This section does not apply:
1. To criminal investigations, investigations under tribal state gaming compacts and undercover investigations that are generally or specifically authorized by law.
  2. If the inspector or regulator has reasonable suspicion to believe that the regulated person may be engaged in criminal activity.
  3. To the Arizona peace officer standards and training board established by section 41-1821.
- N.** If an inspector or regulator gathers evidence in violation of this section, the violation may be a basis to exclude the evidence in a civil or administrative proceeding.
- O.** Failure of an agency, board or commission employee to comply with this section:
1. Constitutes cause for disciplinary action or dismissal of an employee.

## Section 6. Administrative Procedure Act

2. Shall be considered by the judge and administrative law judge as grounds for reduction of any fine or civil penalty.
- P. An agency may make rules to implement subsection A, paragraph 5 of this section.
- Q. Nothing in this section shall be used to exclude evidence in a criminal proceeding.

### § 41-1010. Complaints; public record

Notwithstanding any other law, a person shall disclose the person's name during the course of reporting an alleged violation of law or rule. During the course of an investigation or enforcement action, the name of the complainant shall be a public record unless the affected agency determines that the release of the complainant's name may result in substantial harm to any person or to the public health or safety.

## ARTICLE 2. PUBLICATION OF AGENCY RULES

### § 41-1011. Publication and distribution of code and register

- A. The secretary of state is responsible for the publication and distribution of the code and the register.
- B. The secretary of state shall prescribe a uniform numbering system, form and style for all rules filed with and published by that office. The secretary of state shall reject rules if they are not in compliance with the prescribed numbering system, form and style.
- C. The secretary of state shall prepare, arrange and correlate all rules and other text as necessary for the publication of the code and the register. The secretary of state may not alter the sense, meaning or effect of any rule but may renumber rules and parts of rules, rearrange rules, change reference numbers to agree with renumbered rules and parts of rules, substitute the proper rule number for "the preceding rule" and similar terms, delete figures if they are merely a repetition of written words, change capitalization for the purpose of uniformity and correct manifest clerical or typographical errors. With the consent of the attorney general the secretary of state may remove from the code a provision of a rule that a court of final appeal declares unconstitutional or otherwise invalid and a rule made by an agency that is abolished if the rule is not transferred to a successor agency.

### § 41-1012. Code; publication of rules; distribution

- A. The code shall contain the full text of each final rule filed with the secretary of state and each rule made pursuant to a statutory exemption from the applicability of this chapter.
- B. The secretary of state shall publish, in loose-leaf form, at least once every quarter all final rules and rules made pursuant to a statutory exemption from the applicability of this chapter. Publication of a rule by the secretary of state as provided in this section constitutes prima facie evidence of the making and filing of the rule pursuant to this chapter or the making of the rule pursuant to a statutory exemption from the applicability of this chapter.
- C. The secretary of state may contract for the printing of the code on terms most advantageous to this state.
- D. The code shall be available by subscription and for single copy purchase. The charge for each code or periodic subscription shall be a reasonable charge, not to exceed all costs of production and distribution of the code.

### § 41-1013. Register

- A. The secretary of state shall publish the register at least once each month, including the information which is provided

under subsection B of this section and which is filed with the secretary of state during the preceding thirty days. The secretary of state shall publish an index to the register at least twice each year.

### B. The register shall contain:

1. A schedule of the time, date and place of all hearings on proposed repeals, makings or amendments of rules.
  2. Each governor's executive order.
  3. Each governor's proclamation of general applicability, and each statement filed by the governor in granting a commutation, pardon or reprieve or stay or suspension of execution where a sentence of death is imposed.
  4. A summary of each attorney general's opinion.
  5. Each governor's appointment of state officials and board and commission members.
  6. A table of contents.
  7. The notice and agency summary of each docket opening.
  8. The full text and accompanying preamble of each proposed rule.
  9. The full text and accompanying preamble of each final rule.
  10. The full text and accompanying preamble of each emergency rule.
  11. Supplemental notices of a proposed rule or summary rule.
  12. A summary of council action on each rule.
  13. The full text of any exempt final rule filed with the secretary of state pursuant to section 41-1005, subsection C.
  14. The identification and a summary of substantive policy statements and notice and a summary of any guidance document publication or revision submitted by an agency.
  15. Notices of oral proceedings, public workshops or other meetings on an open rule making docket.
- C. The register shall be available by subscription and for single copy purchase. The charge for each register or periodic subscription shall be a reasonable charge, not to exceed all costs of production and distribution of the register.
  - D. For purposes of this section, full text publication in the register includes all new, amended or added language and such existing language as the proposing agency deems necessary for a proper understanding of the proposed rule. Rules that are undergoing extensive revision may be reprinted in whole. Existing rule language not required for understanding shall be omitted and marked "no change".

## ARTICLE 3. RULE MAKING

### § 41-1021. Public rule making docket; notice

- A. Each agency shall establish and maintain a current, public rule making docket for each pending rule making proceeding. A rule making proceeding is pending from the time the agency begins to consider proposing the rule under section 41-1022 until any one of the following occurs:
  1. The time the rule making proceeding is terminated by the agency indicating in the rule making docket that the agency is no longer actively considering proposing the rule.
  2. One year after the notice of rule making docket opening is published in the register if the agency has not filed a notice of the proposed rule making with the secretary of state pursuant to section 41-1022.
  3. The rule becomes effective.
  4. One year after the notice of the proposed rule making is published in the register if the agency has not submitted the rule to the council for review and approval.
  5. Publication of a notice of termination.

- B.** For each rule making proceeding, the docket shall indicate all of the following:
1. The subject matter of the proposed rule.
  2. A citation to all published notices relating to the proceeding.
  3. The name and address of agency personnel with whom persons may communicate regarding the rule.
  4. Where written submissions on the proposed rule may be inspected.
  5. The time during which written submissions may be made and the time and place where oral comments may be made.
  6. Where a copy of the economic, small business and consumer impact statement and the minutes of the pertinent council meeting may be inspected.
  7. The current status of the proposed rule.
  8. Any known timetable for agency decisions or other action in the proceeding.
  9. The date the rule was sent to the council.
  10. The date of the rule's filing and publication.
  11. The date the rule was approved by the council.
  12. When the rule will become effective.
- C.** The agency shall provide public notice of the establishment of a rule making docket by causing a notice of docket opening to be published in the register, including the information set forth in subsection B, paragraphs 1, 2, 3, 5 and 8 of this section.
- D.** An agency may appoint formal advisory committees to comment, before publication of a notice of proposed rule making under section 41-1022, on the subject matter of a possible rule making under active consideration within the agency. The membership of these committees shall be published at the time of formation and annually thereafter in the register. Members of these committees are not eligible to receive compensation except as otherwise provided by law.

**§ 41-1021.01. Permissive examples**

An agency may include a diagram, example, table, chart or formula in a rule, preamble, economic impact, small business and consumer impact statement or concise explanatory statement to the extent that it assists in making the document understandable by the persons affected by the rule.

**§ 41-1021.02. State agencies; annual regulatory agenda**

- A.** On or before December 1 of each year, each agency, except for a self-supporting regulatory board as defined in section 41-1092, shall prepare and make available to the public the regulatory agenda that the agency expects to follow during the next calendar year.
- B.** The regulatory agenda shall include all of the following:
1. A notice of docket openings.
  2. A notice of any proposed rule making, including potential sources of federal funding for each proposed rule making.
  3. A review of existing rules.
  4. A notice of a final rule making.
- C.** The regulatory agenda shall also provide for the following information:
1. Any rule making terminated during the current calendar year.
  2. Any privatization option and nontraditional regulatory approach being considered by the agency.
- D.** This section does not prohibit an agency from undertaking any rule making action even if that action has not been included in the agency's annual regulatory agenda.

**§ 41-1022. Notice of proposed rule making, amendment or repeal; contents of notice**

- A.** Before rule making, amendment or repeal, the agency shall file a notice of the proposed action with the secretary of state. The notice shall include:
1. The preamble.
  2. The exact wording of the rule.
- B.** The secretary of state shall include in the next edition of the register the information in the notice under subsection A of this section.
- C.** At the same time the agency files a notice of the proposed rule making with the secretary of state, the agency shall notify by regular mail, telefacsimile or electronic mail each person who has made a timely request to the agency for notification of the proposed rule making and to each person who has requested notification of all proposed rule makings. An agency may provide the notification prescribed in this subsection in a periodic agency newsletter. An agency may purge its list of persons requesting notification of proposed rule makings once each year.
- D.** Before commencing any proceedings for rule making, amendment or repeal, an agency shall allow at least thirty days to elapse after the publication date of the register in which the notice of the proposed rule making, amendment or repeal is contained.
- E.** If, as a result of public comments or internal review, an agency determines that a proposed rule requires substantial change pursuant to section 41-1025, the agency shall issue a supplemental notice containing the changes in the proposed rule. The agency shall provide for additional public comment pursuant to section 41-1023.

**§ 41-1023. Public participation; written statements; oral proceedings**

- A.** After providing notice of docket openings, an agency may meet informally with any interested party for the purpose of discussing the proposed rule making action. The agency may solicit comments, suggested language or other input on the proposed rule. The agency may publish notice of these meetings in the register.
- B.** For at least thirty days after publication of the notice of the proposed rule making, an agency shall afford persons the opportunity to submit in writing statements, arguments, data and views on the proposed rule, with or without the opportunity to present them orally.
- C.** An agency shall schedule an oral proceeding on a proposed rule if, within thirty days after the published notice of proposed rule making, a written request for an oral proceeding is submitted to the agency personnel listed pursuant to section 41-1021, subsection B.
- D.** An oral proceeding on a proposed rule may not be held earlier than thirty days after notice of its location and time is published in the register. The agency shall determine a location and time for the oral proceeding which affords a reasonable opportunity to persons to participate. The oral proceeding shall be conducted in a manner that allows for adequate discussion of the substance and the form of the proposed rule, and persons may ask questions regarding the proposed rule and present oral argument, data and views on the proposed rule.
- E.** The agency, a member of the agency or another presiding officer designated by the agency shall preside at an oral proceeding on a proposed rule. If the agency does not preside, the presiding official shall prepare a memorandum for consideration by the agency summarizing the contents of the presentations made at the oral proceeding. Oral proceedings must be

## Section 6. Administrative Procedure Act

open to the public and recorded by stenographic or other means.

- F. Each agency may make rules for the conduct of oral rule making proceedings. Those rules may include provisions calculated to prevent undue repetition in the oral proceedings.

### § 41-1024. Time and manner of rule making

- A. An agency may not submit a rule to the council until the rule making record is closed.
- B. Within one hundred twenty days after the close of the record on the proposed rule making, an agency shall take one of the following actions:
1. Submit the rule to the council, or, if the rule is exempt pursuant to section 41-1057, to the attorney general.
  2. Terminate the proceeding by publication of a notice to that effect in the register.
- C. Before submitting a rule to the council or the attorney general, an agency shall consider the written submissions, the oral submissions or any memorandum summarizing oral submissions and the economic, small business and consumer impact statement regarding the rule or information in the preamble.
- D. Within the scope of its delegated authority, an agency may use its own experience, technical competence, specialized knowledge and judgment in the making of a rule.
- E. Unless exempted by section 41-1005 or 41-1057 or unless the rule is an emergency rule made pursuant to section 41-1026, if the agency chooses to make the rule, the agency shall submit a rule package to the council and to the committee. The rule package shall include:
1. The preamble.
  2. The exact words of the rule, including existing language and any deletions.
  3. The economic, small business and consumer impact statement.
- F. If the rule is exempt pursuant to section 41-1005, the agency shall file it as a final rule with the secretary of state.
- G. If the rule is exempt from council approval, pursuant to section 41-1057, the agency shall submit the rule package set forth in subsection E of this section to the attorney general for approval pursuant to section 41-1044.
- H. An agency shall not file a final rule with the secretary of state without prior approval from the council, unless the final rule is exempted pursuant to section 41-1005 or 41-1057 or the rule is an emergency rule made pursuant to section 41-1026 or a summary proposed rule made pursuant to section 41-1027.

### § 41-1025. Variance between rule and published notice of proposed rule

- A. An agency may not submit a rule to the council that is substantially different from the proposed rule contained in the notice of proposed rule making or a supplemental notice filed with the secretary of state pursuant to section 41-1022. However, an agency may terminate a rule making proceeding and commence a new rule making proceeding for the purpose of making a substantially different rule.
- B. In determining whether a rule is substantially different from the published proposed rule on which it is required to be based, all of the following must be considered:
1. The extent to which all persons affected by the rule should have understood that the published proposed rule would affect their interests.
  2. The extent to which the subject matter of the rule or the issues determined by that rule are different from the subject matter or issues involved in the published proposed rule.

3. The extent to which the effects of the rule differ from the effects of the published proposed rule if it had been made instead.

### § 41-1026. Emergency rule making, amendment or repeal

- A. If an agency makes a finding that a rule is necessary as an emergency measure, the rule may be made, amended or repealed as an emergency measure, without the notice prescribed by sections 41-1021 and 41-1022 and prior review by the council, if the rule is first approved by the attorney general and filed with the secretary of state. The attorney general may not approve the making, amendment or repeal of a rule as an emergency measure if the emergency situation is created due to the agency's delay or inaction and the emergency situation could have been averted by timely compliance with the notice and public participation provisions of this chapter, unless the agency submits substantial evidence that the rule is necessary as an emergency measure to do any of the following:
1. Protect the public health, safety or welfare.
  2. Comply with deadlines in amendments to an agency's governing law or federal programs.
  3. Avoid violation of federal law or regulation or other state law.
  4. Avoid an imminent budget reduction.
  5. Avoid serious prejudice to the public interest or the interest of the parties concerned.
- B. Within sixty days of receipt, the attorney general shall review the demonstration of emergency and the rule in accordance with the standards prescribed in section 41-1044.
- C. After the rule is filed with the secretary of state, the secretary of state shall publish the rule in the register as provided in section 41-1013.
- D. A rule made, amended or repealed pursuant to this section is valid for one hundred eighty days after the filing of the rule with the secretary of state and may be renewed for one more one hundred eighty day period if all of the following occur:
1. The agency determines that the emergency situation still exists.
  2. The agency follows the procedures prescribed in this section.
  3. The rule is approved by the attorney general pursuant to this section.
  4. The agency has issued the rule as a proposed rule or has issued an alternative proposed rule pursuant to section 41-1022.
  5. The agency seeks approval of the renewal from the attorney general before the expiration of the preceding one hundred eighty day period.
  6. The agency files notice of the renewal and any required attorney general approval with the secretary of state and notice is published in the register.
- E. A rule that is made pursuant to this chapter and that replaces a rule made, amended or repealed pursuant to this section shall expressly repeal the rule replaced if it has not expired.

### § 41-1026.01. Emergency adoption, amendment or termination of delegation agreements; definition

- A. If a delegating agency makes a written finding that a delegation agreement is necessary as an emergency measure, the delegation agreement may be adopted, amended or terminated as an emergency measure, without complying with the public notice and participation provisions of this article. An agency may not adopt, amend or terminate a delegation agreement as an emergency measure if the emergency situation is created due to the agency's delay or inaction and the emergency situation could have been averted by timely compliance with the

public notice and participation provisions of this article, unless the agency can present substantial evidence that failure to adopt, amend or terminate the delegation agreement as an emergency measure will result in imminent substantial peril to the public health, safety or welfare.

- B. The agency shall file with the secretary of state a summary of the emergency delegation agreement. The summary shall provide the name of the person to contact in the agency with questions or comments. The secretary of state shall publish the summary in the next register.
- C. The delegation agreement adopted, amended or terminated pursuant to this section is valid for one hundred eighty days after the filing of the agreement with the secretary of state and may be renewed for one or two more one hundred eighty day periods if all of the following occur:
  1. The agency determines that the emergency situation still exists for each renewal.
  2. The agency follows the procedures prescribed by this section for each renewal.
  3. The agency has begun the public comment and participation process required by this section.
  4. The agency makes a finding for an extension of time before the expiration of the preceding one hundred and eighty day period.
  5. The agency files notice of the renewal with the secretary of state and notice is published in the register.
- D. For purposes of this section, "emergency" means a situation which warrants the adoption of a delegation agreement without compliance with the public notice and participation provisions prescribed in this article because the adoption, amendment or termination of the delegation agreement is necessary for immediate preservation of the public health, safety or welfare, and the public notice and participation requirements of this article are impracticable.

#### § 41-1027. Summary rule making

- A. An agency may use the summary rule making procedure set forth in this section in place of the rule making procedure set forth in sections 41-1021 through 41-1024 for the following actions:
  1. Repeals of rules made obsolete by repeal or supersession of an agency's statutory authority.
  2. Making, amendment and repeal of rules that repeat verbatim existing statutory authority granted to the agency.
  3. Repeal of other obsolete rules or rules deemed by the agency to be ineffective as long as the repeal does not increase the cost of compliance or reduce procedural rights of the persons regulated.
- B. An agency shall initiate summary rule making by filing the proposed summary rule with the council and the secretary of state for publication in the next register. The notice filed with the secretary of state shall include the preamble.
- C. The agency shall forward copies of the notice filed with the secretary of state pursuant to subsection B of this section to the council.
- D. The proposed summary rule takes interim effect on the date of publication in the register.
- E. Within ninety days after publication in the register, after consideration of any comments, the agency shall submit to the council a summary rule, preamble, concise explanatory statement and economic, small business and consumer impact statement.
- F. The summary rule making procedures of this section are not available for rules exempted from council approval pursuant to section 41-1057.

#### § 41-1028. Incorporation by reference

- A. An agency may incorporate by reference in its rules, and without publishing the incorporated matter in full, all or any part of a code, standard, rule or regulation of an agency of the United States or of this state or a nationally recognized organization or association, if incorporation of its text in agency rules would be unduly cumbersome, expensive or otherwise inexpedient.
- B. The reference in the agency rules shall fully identify the incorporated matter by location, date and otherwise and shall state that the rule does not include any later amendments or editions of the incorporated matter.
- C. An agency may incorporate by reference such matter in its rules only if the agency, organization or association originally issuing that matter makes copies of it readily available to the public for inspection and reproduction.
- D. The rules shall state where copies of the incorporated matter are available from the agency issuing the rule and from the agency of the United States or this state or the organization or association originally issuing the matter.
- E. An agency may incorporate later amendments or editions of the incorporated matter only after compliance with the rule making requirements of this chapter.

#### § 41-1029. Agency rule making record

- A. An agency shall maintain an official rule making record for each rule it proposes by publication in the register of a notice of proposed rule making and each final rule filed in the office of the secretary of state. The record and matter incorporated by reference must be available for public inspection.
- B. The agency rule making record shall contain all of the following:
  1. A copy of the notice initially filed in the office of the secretary of state.
  2. Copies of all publications in the register with respect to the rule or the proceeding on which the rule is based.
  3. Copies of any portions of the agency's rule making docket containing entries relating to the rule or the proceeding on which the rule is based.
  4. All written petitions, requests, submissions and comments received by the agency and all other written materials considered or prepared by the agency in connection with the rule or the proceeding on which the rule is based.
  5. Any official transcript of oral presentations made in the proceeding on which the rule is based, or if not transcribed, any tape recording or stenographic record of those presentations, and any memorandum prepared by a presiding official summarizing the contents of those presentations.
  6. A copy of all materials submitted to the council, including the economic, small business and consumer impact statement and the minutes of the council meeting at which the rule was reviewed.
  7. A copy of the final rule and preamble.
  8. Information requested regarding the experience, technical competence, specialized knowledge and judgment of an agency if the agency relies on section 41-1024, subsection D in the making of a rule and a request is made.
- C. On judicial review, the record required by this section constitutes the official agency rule making record with respect to a rule. Except as provided in section 41-1036 or otherwise required by a provision of law, the agency rule making record need not constitute the exclusive basis for agency action on that rule or for judicial review of that rule.

**§ 41-1030. Invalidity of rules not made according to this chapter; prohibited agency action**

- A. A rule is invalid unless it is made and approved in substantial compliance with sections 41-1021 through 41-1029 and articles 4, 4.1 and 5 of this chapter, unless otherwise provided by law.
- B. An agency shall not base a licensing decision in whole or in part on a licensing requirement or condition that is not specifically authorized by statute, rule or state tribal gaming compact. A general grant of authority in statute does not constitute a basis for imposing a licensing requirement or condition unless a rule is made pursuant to that general grant of authority that specifically authorizes the requirement or condition.
- C. An agency shall not:
  - 1. Make a rule under a specific grant of rule making authority that exceeds the subject matter areas listed in the specific statute authorizing the rule.
  - 2. Make a rule under a general grant of rule making authority to supplement a more specific grant of rule making authority.

**§ 41-1031. Filing rules and preamble with secretary of state; permanent record**

- A. Following the filing of a rule made pursuant to an exemption to this chapter or following approval and filing of a rule and preamble and an economic, small business and consumer impact statement by the council as provided in article 5 of this chapter or by the attorney general as provided in article 4 of this chapter, the secretary of state shall affix to each rule document, preamble and economic, small business and consumer impact statement the time and date of filing. A rule is not final until the secretary of state affixes the time and date of filing to the rule document as provided in this section.
- B. The secretary of state shall keep a permanent record of rules, preambles and economic, small business and consumer impact statements filed with the office.

**§ 41-1032. Effective date of rules**

- A. A rule becomes effective sixty days after a certified original and two copies of the rule and preamble are filed in the office of the secretary of state and the time and date are affixed as provided in section 41-1031, unless the rule making agency includes in the preamble information that demonstrates that the rule needs to be effective immediately on filing in the office of the secretary of state and the time and date are affixed as provided in section 41-1031. A rule may only be effective immediately for any of the following reasons:
  - 1. To preserve the public peace, health or safety.
  - 2. To avoid a violation of federal law or regulation or state law, if the need for an immediate effective date is not created due to the agency's delay or inaction.
  - 3. To comply with deadlines in amendments to an agency's governing statute or federal programs, if the need for an immediate effective date is not created due to the agency's delay or inaction.
  - 4. To provide a benefit to the public and a penalty is not associated with a violation of the rule.
  - 5. To adopt a rule that is less stringent than the rule that is currently in effect and that does not have an impact on the public health, safety, welfare or environment, or that does not affect the public involvement and public participation process.
- B. Notwithstanding subsection A of this section, a rule making agency may specify an effective date more than sixty days after the filing of the rule in the office of the secretary of state

if the agency determines that good cause exists for and the public interest will not be harmed by the later date.

- C. This section does not affect the validity of an existing rule until the new or amended rule that is filed with the secretary of state is effective pursuant to this section.

**§ 41-1033. Petition for a rule or review of a practice or policy**

- A. Any person, in a manner and form prescribed by the agency, may petition an agency requesting the making of a final rule or a review of an existing agency practice or substantive policy statement that the petitioner alleges to constitute a rule. The petition shall clearly state the rule, agency practice or substantive policy statement which the person wishes the agency to make or review. Within sixty days after submission of a petition, the agency shall either deny the petition in writing, stating its reasons for denial, initiate rule making proceedings in accordance with this chapter or, if otherwise lawful, make a rule.
- B. A person may appeal to the council the agency's final decision within thirty days after the agency gives written notice pursuant to subsection A. The appeal shall be limited to whether an existing agency practice or substantive policy statement constitutes a rule. The council shall place this appeal on the agenda of its next meeting if at least three council members make such a request of the council chairman within two weeks after the filing of the appeal.
- C. An agency practice or substantive policy statement appealed to and considered by the council pursuant to this section shall remain in effect while under consideration of the council. If the council ultimately decides the agency practice or statement constitutes a rule, the practice or statement shall be considered void.
- D. A decision by the agency pursuant to this section is not subject to judicial review, except that, in addition to the procedure prescribed in this section or in lieu of the procedure prescribed in this section, a person may seek declaratory relief pursuant to section 41-1034.

**§ 41-1034. Declaratory judgment**

- A. Any person who is or may be affected by a rule may obtain a judicial declaration of the validity of the rule by filing an action for declaratory relief in the superior court in Maricopa county in accordance with title 12, chapter 10, article 2.
- B. Any person who is or may be affected by an existing agency practice or substantive policy statement that the person alleges to constitute a rule may obtain a judicial declaration on whether the practice or substantive policy statement constitutes a rule by filing an action for declaratory relief in the superior court in Maricopa county in accordance with title 12, chapter 10, article 2.

**§ 41-1035. Rules affecting small businesses; reduction of rule impact**

If an agency proposes a new rule or an amendment to an existing rule which may have an impact on small businesses, the agency shall consider each of the methods described in this section for reducing the impact of the rule making on small businesses. The agency shall reduce the impact by using one or more of the following methods, if it finds that the methods are legal and feasible in meeting the statutory objectives which are the basis of the proposed rule making:

- 1. Establish less stringent compliance or reporting requirements in the rule for small businesses.

2. Establish less stringent schedules or deadlines in the rule for compliance or reporting requirements for small businesses.
3. Consolidate or simplify the rule's compliance or reporting requirements for small businesses.
4. Establish performance standards for small businesses to replace design or operational standards in the rule.
5. Exempt small businesses from any or all requirements of the rule.

**§ 41-1036. Preamble; justifications for rule making**

Only the reasons contained in the preamble may be used by any party as justifications for the making of the rule in any proceeding in which its validity is at issue.

**§ 41-1037. General permits; issuance of traditional permit**

- A.** If an agency proposes a new rule or an amendment to an existing rule that requires the issuance of a regulatory permit, license or agency authorization, the agency shall use a general permit if the facilities, activities or practices in the class are substantially similar in nature unless any of the following applies:
1. A general permit is prohibited by federal law.
  2. The issuance of an alternative type of permit, license or authorization is specifically authorized by state statute.
  3. The issuance of a general permit is not technically feasible or would not meet the applicable statutory requirements.
  4. The issuance of a general permit would result in additional regulatory requirements or costs being placed on the permit applicant.
  5. The permit, license or authorization is issued pursuant to section 8-126, 8-503, 8-505, 23-504, 36-592, 36-594.01, 36-595, 36-595.03, 36-596, 36-596.54, 41-1967.01 or 46-807.
  6. The permit, license or authorization is issued pursuant to title V of the clean air act.
- B.** The agency retains the authority to revoke an applicant's ability to operate under a general permit and to require the applicant to obtain a traditional permit if the applicant is in substantial noncompliance with the applicable requirements for the general permit.

**ARTICLE 4. ATTORNEY GENERAL REVIEW OF RULE MAKING**

**§ 41-1044. Attorney general review of certain exempt rules**

- A.** The attorney general shall review rules that are exempt pursuant to section 41-1057.
- B.** Rules that are exempt pursuant to section 41-1057 shall not be filed with the secretary of state unless the attorney general approves the rule as:
1. To form.
  2. Clear, concise and understandable.
  3. Within the power of the agency to make and within the enacted legislative standards.
  4. Made in compliance with the appropriate procedures.
- C.** The attorney general shall not approve a rule with an immediate effective date unless the attorney general determines that the rule complies with section 41-1032.
- D.** Within sixty days of receipt of the rule the attorney general shall endorse the attorney general's approval on the rule package. After approval, the attorney general shall file the rule package with the secretary of state.

- E.** If the attorney general determines that the rule does not comply with subsection B of this section, the attorney general shall endorse the attorney general's disapproval of the rule on the rule package, state the reasons for the disapproval and within sixty days after receipt of the rule return the rule package to the agency that made the rule.

**ARTICLE 4.1. ADMINISTRATIVE RULES OVERSIGHT COMMITTEE**

**§ 41-1046. Administrative rules oversight committee; membership; appointment; staffing; meetings**

- A.** The administrative rules oversight committee is established. The committee has oversight over any rules except those rules exempted by section 41-1005.
- B.** The committee consists of the following eleven members:
1. Five members of the house of representatives who are appointed by the speaker of the house of representatives. No more than three of the members who are appointed under this paragraph may be members of the same political party. The speaker of the house of representatives shall designate a member to serve as cochairperson of the committee.
  2. Five members of the senate who are appointed by the president of the senate. No more than three of the members who are appointed under this paragraph may be members of the same political party. The president of the senate shall designate a member to serve as cochairperson of the committee.
  3. The governor or the governor's designee who is not an appointed agency director.
- C.** The speaker of the house of representatives and the president of the senate shall make the appointments to the committee on or before October 1, 2009. Members serve at the pleasure of their respective appointing officer.
- D.** The legislative council shall staff the committee.
- E.** The committee shall meet on the call of either of its cochairpersons.
- F.** A party contesting the legality of a rule, agency practice or substantive policy statement is not required to file a complaint with the committee to exhaust its administrative remedies.

**§ 41-1047. Committee review of rules; practices alleged to constitute rules; substantive policy statements**

The committee may review any proposed or final rule, summary rule, agency practice alleged to constitute a rule or substantive policy statement for conformity with statute and legislative intent. The committee may hold hearings on whether a proposed or final rule, summary rule, agency practice alleged to constitute a rule or substantive policy statement is consistent with statute and legislative intent. The committee may comment to the agency, attorney general or council on whether the proposed or final rule, summary rule, agency practice alleged to constitute a rule or substantive policy statement is consistent with statute or legislative intent. The committee may designate a representative to testify before the council. The council shall consider the comments of the committee and any testimony. The administrative records shall contain the comments of the committee and any testimony.

**§ 41-1048. Committee review of duplicative or onerous statutes, rules, practices alleged to constitute rules and substantive policy statements**

- A.** The committee shall receive complaints concerning statutes, rules, agency practices alleged to constitute rules and substantive policy statements that are alleged to be duplicative or

onerous. The committee may review any statutes, rules, agency practices alleged to constitute rules or substantive policy statements alleged to be duplicative or onerous and may hold hearings regarding the allegations. The committee may comment to an agency, the attorney general, the council or the legislature on whether the statutes, rules, agency practices alleged to constitute rules or substantive policy statements are duplicative or onerous. The comments may include committee recommendations for alleviating the duplicative or onerous aspects of the statutes, rules, agency practices alleged to constitute rules and substantive policy statements.

- B. The committee shall prepare a report to the legislature by December 1 of each year recommending legislation to alleviate the effects of duplicative or onerous statutes, rules, agency practices alleged to constitute rules and substantive policy statements.
- C. This section applies to all statutes, rules, agency practices alleged to constitute rules and substantive policy statements, regardless of whether the statutes, rules, agency practices alleged to constitute rules or substantive policy statements were enacted or made before or after January 1, 1996.

**ARTICLE 5. GOVERNOR'S REGULATORY REVIEW COUNCIL**

**§ 41-1051. Governor's regulatory review council; membership; terms; compensation; powers**

- A. A governor's regulatory review council is established that consists of six members who are appointed by the governor pursuant to section 38-211, and the director of the department of administration or the assistant director of the department of administration who is responsible for administering the council. The director or assistant director is an ex officio member and chairperson of the council. The council shall elect a vice-chairperson to serve as chairperson in the chairperson's absence. The governor shall appoint at least one member who represents the public interest, at least one member who represents the business community, one member from a list of three persons who are not legislators submitted by the president of the senate and one member from a list of three persons who are not legislators submitted by the speaker of the house of representatives. At least one member of the council shall be an attorney licensed to practice law in this state. The governor shall appoint the members of the council for staggered terms of three years. A vacancy occurring during the term of office of any member shall be filled by appointment by the governor for the unexpired portion of the term in the same manner as provided in this section.
- B. The council shall meet at least once a month at a time and place set by the chairperson and at other times and places as the chairperson deems necessary.
- C. Members of the council are eligible to receive compensation in an amount of two hundred dollars for each day on which the council meets and reimbursement of expenses pursuant to title 38, chapter 4, article 2.
- D. The chairperson, subject to chapter 4, articles 5 and 6 of this title, shall employ, determine the conditions of employment of and specify the duties of administrative, secretarial and clerical employees as the chairperson deems necessary.
- E. The council may make rules pursuant to this chapter to carry out the purposes of this chapter.
- F. The council shall make the following information available to the public on request and on the council's website:
  - 1. A list of agency rules approved or returned pursuant to section 41-1052.

- 2. A list of agencies not certifying compliance as provided in section 41-1091.
- 3. A list of agencies that report a lack of progress pursuant to section 41-1056, subsection H.

**§ 41-1052. Council review and approval**

- A. Before filing a final rule with the secretary of state, an agency shall prepare, transmit to the council and the committee and obtain the council's approval of the rule and its preamble and economic, small business and consumer impact statement that meets the requirements of section 41-1055. The governor's office of strategic planning and budgeting shall prepare the economic, small business and consumer impact statement if the legislature appropriates monies for this purpose.
- B. The council shall accept an early review petition of a proposed rule, in whole or in part, if the proposed rule is alleged to violate any of the criteria prescribed in subsection D of this section and if the early petition is filed by a person who would be adversely impacted by the proposed rule. The council may determine whether the proposed rule, in whole or in part, violates any of the criteria prescribed in subsection D of this section.
- C. Within one hundred twenty days of receipt of the rule, preamble and economic, small business and consumer impact statement, the council shall review and approve or return, in whole or in part, the rule, preamble or economic, small business and consumer impact statement. An agency may resubmit a rule, preamble or economic, small business and consumer impact statement if the council returns the rule, economic, small business and consumer impact statement or preamble, in whole or in part, to the agency.
- D. The council shall not approve the rule unless:
  - 1. The economic, small business and consumer impact statement contains information from the state, data and analysis prescribed by this article.
  - 2. The economic, small business and consumer impact statement is generally accurate.
  - 3. The probable benefits of the rule outweigh the probable costs of the rule and the agency has demonstrated that it has selected the alternative that imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.
  - 4. The rule is written in a manner that is clear, concise and understandable to the general public.
  - 5. The rule is not illegal, inconsistent with legislative intent or beyond the agency's statutory authority.
  - 6. The agency adequately addressed the comments on the proposed rule and any supplemental proposals.
  - 7. The rule is not a substantial change, considered as a whole, from the proposed rule and any supplemental notices.
  - 8. The preamble discloses a reference to any study relevant to the rule that the agency reviewed and either did or did not rely on in the agency's evaluation of or justification for the rule.
  - 9. The rule is not more stringent than a corresponding federal law unless there is statutory authority to exceed the requirements of that federal law.
  - 10. If a rule requires a permit, the permitting requirement complies with section 41-1037.
- E. The council shall verify that a rule with new fees does not violate section 41-1008. The council shall not approve a rule that contains a fee increase unless two-thirds of the voting quorum present vote to approve the rule.

- F. The council shall verify that a rule with an immediate effective date complies with section 41-1032. The council shall not approve a rule with an immediate effective date unless two-thirds of the voting quorum present vote to approve the rule.
- G. The council may require a representative of an agency whose rule is under examination to attend a council meeting and answer questions. The council may also communicate to the agency its comments on any rule, preamble or economic, small business and consumer impact statement and require the agency to respond to its comments in writing.
- H. At any time during the sixty days immediately following receipt of the rule, a person may submit written comments to the council that are within the scope of subsection D, E or F of this section. The council may permit oral comments at a council meeting within the scope of subsection D, E or F of this section.
- I. If the agency makes a good faith effort to comply with the requirements prescribed in this article and has explained in writing the methodology used to produce the economic, small business and consumer impact statement, the rule may not be invalidated after it is finalized on the ground that the contents of the economic, small business and consumer impact statement are insufficient or inaccurate or on the ground that the council erroneously approved the rule, except as provided for by section 41-1056.01.
- J. The absence of comments pursuant to subsection D, E or F of this section or article 4.1 of this chapter does not prevent the council from acting pursuant to this section.

**§ 41-1053. Council review of summary rules**

- A. After receipt of the summary rule package from the agency, the council shall place the summary rule on its consent agenda for approval unless a member of the council or the committee requests a hearing.
- B. If a hearing is requested, the council shall act on the summary rule pursuant to section 41-1052 or shall remand the summary rule to the agency for initiation of a rule making pursuant to sections 41-1022, 41-1023 and 41-1024.
- C. If the council returns the rule pursuant to section 41-1052 or remands the rule, the proposed summary rule's interim effect is revoked as of the date of initial publication of the proposed summary rule in the register unless the council orders otherwise.
- D. The council, at any time a proposed summary rule is pending, may disapprove the summary rule making and order initiation of a regular rule making pursuant to sections 41-1022, 41-1023 and 41-1024. The council's disapproval of the proposed summary rule revokes the interim effect of the proposed summary rule as of the date of initial publication of the proposed summary rule in the register unless the council orders otherwise.

**§ 41-1055. Economic, small business and consumer impact statement**

- A. The economic, small business and consumer impact summary shall include:
  - 1. An identification of the proposed rule making, including all of the following:
    - (a) The conduct and its frequency of occurrence that the rule is designed to change.
    - (b) The harm resulting from the conduct the rule is designed to change and the likelihood it will continue to occur if the rule is not changed.
    - (c) The estimated change in frequency of the targeted conduct expected from the rule change.
  - 2. A brief summary of the information included in the economic, small business and consumer impact statement.
  - 3. If the economic, small business and consumer impact summary accompanies a proposed rule or a proposed summary rule, the name and address of agency employees who may be contacted to submit or request additional data on the information included in the economic, small business and consumer impact statement.
- B. The economic, small business and consumer impact statement shall include:
  - 1. An identification of the proposed rule making.
  - 2. An identification of the persons who will be directly affected by, bear the costs of or directly benefit from the proposed rule making.
  - 3. A cost benefit analysis of the following:
    - (a) The probable costs and benefits to the implementing agency and other agencies directly affected by the implementation and enforcement of the proposed rule making. The probable costs to the implementing agency shall include the number of new full-time employees necessary to implement and enforce the proposed rule. The preparer of the economic, small business and consumer impact statement shall notify the joint legislative budget committee of the number of new full-time employees necessary to implement and enforce the rule before the rule is approved by the council.
    - (b) The probable costs and benefits to a political subdivision of this state directly affected by the implementation and enforcement of the proposed rule making.
    - (c) The probable costs and benefits to businesses directly affected by the proposed rule making, including any anticipated effect on the revenues or payroll expenditures of employers who are subject to the proposed rule making.
  - 4. A general description of the probable impact on private and public employment in businesses, agencies and political subdivisions of this state directly affected by the proposed rule making.
  - 5. A statement of the probable impact of the proposed rule making on small businesses. The statement shall include:
    - (a) An identification of the small businesses subject to the proposed rule making.
    - (b) The administrative and other costs required for compliance with the proposed rule making.
    - (c) A description of the methods that the agency may use to reduce the impact on small businesses. These methods may include:
      - (i) Establishing less costly compliance requirements in the proposed rule making for small businesses.
      - (ii) Establishing less costly schedules or less stringent deadlines for compliance in the proposed rule making.
      - (iii) Exempting small businesses from any or all requirements of the proposed rule making.
    - (d) The probable cost and benefit to private persons and consumers who are directly affected by the proposed rule making.
  - 6. A statement of the probable effect on state revenues.
  - 7. A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule making, including the monetizing of the costs and benefits for each option and providing the rationale for not using nonselected alternatives.

## Section 6. Administrative Procedure Act

- C. If for any reason adequate data are not reasonably available to comply with the requirements of subsection B of this section, the agency shall explain the limitations of the data and the methods that were employed in the attempt to obtain the data and shall characterize the probable impacts in qualitative terms. The absence of adequate data, if explained in accordance with this subsection, shall not be grounds for a legal challenge to the sufficiency of the economic, small business and consumer impact statement.
- D. An agency is not required to prepare an economic, small business and consumer impact statement pursuant to this chapter for the following rule makings:
  - 1. Initial making, but not renewal, of an emergency rule pursuant to section 41-1026.
  - 2. Summary rule makings pursuant to section 41-1027 that only repeal existing rule language.
  - 3. Any rule making that decreases monitoring, record keeping or reporting burdens on agencies, political subdivisions, businesses or persons, unless the agency determines that increased costs of implementation or enforcement may equal or exceed the reduction in burdens.
- E. The economic, small business and consumer impact statement for a rule making that is exempt pursuant to subsection D of this section shall state that the proposed rule making is exempt.
- F. The cost-benefit analysis required by subsection B of this section shall calculate only the costs and benefits that occur in this state.
- G. If a person submits an analysis to the agency that compares the rule's impact on the competitiveness of businesses in this state to the impact on businesses in other states, the agency shall consider the analyses.

### § 41-1056. Review by agency

- A. At least once every five years, each agency shall review all of its rules to determine whether any rule should be amended or repealed. The agency shall prepare and obtain council approval of a written report summarizing its findings, its supporting reasons and any proposed course of action. For each rule, the report shall include a concise analysis of all of the following:
  - 1. The rule's effectiveness in achieving its objectives, including a summary of any available data supporting the conclusions reached.
  - 2. Written criticisms of the rule received during the previous five years.
  - 3. Authorization of the rule by existing statutes.
  - 4. Whether the rule is consistent with other rules made by the agency, current agency enforcement policy and current agency views regarding the wisdom of the rule.
  - 5. The clarity, conciseness and understandability of the rule.
  - 6. The estimated economic, small business and consumer impact of the rules as compared to the economic, small business and consumer impact statement prepared on the last making of the rules.
  - 7. Any analysis submitted to the agency by another person that compares the rule's impact on this state's business competitiveness to the impact on businesses in other states.
  - 8. If applicable, that the agency completed the previous five-year review process.
  - 9. A determination that the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.
- B. The council shall schedule the periodic review of each agency's rules and shall approve or return, in whole or in part, the agency's report on its review. The council may grant an agency an extension from filing an agency's report. If the council returns an agency's report, in whole or in part, the council shall inform the agency of the manner in which its report is inadequate and, in consultation with the agency, shall schedule submission of a revised report. The council shall not approve a report unless the report complies with subsection A.
- C. The council may reschedule a report or portion of a report for any rule that is scheduled for review and that was initially made or substantially revised within two years before the due date of the report as scheduled by the council.
- D. If an agency finds that it cannot provide the written report to the council by the date it is due, the agency may file an extension with the council before the due date indicating the reason for the extension. The timely filing for an extension permits the agency to submit its report on or before the date prescribed by the council.
- E. If an agency fails to submit its report, including a revised report pursuant to subsection B, or file an extension before the due date of the report or if it files an extension and does not submit its report within the extension period, the rules scheduled for review expire and the council shall:
  - 1. Cause a notice to be published in the next register that states the rules have expired and are no longer enforceable.
  - 2. Notify the secretary of state that the rules have expired and that the rules are to be removed from the code.
  - 3. Notify the agency that the rules have expired and are no longer enforceable.
- F. If a rule expires as provided in subsection E and the agency wishes to reestablish the rule, the agency shall comply with article 3 of this chapter.
- G. Not less than ninety days before the due date of a report, the council shall send a written notice to the head of the agency whose report is due, the governor and the director of the department of administration. The notice shall list the rules to be reviewed and the date the report is due.
- H. On or before June 30 of each year, each agency shall report to the council the agency's progress toward completion of the course of action established in all reports submitted to the council during the previous five years. The annual report prescribed by this subsection shall be on a form developed by the council.
- I. A person who is regulated or could be regulated by an obsolete rule may petition the council to require an agency that has the obsolete rule to consider including the rule in the five-year report with a recommendation for repeal of the rule.

### § 41-1056.01. Impact statements; appeals

- A. Within two years after a rule is finalized, a person who is or may be affected by the rule may file a written petition with an agency objecting to all or part of a rule on any of the following grounds:
  - 1. The actual economic, small business or consumer impact significantly exceeded the impact estimated in the economic, small business and consumer impact statement submitted during the making of the rule.
  - 2. The actual economic, small business or consumer impact was not estimated in the economic, small business and consumer impact statement submitted during the making of the rule and that actual impact imposes a significant burden on persons subject to the rule.
  - 3. The agency did not select the alternative that imposes the least burden and costs to persons regulated by the rule,

including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.

- B. The burden of proof is on the petitioner to show that any of the provisions set forth in subsection A of this section are met.
- C. Within thirty days after receiving the copy of the petition, the agency shall reevaluate the rule and its economic impacts and publish notice of the petition in the register. For at least thirty days after publication of the notice the agency shall afford persons the opportunity to submit in writing statements, arguments, data and views on the rule and its impacts. Within thirty days after the close of comment, the agency shall publish a written summary of comments received, the agency's response to those comments, and the final decision of the agency on whether to initiate a rule making or to amend or repeal the rule. The agency shall initiate any such rule making within forty-five days after publication of its final decision.
- D. Any person who is or may be affected by the agency's final decision on whether to initiate a rule making pursuant to subsection C of this section may appeal that decision to the council within thirty days after publication of the agency's final decision.
- E. The council shall place on its agenda the appeal if at least three council members make such a request of the council chairman within two weeks after the filing of the appeal with the council.
- F. If the appeal is placed on the council's agenda, the council chairman shall provide a copy of the appeal and written notice to the agency that the council will consider the appeal. The agency shall provide the council with a copy of the written summary described in subsection C of this section.
- G. The council shall require an agency to promptly initiate a rule making or to amend or repeal the rule or the rule package, as prescribed by section 41-1024, subsection E, objected to in the petition if the council finds that any of the provisions set forth in subsection A of this section are met.
- H. This section shall not apply to a rule for which there is a final judgment of a court of competent jurisdiction based on the grounds of whether the contents of the economic, small business and consumer impact statement were insufficient or inaccurate.

#### § 41-1057. Exemptions

In addition to the exemptions stated in section 41-1005, this article does not apply to:

- 1. An agency which is a unit of state government headed by a single elected official.
- 2. The corporation commission, which shall adopt substantially similar rule review procedures, including the preparation of an economic impact statement and a statement of the effect of the rule on small business.
- 3. The industrial commission of Arizona when incorporating by reference the federal occupational safety and health standards as published in 29 Code of Federal Regulations parts 1904, 1910, 1926 and 1928.
- 4. The Arizona state lottery if making rules that relate only to the design, operation or prize structure of a lottery game.

### ARTICLE 6. ADJUDICATIVE PROCEEDINGS

#### § 41-1061. Contested cases; notice; hearing; records

- A. In a contested case, all parties shall be afforded an opportunity for hearing after reasonable notice. Unless otherwise provided by law, the notice shall be given at least twenty days prior to the date set for the hearing.
- B. The notice shall include:

- 1. A statement of the time, place and nature of the hearing.
- 2. A statement of the legal authority and jurisdiction under which the hearing is to be held.
- 3. A reference to the particular sections of the statutes and rules involved.
- 4. A short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter upon application a more definite and detailed statement shall be furnished.
- C. Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved.
- D. Unless precluded by law, and except as to claims for compensation and benefits under chapter 6 of title 23, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order or default.
- E. The record in a contested case shall include:
  - 1. All pleadings, motions, interlocutory rulings.
  - 2. Evidence received or considered.
  - 3. A statement of matters officially noticed.
  - 4. Objections and offers of proof and rulings thereon.
  - 5. Proposed findings and exceptions.
  - 6. Any decision, opinion or report by the officer presiding at the hearing.
  - 7. All staff memoranda, other than privileged communications, or data submitted to the hearing officer or members of the agency in connection with their consideration of the case.
- F. Oral proceedings or any part thereof shall be recorded manually or by a recording device and shall be transcribed on request of any party, unless otherwise provided by law. The cost of such transcript shall be paid by the party making the request, unless otherwise provided by law or unless assessment of the cost is waived by the agency.
- G. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

#### § 41-1062. Hearings; evidence; official notice; power to require testimony and records; rehearing

- A. Unless otherwise provided by law, in contested cases the following shall apply:
  - 1. A hearing may be conducted in an informal manner and without adherence to the rules of evidence required in judicial proceedings. Neither the manner of conducting the hearing nor the failure to adhere to the rules of evidence required in judicial proceedings shall be grounds for reversing any administrative decision or order providing the evidence supporting such decision or order is substantial, reliable, and probative. Irrelevant, immaterial or unduly repetitious evidence shall be excluded. Every person who is a party to such proceedings shall have the right to be represented by counsel, to submit evidence in open hearing and shall have the right of cross-examination. Unless otherwise provided by law, hearings may be held at any place determined by the agency.
  - 2. Copies of documentary evidence may be received in the discretion of the presiding officer. Upon request, parties shall be given an opportunity to compare the copy with the original.
  - 3. Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise of the material noticed including any staff

memoranda or data and they shall be afforded an opportunity to contest the material so noticed. The agency's experience, technical competence and specialized knowledge may be utilized in the evaluation of the evidence.

4. The officer presiding at the hearing may cause to be issued subpoenas for the attendance of witnesses and for the production of books, records, documents and other evidence and shall have the power to administer oaths. Unless otherwise provided by law or agency rule, subpoenas so issued shall be served and, upon application to the court by a party or the agency, enforced in the manner provided by law for the service and enforcement of subpoenas in a civil action. On application of a party or the agency and for use as evidence, the officer presiding at the hearing may permit a deposition to be taken, in the manner and upon the terms designated by him, of a witness who cannot be subpoenaed or is unable to attend the hearing. Prehearing depositions and subpoenas for the production of documents may be ordered by the officer presiding at the hearing, provided that the party seeking such discovery demonstrates that the party has reasonable need of the deposition testimony or materials being sought. All provisions of law compelling a person under subpoena to testify are applicable. Fees for attendance as a witness shall be the same as for a witness in the superior courts of the state of Arizona, unless otherwise provided by law or agency rule. Notwithstanding the provisions of section 12-2212, no subpoenas, depositions or other discovery shall be permitted in contested cases except as provided by agency rule or this paragraph.
- B. Except when good cause exists otherwise, the agency shall provide an opportunity for a rehearing or review of the decision of an agency before such decision becomes final. Such rehearing or review shall be governed by agency rule drawn as closely as practicable from rule 59, Arizona rules of civil procedure, relating to new trial in superior court.

#### § 41-1063. Decisions and orders

Unless otherwise provided by law, any final decision or order adverse to a party in a contested case shall be in writing or stated in the record. Any final decision shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. Unless otherwise provided by law, parties shall be notified either personally or by mail to their last known address of any decision or order. Upon request a copy of the decision or order shall be delivered or mailed forthwith to each party and to his attorney of record.

#### § 41-1064. Licenses; renewal; revocation; suspension; annulment; withdrawal

- A. When the grant, denial or renewal of a license is required to be preceded by notice and an opportunity for a hearing, the provisions of this article concerning contested cases apply.
- B. When a licensee has made timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, the existing license does not expire until the application has been finally determined by the agency, and, in case the application is denied or the terms of the new license limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.
- C. No revocation, suspension, annulment or withdrawal of any license is lawful unless, prior to the action, the agency provides the licensee with notice and an opportunity for a hearing in accordance with this chapter. If the agency finds that the

public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

#### § 41-1065. Hearing on denial of license or permit

Proceedings for licenses or permits on application when not required by law to be preceded by notice and opportunity for hearing shall be governed by the provisions of the law relating to the particular agency, provided that when an application for a license or permit is denied under the provisions of the law relating to a particular agency the applicant shall be entitled to have a hearing before such agency on such denial upon filing within fifteen days after receipt of notice of such refusal a written application for such hearing. Notice shall be given in the manner prescribed by section 41-1061. At such hearing such applicant shall be the moving party and have the burden of proof. Such hearing shall be conducted in accordance with this article for hearing of a contested case before an agency. Such hearing before such agency shall be limited to those matters originally presented to the agency for its determination on such application.

#### § 41-1066. Compulsory testimony; privilege against self-incrimination

- A. A person may not refuse to attend and testify or produce evidence sought by an agency in an action, proceeding or investigation instituted by or before the agency on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture unless it constitutes the compelled testimony or the private papers of the person which would be privileged evidence either pursuant to the fifth amendment of the Constitution of the United States or article II, section 10, Constitution of Arizona, and the person claims the privilege prior to the production of the testimony or papers.
- B. If a person asserts his privilege against self-incrimination and the agency seeks to compel production of the testimony or documents sought, it may, with the prior written approval of the attorney general, issue a written order compelling the testimony or production of documents in proceedings and investigations before the agency or apply to the appropriate court for such an order in other actions or proceedings.
- C. Evidence produced pursuant to subsection B is not admissible in evidence or usable in any manner in a criminal prosecution, except for perjury, false swearing, tampering with physical evidence or any other offense committed in connection with the appearance made pursuant to this section against the person testifying or the person producing his private papers.

#### § 41-1067. Applicability of article

This article only applies to contested cases of agencies that are exempt from article 10 of this chapter as provided in section 41-1092.02.

### ARTICLE 7. MILITARY ADMINISTRATIVE RELIEF

#### § 41-1071. Military relief from administrative procedures; process

At any stage, any action or proceeding before any state agency, board, commission or administrative tribunal involving a person on active duty in the military service of the United States or this state as a necessary party, which occurs during such period of service or within sixty days thereafter, may be stayed in the discretion of the state administrative entity before which it is pending, on its own

motion. The state administrative entity shall not stay an action or proceeding on its own motion if the service member makes a written objection to the stay. Such action or proceeding shall be stayed on application to the state administrative entity by such person or some person on his behalf, unless in the written decision of the state administrative entity, the ability of the service member to pursue the claim or defense in the action or proceeding is not prejudiced by the military service.

## ARTICLE 7.1. LICENSING TIME FRAMES

### § 41-1072. Definitions

In this article, unless the context otherwise requires:

1. "Administrative completeness review time frame" means the number of days from agency receipt of an application for a license until an agency determines that the application contains all components required by statute or rule, including all information required to be submitted by other government agencies. The administrative completeness review time frame does not include the period of time during which an agency provides public notice of the license application or performs a substantive review of the application.
2. "Overall time frame" means the number of days after receipt of an application for a license during which an agency determines whether to grant or deny a license. The overall time frame consists of both the administrative completeness review time frame and the substantive review time frame.
3. "Substantive review time frame" means the number of days after the completion of the administrative completeness review time frame during which an agency determines whether an application or applicant for a license meets all substantive criteria required by statute or rule. Any public notice and hearings required by law shall fall within the substantive review time frame.

### § 41-1073. Time frames; exception

- A. No later than December 31, 1998, an agency that issues licenses shall have in place final rules establishing an overall time frame during which the agency will either grant or deny each type of license that it issues. Agencies shall submit their overall time frame rules to the governor's regulatory review council pursuant to the schedule developed by the council. The council shall schedule each agency's rules so that final overall time frame rules are in place no later than December 31, 1998. The rule regarding the overall time frame for each type of license shall state separately the administrative completeness review time frame and the substantive review time frame.
- B. If a statutory licensing time frame already exists for an agency but the statutory time frame does not specify separate time frames for the administrative completeness review and the substantive review, by rule the agency shall establish separate time frames for the administrative completeness review and the substantive review, which together shall not exceed the statutory overall time frame. An agency may establish different time frames for initial licenses, renewal licenses and revisions to existing licenses.
- C. The submission by the department of environmental quality of a revised permit to the United States environmental protection agency in response to an objection by that agency shall be given the same effect as a notice granting or denying a permit application for licensing time frame purposes. For the purposes of this subsection, "permit" means a permit required by title 49, chapter 2, article 3.1 or section 49-426.

- D. In establishing time frames, agencies shall consider all of the following:
  1. The complexity of the licensing subject matter.
  2. The resources of the agency granting or denying the license.
  3. The economic impact of delay on the regulated community.
  4. The impact of the licensing decision on public health and safety.
  5. The possible use of volunteers with expertise in the subject matter area.
  6. The possible increased use of general licenses for similar types of licensed businesses or facilities.
  7. The possible increased cooperation between the agency and the regulated community.
  8. Increased agency flexibility in structuring the licensing process and personnel.
- E. This article does not apply to licenses issued either:
  1. Pursuant to tribal state gaming compacts.
  2. Within seven days after receipt of initial application.
  3. By a lottery method.

### § 41-1074. Compliance with administrative completeness review time frame

- A. An agency shall issue a written notice of administrative completeness or deficiencies to an applicant for a license within the administrative completeness review time frame.
- B. If an agency determines that an application for a license is not administratively complete, the agency shall include a comprehensive list of the specific deficiencies in the written notice provided pursuant to subsection A. If the agency issues a written notice of deficiencies within the administrative completeness time frame, the administrative completeness review time frame and the overall time frame are suspended from the date the notice is issued until the date that the agency receives the missing information from the applicant.
- C. If an agency does not issue a written notice of administrative completeness or deficiencies within the administrative completeness review time frame, the application is deemed administratively complete. If an agency issues a timely written notice of deficiencies, an application shall not be complete until all requested information has been received by the agency.

### § 41-1075. Compliance with substantive review time frame

- A. During the substantive review time frame, an agency may make one comprehensive written request for additional information. The agency and applicant may mutually agree in writing to allow the agency to submit supplemental requests for additional information. If an agency issues a comprehensive written request or a supplemental request by mutual written agreement for additional information, the substantive review time frame and the overall time frame are suspended from the date the request is issued until the date that the agency receives the additional information from the applicant.
- B. By mutual written agreement, an agency and an applicant for a license may extend the substantive review time frame and the overall time frame. An extension of the substantive review time frame and the overall time frame may not exceed twenty-five per cent of the overall time frame.

### § 41-1076. Compliance with overall time frame

Unless an agency and an applicant for a license mutually agree to extend the substantive review time frame and the overall time frame pursuant to section 41-1075, an agency shall issue a written notice granting or denying a license within the overall time frame to an

## Section 6. Administrative Procedure Act

applicant. If an agency denies an application for a license, the agency shall include in the written notice at least the following information:

1. Justification for the denial with references to the statutes or rules on which the denial is based.
2. An explanation of the applicant's right to appeal the denial. The explanation shall include the number of days in which the applicant must file a protest challenging the denial and the name and telephone number of an agency contact person who can answer questions regarding the appeals process.

### § 41-1077. Consequence for agency failure to comply with overall time frame; refund; penalty

- A.** If an agency does not issue to an applicant the written notice granting or denying a license within the overall time frame or within the time frame extension pursuant to section 41-1075, the agency shall refund to the applicant all fees charged for reviewing and acting on the application for the license and shall excuse payment of any such fees that have not yet been paid. The agency shall not require an applicant to submit an application for a refund pursuant to this subsection. The refund shall be made within thirty days after the expiration of the overall time frame or the time frame extension. The agency shall continue to process the application subject to subsection B of this section. Notwithstanding any other statute, the agency shall make the refund from the fund in which the application fees were originally deposited. This section applies only to license applications that were subject to substantive review.
- B.** Except for license applications that were not subject to substantive review, the agency shall pay a penalty to the state general fund for each month after the expiration of the overall time frame or the time frame extension until the agency issues written notice to the applicant granting or denying the license. The agency shall pay the penalty from the agency fund in which the application fees were originally deposited. The penalty shall be two and one-half per cent of the total fees received by the agency for reviewing and acting on the application for each license that the agency has not granted or denied on the last day of each month after the expiration of the overall time frame or time frame extension for that license.

### § 41-1078. Reporting; compliance with time frames

- A.** Beginning on September 1, 1998 for agencies that have established time frames before July 1, 1998 and by September 1 of each year thereafter for all agencies that issue licenses, each agency shall report to the governor's regulatory review council on summary forms developed by the council the agency's compliance level with its overall time frames for the prior fiscal year. The agency reports shall include the number of licenses issued or denied by the agency within the applicable time frames, the dollar amount of all fees returned to applicants and all penalties paid to the state general fund due to the agency's failure to comply with the applicable time frames and, if this article does not apply to licenses issued by the agency because the licenses are issued within seven days after receipt of initial application, a certification by category of license, including a statutory reference for the category of license, that the agency has complied with the seven-day requirement.
- B.** By December 1 of each year, the governor's regulatory review council shall compile the summary forms submitted by the agencies pursuant to subsection A and present them to the governor, the president of the senate, the speaker of the house of representatives and the cochairmen of the administrative rules oversight committee.

### § 41-1079. Information required to be provided

- A.** An agency that issues licenses shall provide the following information to an applicant at the time the applicant obtains an application for a license:
1. A list of all of the steps the applicant is required to take in order to obtain the license.
  2. The applicable licensing time frames.
  3. The name and telephone number of an agency contact person who can answer questions or provide assistance throughout the application process.
- B.** This section does not apply to the Arizona peace officer standards and training board established by section 41-1821.

## ARTICLE 7.2. LICENSING ELIGIBILITY

### 41-1080. Licensing eligibility; authorized presence; documentation; applicability; definitions

- A.** Subject to subsections C and D, an agency or political subdivision of this state shall not issue a license to an individual if the individual does not provide documentation of citizenship or alien status by presenting any of the following documents to the agency or political subdivision indicating that the individual's presence in the United States is authorized under federal law:
1. An Arizona driver license issued after 1996 or an Arizona nonoperating identification license.
  2. A driver license issued by a state that verifies lawful presence in the United States.
  3. A birth certificate or delayed birth certificate issued in any state, territory or possession of the United States.
  4. A United States certificate of birth abroad.
  5. A United States passport.
  6. A foreign passport with a United States visa.
  7. An I-94 form with a photograph.
  8. A United States citizenship and immigration services employment authorization document or refugee travel document.
  9. A United States certificate of naturalization.
  10. A United States certificate of citizenship.
  11. A tribal certificate of Indian blood.
  12. A tribal or bureau of Indian affairs affidavit of birth.
- B.** This section does not apply to an individual if either:
1. Both of the following apply:
    - (a) The individual is a citizen of a foreign country or, if at the time of application, the individual resides in a foreign country.
    - (b) The benefits that are related to the license do not require the individual to be present in the United States in order to receive those benefits.
  2. All of the following apply:
    - (a) The individual is a resident of another state.
    - (b) The individual holds an equivalent license in that other state and the equivalent license is of the same type being sought in this state.
    - (c) The individual seeks the Arizona license to comply with this state's licensing laws and not to establish residency in this state.
- C.** If, pursuant to subsection A of this section, an individual has affirmatively established citizenship of the United States or a form of nonexpiring work authorization issued by the federal government, the individual, on renewal or reinstatement of a license, is not required to provide subsequent documentation of that status.
- D.** If, on renewal or reinstatement of a license, an individual holds a limited form of work authorization issued by the federal gov-

ernment that has expired, the individual shall provide documentation of that status.

- E. If a document listed in subsection A, paragraphs 1 through 12 does not contain a photograph of the individual, the individual shall also present a government issued document that contains a photograph of the individual.
- F. For the purposes of this section:
  1. "Agency" means any agency, department, board or commission of this state or any political subdivision of this state that issues a license for the purposes of operating a business in this state or to an individual who provides a service to any person.
  2. "License" means any agency permit, certificate, approval, registration, charter or similar form of authorization that is required by law and that is issued by any agency for the purposes of operating a business in this state or to an individual who provides a service to any person where the license is necessary in performing that service.

## ARTICLE 8. DELEGATION OF FUNCTIONS, POWERS OR DUTIES

### § 41-1081. Standards for delegation

- A. No agency may enter into or amend any delegation agreement unless the delegation agreement clearly sets forth all of the following:
  1. Each function, power or duty being delegated by the agency, the term of the agreement and the procedures for terminating the agreement.
  2. The standards of performance required to fulfill the agreement.
  3. The types of fees that will be imposed on regulated parties and the legal authority for imposing any such fees.
  4. The qualifications of the personnel of the political subdivision responsible for exercising the delegated functions, powers or duties.
  5. Record keeping and reporting requirements.
  6. Auditing requirements if the delegation agreement includes the transfer of funds from the delegating agency to the political subdivision.
  7. A definition of the enforcement role if enforcement authority is being delegated.
  8. Procedures for resolving conflicts between the parties to the delegation agreement.
  9. Procedures for amending the delegation agreement.
  10. The names and addresses of primary contact persons at both the delegating agency and the political subdivision.
- B. An agency that seeks to delegate functions, powers or duties shall file with the secretary of state a summary of the proposed delegation agreement. The summary shall provide the name of a person to contact in the agency with questions or comments and shall state that a copy of the proposed delegation agreement may be obtained upon request from the agency. The secretary of state shall publish the summary in the next register.
- C. For at least thirty days after publication of the notice of the proposed delegation agreement in the register, the agency shall provide persons the opportunity to submit in writing statements, arguments, data and views on the proposed delegation agreement and shall provide an opportunity for a public hearing if there is sufficient public interest.
- D. A public hearing on the delegation agreement shall not be held earlier than thirty days after the notice of its location and time is published in the register. The agency shall determine a location and time for the public hearing that affords a reasonable opportunity for persons to participate. At that public hearing

persons may present oral argument, data and views on the proposed delegation agreement.

- E. After the conclusion of the public comment period and hearing, if any, the agency shall prepare a written summary, responding to the comments received, whether oral or written. The agency shall consider the comments received from the public in determining whether to enter into the proposed delegation agreement. The agency shall give written notice to those persons who submitted comments of the agency's decision on whether to enter into the proposed delegation agreement. The delegation agreement is effective thirty days after written notice of the agency's final decision is given unless an appeal is filed and pending before the council pursuant to subsection F.
- F. A person who filed written comments with the delegating agency objecting to all or part of the proposed delegation agreement may appeal to the council the delegating agency's decision to enter into the delegation agreement within thirty days after the agency gives written notice to enter into the delegation agreement pursuant to subsection E. The council shall place the appeal of the delegation agreement on its next meeting agenda if at least three council members make such a request of the council chairman within two weeks of the filing of the appeal.
- G. Delegation agreements that are appealed to and considered by the council shall become effective upon council approval of the delegation agreement. Delegation agreements that are appealed to the council and not considered by the council are effective either thirty days after written notice of the agency's final decision is given pursuant to subsection E, or two weeks after an appeal is filed if at least three council members do not request council consideration of the delegation agreement pursuant to subsection F, whichever date is later.
- H. The council shall not approve the delegation agreement if it does not meet the provisions set forth in subsection A or if the agency has not provided adequate notice and an opportunity for comment to the public.

### § 41-1082. Existing delegation agreements

- A. By January 1, 1995, each state agency shall compile and make public a list of all delegation agreements that it has entered into with political subdivisions and a list of all subdelegation agreements to the delegation agreements. Upon request and for a reasonable cost, a person may obtain a copy of any delegation agreement on the list.
- B. By January 1, 1996, each state agency shall amend, if necessary, any delegation agreement entered into prior to the effective date of this article to conform with criteria set forth in section 41-1081, subsection A.

### § 41-1083. No presumption of funding authority

No political subdivision may assess any fee, tax or other assessment in the exercise of its delegated authorities pursuant to any delegation agreement unless the delegation agreement specifically authorizes the fee, tax or other assessment or the political subdivision is otherwise authorized by law to impose the fee, tax or other assessment.

### § 41-1084. Prohibition on subdelegation

No political subdivision that exercises delegated authority pursuant to a delegation agreement may subdelegate its delegated authority to another agency or political subdivision without first notifying the delegating agency.

**ARTICLE 9. SUBSTANTIVE POLICY STATEMENTS**

**§ 41-1091. Substantive policy statements; directory**

- A.** An agency shall file substantive policy statements pursuant to section 41-1013, subsection B.
- B.** An agency shall ensure that the first page of each substantive policy statement includes the following notice:  
This substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona administrative procedure act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties you may petition the agency under Arizona Revised Statutes section 41-1033 for a review of the statement.
- C.** The agency shall publish at least annually a directory summarizing the subject matter of all currently applicable rules and substantive policy statements. The agency shall keep copies of this directory and all of its substantive policy statements at one location. The directory, rules and substantive policy statements and any materials incorporated by reference in the rules or substantive policy statements shall be open to public inspection at the office of the agency director.
- D.** On or before June 30 of each year, the agency head shall certify to the council that the agency is in compliance with this section.

**ARTICLE 10. UNIFORM ADMINISTRATIVE HEARING PROCEDURES**

**§ 41-1092. Definitions**

In this article, unless the context otherwise requires:

- 1. "Administrative law judge" means an individual or an agency head, board or commission that sits as an administrative law judge, that conducts administrative hearings in a contested case or an appealable agency action and that makes decisions regarding the contested case or appealable agency action.
- 2. "Administrative law judge decision" means the findings of fact, conclusions of law and recommendations or decisions issued by an administrative law judge.
- 3. "Appealable agency action" means an action that determines the legal rights, duties or privileges of a party and that is not a contested case. Appealable agency actions do not include interim orders by self-supporting regulatory boards or rules, orders, standards or statements of policy of general application issued by an administrative agency to implement, interpret or make specific the legislation enforced or administered by it, nor does it mean or include rules concerning the internal management of the agency that do not affect private rights or interests. For the purposes of this paragraph, administrative hearing does not include a public hearing held for the purpose of receiving public comment on a proposed agency action.
- 4. "Director" means the director of the office of administrative hearings.
- 5. "Final administrative decision" means a decision by an agency that is subject to judicial review pursuant to title 12, chapter 7, article 6.
- 6. "Office" means the office of administrative hearings.
- 7. "Self-supporting regulatory board" means any one of the following:
  - (a) The Arizona state board of accountancy.
  - (b) The state board of appraisal.

- (c) The board of barbers.
- (d) The board of behavioral health examiners.
- (e) The Arizona state boxing and mixed martial arts commission.
- (f) The state board of chiropractic examiners.
- (g) The board of cosmetology.
- (h) The state board of dental examiners.
- (i) The state board of funeral directors and embalmers.
- (j) The Arizona game and fish commission.
- (k) The board of homeopathic and integrated medicine examiners.
- (l) The Arizona medical board.
- (m) The naturopathic physicians medical board.
- (n) The state board of nursing.
- (o) The board of examiners of nursing care institution administrators and adult care home managers.
- (p) The board of occupational therapy examiners.
- (q) The state board of dispensing opticians.
- (r) The state board of optometry.
- (s) The Arizona board of osteopathic examiners in medicine and surgery.
- (t) The Arizona peace officer standards and training board.
- (u) The Arizona state board of pharmacy.
- (v) The board of physical therapy examiners.
- (w) The state board of podiatry examiners.
- (x) The state board for private postsecondary education.
- (y) The state board of psychologist examiners.
- (z) The board of respiratory care examiners.
- (aa) The office of pest management.
- (bb) The state board of technical registration.
- (cc) The Arizona state veterinary medical examining board.
- (dd) The acupuncture board of examiners.
- (ee) The Arizona regulatory board of physician assistants.
- (ff) The board of athletic training.
- (gg) The board of massage therapy.

**§ 41-1092.01. Office of administrative hearings; director; powers and duties; fund**

- A.** An office of administrative hearings is established.
- B.** The governor shall appoint the director pursuant to section 38-211. At a minimum, the director shall have the experience necessary for appointment as an administrative law judge. The director also shall possess supervisory, management and administrative skills, as well as knowledge and experience relating to administrative law.
- C.** The director shall:
  - 1. Serve as the chief administrative law judge of the office.
  - 2. Make and execute the contracts and other instruments that are necessary to perform the director's duties.
  - 3. Hire employees, including full-time administrative law judges, and contract for special services, including temporary administrative law judges, that are necessary to carry out this article. An administrative law judge employed or contracted by the office shall have graduated from an accredited college of law or shall have at least two years of administrative or managerial experience in the subject matter or agency section the administrative law judge is assigned to in the office.
  - 4. Make rules that are necessary to carry out this article, including rules governing ex parte communications in contested cases.
  - 5. Submit a report to the governor, speaker of the house of representatives and president of the senate by November

I of each year describing the activities and accomplishments of the office. The director's annual report shall include a summary of the extent and effect of agencies' utilization of administrative law judges, court reporters and other personnel in proceedings under this article and recommendations for changes or improvements in the administrative procedure act or any agency's practice or policy with respect to the administrative procedure act.

6. Secure, compile and maintain all decisions, opinions or reports of administrative law judges issued pursuant to this article and the reference materials and supporting information that may be appropriate.
  7. Develop, implement and maintain a program for the continuing training and education of administrative law judges and agencies in regard to their responsibilities under this article. The program shall require that an administrative law judge receive training in the technical and subject matter areas of the sections to which the administrative law judge is assigned.
  8. Develop, implement and maintain a program of evaluation to aid the director in the evaluation of administrative law judges appointed pursuant to this article that includes comments received from the public.
  9. Annually report the following to the governor, the president of the senate and the speaker of the house of representatives by December 1 for the prior fiscal year:
    - (a) The number of administrative law judge decisions rejected or modified by agency heads.
    - (b) By category, the number and disposition of motions filed pursuant to section 41-1092.07, subsection A to disqualify office administrative law judges for bias, prejudice, personal interest or lack of expertise.
    - (c) By agency, the number and type of violations of section 41-1009.
  10. Schedule hearings pursuant to section 41-1092.05 upon the request of an agency or the filing of a notice of appeal pursuant to section 41-1092.03.
- D.** The director shall not require legal representation to appear before an administrative law judge.
- E.** Except as provided in subsection F of this section, all state agencies supported by state general fund sources, unless exempted by this article, and the registrar of contractors shall use the services and personnel of the office to conduct administrative hearings. All other agencies shall contract for services and personnel of the office to conduct administrative hearings.
- F.** An agency head, board or commission that directly conducts an administrative hearing as an administrative law judge is not required to use the services and personnel of the office for that hearing.
- G.** Each state agency, and each political subdivision contracting for office services pursuant to subsection I of this section, shall make its facilities available, as necessary, for use by the office in conducting proceedings pursuant to this article.
- H.** The office shall employ full-time administrative law judges to conduct hearings required by this article or other laws as follows:
1. The director shall assign administrative law judges from the office to an agency, on either a temporary or a permanent basis, at supervisory or other levels, to preside over contested cases and appealable agency actions in accordance with the special expertise of the administrative law judge in the subject matter of the agency.
  2. The director shall establish the subject matter and agency sections within the office that are necessary to carry out this article. Each subject matter and agency section shall provide training in the technical and subject matter areas of the section as prescribed in subsection C, paragraph 7 of this section.
- I.** If the office cannot furnish an office administrative law judge promptly in response to an agency request, the director may contract with qualified individuals to serve as temporary administrative law judges. These temporary administrative law judges are not employees of this state.
- J.** The office may provide administrative law judges on a contract basis to any governmental entity to conduct any hearing not covered by this article. The director may enter into contracts with political subdivisions of this state, and these political subdivisions may contract with the director for the purpose of providing administrative law judges and reporters for administrative proceedings or informal dispute resolution. The contract may define the scope of the administrative law judge's duties. Those duties may include the preparation of findings, conclusions, decisions or recommended decisions or a recommendation for action by the political subdivision. For these services, the director shall request payment for services directly from the political subdivision for which the services are performed, and the director may accept payment on either an advance or reimbursable basis.
- K.** The office shall apply monies received pursuant to subsections E and J of this section to offset its actual costs for providing personnel and services.
- § 41-1092.02. Appealable agency actions; application of procedural rules; exemption from article**
- A.** This article applies to all contested cases as defined in section 41-1001 and all appealable agency actions, except contested cases with or appealable agency actions of:
1. The state department of corrections.
  2. The board of executive clemency.
  3. The industrial commission of Arizona.
  4. The Arizona corporation commission.
  5. The Arizona board of regents and institutions under its jurisdiction.
  6. The state personnel board.
  7. The department of juvenile corrections.
  8. The department of transportation.
  9. The department of economic security except as provided in sections 8-506.01, 8-811 and 46-458.
  10. The department of revenue regarding:
    - (a) Income tax, withholding tax or estate tax.
    - (b) Any tax issue related to information associated with the reporting of income tax, withholding tax or estate tax unless the taxpayer requests in writing that this article apply and waives confidentiality under title 42, chapter 2, article 1.
  11. The board of tax appeals.
  12. The state board of equalization.
  13. The state board of education, but only in connection with contested cases and appealable agency actions related to applications for issuance or renewal of a certificate and discipline of certificate holders pursuant to sections 15-203, 15-534, 15-534.01, 15-535, 15-545 and 15-550.
  14. The board of fingerprinting.
- B.** Unless waived by all parties, an administrative law judge shall conduct all hearings under this article, and the procedural rules set forth in this article and rules made by the director apply.
- C.** Except as provided in subsection A of this section:
1. A contested case heard by the office of administrative hearings regarding taxes administered under title 42 shall be subject to the provisions under section 42-1251.
  2. A final decision of the office of administrative hearings regarding taxes administered under title 42 may be

## Section 6. Administrative Procedure Act

appealed by either party to the director of the department of revenue, or a taxpayer may file and appeal directly to the board of tax appeals pursuant to section 42-1253.

- D. Except as provided in subsections A, B, E, F and G of this section and notwithstanding any other administrative proceeding or judicial review process established in statute or administrative rule, this article applies to all appealable agency actions and to all contested cases.
- E. Except for a contested case or an appealable agency action regarding unclaimed property, sections 41-1092.03, 41-1092.08 and 41-1092.09 do not apply to the department of revenue.
- F. The board of appeals established by section 37-213 is exempt from:
  - 1. The time frames for hearings and decisions provided in section 41-1092.05, subsection A, section 41-1092.08 and section 41-1092.09.
  - 2. The requirement in section 41-1092.06, subsection A to hold an informal settlement conference at the appellant's request if the sole subject of an appeal pursuant to section 37-215 is the estimate of value reported in an appraisal of lands or improvements.
- G. Auction protest procedures pursuant to title 37, chapter 2, article 4.1 are exempt from this article.

### **§ 41-1092.03. Notice of appealable agency action or contested case; hearing; informal settlement conference; applicability**

- A. Except as provided in subsection D of this section, an agency shall serve notice of an appealable agency action or contested case pursuant to section 41-1092.04. The notice shall:
  - 1. Identify the statute or rule that is alleged to have been violated or on which the action is based.
  - 2. Identify with reasonable particularity the nature of any alleged violation, including, if applicable, the conduct or activity constituting the violation.
  - 3. Include a description of the party's right to request a hearing on the appealable agency action or contested case.
  - 4. Include a description of the party's right to request an informal settlement conference pursuant to section 41-1092.06.
- B. A party may obtain a hearing on an appealable agency action or contested case by filing a notice of appeal or request for a hearing with the agency within thirty days after receiving the notice prescribed in subsection A of this section. The notice of appeal or request for a hearing may be filed by a party whose legal rights, duties or privileges were determined by the appealable agency action or contested case. A notice of appeal or request for a hearing also may be filed by a party who will be adversely affected by the appealable agency action or contested case and who exercised any right provided by law to comment on the action being appealed or contested, provided that the grounds for the notice of appeal or request for a hearing are limited to issues raised in that party's comments. The notice of appeal or request for a hearing shall identify the party, the party's address, the agency and the action being appealed or contested and shall contain a concise statement of the reasons for the appeal or request for a hearing. The agency shall notify the office of the appeal or request for a hearing and the office shall schedule an appeal or contested case hearing pursuant to section 41-1092.05, except as provided in section 41-1092.01, subsection F.
- C. If good cause is shown an agency head may accept an appeal or request for a hearing that is not filed in a timely manner.
- D. This section does not apply to a contested case if the agency:

- 1. Initiates the contested case hearing pursuant to law other than this chapter and not in response to a request by another party.
- 2. Is not required by law, other than this chapter, to provide an opportunity for an administrative hearing before taking action that determines the legal rights, duties or privileges of an applicant for a license.

### **§ 41-1092.04. Service of documents**

Unless otherwise provided in this article, every notice or decision under this article shall be served by personal delivery or certified mail, return receipt requested, or by any other method reasonably calculated to effect actual notice on the agency and every other party to the action to the party's last address of record with the agency. Each party shall inform the agency and the office of any change of address within five days of the change.

### **41-1092.05. Scheduling of hearings; prehearing conferences**

- A. Except as provided in subsections B and C, hearings for:
  - 1. Appealable agency actions shall be held within sixty days after the notice of appeal is filed.
  - 2. Contested cases shall be held within sixty days after the agency's request for a hearing.
- B. Hearings for appealable agency actions of or contested cases with self-supporting regulatory boards that meet quarterly or less frequently shall be held at the next meeting of the board after the board receives the written decision of an administrative law judge or the issuance of the notice of hearing, except that:
  - 1. If the decision of the administrative law judge is received or the notice of hearing is issued within thirty days before the board meets, the hearing shall be held at the following meeting of the board.
  - 2. If good cause is shown, the hearing may be held at a later meeting of the board.
- C. The date scheduled for the hearing may be advanced or delayed on the agreement of the parties or on a showing of good cause.
- D. The agency shall prepare and serve a notice of hearing on all parties to the appeal or contested case at least thirty days before the hearing. The notice shall include:
  - 1. A statement of the time, place and nature of the hearing.
  - 2. A statement of the legal authority and jurisdiction under which the hearing is to be held.
  - 3. A reference to the particular sections of the statutes and rules involved.
  - 4. A short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. After the initial notice and on application, a more definite and detailed statement shall be furnished.
- E. Notwithstanding subsection D, a hearing shall be expedited as provided by law or upon a showing of extraordinary circumstances or the possibility of irreparable harm if the parties to the appeal or contested case have actual notice of the hearing date. Any party to the appeal or contested case may file a motion with the director asserting the party's right to an expedited hearing. The right to an expedited hearing shall be listed on any abatement order. The Arizona health care cost containment system administration may file a motion with every member grievance and eligibility appeal that cites federal law and that requests that a hearing be set within thirty days after the motion is filed.
- F. Prehearing conferences may be held to:
  - 1. Clarify or limit procedural, legal or factual issues.

2. Consider amendments to any pleadings.
3. Identify and exchange lists of witnesses and exhibits intended to be introduced at the hearing.
4. Obtain stipulations or rulings regarding testimony, exhibits, facts or law.
5. Schedule deadlines, hearing dates and locations if not previously set.
6. Allow the parties opportunity to discuss settlement.

**§ 41-1092.06. Appeals of agency actions; informal settlement conferences; applicability**

- A. If requested by the appellant of an appealable agency action, the agency shall hold an informal settlement conference within fifteen days after receiving the request. A request for an informal settlement conference shall be in writing and shall be filed with the agency no later than twenty days before the hearing. If an informal settlement conference is requested, the agency shall notify the office of the request and the outcome of the conference, except as provided in section 41-1092.01, subsection F. The request for an informal settlement conference does not toll the sixty day period in which the administrative hearing is to be held pursuant to section 41-1092.05.
- B. If an informal settlement conference is held, a person with the authority to act on behalf of the agency must represent the agency at the conference. The agency representative shall notify the appellant in writing that statements, either written or oral, made by the appellant at the conference, including a written document, created or expressed solely for the purpose of settlement negotiations are inadmissible in any subsequent administrative hearing. The parties participating in the settlement conference shall waive their right to object to the participation of the agency representative in the final administrative decision.

**§ 41-1092.07. Hearings**

- A. A party to a contested case or appealable agency action may file a nonperemptory motion with the director to disqualify an office administrative law judge from conducting a hearing for bias, prejudice, personal interest or lack of technical expertise necessary for a hearing.
- B. The parties to a contested case or appealable agency action have the right to be represented by counsel or to proceed without counsel, to submit evidence and to cross-examine witnesses.
- C. The administrative law judge may issue subpoenas to compel the attendance of witnesses and the production of documents. The subpoenas shall be served and, on application to the superior court, enforced in the manner provided by law for the service and enforcement of subpoenas in civil matters. The administrative law judge may administer oaths and affirmations to witnesses.
- D. All parties shall have the opportunity to respond and present evidence and argument on all relevant issues. All relevant evidence is admissible, but the administrative law judge may exclude evidence if its probative value is outweighed by the danger of unfair prejudice, by confusion of the issues or by considerations of undue delay, waste of time or needless presentation of cumulative evidence. The administrative law judge shall exercise reasonable control over the manner and order of cross-examining witnesses and presenting evidence to make the cross-examination and presentation effective for ascertaining the truth, avoiding needless consumption of time and protecting witnesses from harassment or undue embarrassment.
- E. All hearings shall be recorded. The administrative law judge shall secure either a court reporter or an electronic means of

producing a clear and accurate record of the proceeding at the agency's expense. Any party that requests a transcript of the proceeding shall pay the costs of the transcript to the court reporter or other transcriber.

- F. Unless otherwise provided by law, the following apply:
  1. A hearing may be conducted in an informal manner and without adherence to the rules of evidence required in judicial proceedings. Neither the manner of conducting the hearing nor the failure to adhere to the rules of evidence required in judicial proceedings is grounds for reversing any administrative decision or order if the evidence supporting the decision or order is substantial, reliable and probative.
  2. Copies of documentary evidence may be received in the discretion of the administrative law judge. On request, parties shall be given an opportunity to compare the copy with the original.
  3. Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise of the material noticed including any staff memoranda or data and they shall be afforded an opportunity to contest the material so noticed. The agency's experience, technical competence and specialized knowledge may be used in the evaluation of the evidence.
  4. On application of a party or the agency and for use as evidence, the administrative law judge may permit a deposition to be taken, in the manner and on the terms designated by the administrative law judge, of a witness who cannot be subpoenaed or who is unable to attend the hearing. Subpoenas for the production of documents may be ordered by the administrative law judge if the party seeking the discovery demonstrates that the party has reasonable need of the materials being sought. All provisions of law compelling a person under subpoena to testify are applicable. Fees for attendance as a witness shall be the same as for a witness in court, unless otherwise provided by law or agency rule. Notwithstanding section 12-2212, subpoenas, depositions or other discovery shall not be permitted except as provided by this paragraph or subsection C of this section.
  5. Informal disposition may be made by stipulation, agreed settlement, consent order or default.
  6. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.
  7. A final administrative decision shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.
- G. Except as otherwise provided by law:
  1. At a hearing on an agency's denial of a license or permit or a denial of an application or request for modification of a license or permit, the applicant has the burden of persuasion.
  2. At a hearing on an agency action to suspend, revoke, terminate or modify on its own initiative material conditions of a license or permit, the agency has the burden of persuasion.
  3. At a hearing on an agency's imposition of fees or penalties or any agency compliance order, the agency has the burden of persuasion.
  4. At a hearing held pursuant to title 41, chapter 23 or 24, the appellant or claimant has the burden of persuasion.

## Section 6. Administrative Procedure Act

- H.** Subsection G of this section does not affect the law governing burden of persuasion in an agency denial of, or refusal to issue, a license renewal.

### § 41-1092.08. Final administrative decisions; review

- A.** The administrative law judge of the office shall issue a written decision within twenty days after the hearing is concluded. The written decision shall contain a concise explanation of the reasons supporting the decision. The administrative law judge shall serve a copy of the decision on the agency. Upon request of the agency, the office shall also transmit to the agency the record of the hearing as described in section 12-904, except as provided in section 41-1092.01, subsection F.
- B.** Within thirty days after the date the office sends a copy of the administrative law judge's decision to the head of the agency, executive director, board or commission, the head of the agency, executive director, board or commission may review the decision and accept, reject or modify it. If the head of the agency, executive director, board or commission declines to review the administrative law judge's decision, the agency shall serve a copy of the decision on all parties. If the head of the agency, executive director, board or commission rejects or modifies the decision the agency head, executive director, board or commission must file with the office, except as provided in section 41-1092.01, subsection F, and serve on all parties a copy of the administrative law judge's decision with the rejection or modification and a written justification setting forth the reasons for the rejection or modification.
- C.** A board or commission whose members are appointed by the governor may review the decision of the agency head, as provided by law, and make the final administrative decision.
- D.** Except as otherwise provided in this subsection, if the head of the agency or a board or commission does not accept, reject or modify the administrative law judge's decision within thirty days after the date the office sends a copy of the administrative law judge's decision to the head of the agency, executive director, board or commission, as evidenced by receipt of such action by the office by the thirtieth day the office shall certify the administrative law judge's decision as the final administrative decision. If the board or commission meets monthly or less frequently, if the office sends the administrative law judge's decision at least thirty days before the next meeting of the board or commission and if the board or commission does not accept, reject or modify the administrative law judge's decision at the next meeting of the board or commission, as evidenced by receipt of such action by the office within five days after the meeting the office shall certify the administrative law judge's decision as the final administrative decision.
- E.** For the purposes of subsections B and D of this section, a copy of the administrative law judge's decision is sent on personal delivery of the decision or five days after the decision is mailed to the head of the agency, executive director, board or commission.
- F.** The decision of the agency head is the final administrative decision unless either:
1. The agency head, executive director, board or commission does not review the administrative law judge's decision pursuant to subsection B of this section or does not reject or modify the administrative law judge's decision as provided in subsection D of this section, in which case the administrative law judge's decision is the final administrative decision.
  2. The decision of the agency head is subject to review pursuant to subsection C of this section.
- G.** If a board or commission whose members are appointed by the governor makes the final administrative decision as an admin-

istrative law judge or upon review of the decision of the agency head, the decision is not subject to review by the head of the agency.

- H.** A party may appeal a final administrative decision pursuant to title 12, chapter 7, article 6, except as provided in section 41-1092.09, subsection B and except that if a party has not requested a hearing upon receipt of a notice of appealable agency action pursuant to section 41-1092.03, the appealable agency action is not subject to judicial review.
- I.** This section does not apply to the Arizona peace officer standards and training board established by section 41-1821.

### § 41-1092.09. Rehearing or review

- A.** Except as provided in subsection B of this section:
1. A party may file a motion for rehearing or review within thirty days after service of the final administrative decision.
  2. The opposing party may file a response to the motion for rehearing within fifteen days after the date the motion for rehearing is filed.
  3. After a hearing has been held and a final administrative decision has been entered pursuant to section 41-1092.08, a party is not required to file a motion for rehearing or review of the decision in order to exhaust the party's administrative remedies.
- B.** A party to an appealable agency action of or contested case with a self-supporting regulatory board shall exhaust the party's administrative remedies by filing a motion for rehearing or review within thirty days after the service of the administrative decision that is subject to rehearing or review in order to be eligible for judicial review pursuant to title 12, chapter 7, article 6. The board shall notify the parties in the administrative decision that is subject to rehearing or review that a failure to file a motion for rehearing or review within thirty days after service of the decision has the effect of prohibiting the parties from seeking judicial review of the board's decision.
- C.** Service is complete on personal service or five days after the date that the final administrative decision is mailed to the party's last known address.
- D.** Except as provided in this subsection, the agency head, executive director, board or commission shall rule on the motion within fifteen days after the response to the motion is filed or, if a response is not filed, within five days of the expiration of the response period. A self-supporting regulatory board shall rule on the motion within fifteen days after the response to the motion is filed or at the board's next meeting after the motion is received, whichever is later.

### § 41-1092.10. Compulsory testimony; privilege against self-incrimination

- A.** A person may not refuse to attend and testify or produce evidence sought by an agency in an action, proceeding or investigation instituted by or before the agency on the ground that the testimony or evidence, documentary or otherwise, required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture unless it constitutes the compelled testimony or the private papers of the person that would be privileged evidence either pursuant to the fifth amendment of the Constitution of the United States or article II, section 10, Constitution of Arizona, and the person claims the privilege before the production of the testimony or papers.
- B.** If a person asserts the privilege against self-incrimination and the agency seeks to compel production of the testimony or documents sought, the office or agency as provided in section 41-1092.01, subsection F may issue, with the prior written approval of the attorney general, a written order compelling

the testimony or production of documents in proceedings and investigations before the office or agency as provided in section 41-1092.01, subsection F or apply to the appropriate court for such an order in other actions or proceedings.

- C. Evidence produced pursuant to subsection B of this section is not admissible in evidence or usable in any manner in a criminal prosecution, except for perjury, false swearing, tampering with physical evidence or any other offense committed in connection with the appearance made pursuant to this section against the person testifying or the person producing the person's private papers.

**§ 41-1092.11. Licenses; renewal; revocation; suspension; annulment; withdrawal**

- A. If a licensee makes timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, the existing license does not expire until the application has been finally determined by the agency, and, in case the application is denied or the terms of the new license limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.
- B. Revocation, suspension, annulment or withdrawal of any license is not lawful unless, before the action, the agency provides the licensee with notice and an opportunity for a hearing in accordance with this article. If the agency finds that the public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, the agency may order summary suspension of a license pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

**§ 41-1092.12. Private right of action; recovery of costs and fees; definitions**

- A. If an agency takes an action against a party that is arbitrary, capricious or not in accordance with law, the action is an appealable agency action if all of the following apply:
1. Within ten days after the action that is arbitrary, capricious or not in accordance with law, the party notifies the director of the agency in writing of the party's intent to file a claim pursuant to this section. This notice shall include a description of the action the party claims to be arbitrary, capricious or not in accordance with law and reasons why the action is arbitrary, capricious or not in accordance with law.

2. The agency continues the action that is arbitrary, capricious or not in accordance with law more than ten days after the agency receives the notice.
  3. The action is not excluded from the definition of appealable agency action as defined in section 41-1092.
- B. This section only applies if an administrative remedy or an administrative or a judicial appeal of final agency action is not otherwise provided by law.
- C. If the party prevails, the agency shall pay reasonable costs and fees to the party from any monies appropriated to the agency and available for that purpose or from other operating monies of the agency. If the agency fails or refuses to pay the award within fifteen days after the demand, and if no further review or appeal of the award is pending, the prevailing party may file a claim with the department of administration. The department of administration shall pay the claim within thirty days in the same manner as an uninsured property loss under title 41, chapter 3.1, article 1, except that the agency is responsible for the total amount awarded and shall pay it from its operating monies. If the agency had appropriated monies available for paying the award at the time it failed or refused to pay, the legislature shall reduce the agency's operating appropriation for the following fiscal year by the amount of the award and shall appropriate that amount to the department of administration as reimbursement for the loss.
- D. If the administrative law judge determines that the appealable agency action is frivolous, the administrative law judge may require the party to pay reasonable costs and fees to the agency in responding to the appeal filed before the office of administrative hearings.
- E. For the purposes of this section:
1. "Action against the party" means any of the following that results in the expenditure of costs and fees:
    - (a) A decision.
    - (b) An inspection.
    - (c) An investigation.
    - (d) The entry of private property.
  2. "Agency" means the department of environmental quality established pursuant to title 49, chapter 1, article 1.
  3. "Costs and fees" means reasonable attorney and professional fees.
  4. "Party" means an individual, partnership, corporation, association and public or private organization at whom the action was directed and who has expended costs and fees as a result of the action against the party.

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# Section 7

## Rules of the Office of the Secretary of State

*Editor's Note: The Chapter printed here is not the official version of the Arizona Administrative Code.*

### TITLE 1. RULES AND THE RULEMAKING PROCESS

#### CHAPTER 1. SECRETARY OF STATE RULES AND RULEMAKING

##### ARTICLE 1. GENERAL PROVISIONS

Section	
R1-1-101.	Definitions
R1-1-102.	Codification Outline
R1-1-103.	Submission Requirements for Publication and Filing
R1-1-104.	Submitting Material for Publication
R1-1-105.	Certificates
R1-1-106.	Receipts
R1-1-107.	Filing Location
R1-1-108.	Editing and Relabeling by the Office
R1-1-109.	Correction of Errors
R1-1-110.	Effective Date
R1-1-111.	Repealed
R1-1-112.	Public Inspection of Documents; Copies
R1-1-113.	Fees
R1-1-114.	Official Distribution of the <i>Register</i> and the <i>Code</i> at No Charge

##### ARTICLE 2. THE ARIZONA ADMINISTRATIVE REGISTER

Section	
R1-1-201.	Publication Schedule and Deadlines
R1-1-202.	Contents
R1-1-203.	Repealed
R1-1-204.	Repealed
R1-1-205.	Notice of Rulemaking Docket Opening
R1-1-206.	Notice of Formal Rulemaking Advisory Committee
R1-1-207.	Repealed
R1-1-208.	Notice of Proposed Delegation Agreement; Notice of Final Delegation Agreement
R1-1-209.	Notice of Oral Proceeding, Public Workshop, or Other Meeting
R1-1-210.	Notice of Agency Guidance Document; Notice of Substantive Policy Statement
R1-1-211.	Summary of Council Action
R1-1-212.	Agency Ombudsman

##### ARTICLE 3. THE ARIZONA ADMINISTRATIVE CODE

Section	
R1-1-301.	Development of the <i>Code</i>
R1-1-302.	Publication of the <i>Code</i> and its Supplements
R1-1-303.	Repealed
R1-1-304.	Repealed
R1-1-305.	Repealed
R1-1-306.	Repealed
R1-1-307.	Repealed
R1-1-308.	Repealed

##### ARTICLE 4. RULE DRAFTING

Section	
R1-1-401.	Rule Drafting
R1-1-402.	Assignment of <i>Code</i> Divisions; Headings

R1-1-403.	Numbering System
R1-1-404.	Renumbering Sections within a Chapter
R1-1-405.	Addition of a New Section Between Existing Sections
R1-1-406.	Repeal and Re-use of a Chapter
R1-1-407.	Authority Notes
R1-1-408.	Text of the Rules; Subsections
R1-1-409.	Citations to the <i>Code</i> , <i>Register</i> , Statutes, and Federal Laws and Rules
R1-1-410.	Repealed
R1-1-411.	Automatic Repeal of Rules
R1-1-412.	Supplementary Material
R1-1-413.	Statutory Language; Italics
R1-1-414.	Incorporation by Reference; Citation of Referenced Material
R1-1-415.	Rulemaking Actions for an Article, Part, Section, Table, Appendix or Exhibit

##### ARTICLE 5. PROPOSED RULEMAKING

Section	
R1-1-501.	Assignment of Chapters
R1-1-502.	Notice of Proposed Rulemaking
R1-1-503.	Public Comment Period
R1-1-504.	Oral Proceedings on Proposed Rulemaking
R1-1-505.	Close of the Record
R1-1-506.	Notice of Termination of Rulemaking
R1-1-507.	Notice of Supplemental Proposed Rulemaking

##### ARTICLE 6. FINAL RULEMAKING

Section	
R1-1-601.	Preparation and Filing of a Final Rulemaking Package
R1-1-602.	Notice of Final Rulemaking

##### ARTICLE 7. EMERGENCY RULEMAKING

Section	
R1-1-701.	Notice of Emergency Rulemaking

##### ARTICLE 8. SUMMARY RULEMAKING

Section	
R1-1-801.	Notice of Summary Rulemaking

##### ARTICLE 9. EXEMPT RULEMAKING

Section	
R1-1-901.	Exempt Rulemaking
R1-1-902.	Notice of Exempt Rulemaking

##### ARTICLE 10. RECODIFICATION

Section	
R1-1-1001.	Notice of Recodification

**ARTICLE 1. GENERAL PROVISIONS**

**R1-1-101. Definitions**

The following definitions apply in this Chapter unless the context otherwise requires:

“Act” means A.R.S. §§ 41-1001 et seq., the Administrative Procedure Act.

“Agency” has the same meaning as in A.R.S. § 41-1001.

“Amendment” means a change to:

- A Section, including added or deleted language;
- A Part, by the addition or repeal of one or more Sections;
- An Article, by the addition or repeal of one or more Sections or Parts;
- A Subchapter, by the addition or repeal of one or more Articles, Parts, or Sections; or
- A Chapter, by the addition or repeal of one or more Subchapters, Articles, Parts, or Sections.

“Appendix” means supplementary material to a set of rules, written in prose format.

“Arizona Rulemaking Manual” means the guide prepared by and available from the Office for use by agencies when engaged in rulemaking.

“A.R.S.” means the Arizona Revised Statutes, the laws of the state of Arizona.

“Article” means a division of an agency’s rules under a Chapter containing a unified set of rules.

“Authority” means the statutory right or power to make, amend, or repeal rules.

“Authority note” means the information, not a part of the rule, appearing at the beginning of a Chapter, Subchapter, Article, or Part that cites the implementing and authorizing statutes for the rules appearing in that Chapter, Subchapter, Article, or Part.

“Chapter” means a division in the codification of the *Code* designating a state agency or, for a large agency, a major program.

“Close of record” means the last date on which an agency accepts comments, either written or oral, on a rulemaking.

“Code” means the *Arizona Administrative Code* published under A.R.S. § 41-1011.

“Codification” means the labeling and numbering scheme for the rules contained in the *Code*.

“Commercial purpose” has the same meaning as in A.R.S. § 39-121.03.

“Council” means the Governor’s Regulatory Review Council established under A.R.S. § 41-1051.

“Economic, Small Business, and Consumer Impact Statement” means the document that an agency makes to show that the agency has studied the rule’s economic impact on the regulated community as well as the impact on small businesses and consumers.

“Electronic media” or “electronic medium” means any type of material for data storage used by a computer.

“Emergency rule” has the same meaning as in A.R.S. § 41-1001.

“Exempt rule” means a rule that is exempt from the provisions of the Act. “Exempt rule” does not include a rule that is exempt only from Council review.

“Exhibit” means supplementary material used for items that do not fit the definition of an Appendix, Table, or Illustration.

“Heading” means the caption for any level of division within the *Code*.

“Historical note” means the note appearing after each Section of a Chapter, or after each separate Appendix, Exhibit, Illustration, or Table, in the *Code* that gives the history of that particular Section, Appendix, Exhibit, Illustration, or Table, including the action, the *Register* citation, the effective date, and the *Code* Supplement number in which the Section, Appendix, Exhibit, Illustration, or Table was published.

“Illustration” means supplementary material used for diagrams, pictures, and other graphics.

“Label” means the number or letter that is assigned to a division of the *Code* and to its subsections and that identifies the particular *Code* division or subsection.

“Notice form” means the form prescribed by the Office that an agency uses when submitting material to the Office for filing or publication.

“Office” means the Office of the Secretary of State, Public Services Division.

“Part” means a division of the *Code* between Article and Section.

“Public record,” for purposes of this Chapter, means the rule-making documents as filed by state agencies with the Secretary of State, the rules as published by the Secretary of State in either the *Code* or the *Register*, or the rules as generated in any electronic format by the Secretary of State.

“Register” means the *Arizona Administrative Register*, published under A.R.S. § 41-1013.

“Renumbering” means changing the numbers of one or more whole Sections. Renumbering does not include changing the labels of subsections within a Section.

“Repeal” means to rescind a rule by removing it from the *Code*.

“Rule” means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedure or practice requirements of an agency. Rule includes prescribing fees or the amendment or repeal of a prior rule but does not include intra-agency memoranda that are not delegation agreements. A.R.S. § 41-1001(17)

“Rulemaking” or “rulemaking activity” means the process a state agency uses to make, amend, or repeal a rule.

“Rulemaking package” or “rulemaking documents” means all material filed as a unit with the Office as part of rulemaking.

“Section” means an individual rule that is a unit of an Article or Part.

“Section number” means the number that identifies a Section.

“Subchapter” means a division of the *Code* between Chapter and Article.

“Subsection” means a division of a Section of the *Code*.

“Summary rule” means a rule made under A.R.S. § 41-1027.

“Supplement” means a quarterly update to the *Code*.

“Table” means supplementary material containing tabular information.

“Title” means a subject area in the codification of the *Code*.

**R1-1-102. Codification Outline**

- A.** All rules made, amended, renumbered, recodified, or repealed and filed with the Office after September 30, 1992, will be published in the *Register* or the *Code*, as appropriate under:
1. The Act, or
  2. Exempt from all or part of the rulemaking process as required in:
    - a. The Act, or
    - b. Arizona Revised Statute, or
    - c. As provided in the Constitution of Arizona.
- B.** Rules shall be published within the following Titles:
1. Title 1. Rules and the Rulemaking Process
  2. Title 2. Administration
  3. Title 3. Agriculture
  4. Title 4. Professions and Occupations
  5. Title 5. Corrections
  6. Title 6. Economic Security
  7. Title 7. Education
  8. Title 8. Emergency and Military Affairs
  9. Title 9. Health Services
  10. Title 10. Law
  11. Title 11. Mines
  12. Title 12. Natural Resources
  13. Title 13. Public Safety
  14. Title 14. Public Service Corporations; Corporations and Associations; Securities Regulation
  15. Title 15. Revenue
  16. Title 16. Tax Appeals
  17. Title 17. Transportation
  18. Title 18. Environmental Quality
  19. Title 19. Alcohol, Horse and Dog Racing, Lottery, and Gaming
  20. Title 20. Commerce, Financial Institutions, and Insurance

**R1-1-103. Submission Requirements for Publication and Filing**

- A.** An agency submitting material for filing or publication in the *Register* or *Code* shall send one original and two copies to the Office.
- B.** All pages of an original document and all copies, including all receipts and certificates accompanying the document, shall be printed on one side. All pages shall have a one-inch margin on all edges. All pages of the original document shall be double-spaced or spaced space-and-a-half. The following may be single-spaced:
1. The Economic, Small Business, and Consumer Impact Statement; and
  2. Incorporated-by-reference material.
- C.** The text and images on all original pages and copies shall appear clear and legible. The Office shall return to the agency a rulemaking package that does not contain an original of both the text and all supplementary material. An agency shall not use a text font size smaller than 9 point or larger than 12 point.
- D.** An agency shall file only one Chapter per notice for any rulemaking activity. If an agency files more than one Chapter per notice, the Office shall return the notice to the agency.
- E.** All rulemaking packages submitted for publication shall meet the following requirements:
1. The original shall not be stapled, nor shall it or any of the copies be hole punched. The Office shall not accept pleading paper, with numbers and vertical lines along the right- or left-hand margins.
  2. Each document containing rules or relating to the rulemaking process submitted for publication shall specify on the notice or on the Preamble, as applicable, the *Code* citation, *Code* divisions, and the specific Sections

involved. Subsections shall not be specified in the column headed "Sections Affected." Articles, Parts, and Subchapters shall be specified if their labels or headings are being changed or if the Articles, Parts, and Subchapters are being added to the Chapter or repealed in their entirety.

3. Underlining shall be used for text added to rules. This includes new language for a Chapter, Article, or existing Section, the addition of an entire Section, the addition of new language in existing supplementary material, or the addition of new supplementary material. Underlining shall not be used in the text of rules for any other purpose.
  4. The Preamble of a rulemaking package shall not contain footnotes or endnotes. This subsection does not apply to the Economic, Small Business, and Consumer Impact Statement and material that is incorporated by reference.
  5. A table of contents listing all Sections and other divisions of the Chapter on which rulemaking is taking place shall be included in the rulemaking package after the last item in the Preamble and before the text of the first Section. Sections, Articles, or Parts, if applicable, not having rulemaking action taken in a particular rulemaking package shall not be included in the table of contents. The table of contents shall not include page numbers to the various Sections in the rulemaking, nor shall it be labeled "Table of Contents."
  6. Pages in the package shall be consecutively numbered, from the first page of the Preamble through the last page of the text of the rules or supplementary material appearing at the end of the rulemaking package.
  7. An agency shall compile a rulemaking package before submitting it to the Office. An agency shall place the receipts on top of the entire submission and place the original package and each copy of the items listed below in the following order:
    - a. The Council certificate of approval or the Attorney General certificate of approval, if applicable;
    - b. The agency certificate;
    - c. The notice, including the Preamble;
    - d. The table of contents;
    - e. The text of the rule including supplementary material within the rules;
    - f. The Economic, Small Business, and Consumer Impact Statement, if applicable; and
    - g. Incorporated-by-reference material and other information required to be filed with the rule (compiled only with the original rule package).
- F.** The Office shall not accept but shall return to the agency a rulemaking package that does not meet the requirements of this Chapter.

**R1-1-104. Submitting Material for Publication**

- A.** An agency submitting a rulemaking package or other notice, as specified in the Act and this Chapter, to the Office for publication in the *Register* shall follow deadlines established by the Office and published in the *Register*.
- B.** An agency shall submit its rulemaking package in paper copy and in an electronic medium. All electronic media submissions shall be compatible with the Office's computer system and software. An agency shall not save electronic format rules as templates.
- C.** Information other than rulemaking notices required by law to be published in the *Register* shall be submitted to the Office in an electronic medium and in paper copy. This information includes agency ombudsmen names and addresses, notices of substantive policy statements, notices of guidance documents,

## Section 7. Rules of the Office of the Secretary of State

notices of proposed and final delegation agreements, and notices of formal rulemaking advisory committees.

- D.** An agency shall use the correct notice form prescribed by the Office when submitting material to the Office for publication or filing. An agency shall contact the Office when using a form not prescribed by the Office.

### **R1-1-105. Certificates**

- A.** An agency certificate shall accompany each rulemaking package. The Office shall not consider a package submitted to the Office without an agency certificate to be formally filed. The certificate shall be printed on one side and shall state the following:
1. The heading “AGENCY CERTIFICATE” in capital letters centered on a line at least one inch from the top of the page;
  2. The type of notice being submitted, in capital letters centered on a line below “AGENCY CERTIFICATE”; and
  3. The following numbered items:
    - a. The agency name;
    - b. The Chapter heading;
    - c. The *Code* citation for the Chapter;
    - d. The Subchapters, if applicable; the Articles; the Parts, if applicable; and the Sections involved in the rulemaking, in numerical order;
    - e. The signature, in ink, of the agency chief executive officer or designee, attesting that the material being submitted is a true and correct version of the rule proposed or made by the agency. The certificate shall include the printed or typed name of the person signing the form, the person’s title, and the date of signing; and
    - f. For a final rule, a statement that no changes have been made since the Council approved the rule if the rule is subject to Council review and approval.
- B.** A Council certificate of approval shall accompany all final rules subject to Council review. When the Council submits the rules to the Office for an agency, the certificate shall be attached to the rules as approved by the Council. The Office shall not accept any final rulemaking package subject to Council review and approval if the Council certificate of approval is missing or altered in any way.
- C.** An Attorney General certificate of approval or disapproval shall accompany all rules subject to Attorney General review. The certificate shall be attached to the original rulemaking document within the rulemaking package. The Office shall not accept a rulemaking package subject to Attorney General review and approval if the Attorney General certificate of approval or disapproval is missing or altered. If the Attorney General does not approve one or more Sections in the rulemaking, the Attorney General shall prepare a certificate of disapproval listing all Sections not approved and attach it to the package.
- D.** An agency certificate accompanying a rulemaking package containing rules exempt from both Council and Attorney General review shall include the information specified in subsections (A)(1) through (3) and shall include a statement specifying why the rules are exempt from review along with a citation to the statutory or constitutional provision or a citation to the court decision specifying the exemption.
- E.** On an agency certificate, the agency chief executive officer’s name and title shall be typed under the signature and the date of signing shall be indicated. If a designee signs the certificate, the designee’s name and title shall be typed under the signature and the date of signing shall be indicated. The Office shall not

accept an agency certificate that contains one person’s signature and another person’s typed name.

### **R1-1-106. Receipts**

An agency submitting a rulemaking package or other document to the Office for publication or filing under the Act shall attach at least two copies of a receipt. The Office shall time- and date-stamp all receipts, keep one receipt for its files, and return the other receipts to the agency. The receipt shall be printed on one side and shall state the following:

1. The heading “AGENCY RECEIPT” in capital letters centered on a line at least one inch from the top of the page;
2. The type of notice being submitted, in capital letters centered on a line below “AGENCY RECEIPT”; and
3. The following numbered items:
  - a. The agency’s name; and
  - b. If applicable, the Title, Chapter, Subchapter, Article, Part, and Sections that are contained in the rulemaking package and the rulemaking action occurring on each.

### **R1-1-107. Filing Location**

An agency, the Council, or the Attorney General shall either file rules in person with the Office at the State Capitol Executive Tower, 1700 West Washington, 7th Floor, Phoenix, Arizona, or mail the rules to: Secretary of State, Public Services Division, 1700 West Washington, 7th Floor, Phoenix, Arizona 85007-2888. The Office shall accept a document for filing or publication only if it meets the requirements specified in the Act and this Chapter.

### **R1-1-108. Editing and Relabeling by the Office**

The Office may edit and relabel the text of rules under A.R.S. § 41-1011.

### **R1-1-109. Correction of Errors**

- A.** After a proposed rulemaking package is filed with the Office, an agency may make a substantive change in the text only by filing a supplemental proposed rulemaking package showing the change, as specified in R1-1-507 and A.R.S. § 41-1022(E).
- B.** After a final, proposed summary, final summary, exempt, or emergency rulemaking package is filed with the Office, an agency may request that the Office correct a manifest typographical or clerical error in the text by filing the corrected pages, accompanied by a letter signed by the agency’s chief executive officer or the officer’s designee requesting the Office to correct the error and specifying why the agency considers the error a manifest typographical or clerical error. The corrected pages and the letter shall both indicate the specific changes to be made. Both the original rulemaking package and the corrected pages shall remain on file. An error that the Office considers substantive in nature shall be corrected through the regular rulemaking process.
- C.** If, upon review, an issuing agency discovers an error in its rules as published in the *Code* or *Register*, the agency shall notify the Office in writing about the error.
1. If the error is substantive and was in the document as submitted by the agency, the agency shall go through the regular rulemaking process to correct the error.
  2. If the error is a manifest typographical or clerical error, the agency shall follow the procedure in subsection (B), and the Office shall follow the procedure in subsection (D) to print the correction.
- D.** If the Office finds an error in the printing of a rulemaking package in the *Register* or *Code* or an agency notifies the Office about a manifest typographical or clerical error and follows the procedures specified in this Section, the Office shall

correct the error in the next available issue of the *Register* or supplement to the *Code* if the Office determines that the error would confuse or mislead the reader. If the error would not confuse or mislead the reader or is in a note or heading not considered part of the rule, the Office shall correct the error and publish the correction in the next supplement to the *Code*.

**R1-1-110. Effective Date**

- A.** For a final or emergency rule, the effective date is 60 days after the date of filing in the Office, unless:
1. The Council or the Attorney General approves an effective date earlier than 60 days after the date of filing in the Office, or
  2. An agency specifies an effective date later than 60 days after the date of filing in the Office.
- B.** For a summary rule, the interim effective date is the date the proposed summary rule is published in the *Register*. If the Council approves the summary rule and files it in the Office, the interim effective date becomes the permanent effective date 60 days after the date of filing in the Office.
- C.** For a Notice of Recodification, the effective date is the date of filing in the Office.

**R1-1-111. Repealed**

**R1-1-112. Public Inspection of Documents; Copies**

- A.** Documents filed with the Office under the Act are available for public inspection in the Office during regular office hours. Regular office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday, except state holidays.
- B.** A person may request, during regular office hours, a copy of a rulemaking document on file in the Office. The Office shall charge the per-page statutory copy fee specified in A.R.S. § 41-126(A)(1) for all copy requests.
- C.** The Office shall make available for review incorporated-by-reference material under R1-1-414.
- D.** A person requesting a certified copy of a document filed in the Office shall pay the statutory certification fee plus the per-page statutory copy fee specified in A.R.S. § 41-126(A).
- E.** The Office shall collect the fees listed in R1-1-113 for individual issues of the *Register* or rules published in the *Code* in both print and electronic media.

**R1-1-113. Fees**

- A.** The fees for the *Register*, covering publication and distribution costs, are as follows:
1. For a one-year subscription to the *Register* in print format:
    - a. For noncommercial use: \$276.
    - b. For commercial use: \$5,500.
  2. For a single issue of the *Register* or a single issue of the Semi-annual Index:
    - a. In print format for noncommercial use: \$7;
    - b. In print format for commercial use: \$125;
    - c. On electronic medium for noncommercial use: the cost of computer time at \$35 per hour or portion of an hour;
    - d. On electronic medium for commercial use: \$125 plus the cost of computer time at \$35 per hour or portion of an hour.
- B.** The fees for the printed *Code*, covering publication and distribution costs, are as follows:
1. For noncommercial use:
    - a. For a full set of the *Code*, including binders: \$450.
    - b. For an annual subscription for quarterly updates to the complete set of the *Code*: \$125.

- c. For individual Chapters and Titles:
    - i. For an entire Title: the sum of the charges for all Chapters within the Title as specified in subsection (B)(1)(c)(ii).
    - ii. For a Chapter: \$1 for one to four pages and \$1 for each additional 10 pages or portion of 10 pages.
  - d. For an individual *Code* supplement: the sum of the charges of all Chapters within the supplement, as specified in subsection (B)(1)(c)(ii).
2. For commercial use:
- a. For a full set of the *Code*, including binders: \$15,000.
  - b. For individual Chapters and Titles:
    - i. For a Chapter: \$84.
    - ii. For an entire Title: the sum of the charges for all Chapters within the Title, as specified in subsection (B)(2)(b)(i).
  - c. For an individual *Code* supplement: the sum of the charges of all Chapters within the supplement, as specified in subsection (B)(2)(b)(i).

- C.** The fees for rules on electronic media available to the Office are as follows:
1. For a person, company, organization, business, or governmental agency buying a Chapter on electronic medium for noncommercial use: the cost of computer time at \$35 per hour or portion of an hour.
  2. For a person, company, organization, business, or governmental agency buying a Chapter on electronic medium for a commercial purpose as stated in A.R.S. § 39-121.03: \$85 and computer time at \$35 per hour or portion of an hour.
  3. For a person, company, organization, business, or governmental agency downloading a Chapter from the internet for a commercial purpose as stated in A.R.S. § 39-121.03: \$84.
- D.** The fee for a binder for the *Code*: \$5.
- E.** A purchaser shall pay in advance for materials bought from the Office. Payment shall be made by cash, check, or money order, unless the order is from a governmental agency, in which case a government purchase order or fund transfer form may be used.

**R1-1-114. Official Distribution of the Register and the Code at No Charge**

- A.** The Office shall distribute copies of the *Register* and the *Code* to the following, upon request, without charge:
1. Governor: one copy;
  2. Legislature:
    - a. The Senate: six copies;
    - b. The House of Representatives: six copies;
    - c. The Department of Library, Archives, and Public Records: three copies;
  3. Attorney General: 15 copies;
  4. Supreme Court: one copy;
  5. Counties. Each county law library (or one major public or university library per county if the county does not have a law library): one copy. The County Board of Supervisors shall specify to the Office the library to which the subscription is to be sent when there is no county law library;
  6. Governor's Regulatory Review Council: one copy of the *Register* and one copy of the *Code*.
- B.** The Office may distribute one copy of individual Chapters as printed in a *Code* supplement free of charge to the agency filing the final, summary, emergency, or exempt rule if the agency requests a copy.

**ARTICLE 2. THE ARIZONA ADMINISTRATIVE REGISTER**

**R1-1-201. Publication Schedule and Deadlines**

- A. The Secretary of State shall publish the *Register* under A.R.S. § 41-1013. The Office shall include the schedule of publication dates and deadlines in each issue of the *Register* and shall make copies of the schedule available in the Office. The Office shall publish each document filed and approved for publication in the *Register* according to the published schedule.
- B. The Office shall not waive a deadline for submission of documents for any agency.

**R1-1-202. Contents**

Each issue of the *Register* shall contain all material submitted in the categories specified by A.R.S. §§ 41-1013 and 49-112 and any other items required by state statute or session law to be published in the *Register*.

**R1-1-203. Repealed**

**R1-1-204. Repealed**

**R1-1-205. Notice of Rulemaking Docket Opening**

- A. When a rulemaking docket is established, an agency shall submit a notice of rulemaking docket opening to the Office.
- B. The Notice of Rulemaking Docket Opening shall contain the heading NOTICE OF RULEMAKING DOCKET OPENING in all capital letters centered on a line approximately one inch from the top of the page; followed by the name of the agency below the notice heading centered on the line. The remainder of the notice shall contain the following information in the same numbered order:
  - 1. The Title and its heading; the Chapter and its heading; the Subchapter and its heading, if applicable; the Article and its heading; the Part and its heading, if applicable; and the appropriate Section numbers;
    - a. If an agency does not know specific Sections at the time of docket opening, the agency may specify "Sections to be determined."
    - b. If an agency knows specific Sections but may want to add Sections to the rulemaking as the rulemaking is drafted, the agency shall specify the particular Sections and add the language "Sections may be added, deleted, or modified as necessary."
  - 2. The subject matter of the proposed rule and the agency docket number, if applicable;
  - 3. A citation to all published notices relating to the proceeding, including the type of published notice, the *Register* volume number; the abbreviation "A.A.R."; the page number on which the notice began; and the issue date including month, day, and year;
  - 4. The name and address of agency personnel with whom persons may communicate regarding the proposed rule (this may include a telephone number, fax number, and e-mail address);
  - 5. The time during which the agency will accept written comments and the time and place where oral comments may be made; and
  - 6. A timetable for agency decisions or other action on the proceeding, if known.

**R1-1-206. Notice of Formal Rulemaking Advisory Committee**

- A. If an agency appoints a formal advisory committee to comment on a rule under consideration, the agency shall, at the time the committee is formed, submit to the Office for publica-

tion in the *Register* a Notice of Formal Rulemaking Advisory Committee. The notice shall contain the heading NOTICE OF FORMAL RULEMAKING ADVISORY COMMITTEE in all capital letters, centered on a line approximately one inch from the top of the page and followed by the items listed below in the same numbered order:

- 1. The name of the agency;
  - 2. The specific rule or subject matter on which the committee is to comment, if known;
  - 3. The names of the committee members; and
  - 4. The date the committee was formed.
- B. An agency appointing a formal advisory committee shall submit a notice annually to the Office for publication in the *Register* in the form specified in subsection (A).

**R1-1-207. Repealed**

**R1-1-208. Notice of Proposed Delegation Agreement; Notice of Final Delegation Agreement**

- A. An agency seeking to delegate functions, powers, or duties shall submit to the Office a Notice of Proposed Delegation Agreement that contains the heading NOTICE OF PROPOSED DELEGATION AGREEMENT in all capital letters, centered on a line approximately one inch from the top of the page, followed by the items listed below in the same numbered order:
  - 1. Name of the agency proposing the delegation agreement;
  - 2. Name of the political subdivision to which functions, powers, or duties of the agency are proposed to be delegated;
  - 3. Name and address of agency personnel to whom persons may direct questions or comments;
  - 4. Summary of the delegation agreement and the subjects and issues involved;
  - 5. Statement that a copy of the proposed delegation agreement may be obtained from the agency and any pertinent information on how a person may obtain the copy; and
  - 6. Schedule of public hearings on the proposed delegation agreement.
- B. An agency proposing a delegation agreement shall follow the procedures specified in A.R.S. § 41-1081.
- C. After an agency considers any comments received and determines whether to enter into the delegation agreement, the agency shall issue a final decision. The delegation agreement is effective 30 days after written notice of the agency's final decision is given unless an appeal is filed and pending before the Council.
- D. If no appeal is pending, at the end of the 30-day period following the agency's issuance of its final decision, the agency may submit to the Office for publication a Notice of Final Delegation Agreement that contains the heading NOTICE OF FINAL DELEGATION AGREEMENT in all capital letters, centered on a line approximately one inch from the top of the page, followed by the items listed below in the same numbered order:
  - 1. Name of the agency entering into the final delegation agreement;
  - 2. Name of the political subdivision to which functions, powers, or duties of the agency are being delegated;
  - 3. Citation to the Notice of Proposed Delegation Agreement;
  - 4. Name and address of agency personnel to whom persons may direct questions or comments;
  - 5. Summary of the delegation agreement and the subjects and issues involved;

6. Statement that a copy of the final delegation agreement may be obtained from the agency and any pertinent information on how a person may obtain the copy;
7. Date of issuance of agency's final decision to enter into the delegation agreement; and
8. Date the delegation agreement becomes effective.

**R1-1-209. Notice of Oral Proceeding, Public Workshop, or Other Meeting**

**A.** If an agency schedules an oral proceeding, public workshop, or other meeting on a proposed rulemaking or an oral proceeding on a proposed delegation agreement after the Notice of Proposed Rulemaking or Notice of Proposed Delegation Agreement is submitted to the Office for publication in the *Register*, the agency shall send to the Office one original and two copies of a notice of oral proceeding, public workshop, or other meeting on proposed rules or a notice of oral proceeding, public workshop, or other meeting on proposed delegation agreement, whichever is appropriate.

**B.** A notice of oral proceeding, public workshop, or other meeting on proposed rules, a public meeting on rules after an agency has submitted the notice of docket opening for publication but before the Office publishes the rules as proposed rules in the *Register*, a notice of oral proceeding on a proposed delegation agreement, or a notice of oral proceeding on a proposed rule, ordinance, or other regulation under A.R.S. § 49-112 shall be as specified below:

1. For an oral proceeding on a proposed rulemaking, the heading NOTICE OF ORAL PROCEEDING ON PROPOSED RULEMAKING in all capital letters, centered on a line approximately one inch from the top of the page and followed by the items listed below in the same numbered order:
  - a. The name of the agency;
  - b. The Title and its heading; the Chapter and its heading; the Subchapter and its heading, if applicable; the Article and its heading; and the Part and its heading, if applicable;
  - c. The Sections being proposed in numerical order in one column with the specific action being taken on each Section in the second column;
  - d. The *Register* citations to all notices published in the *Register* concerning the proposed rulemaking;
  - e. The date, time, and location of the oral proceeding; and
  - f. The name and address of agency personnel to whom questions and comments on the proposed rules may be addressed.
2. For a public workshop on a proposed rulemaking, the heading NOTICE OF PUBLIC WORKSHOP ON PROPOSED RULEMAKING in all capital letters, centered on a line approximately one inch from the top of the page and followed by the items listed below in the same numbered order:
  - a. The name of the agency;
  - b. The Title and its heading; the Chapter and its heading; the Subchapter and its heading, if applicable; the Article and its heading; and the Part and its heading, if applicable;
  - c. The Sections being proposed in numerical order in one column with the specific action being taken on each Section in the second column;
  - d. The *Register* citations to all notices published in the *Register* concerning the proposed rulemaking;
  - e. The date, time, and location of the public workshop; and

f. The name and address of agency personnel to whom questions and comments on the proposed rules may be addressed.

3. For a public meeting on an open rulemaking docket, the heading NOTICE OF PUBLIC MEETING ON OPEN RULEMAKING DOCKET in all capital letters, centered on a line approximately one inch from the top of the page and followed by the items listed below in the same numbered order:

- a. The name of the agency;
- b. The Title and its heading; the Chapter and its heading; the Subchapter and its heading, if applicable; the Article and its heading; and the Part and its heading, if applicable;
- c. The Sections being proposed in numerical order in one column with the specific action being taken on each Section in the second column, if known;
- d. The *Register* citation and the date of the notice of docket opening and all supplemental notices published in the *Register*;
- e. The date, time, and location of the public meeting; and
- f. The name and address of agency personnel to whom questions and comments on the subject matter of the rules may be addressed.

4. For an oral proceeding on a proposed delegation agreement, the heading NOTICE OF ORAL PROCEEDING ON PROPOSED DELEGATION AGREEMENT in all capital letters, centered on a line approximately one inch from the top of the page and followed by the items listed below in the same numbered order:

- a. The name of the agency proposing the delegation agreement;
- b. The name of the political subdivision to which the agency is proposing to delegate functions, powers, or duties;
- c. A summary of the proposed delegation agreement;
- d. The *Register* citation and date of the notice of proposed delegation agreement and all supplemental notices published in the *Register*;
- e. The date, time, and location of the oral proceeding; and
- f. The name and address of agency personnel to whom questions and comments on the proposed delegation agreement may be addressed.

**R1-1-210. Notice of Agency Guidance Document; Notice of Substantive Policy Statement**

**A.** An agency shall prepare and file a Notice of Agency Guidance Document under A.R.S. § 41-1013(B)(14) for publication in the *Register*. A Notice of Agency Guidance Document shall contain:

1. On a centered line one inch from the top of the page, the heading in all capital letters, NOTICE OF AGENCY GUIDANCE DOCUMENT.
2. On a centered line under the notice heading and in all capital letters, the name of the agency.
3. Under the agency name, the items listed below in numbered order:
  - a. Title of the guidance document and the guidance document number by which the document is referenced.
  - b. Date of the publication of the guidance document and the effective date of the document if different from the publication date.
  - c. Summary of the contents of the guidance document.

## Section 7. Rules of the Office of the Secretary of State

- d. Statement as to whether the guidance document is a new document or a revision.
  - e. The agency contact person who can answer questions about the agency guidance document. The information shall include the contact's:
    - i. Name;
    - ii. Address;
    - iii. Area code and telephone number; and
    - iv. Fax number, e-mail and web site addresses, if applicable.
  - f. Information about where a person may obtain a copy of the guidance document and the costs for obtaining the guidance document.
- B.** An agency shall prepare and file a Notice of Substantive Policy Statement, under A.R.S. § 41-1013(B)(14), for publication in the *Register*. A Notice of Substantive Policy Statement shall contain:
1. On a centered line one inch from the top of the page, the heading in all capital letters, NOTICE OF SUBSTANTIVE POLICY STATEMENT.
  2. On a centered line under the notice heading and in all capital letters, the name of the agency.
  3. Under the agency name, the items listed below in the same numbered order:
    - a. Title of the substantive policy statement and the substantive policy statement number by which the substantive policy statement is referenced.
    - b. Date the substantive policy statement was issued and the effective date of the policy statement if different from the issuance date.
    - c. Summary of the contents of the substantive policy statement.
    - d. Federal or state constitutional provision; federal or state statute, administrative rule, or regulation; or final court judgment that underlies the substantive policy statement.
    - e. Statement as to whether the substantive policy statement is a new statement or a revision.
    - f. The agency contact person who can answer questions about the substantive policy statement. The information shall include the contact's:
      - i. Name;
      - ii. Address;
      - iii. Area code and telephone number; and
      - iv. Fax number, e-mail and web site addresses, if applicable.
    - g. Information about where a person may obtain a copy of the substantive policy statement and the costs for obtaining the policy statement.
- C.** An agency shall file only one notice per agency guidance document or substantive policy statement.
- D.** A Notice of Agency Guidance Document or a Notice of Substantive Policy Statement shall include:
1. Two agency receipts as specified in R1-1-106; and
  2. An original and one copy of the completed notice form as specified in R1-1-103(B), (C), (E)(1), (6), and (7).

### **R1-1-211. Summary of Council Action**

The Council shall submit to the Office for *Register* publication a summary of Council action on each final rule or summary rule. Rules of one Chapter, one Subchapter (if applicable), or one Article if the Article has Parts, grouped together into one rulemaking package, may be summarized together if the specific Sections affected are listed.

### **R1-1-212. Agency Ombudsman**

- A.** An agency shall designate an agency ombudsman under A.R.S. § 41-1006. "Ombudsman" as used in this Section means the employee or employees designated by the agency to assist members of the public or regulated community.
- B.** An agency shall prepare and file a Notice of Agency Ombudsman with the Office at least annually no later than December 31 of each year.
- C.** An agency shall file only one notice per ombudsman.
- D.** The notice shall contain:
1. On a centered line one inch from the top of the page, the heading in all capital letters, NOTICE OF AGENCY OMBUDSMAN.
  2. Under the notice heading, in numbered order:
    - a. The agency's name;
    - b. Under the agency's name, list in numbered order the ombudsman's:
      - i. Name;
      - ii. Title;
      - iii. Agency division, if applicable;
      - iv. Office address, to include the city, state, and zip code; and
      - v. Area code and telephone number, fax number, and e-mail address, if available.
- E.** A Notice of Agency Ombudsman shall include:
1. Two agency receipts as specified in R1-1-106; and
  2. An original and one copy of the completed notice form as specified in R1-1-103(B), (C), (E)(1), (6), and (7).

## **ARTICLE 3. THE ARIZONA ADMINISTRATIVE CODE**

### **R1-1-301. Development of the Code**

- A.** The Office may establish new Titles in the *Code* and rearrange existing Titles and Chapters to ensure orderly development of the *Code*. The Office shall notify each agency whose rules are affected by any rearrangement.
- B.** The first volume of the *Code* contains a Table of Contents for the multi-volume *Code*, a Table of Titles and Chapter Headings, the Administrative Procedure Act, and other material to help the public find specific rules. A Table of Contents listing the Chapters, Subchapters, Articles, and Parts appearing in a Title appears at the beginning of each Title.

### **R1-1-302. Publication of the Code and its Supplements**

- A.** The Office shall publish the *Code* in loose-leaf form as specified in the Act.
- B.** The Office shall update the *Code* by quarterly supplements containing all final, summary, emergency, and exempt rules filed in the Office during each calendar quarter.
- C.** Supplements are dated with the last day of the calendar quarter. Supplements are numbered according to the calendar year of publication and the number of the quarter. The Office shall publish a supplement calendar in the *Register*.
- D.** Supplements are printed in complete Chapters.
- E.** Each time the Office publishes a supplement to the *Code*, the Office issues a new price list showing all Chapters in the *Code* in numerical order and indicating the last supplement in which each Chapter was printed along with the price for each Chapter.
- F.** Persons may buy individual Chapters or Titles of the *Code*, or they may buy an entire set. Persons who buy an entire set are eligible to buy an annual subscription, which contains quarterly supplements.

### **R1-1-303. Repealed**

### **R1-1-304. Repealed**

- R1-1-305. Repealed**
- R1-1-306. Repealed**
- R1-1-307. Repealed**
- R1-1-308. Repealed**

#### ARTICLE 4. RULE DRAFTING

##### **R1-1-401. Rule Drafting**

An agency preparing a rulemaking package for filing with the Office shall draft it in accordance with this Chapter.

##### **R1-1-402. Assignment of Code Divisions; Headings**

- A.** The Office shall arrange and classify the subject matter of the *Code* according to a system of Titles. The Titles are divided into Chapters. The heading of a Chapter containing rules of one major program or subject specifies both the name of the agency and the program or subject. Chapters are divided into Articles. Articles that cover several subjects or regulate different groups of people are divided into several Parts. Parts and Articles without Parts are divided into Sections. Some Chapters may also contain two or more Subchapters. An agency shall request and receive approval from the Office for Subchapter and Part divisions before using these divisions.
- B.** All Titles, Chapters, Subchapters (if applicable), Articles, Parts (if applicable), and Sections shall have a heading that describes the subject of that division of the *Code*. A heading shall not contain the word “Rule” or “Regulation.”
- C.** A heading shall have capital letters for the first letter of the first and last words, and the first letter of important intermediate words.

##### **R1-1-403. Numbering System**

- A.** A Section number is preceded by the letter “R”.
- B.** A hyphenated numbering system is used in the *Code*.
1. A Section number includes the “R”, the Title number, the Chapter number, the Subchapter label (if applicable), and the Section number indicating the Article number and the Part label (if applicable).
  2. The one or two numbers to the far left indicate the number of the Title in which the Section appears.
  3. The one or two numbers between the two hyphens indicate the Chapter number. If the Chapter has been assigned a Subchapter, the Subchapter letter label appears immediately after the Chapter number before the hyphen.
  4. The numbers to the far right indicate the Section number. A Section number has at least three digits. The last two digits indicate the Section and the number or numbers to the left of these two digits indicate the Article number. If an Article has been assigned a Part, the Part’s letter label appears immediately after the second hyphen before the Section number.
- C.** The first Section in each Article is numbered 101, 201, 301, and so on, as applicable. Sections shall be numbered consecutively through the Article except where Section numbers are reserved for future expansion. Any Section number not used when the rules are originally made is automatically reserved. An agency shall specify “Reserved” for an unused Section when the Section falls before a Section with text in the same Article or Part. Sections that are reserved are shown when the rules are published in the *Code*. Sections that are renumbered or repealed so that no text remains shall be headed with the appropriate term; “Reserved” shall not be used for these Section headings.

- D.** A Section number is not complete unless it contains all portions specified in subsection (B). An agency shall use only complete Section numbers in its rules, on a notice of rulemaking activity, or in any material submitted to the Office for either publication or filing.
- E.** Titles, Chapters, Articles, and Sections shall be designated by Arabic numbers. Subchapters and Parts shall be designated by capital letters.

##### **R1-1-404. Renumbering Sections within a Chapter**

- A.** If an agency renumbers one or more Sections at the time the agency amends other existing Sections:
1. The table of contents for the rulemaking package shall show the old number of the Section with strike-outs and the new number with underlining.
    - a. If an agency makes a new Section at the old number, the agency shall show the old heading with strike-outs and the new heading with underlining;
    - b. If an agency renumbers another existing Section to the old Section number, the agency shall show the heading and text of the moved Section at the location of its new number and strike-outs through the moved Section number and its new number with underlining;
    - c. If an agency is not making new text or moving text to the location of a renumbered Section, the agency shall show the old Section heading with strike-outs and the term “Renumbered” with underlining next to the old number of the renumbered Section.
  2. The table of contents shall show Sections and Articles in the order the Sections are being made.
  3. The Sections shall appear in numerical order as renumbered.
- B.** If an agency is renumbering one or more Sections within a Chapter but is making no other changes, the agency shall do one of the following:
1. Prepare a Notice of Recodification as specified in R1-1-1001, or
  2. Make the numbering change using the regular rulemaking process.
- C.** Only entire Sections may be renumbered or recodified in the matter described in this Section. If an agency splits an existing Section into two or more Sections, or moves a portion of one Section to another Section, or combines two or more Sections into one Section, the agency shall follow the regular rulemaking process to make the changes.

##### **R1-1-405. Addition of a New Section Between Existing Sections**

An agency shall request, in writing or orally, and receive the Office’s permission before inserting a new Section between two existing, consecutively numbered Sections. The agency shall number the new Section using the Section number of the preceding existing Section, followed by a decimal point and a two-digit number. The new Section shall be in numerical order.

##### **R1-1-406. Repeal and Re-use of a Chapter Number**

If an agency repeals or renumbers all Sections in a Chapter, or if all Sections in a Chapter expire, the agency shall not use the Chapter number for one year.

##### **R1-1-407. Authority Notes**

If an agency requests that the specific or general authority for a Chapter, Subchapter, Article, or Part be published in its rules in the *Code*, the agency shall include an authority note under which the rules in that Chapter, Subchapter, Article, or Part were made. This

## Section 7. Rules of the Office of the Secretary of State

note appears immediately below the Chapter, Subchapter, Article, or Part heading, as applicable, in the Chapter's table of contents and specifies the statutes that the rules are implementing (the specific authority) and the statutes that authorize the agency to do rulemaking (the general authority). An agency's failure to include a statute or portion of a statute in the authority note does not negate the agency's authority to make the rule.

### **R1-1-408. Text of the Rules; Subsections**

- A.** The divisions of a Chapter (Title, Chapter, Subchapter (if applicable), first Article, and first Part (if applicable)) and their labels and headings shall appear above the Section number and heading of the first Section in a rulemaking package. An agency shall center on each line these divisions and their labels and headings.
- B.** If a Section has only one subsection, an agency shall leave that subsection unlabeled.
- C.** If a Section has an opening subsection followed by labeled subsections, the Office shall treat the opening subsection as an implied subsection (A). An agency shall label and indent appropriately the subsections following the opening subsection as second-level subsections.
- D.** If a Section has two or more subsections at any level, an agency shall label the subsections separately. An agency shall label subsections as indicated below.
  - 1. First-level subsections are designated by a capital letter (A., B., C., and so on).
  - 2. Second-level subsections are designated by an Arabic numeral (1., 2., 3., and so on).
  - 3. Third-level subsections are designated by a lower case letter (a., b., c., and so on).
  - 4. Fourth-level subsections are designated by a lower case Roman numeral (i., ii., iii., and so on).
- E.** If an agency uses the entire alphabet for subsections at the first or third level, additional subsections shall be labeled with double letters (aa., bb., cc., and so on).
- F.** Within the text of a subsection, an agency referring to the same subsection shall use the term "this subsection." An agency referring to a different subsection shall use the term "subsection" and the labels of all appropriate levels, each within its own set of parentheses. If an agency refers to a different Section in the same Chapter, the agency shall specify the correct Section number along with all subsection labels but shall not use the term "Section."
- G.** An agency shall not subdivide its rules into more than four levels of subsections unless the agency obtains permission from the Office.
- H.** An agency may choose not to label definitions that are listed in alphabetical order or other lists of items in some specific order, although the agency shall indent the definitions or items in the list as if they were labeled at the appropriate level of subsection. If an agency chooses not to label definitions that are listed in alphabetical order or other lists in a specific order, additional levels of subsection under those definitions or lists also shall not be labeled. If an agency quotes statutory language verbatim that contains labeling, the agency shall retain the labeling within the statutory language but not the label of the statutory language.
- I.** When dividing a Section into subsections, an agency shall not:
  - 1. Leave an unlabeled subsection at any level after a labeled subsection at the same level;
  - 2. Use A. without B.; 1. without 2.; a. without b.; or i. without ii.
- J.** When referring to one or more subsections within the text of a subsection, an agency shall enclose the label for each subsection in its own set of parentheses. When referring to second-,

third-, and fourth-level subsections, an agency shall specify the labels of each preceding level of subsection. For example, an agency referring to a third-level subsection would state "subsection (A)(2)(c)"; an agency referring to a fourth-level subsection would state "subsection (B)(1)(d)(iii)."

- K.** When referring to multiple subsections, an agency shall enclose the label for each subsection in its own set of parentheses, followed by a conjunction and the last subsection label enclosed in parentheses. For example, an agency would state "(A)(1) through (9)"; "(B)(4)(b) and (c)"; or "(C)(1)(a)(i) and (ii)."
- L.** When referring to a Section in another Chapter, an agency shall cite the Section number with "A.A.C." preceding the number. For example, an agency would state "A.A.C. R2-12-201."
- M.** An agency shall not include numbered or lettered phrases within the text of a subsection. These shall be labeled properly and indented at the appropriate level of subsection.
- N.** An agency shall contact the Office when using special symbols, fonts, or formats in the text of a rule.
- O.** An agency shall define all acronyms and abbreviations not defined in the A.R.S. that the agency uses in the text of its rules in a definitions Section at the beginning of the Chapter.

### **R1-1-409. Citations to the Code, Register, Statutes, and Federal Laws and Regulations**

- A.** Citations to the *Register* shall include the volume and page number, the abbreviation "A.A.R.", and the issue date. For example, 7 A.A.R. 1325, March 23, 2001.
- B.** Citations to the *Code* shall include the Title, Chapter, Subchapter, Article, Part, and Section, as applicable, and the short form "A.A.C." For example, 17 A.A.C. 4 and A.A.C. R17-4-301.
- C.** Citations to state laws:
  - 1. A citation to a law contained in a published edition of the Arizona Revised Statutes shall include the abbreviation "A.R.S." and either the specific Section number or the Title number, Chapter number, and Article number in that order. For example, A.R.S. Title 41, Chapter 6, Article 5.
  - 2. A citation to a law that has not yet been published in the Arizona Revised Statutes shall include the following:
    - a. If the reference is to a new Section of the statutes and the codified Section number is known, the citation shall include the Section number followed by the phrase "as added by Laws" and the year the law was passed along with the Chapter number as assigned by the Office and the specific Section of the new law. For example, A.R.S. § 41-1008 as added by Laws 1998, Ch. 57, § 22.
    - b. If the reference is to an amendment of an existing Section of the Arizona Revised Statutes, the citation shall include the Section number followed by the phrase "as amended by Laws" and the year the law was passed along with the Chapter number as assigned by the Office and the specific Section of the new law that amended this Section of an existing law. For example, A.R.S. § 41-1021 as amended by Laws 1998, Ch. 57, § 27.
    - c. Citations to new laws that do not indicate a statutory citation shall include the word "Laws" and the year the law was enacted by the legislature and the Section number within that law. For example, Laws 1998, Ch. 196, § 4.
  - 3. When an agency uses a statutory citation and also refers to that law by a commonly used heading, the agency shall enclose the commonly used heading within parentheses.

**D. Citations to federal laws and regulations:**

1. Citations to the United States Code (U.S.C.) and the United States Code Annotated (U.S.C.A.) shall include the Title number first, followed by the appropriate abbreviation, followed by the Part number or the Section number. Neither the word “Part” or “Section” nor the Section symbol shall appear in the citation. For example, 10 U.S.C. 1. Citations to laws not yet codified into the U.S.C. or the U.S.C.A. shall be referenced by the words “Public Law” or the abbreviation “P.L.” and the number of the law. For example, P.L. 100-20191.
2. Citations to the Code of Federal Regulations (CFR) shall list the Title number, followed by the appropriate abbreviation, followed by the Part number or the Section number. Neither the word “Part” or “Section” nor the Section symbol shall appear in the citation. Citations to the Federal Register (FR) shall include the volume number, followed by the abbreviation, followed by the page number. FR citations shall also include the date of the publication. For example, 49 CFR 201; 42 FR 10109, July 1, 1997.

**R1-1-410. Repealed****R1-1-411. Automatic Repeal of Rules**

- A. An agency may provide for the automatic repeal of a Section, in the Section being automatically repealed, by including the day, month, and year of the automatic repeal. This automatic repeal shall be used to repeal only an entire Section. The information specifying the automatic repeal date shall appear in a first-level subsection by itself at the end of the Section.
- B. An agency shall notify the Office, orally or by letter, when the automatic repeal date has passed so the Office can remove the rule from the *Code*. Chapters from which automatically repealed rules are removed shall appear in the next quarterly supplement to the *Code*.

**R1-1-412. Supplementary Material**

- A. An agency including tabular materials, illustrations, diagrams, figures, and other supplementary material in rules shall label them as Appendices, Exhibits, Illustrations, or Tables. An agency shall use supplementary material to make a rule understandable by persons affected by the rule. An agency shall consider all supplementary material included in rules as part of the rules and shall refer to the supplementary material within the text of one or more Sections. An agency shall list Appendices, Exhibits, Tables, and Illustrations in the table of contents for the Chapter.
- B. An agency shall label all Appendices, Exhibits, Illustrations, and Tables with either capital letters or Arabic numbers using a consistent labeling scheme. The specific term the agency uses (Appendix, Exhibit, Illustration, or Table) and its label shall appear in the text along with a heading in the same format that a Section number and heading appear at the beginning of a Section.
- C. Supplementary material appearing within the text of a Section shall not appear in the table of contents. When referencing supplementary material appearing within the text of a Section, an agency shall use the appropriate subsection label.
- D. An agency shall submit only camera-ready supplementary material to the Office for publication or filing. Camera-ready means that the material must be clear and legible when the text is reproduced at 9-point size or the illustration is reproduced to fit within the one-inch margin requirements of an 8 1/2 inch by 11 inch sheet of paper.
- E. An agency shall create tabular material in a rulemaking package using a spreadsheet program or the table function of a

word processing program. This subsection does not apply to an Economic, Small Business, and Consumer Impact Statement and material incorporated by reference.

**R1-1-413. Statutory Language; Italics**

- A. Rules may contain statutory language that repeats verbatim existing statutory authority granted to the agency.
- B. If an agency repeats statutory language within the text of a rule, the statutory language shall appear in italics, and the statutory citation shall appear after the statutory language.
- C. Rules may contain the following language in italics:
  1. Titles of books, periodicals, and reports;
  2. Scientific names; and
  3. Court cases (for example, *Marbury v. Madison*).

**R1-1-414. Incorporation by Reference; Citation of Referenced Material**

- A. Items that may be incorporated by reference within an agency’s rules are specified in A.R.S. § 41-1028.
- B. Following the citation of incorporated-by-reference material in the text of the rules shall be a statement specifying that the incorporated material contains no later editions or amendments.
- C. A citation to an item incorporated by reference shall state the publisher’s name and address, date of publication, and a location where the item is available if different from the publisher. If a physical address for the publisher is not available, a web site address may be substituted.
- D. A citation to an item incorporated by reference shall state where a copy of the incorporated by reference material is available from the agency issuing the rule.
- E. An item incorporated by reference and filed with an agency’s final rules prior to September 18, 2003 may be viewed in the Office. The Office shall not photocopy any copyrighted material incorporated by reference.

**R1-1-415. Rulemaking Actions for an Article, Part, Section, Table, Appendix or Exhibit**

- A. An agency shall list rulemaking actions in the preamble of a rulemaking package as specified in R1-1-502(B)(5) and as required in R1-1-103.
- B. Article or Part Headings Actions:
  1. An agency that strikes text in an Article or Part heading in its entirety, with active Sections remaining under the Article or Part, shall list the rulemaking action to an Article or Part as “Amend.”
  2. An agency that strikes text in an Article or Part heading in its entirety, without active Sections remaining under the Article or Part, shall list the rulemaking action to an Article or Part as “Repeal.”
- C. Section, Table, Appendix or Exhibit Actions: An agency that strikes text or images in an existing Section, Table, Appendix or Exhibit and simultaneously makes new text or images at the same Section, Table, Appendix or Exhibit number, shall list the rulemaking action as:
  1. A “Repeal” and “New Section” or “New Table” or “New Appendix” or “New Exhibit” if both the text of the Section, Table, Appendix or Exhibit and the Section, Table, Appendix or Exhibit heading are completely changed; or
  2. An “Amend” if the entire existing Section, Table, Appendix or Exhibit text is repealed, but the Section, Table, Appendix or Exhibit heading is not completely changed.

**ARTICLE 5. PROPOSED RULEMAKING**

**R1-1-501. Assignment of Chapters**

An agency preparing to make rules for the first time shall contact the Office, orally or by letter, for assignment of a Title and Chapter number within the codification system. An agency that already has at least one Chapter on file shall contact the Office, orally or by letter, when the agency needs a new Chapter assignment.

**R1-1-502. Notice of Proposed Rulemaking**

**A.** If an agency determines a proposed new Section, an amendment to a Section, a repeal of an existing Section, or a renumber of a Section, meets the provisions of A.R.S. § 41-1022 and the Act, the agency shall prepare and file a Notice of Proposed Rulemaking as prescribed in this Section.

**B.** A Notice of Proposed Rulemaking shall contain:

1. On a centered line one inch from the top of the page, the heading in all capital letters, NOTICE OF PROPOSED RULEMAKING.
2. On a centered line under the notice heading, the agency's *Code* Title number and heading.
3. On a centered line under the Title number and heading, the agency's *Code* Chapter number and heading.
4. If applicable, on a centered line under the Chapter number and heading, the agency's *Code* Subchapter label and heading.
5. On a centered line under the Chapter heading or Subchapter label, whichever is applicable, the heading in all capital letters and underlined, PREAMBLE. The Preamble of the Notice of Proposed Rulemaking shall include in numbered order:
  - a. In two columns a list of Articles, Parts, or Sections affected and the rulemaking action of each Article, Part, or Section affected.
  - b. The first column shall contain the heading "Articles, Parts, and Sections Affected" under which shall list in sequential and numerical order:
    - i. Articles or Parts affected if an Article heading or Part label is being made, amended or repealed as specified in R1-1-415, or renumbered. Article headings or Part labels shall be listed multiple times, each on a separate line, if the Article or Part has more than one rulemaking action. Article headings or Part labels that do not have a rulemaking action directly applied to the headings or labels shall not be listed.
    - ii. Under each Article or Part affected in subsection (B)(5)(a)(i), if applicable, shall be a list of Section numbers of Sections being made, amended, repealed or renumbered. Section numbers shall be listed multiple times, each on a separate line, if the Section has more than one rulemaking action applied to it. A Section that currently exists but has no rulemaking action applied to the Section shall not be listed.
  - c. The second column shall contain the heading "Rulemaking Action" under which will be listed the rulemaking activity being applied to each Article, Part or Section listed in the first column. A Section that:
    - i. Has no text because the Section was previously reserved, repealed, or renumbered cannot have a rulemaking action listed as amended, renumbered, or recodified. A previously repealed Section cannot be repealed again unless new text has subsequently been made at the Section number.

- ii. Has more than one rulemaking action applied to the Section, shall list the actions, each on a separate line, as follows: repeal, renumber, new Section, or amend.

6. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific).
7. Citations to all related notices published in the *Register* as specified in R1-1-409(A) that pertain to the record of the proposed rule.
8. The agency's contact person who can answer questions about the rulemaking. This information shall include the contact's:
  - a. Name;
  - b. Address;
  - c. Area code and telephone number; and
  - d. Fax number, e-mail and web site addresses, if applicable.
9. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking.
10. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material.
11. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state.
12. The preliminary summary of the economic, small business, and consumer impact.
13. The agency's contact person who can answer questions about the economic, small business, and consumer impact statement. This information shall include the contact's:
  - a. Name;
  - b. Address;
  - c. Area code and telephone number; and
  - d. Fax number, e-mail and web site addresses, if applicable.
14. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule.
15. All agencies shall list any other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:
  - a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used;
  - b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law; and
  - c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states.
16. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules.
17. The phrase "The full text of the rules follows:".

18. The full text of the rules in the rulemaking package shall begin on the next page after the last item in the Preamble. The text of the rules shall contain in sequential order:
- a. Under the Preamble, on a centered line, the agency's *Code* Title number and heading.
  - b. On a centered line under the Title number and heading, the agency's *Code* Chapter number and heading.
  - c. If applicable, on a centered line under the Chapter number and heading, the agency's Subchapter label and heading.
  - d. Under the Chapter or Subchapter heading, whichever is applicable, shall be a list as prescribed in subsections (B)(18)(d)(i) through (iv):
    - i. On a centered line under the Chapter number and its heading, list the first Article number and its heading that has Sections undergoing a rulemaking action or with Article heading text being made, amended, renumbered, or repealed.
    - ii. If applicable, on a centered line under the Article number and its heading, list the Part number and its label with Sections undergoing a rulemaking action or with Part label text being made, amended, renumbered or repealed.
    - iii. Under the Article heading, or Part label if applicable, at the left margin, list the Section numbers and their headings for those Sections undergoing a rulemaking action. A Section shall not be listed if the Section does not have a rulemaking action assigned to the Section.
    - iv. A Chapter, Subchapter, Article, Part or Section heading with text being made, amended, renumbered or repealed shall have the text written as described in R1-1-502(18)(e)(iii) and (iv).
  - e. Under the list in subsection (B)(18)(d) the next page shall be the full text of the Sections being made, amended, repealed or renumbered. The text shall:
    - i. Include, if applicable, in sequential and numerical order, Article numbers and headings, and Part labels and their headings if any of the Sections within the Article or Part are being made, amended, repealed, or renumbered or if the heading of the Article or Part is undergoing a rulemaking action.
    - ii. Include Section numbers listed in numerical order that follow the numbering scheme in R1-1-403. A Section shall always contain a heading, whether it is to specify the name of a rule, or to label the Section as renumbered or repealed. New Section numbers, headings, and text shall be underlined; currently existing Section numbers shall not be underlined. Repealed Section headings and text shall be stricken. The Section numbers of repealed Sections shall not be stricken.
    - iii. Specify current rule text being deleted or repealed as stricken.
    - iv. Specify rule text being made as new text as underlined.
    - v. Within a Section, have stricken text appear before new, underlined text.
  - f. An agency that amends some but not all of the subsections in a Section may list the subsections not being amended by the subsection label and the words "No change" Each level of subsection designated as having no change shall be individually labeled. Subsections shall not be grouped together.
  - g. An agency that renumbers an existing Section shall strike the current Section number. The new Section number shall be underlined immediately next to the stricken number. Renumbered Sections shall be in numerical order with the text of the rule at the location of the new Section number. If the only action on a Section is to renumber it, immediately under the Section number and its heading shall appear the words "No change" to indicate that the text is not being amended. If an existing Section is renumbered and no text is made, amended, or repealed at the current Section number, the current Section number shall be listed in numerical order with strike-outs through the old heading but not through the Section number, with the new heading underlined and labeled "Renumbered."
- C. A proposed rulemaking package shall include:
1. Two agency receipts as specified in R1-1-106;
  2. An original and two copies of the agency certificate as specified in R1-1-105;
  3. An original and two copies of the rulemaking package as specified in R1-1-103; and
  4. An agency subject to Council review that received an analysis comparing the rule's impact of the competitiveness of business in this state to the impact on business in other states, shall file the analysis with the rulemaking.
- R1-1-503. Public Comment Period**  
The public comment period for a proposed rule begins on the day the rule is published in the *Register*. An agency shall allow a minimum of 30 days for public comment after publication. After the end of the public comment period, an agency may hold an oral proceeding.
- R1-1-504. Oral Proceedings on Proposed Rulemaking**
- A. An agency may refer to the publication schedule of the *Register* when scheduling an oral proceeding. An agency shall hold an oral proceeding no earlier than 30 days after the Office publishes the notice of proposed rulemaking in the *Register* under A.R.S. § 41-1023. The Office shall include oral proceedings shown in the notice of proposed rulemaking Preamble in the proposed rules portion of the *Register*. The Office shall list in a different section of the *Register* oral proceedings on rulemaking packages not scheduled by the agency until after the agency has submitted the proposed rulemaking package to the Office as specified in R1-1-209(B)(1).
  - B. If an agency submits a proposed rulemaking package to the Office and indicates in the Preamble that an oral proceeding is scheduled to take place before 30 days after the anticipated publication date in the *Register*, the Office shall return the package to the agency.
  - C. If an oral proceeding is not scheduled and an agency receives a written request for an oral proceeding from one or more persons, the agency shall file a notice of oral proceeding on proposed rules with the Office in accordance with the *Register* publication schedule, scheduling the oral proceeding to be held no earlier than 30 days after the notice of oral proceeding is published in the *Register*, under A.R.S. § 41-1023. The agency shall file with the Office one original and two copies of the Notice of Oral Proceeding on Proposed Rulemaking. This notice shall be as stated in R1-1-209(B)(1).
  - D. If an oral proceeding begins and the proceeding officer publicly announces a time and place for a continuation of the oral

## Section 7. Rules of the Office of the Secretary of State

proceeding, the agency is not required to submit a notice of oral proceeding to the Office for publication in the *Register*.

### **R1-1-505. Close of the Record**

The close of the record for a proposed rule occurs on the date the agency chooses as the last date it will accept public comments. An agency shall not complete a rulemaking until the record is closed.

### **R1-1-506. Notice of Termination of Rulemaking**

- A.** To terminate a proposed rulemaking at any stage of the rulemaking process before the final rules are filed with the Office, an agency shall file with the Office one original and two copies of a Notice of Termination of Rulemaking. The agency shall attach the original and two copies of the Notice of Termination of Rulemaking to a copy of the original Notice of Proposed Rulemaking if the agency has filed a Notice of Proposed Rulemaking with the Office.
- B.** The Notice of Termination of Rulemaking shall contain the heading NOTICE OF TERMINATION OF RULEMAKING in all capital letters, centered on the line approximately one inch from the top of the page; followed by the Title, its number, and heading, centered on a line below the notice heading; followed by the Chapter, its number and heading, centered on a line below the Title; followed by the items listed below in the same numbered order:
1. The *Register* citation and the date of the Notice of Rulemaking Docket Opening;
  2. The *Register* citation and the date of the Notice of Proposed Rulemaking; and
  3. The Section numbers (and Article and Part numbers or labels) in numerical order in one column and the action that had been proposed in the second column.
- C.** Both the original Notice of Proposed Rulemaking and the Notice of Termination of Rulemaking shall remain on file with the Office.
- D.** The Office shall publish a listing of the rules terminated in the *Register*. The Office shall not publish the full text of rules being terminated in the *Register*.

### **R1-1-507. Notice of Supplemental Proposed Rulemaking**

- A.** If an agency determines it meets the requirements of A.R.S. § 41-1022(E) and that a filed and published proposed rule requires substantial change due to either internal review or public comments, the agency shall prepare and file a Notice of Supplemental Proposed Rulemaking as prescribed in this Section.
- B.** A Notice of Supplemental Proposed Rulemaking shall contain:
1. On a centered line one inch from the top of the page, the heading, in all capital letters, NOTICE OF SUPPLEMENTAL PROPOSED RULEMAKING.
  2. On a centered line under the notice heading, the agency's *Code* Title number and heading.
  3. On a centered line under the Title number and heading, the agency's *Code* Chapter number and heading.
  4. If applicable, on a centered line under the Chapter number and heading, the agency's *Code* Subchapter label and heading.
  5. On a centered line under the Chapter or Subchapter heading, whichever is applicable, the heading in all capital letters and underlined, PREAMBLE. The Preamble of the Notice of Supplemental Proposed Rulemaking shall include, in numbered order:
    - a. Citations to the agency's Notice of Rulemaking Docket Opening, the Notice of Proposed Rulemaking, and any other Notices of Supplemental Proposed Rulemaking, if applicable, as published in the

*Register* as specified in R1-1-409(A). A list of any other related notices published in the *Register* as specified in R1-1-409(A).

- b. A list of Articles, Parts, or Sections affected and the rulemaking action of each Article, Part, or Section affected in two columns as specified in R1-1-502(B)(5).
- c. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific).
- d. The agency's contact person who can answer questions about the rulemaking. This information shall include the contact's:
  - i. Name;
  - ii. Address;
  - iii. Area code and telephone number; and
  - iv. Fax number, e-mail and web site addresses, if applicable.
- e. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking.
- f. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material.
- g. An explanation of the substantial change that resulted in the supplemental notice.
- h. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision.
- i. The preliminary summary of the economic, small business, and consumer impact.
- j. The agency's contact person who can answer questions about the economic, small business, and consumer impact statement. This information shall include the contact's:
  - i. Name;
  - ii. Address;
  - iii. Area code and telephone number; and
  - iv. Fax number, e-mail and web site addresses, if applicable.
- k. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the supplemental proposed rule.
- l. All agencies shall list any other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:
  - i. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used;
  - ii. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law; and
  - iii. Whether a person submitted an analysis to the agency that compares the rule's impact of the

competitiveness of business in this state to the impact on business in other states.

- m. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules.
  - n. The phrase “The full text of the rules follows:”.
6. The full text of the rules in the rulemaking package shall begin on the page after the last page of the Preamble and contain the text as specified in R1-1-502(B)(18). A supplemental notice shall contain every Section undergoing change from the current text in the *Code*, as if the supplemental notice were the agency’s first version of the proposed rulemaking.
- C. A supplemental proposed rulemaking package shall include:
- 1. Two agency receipts as specified in R1-1-106;
  - 2. An original and two copies of the agency certificate as specified in R1-1-105;
  - 3. An original and two copies of the rulemaking package as specified in R1-1-103; and
  - 4. An agency subject to Council review that received an analysis comparing the rule’s impact of the competitiveness of business in this state to the impact on business in other states, shall file the analysis with the rulemaking.

#### ARTICLE 6. FINAL RULEMAKING

##### R1-1-601. Preparation and Filing of a Final Rulemaking Package

- A. If an agency’s rules are subject to review by the Council, the agency shall submit its final rulemaking package to the Council within 120 days after the close of record. After the Council approves the final rulemaking package, the Council shall submit the agency’s final rulemaking package to the Office for filing and publication. The final rulemaking package shall be as specified in R1-1-602.
- B. If an agency’s rules are exempt from the rulemaking process under A.R.S. § 41-1005 or another state statute, the agency shall follow the procedures in Article 9 and submit its final rulemaking package to the Office within 120 days after the close of record.
- C. If an agency’s rules are subject to review by the Attorney General, the agency shall submit its final rulemaking package to the Attorney General for approval within 120 days after the close of record. After approval, the Attorney General shall submit the final rule package to the Office for filing and publication.

##### R1-1-602. Notice of Final Rulemaking

- A. If an agency determines it meets the requirements of A.R.S. § 41-1024 and other requirements in the Act an agency shall prepare a Notice of Final Rulemaking as prescribed in this Section.
- B. A Notice of Final Rulemaking shall contain:
  - 1. On a centered line one inch from the top of the page, the heading in all capital letters, NOTICE OF FINAL RULEMAKING.
  - 2. On a centered line under the notice heading, the agency’s *Code* Title number and heading.
  - 3. On a centered line under the Title number and heading, the agency’s *Code* Chapter number and heading.
  - 4. If applicable, on a centered line under the Chapter number and heading, the agency’s *Code* Subchapter label and heading.
  - 5. On a centered line under the Chapter or Subchapter heading, whichever is applicable, the heading in all capital letters and underlined, PREAMBLE. The Preamble of the

Notice of Final Rulemaking shall include, in numbered order:

- a. A list of Articles, Parts, or Sections affected and the rulemaking action of each Article, Part, or Section affected in two columns as specified in R1-1-502(B)(5).
  - b. Citations to the agency’s statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific).
  - c. The effective date of the rule. If an agency specifies a date:
    - i. Earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), the agency shall include the earlier date and state the reason or reasons it selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5); or
    - ii. Later than the 60 day effective date as specified in A.R.S. § 41-1032(A), the agency shall include the later date and state the reason or reasons it selected the later effective date as provided in A.R.S. § 41-1032(B).
  - d. Citations to all related notices published in the *Register* as specified in R1-1-409(A) that pertain to the record of the final rulemaking package.
  - e. The agency’s contact person who can answer questions about the rulemaking. This information shall include the contact’s:
    - i. Name;
    - ii. Address;
    - iii. Area code and telephone number; and
    - iv. Fax number, e-mail and web site addresses, if applicable.
  - f. An agency’s justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking.
  - g. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material.
  - h. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state.
  - i. A summary of the economic, small business, and consumer impact.
  - j. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking.
  - k. An agency’s summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments.
1. All agencies shall list any other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:
- i. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used;
  - ii. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the



- iii. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states.
- k. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rule.
- l. An agency explanation about the situation justifying the rulemaking as an emergency rule.
- m. The date the Attorney General approved the rule.
- n. The phrase "The full text of the rules follows:".
- 6. The full text of the rules in the rulemaking package shall begin on the page after the last page of the Preamble and contain the text as specified in R1-1-502(B)(18).
- C. An agency shall submit an emergency rulemaking package to the Attorney General for review.
- D. The Attorney General shall prepare a certificate as specified in R1-1-105.
- E. An emergency rulemaking package shall include:
  1. Two agency receipts as specified in R1-1-106;
  2. An original and two copies of the agency certificate as specified in R1-1-105;
  3. An original and two copies of the certificate of approval or disapproval from the Attorney General as specified in subsection (D).
  4. An original and two copies of the rulemaking package as specified in R1-1-103;
  5. An economic, small business, and consumer impact statement if required by A.R.S. § 41-1055; and
  6. An agency that received an analysis comparing the rule's impact of the competitiveness of business in this state to the impact on business in other states, shall file the analysis with the rulemaking.
- F. The Attorney General shall file the emergency rulemaking package, to include all documents listed under subsection (E), with the Office.
- G. Emergency rules are in effect for 180 days under the provisions of A.R.S. § 41-1026.
- H. Emergency rules may be renewed for an additional 180-day period under the provisions of A.R.S. § 41-1026. If an agency amends the text of a rule renewed, the agency shall prepare a list of every amendment made to the renewed emergency rule. The list of amendments shall be included and attached to the renewal notice when filed with the Office.

#### ARTICLE 8. SUMMARY RULEMAKING

##### R1-1-801. Notice of Summary Rulemaking

- A. If an agency determines it meets the requirements of A.R.S. § 41-1027 and other requirements in the Act an agency shall prepare a Notice of Summary Rulemaking as prescribed in this Section.
- B. A Notice of Proposed Summary Rulemaking shall contain:
  1. On a centered line one inch from the top of the page, the heading in all capital letters, NOTICE OF PROPOSED SUMMARY RULEMAKING.
  2. On a centered line under the notice heading, the agency's *Code* Title number and heading.
  3. On a centered line below the Title number and heading, the agency's *Code* Chapter number and heading.
  4. If applicable, on a centered line under the Chapter number and heading the agency's *Code* Subchapter label and heading.
  5. On a centered line under the Chapter or Subchapter heading, whichever is applicable, the heading in all capital letters and underlined, PREAMBLE. The Preamble of the

Notice of Proposed Summary Rulemaking shall include, in numbered order:

- a. A list of the Articles, Parts, or Sections affected and the rulemaking action of each Article, Part, or Section affected in two columns as specified in R1-1-502(B)(5).
- b. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific).
- c. The interim effective date of the summary rule as specified in A.R.S. § 41-1027(D).
- d. The agency's contact person who can answer questions about the rulemaking. This information shall include the contact's:
  - i. Name;
  - ii. Address;
  - iii. Area code and telephone number; and
  - iv. Fax number, e-mail and web site addresses, if applicable.
- e. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking.
- f. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state.
- g. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material.
- h. If required, a preliminary summary of the economic, small business, and consumer impact. If not required, a statement of exemption under A.R.S. § 41-1055(D).
- i. Agency personnel to contact about the accuracy of the summary of the economic, small business, and consumer impact statement. This information shall include the contact's:
  - i. Name;
  - ii. Address;
  - iii. Area code and telephone number; and
  - iv. Fax number, e-mail and web site addresses, if applicable.
- j. The time, place, and nature of the proceedings to make, amend, or repeal the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed summary rule.
- k. A justification to the use of summary proceedings.
- l. Any other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additional matters shall include but are not limited to:
  - i. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used;
  - ii. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law; and
  - iii. Whether a person submitted an analysis to the agency that compares the rule's impact of the

## Section 7. Rules of the Office of the Secretary of State

- competitiveness of business in this state to the impact on business in other states.
- m. The phrase “The full text of the rules follows:”.
6. The full text of the rules in the rulemaking package shall begin on the page after the last page of the Preamble and contain the text as specified in R1-1-502(B)(18).
- C.** If an agency determines it meets the requirements in A.R.S. § 41-1027(A) through (E) it shall prepare a Notice of Final Summary Rulemaking. An agency shall, within 90 days after publication in the *Register* and after consideration of any comments, submit to the Council its final summary rule, along with the Preamble, concise explanatory statement, and economic, small business, and consumer impact statement.
- D.** A Notice of Final Summary Rulemaking shall contain:
1. On a centered line one inch from the top of the page, the heading in all capital letters NOTICE OF FINAL SUMMARY RULEMAKING.
  2. On a centered line under the notice heading, the agency’s *Code* Title number and heading.
  3. On a centered line under the Title number and heading, the agency’s *Code* Chapter number and heading.
  4. If applicable, on a centered line under the Chapter number and heading the agency’s *Code* Subchapter label and heading.
  5. On a centered line under the Chapter or Subchapter heading, whichever is applicable, the heading in all capital letters and underlined, PREAMBLE. The Preamble of the Notice of Final Summary Rulemaking shall include, in numbered order:
    - a. A list of Articles, Parts, or Sections affected and the rulemaking action of each Article, Part, or Section affected in two columns as specified in R1-1-502(B)(5).
    - b. Citations to the agency’s statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific).
    - c. The permanent effective date of the summary rule as specified in A.R.S. § 41-1027(D).
    - d. Citations to all related notices published in the *Register* as specified in R1-1-409(A) that pertain to the record of the Notice of Final Summary Rulemaking package.
    - e. The agency’s contact person who can answer questions about the rulemaking. This information shall include the contact’s:
      - i. Name;
      - ii. Address;
      - iii. Area code and telephone number; and
      - iv. Fax number, e-mail and web site addresses, if applicable.
    - f. An agency’s justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking.
    - g. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material.
    - h. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state.
    - i. If required, a summary of the economic, small business, and consumer impact. If not required, a statement of exemption under A.R.S. § 41-1055(D).
- j. A description of any changes between the proposed summary rulemaking and the final summary rulemaking.
- k. An agency’s summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments.
- l. Any other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additional matters include but are not limited to:
  - i. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used;
  - ii. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law; and
  - iii. Whether a person submitted an analysis to the agency that compares the rule’s impact of the competitiveness of business in this state to the impact on business in other states.
- m. The phrase “The full text of the rules follows:”.
6. The full text of the rules in the rulemaking package shall begin on the next page after the last item in the Preamble and contain the text as specified in R1-1-502(B)(18).
- E.** A summary rulemaking package shall include:
1. Two agency receipts as specified in R1-1-106;
  2. An original and two copies of the agency certificate as specified in R1-1-105;
  3. If the notice is a Notice of Final Summary Rulemaking, an original and two copies of Council’s certificate of approval as specified in R1-1-105.
  4. An original and two copies of the rulemaking package as specified in R1-1-103;
  5. An economic, small business, and consumer impact statement if required by A.R.S. § 41-1055; and
  6. An agency that received an analysis that compares the rule’s impact of the competitiveness of business in this state to the impact on business in other states, shall file the analysis with the rulemaking.
- F.** Upon approval from the Council of the final summary rule, the Council shall file the final summary rulemaking package, to include all documents listed in subsection (E) with the Office.

### ARTICLE 9. EXEMPT RULEMAKING

#### R1-1-901. Exempt Rulemaking

- A.** An agency shall not file with the Office an exempt rule made by the agency before September 30, 1992.
- B.** The Office shall publish in the *Code* any exempt rule made after September 30, 1992 if the agency involved submits the rulemaking package to the Office. An exempt rule shall be submitted following the procedures in Article 6 of this Chapter, except that an agency shall use the notice specified in R1-1-902.
- C.** The Office shall identify in the *Code* a Chapter containing rules that are exempt from the Act and made after September 30, 1992, by a statement specifying the exemption at the beginning of the Chapter and before a Section or Article made under an exemption and by specifying the exemption in the Section’s historical note.
- D.** If a statute or session law authorizes an agency to publish in the *Register* a type of rulemaking not specified in this Chapter, the agency shall contact the Office orally or by letter, specifying the exact statutory citation.

**R1-1-902. Notice of Exempt Rulemaking**

- A.** If an agency determines it meets the requirements of A.R.S. §§ 41-1005 and 41-1057, or has been given a statutory exemption, an agency shall prepare a Notice of Exempt Rulemaking as prescribed in this Section.
- B.** A Notice of Exempt Rulemaking shall contain:
1. On a centered line one inch from the top of the page, the heading in all capital letters NOTICE OF EXEMPT RULEMAKING.
  2. On a centered line under the notice heading, the agency's *Code* Title number and heading.
  3. On a centered line under the Title number and heading the agency's *Code* Chapter number and heading.
  4. If applicable, on a centered line under the Chapter number and heading the agency's *Code* Subchapter label and heading.
  5. On a centered line under the Chapter or Subchapter heading, whichever is applicable, the heading in all capital letters and underlined, PREAMBLE. The Preamble of the Notice of Exempt Rulemaking shall include in numbered order:
    - a. A list of Articles, Parts, or Sections affected and the rulemaking action of each Article, Part, or Section affected in two columns as specified in R1-1-502(B)(5).
    - b. Citations to the agency's statutory rulemaking authority to include:
      - i. The authorizing statute (general),
      - ii. The implementing statute (specific), and
      - iii. The statute or session law authorizing the exemption.
    - c. The effective date of the rule and the agency's reason it selected the effective date.
    - d. A list of all notices published in the *Register* as specified in R1-1-409(A) that pertain to the record of the exempt rulemaking.
    - e. The agency's contact person who can answer questions about the rulemaking. This information shall include the contact's:
      - i. Name;
      - ii. Address;
      - iii. Area code and telephone number; and
      - iv. Fax number, e-mail and web site addresses, if applicable.
    - f. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking.
    - g. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material.
    - h. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state.
    - i. The summary of the economic, small business, and consumer impact, if applicable.
    - j. A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and the final rulemaking, if applicable.
    - k. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable.

- l. Any other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:
    - i. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used;
    - ii. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law; and
    - iii. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states.
  - m. A list of any incorporated by reference material and its location in the rule.
  - n. Whether the rule was previously made, amended, repealed, or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages.
  - o. The phrase "The full text of the rules follows:".
6. The full text of the rules in the rulemaking package shall begin on the next page after the last item in the Preamble and contain the text as specified in R1-1-502(B)(18).
- C.** An exempt rulemaking package submitted to the Office for filing and publication shall include:
1. Two agency receipts as specified in R1-1-106;
  2. An original and two copies of the agency certificate as specified in R1-1-105;
  3. An original and two copies of the rulemaking package as specified in R1-1-103;
  4. An economic, small business, and consumer impact statement if required by A.R.S. § 41-1055; and
  5. An agency that received an analysis comparing the rule's impact of the competitiveness of business in this state to the impact on business in other states, shall file the analysis with the rulemaking.

**ARTICLE 10. RECODIFICATION****R1-1-1001. Notice of Recodification**

- A.** An agency renumbering one or more Sections from one Chapter to another Chapter, or within a Chapter under R1-1-404(B)(1), shall submit to the Office one original and two copies of a Notice of Recodification for filing and publication.
- B.** A Notice of Recodification shall contain the heading NOTICE OF RECODIFICATION in all capital letters, centered on a line approximately one inch from the top of the page; followed by the Title, its number, and heading centered under the notice heading; followed by the Chapter, its number, and heading centered below the Title; followed by the Subchapter, its label, and heading, if applicable, centered below the Chapter; followed by the items listed below in the same numbered order:
1. A list of the Subchapters (if applicable), Articles, Parts (if applicable), and Sections being recodified along with their respective headings;
  2. A list of the Subchapters (if applicable), Articles, Parts (if applicable), and Sections as recodified along with their respective headings;
  3. A conversion table between the two numbering schemes; and
  4. The name and address of agency personnel with whom persons may communicate regarding the recodification.

Section 7. Rules of the Office of the Secretary of State

- C.** If an agency renumbers or recodifies a Section, it shall make no other changes to the Section except corrections to Section references within the text of the Section or its heading.
- D.** A Notice of Recodification is effective on the date the notice is filed with the Office.

# Section 8

## Rules of G.R.R.C.

*Editor's Note: The Chapter printed here is not the official version of the Arizona Administrative Code.*

### TITLE 1. RULES AND THE RULEMAKING PROCESS

#### CHAPTER 6. GOVERNOR'S REGULATORY REVIEW COUNCIL

(Authority: A.R.S. § 41-1051)

##### ARTICLE 1. RULES OF PROCEDURE

Section	
R1-6-101.	Definitions
R1-6-102.	Meetings
R1-6-103.	Schedule and Filing Deadlines
R1-6-104.	Placing a Regular Rule on the Council Agenda
R1-6-105.	Submitting a Proposed Summary Rule
R1-6-106.	Placing a Final Summary Rule on the Council Agenda
R1-6-107.	Submitting Approved Regular Rules
R1-6-108.	Filing Rules Approved by the Council
R1-6-109.	Returned Rules and Five-year Review Reports
R1-6-110.	Appearance by the Agency
R1-6-111.	Five-year Review Report
R1-6-112.	Oral and Written Comments
R1-6-113.	Rescheduling a Five-year Review Report
R1-6-114.	Extension to File a Five-year Review Report
R1-6-115.	Petition under A.R.S. § 41-1056(I) for an Agency to Consider Including an Obsolete Rule in a Scheduled Five-year Review Report with Recommendation for Repeal

##### ARTICLE 2. DELEGATION AGREEMENTS

Section	
R1-6-201.	Appeal of a Delegation Agreement
R1-6-202.	Repealed
R1-6-203.	Repealed
R1-6-204.	Repealed
R1-6-205.	Repealed
R1-6-206.	Repealed

##### ARTICLE 3. AGENCY PRACTICE OR SUBSTANTIVE POLICY STATEMENTS

Section	
R1-6-301.	Petition for Council Rulemaking or Review
R1-6-302.	Appeal of an Existing Agency Practice or Substantive Policy Statement

##### ARTICLE 4. APPEALS OF ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENTS

Section	
R1-6-401.	Appeal of an Economic, Small Business, and Consumer Impact Statement

##### ARTICLE 5. EARLY REVIEW PETITION

Section	
R1-6-501.	Early Review Petition of a Proposed Rule

##### ARTICLE 1. RULES OF PROCEDURE

###### R1-6-101. Definitions

- A. The definitions in A.R.S. § 41-1001 apply to this Chapter.
- B. In this Chapter:

1. "Agency head" means the chief officer of an agency or another person directly or indirectly purporting to act on behalf or under the authority of the agency head.
2. "Chair" means the chairperson of the Council.
3. "Electronic copy" means a document submitted by e-mail.
4. "Open Meeting Law" means A.R.S. §§ 38-431 through 38-431.09.
5. "Regular rule" means a rule made according to A.R.S. §§ 41-1021, 41-1022 through 41-1025, 41-1028 through 41-1032, 41-1035, 41-1052, and 41-1055.

###### R1-6-102. Meetings

- A. The Chair, in consultation with the Council, shall set regular meeting dates of the Council for each calendar year by the preceding October 31 and shall post notice of each regular meeting according to the Open Meeting Law.
- B. The Chair or Council may schedule a special meeting to consider any matter it may consider at a regular meeting. The Council shall post notice of a special meeting according to the Open Meeting Law at least 24 hours before the special meeting.
- C. The Council may recess a regular or special meeting to a later date if, before recessing, the Chair gives notice of the date and time of the resumption of the meeting and posts a notice of resumption of the meeting according to the Open Meeting Law.

###### R1-6-103. Schedule and Filing Deadlines

The Chair, in consultation with Council, shall establish for each calendar year, by the preceding October 31, a schedule containing filing deadlines based on the meeting dates established under R1-6-102 for:

1. Rules submitted or if applicable, resubmitted to the Council including new, amended, repealed, or renumbered rules; and
2. Five-year review reports.

###### R1-6-104. Placing a Regular Rule on the Council Agenda

- A. To place a regular rule on the Council agenda, an agency shall deliver to the Council office two rule packages prepared in the manner required by this Chapter and the rules of the Office of the Secretary of State. The agency shall ensure that each rule package contains the following items assembled in the following order:

1. Cover letter signed by the agency head specifying:
  - a. The close of record date;
  - b. Whether definitions of terms contained in statutes or other rules and used in the rule are attached;
  - c. Whether the rulemaking relates to a five-year review report and, if applicable, the date the report was approved by the Council;

Section 8. Rules of G.R.R.C.

- d. Whether the rule contains a new fee and, if it does, citation of the statute expressly authorizing the new fee;
  - e. Whether the rule contains a fee increase;
  - f. Whether an immediate effective date is requested for the rule under A.R.S. § 41-1032;
  - g. A certification that the preamble discloses a reference to any study relevant to the rule that the agency reviewed and either did or did not rely on in the agency's evaluation of or justification for the rule;
  - h. If one or more full-time employees are necessary to implement and enforce the rule, a certification that the preparer of the economic, small business, and consumer impact statement has notified the Joint Legislative Budget Committee of the number of new full-time employees necessary to implement and enforce the rule; and
    - i. A list of all items enclosed.
2. Notice of Final Rulemaking, required by A.A.C. R1-1-602, including the preamble, table of contents for the rulemaking, and text of each rule;
3. Economic, small business, and consumer impact statement that contains the information required by A.R.S. § 41-1055;
4. Copy of the existing rule if the entire existing rule is not shown as part of the revised text of a rule the agency is amending; and
5. Copy of definitions of terms, used in the rule, that are defined in statute or another rule, if any.
- B.** In addition to the items specified in subsection (A), an agency shall submit one copy of each of the following:
- 1. All written comments received by the agency concerning the proposed rule and a written record, transcript, or minutes of any oral comments received if the agency maintains a written record, transcript, or minutes;
  - 2. Materials incorporated by reference, if any; and
  - 3. Any analysis submitted to the agency that compares the rule's impact on the competitiveness of businesses in this state to the impact on businesses in other states.
- C.** After a rule is placed on the Council agenda, Council staff shall review the rule for compliance with the requirements of A.R.S. § 41-1052(D), (E), and (F) and this Chapter and may suggest changes to the agency. After making any change, the agency shall submit the rule package to the Council office under one of the following alternatives:
- 1. If the agency believes it is likely that the rule package will be approved by the Council without change, it shall submit:
    - a. Four paper copies of the Notice of Final Rulemaking as specified in subsection (A)(2) and the economic, small business, and consumer impact statement as specified in subsection (A)(3);
    - b. One original and three paper copies of an agency certificate prepared as provided in A.A.C. R1-1-105 except that the statement in A.A.C. R1-1-105(A)(3)(f) that no changes have been made since the Council approved the rule shall be omitted;
    - c. Two paper copies of an agency receipt prepared as provided in A.A.C. R1-1-106; and
    - d. One of the following:
      - i. A computer disk or CD that contains the items listed in subsection (A) and the general and specific statutes authorizing the rule, or
      - ii. A computer disk or CD that contains the Notice of Final Rulemaking specified in subsection (A)(2) and an electronic copy of all the items listed in subsection (A) and the general and specific statutes authorizing the rule; or
  - 2. If the agency is uncertain whether the rule package will be approved by the Council without change, it shall submit:
    - a. One paper copy of the Notice of Final Rulemaking in subsection (A)(2) and the economic, small business, and consumer impact statement in subsection (A)(3); and
    - b. One of the following:
      - i. A computer disk or CD that contains all the items listed in subsection (A) and the general and specific statutes authorizing the rule, or
      - ii. An electronic copy of all the items listed in subsection (A) and the general and specific statutes authorizing the rule.
- D.** After a rule is placed on the Council agenda, an agency may have the rule moved to the agenda of a later meeting by having the agency head send a notice to the Chair that includes the date of the later meeting.
- E.** If it is necessary for a rule to be heard at more than one Council meeting, the agency shall contact the Council staff to learn which rule-package items the agency needs to resubmit for the later meeting.
- R1-6-105. Submitting a Proposed Summary Rule**  
To submit a proposed summary rule, an agency shall deliver to the Council office one copy of the following items, assembled in the following order and prepared in the manner required by this Chapter and the rules of the Office of the Secretary of State:
- 1. Notice of Proposed Summary Rulemaking, including the preamble, table of contents for the proposed summary rulemaking, and text of the proposed summary rule filed with the Office of the Secretary of State as required by A.R.S. § 41-1027(B); and
  - 2. Statute that repeals or supersedes the authority under which the original rule was enacted or the statute that is repeated verbatim in the original rule or proposed summary rule.
- R1-6-106. Placing a Final Summary Rule on the Council Agenda**  
**A.** To place a final summary rule on the Council agenda, an agency shall deliver to the Council office the following items, prepared in the manner required by this Chapter and the rules of the Office of the Secretary of State:
- 1. The cover letter described in subsection (B)(1);
  - 2. Four paper copies of the Notice of Final Summary Rulemaking in subsection (B)(2) and the economic, small business, and consumer impact statement in subsection (B)(3);
  - 3. One original and three paper copies of an agency certificate prepared as provided in A.A.C. R1-1-105, except that the statement in A.A.C. R1-1-105(A)(3)(f) that no changes have been made since the Council approved the rule shall be omitted;
  - 4. Two paper copies of an agency receipt prepared as provided in A.A.C. R1-1-106; and
  - 5. A computer disk or CD that contains all the items listed in subsection (B) and the general and specific statutes authorizing the rule; or
  - 6. A computer disk or CD that contains the Notice of Final Summary Rulemaking in subsection (B)(2) and an electronic copy of all the items listed in subsection (B) and the general and specific statutes authorizing the rule.

- B.** An agency shall ensure that the rule package contains the following items assembled in the following order:
1. Cover letter signed by the agency head specifying:
    - a. The close of record date;
    - b. Whether the rulemaking relates to a five-year review report and, if applicable, the date the report was approved by the Council;
    - c. Whether an immediate effective date is requested for the rule under A.R.S. § 41-1032;
    - d. A certification that the preamble discloses a reference to any study relevant to the rule that the agency reviewed and either did or did not rely on in the agency's evaluation of or justification for the rule; and
    - e. A list of all items enclosed.
  2. Notice of Final Summary Rulemaking, required by A.A.C. R1-1-801, including the preamble, table of contents for the final summary rulemaking, and text of each final summary rule;
  3. Economic, small business, and consumer impact statement that:
    - a. Contains the information required by A.R.S. § 41-1055 or a statement that the rulemaking is exempt from this requirement under A.R.S. § 41-1055(D)(2); and
    - b. If applicable, contains an explanation of why repeal of the obsolete rule does not increase the cost of compliance under A.R.S. § 41-1027(A)(3).
- C.** In addition to the items specified in subsection (B), an agency shall submit one copy of all written comments received by the agency concerning the proposed summary rule and any analysis submitted to the agency that compares the rule's impact on the competitiveness of businesses in this state to the impact on businesses in other states.

**R1-6-107. Submitting Approved Regular Rules**

- A.** For a final regular rule placed on the Council's agenda under R1-6-104(C)(2) and approved by the Council or placed on the Council's agenda under R1-6-104(C)(1) and approved by the Council with changes or a final summary rule approved by the Council with changes, an agency shall deliver to the Council office within 14 calendar days after Council approval, unless a later date is arranged under subsection (B), the following items, prepared in the manner required by this Chapter and the rules of the Office of the Secretary of State:
1. A letter identifying each change made at the direction of the Council. If no changes were directed, no letter is required;
  2. One original and three paper copies of the following items assembled in the following order:
    - a. Agency certificate; and
    - b. Notice of Final Rulemaking or Notice of Final Summary Rulemaking and the economic, small business, and consumer impact statement;
  3. Two copies of the receipt required by A.A.C. R1-1-106; and
  4. One computer disk or CD that contains the item listed in R1-6-104(A)(2) or (B)(2).
- B.** If an agency is unable to deliver an approved regular rule or summary rule to the Council office within the time specified in subsection (A), the agency shall contact the Council office and arrange to submit the approved rule at a later date.

**R1-6-108. Filing Rules Approved by the Council**

- A.** If the Council approves a Notice of Final Rulemaking or Notice of Final Summary Rulemaking and the agency submits

the items required by R1-6-107, the Council shall file the original and two copies of the agency's items; two copies of the agency receipt; and the computer disk or CD, with the Office of the Secretary of State. The Council shall include an original and two copies of a written notice specifying the Sections approved and the date of Council approval.

- B.** If the Council approves a preamble, table of contents for the rulemaking, rule, or economic, small business, and consumer impact statement subject to the agency making changes as directed by the Council, and the agency submits the items required by R1-6-107:
1. Council staff shall verify that each change required by the Council was made and file the items with the Office of the Secretary of State as prescribed in subsection (A).
  2. If an agency submits a revised preamble, table of contents for the rulemaking, rule, or economic, small business, and consumer impact statement that does not contain the exact words approved by the Council, Council staff shall notify the agency and require that the items be submitted as approved or schedule the matter for reconsideration by the Council.
- C.** Except as specified in subsection (B), an agency shall not make any change to a preamble, table of contents for the rulemaking, rule, economic, small business, and consumer impact statement, or materials incorporated by reference after Council approval.

**R1-6-109. Returned Rules and Five-year Review Reports**

- A.** The Council may vote to return a preamble, table of contents for the rulemaking, rule, or economic, small business, and consumer impact statement under A.R.S. § 41-1052(C), after identifying the manner in which the returned rule-package item does not meet the standards at A.R.S. § 41-1052(D) through (F).
1. The Council may schedule a date for resubmission in consultation with the agency representative.
  2. An agency resubmitting a preamble, table of contents for the rulemaking, rule, or economic, small business, and consumer impact statement to the Council shall attach to the resubmitted rule-package item a letter that:
    - a. Identifies all changes made in response to the Council's explanation for its return of the rule-package item,
    - b. Explains how the changes ensure that the rule-package item meets the standards at A.R.S. § 41-1052(D) through (F), and
    - c. Shows that the resubmitted rule is not substantially different from the proposed rule under the standards in A.R.S. § 41-1025.
  3. In accordance with R1-6-110, an agency representative shall appear at the Council meeting at which the resubmitted preamble, table of contents for the rulemaking, rule, or economic, small business, and consumer impact statement is to be considered.
- B.** The Council may vote to return a five-year review report after identifying the manner in which the five-year review report does not meet the standards in A.R.S. § 41-1056(A)(1) through (9).
1. The Council, in consultation with the agency, shall schedule submission of a revised report.
  2. An agency submitting a revised five-year review report shall attach to the revised report a letter that:
    - a. Identifies all changes made in response to the Council's explanation for return of the five-year review report, and

- b. Explains how the changes ensure that the five-year review report meets the standards in A.R.S. § 41-1056(A)(1) through (9).

**R1-6-110. Appearance by the Agency**

- A. A representative of an agency shall appear at the Council meeting at which the agency rule or five-year review report is to be considered to respond to questions and comments by the Council.
- B. If an agency representative fails to appear at the Council meeting at which the agency rule or five-year review report is considered, the Council may:
  - 1. Reschedule consideration of the rule or report;
  - 2. Return the rule or report, in whole or in part, to the agency; or
  - 3. Approve the rule or report, in whole or in part, after allowing public comment, if any.

**R1-6-111. Five-year Review Report**

- A. To place a five-year review report on the Council agenda, an agency shall deliver to the Council office two copies of the five-year review report required by A.R.S. § 41-1056. Except as indicated in subsection (B), the agency shall concisely analyze and provide the following information in the five-year review report in the following order for each rule:
  - 1. General and specific statutes authorizing the rule;
  - 2. Objective of the rule;
  - 3. Effectiveness of the rule in achieving the objective;
  - 4. Consistency of the rule with state and federal statutes and rules, and a listing of the statutes or rules used in determining the consistency;
  - 5. Agency enforcement policy, including whether the rule is currently being enforced and, if so, whether there are any problems with enforcement;
  - 6. Agency view regarding current wisdom of the rule;
  - 7. Clarity, conciseness, and understandability of the rule;
  - 8. Summary of the written criticisms of the rule received by the agency within the five years immediately preceding the five-year review report, including letters, memoranda, reports, and written allegations made in litigation or administrative proceedings in which the agency was a party that the rule is discriminatory, unfair, unclear, inconsistent with statute, or beyond the authority of the agency to enact, and the result of the litigation or administrative proceedings;
  - 9. A comparison of the current economic, small business, and consumer impact of the rule with the economic, small business, and consumer impact statement prepared on the last making of the rule or, if no economic, small business, and consumer impact statement was prepared on the last making of the rule, an assessment of the actual economic, small business, and consumer impact of the rule;
  - 10. Any analysis submitted to the agency by another person that compares the rule's impact on this state's business competitiveness to the impact on businesses in other states;
  - 11. If applicable, whether the agency completed the course of action indicated in the agency's previous five-year review report;
  - 12. A determination that the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective; and
  - 13. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if

the agency determines it is necessary to amend or repeal an existing rule, or to make a new rule.

- B. If the information regarding any of the items listed in subsection (A) is identical for any group of rules, the agency shall discuss that information in its five-year review report only once for the group of rules.
- C. An agency shall attach the following to each copy of a five-year review report:
  - 1. Cover letter, signed by the agency head, that identifies:
    - a. A person to contact for information regarding the report,
    - b. Any rule that is not reviewed with the intention that the rule will expire under A.R.S. § 41-1056(E), and
    - c. Any rule that is not reviewed because the Council rescheduled the review of the rule under A.R.S. § 41-1056(C), and
  - 2. Copy of the rules being reviewed.
- D. If an economic, small business, and consumer impact statement was prepared on the last making of a rule being reviewed, an agency shall attach one copy of the economic, small business, and consumer impact statement for the rule to the five-year review report.
- E. After a five-year review report is placed on the Council agenda, Council staff shall review the report for compliance with the requirements of A.R.S. § 41-1056 and this Chapter and may suggest changes to the agency. After making any change, the agency shall submit to the Council office one paper copy of the five-year review report and one electronic copy of or a computer disk or CD that contains the five-year review report as specified in subsection (A), the cover letter and rules specified in subsection (C)(2), and the general and specific statutes authorizing the rules reviewed.
- F. After a five-year review report is filed, an agency may make one request that the report be moved to the agenda of a meeting scheduled for no later than 60 days after the request by having the agency head send a written request to the Chair that includes the date of the meeting. After the agency makes a request to have a five-year review report moved, an agency shall address any subsequent requests to the Chair. The Chair may grant or deny a subsequent request at the Chair's discretion.

**R1-6-112. Oral and Written Comments**

- A. Under A.R.S. § 41-1052(H) a person may submit written comments to the Council about an agency rulemaking within 60 days from Council receipt of the rulemaking. The date of Council receipt of the rule shall be posted on the Council's web site. Council staff shall notify the agency of any written comments received by the Council. An agency may submit a written response to the Council within 15 days of being notified by Council staff of the comment.
- B. A person may make oral comments about an agency rulemaking at a Council meeting.
- C. The Chair may limit the time allotted to each speaker and preclude repetitious comments.
- D. A person who makes written or oral comments to the Council shall:
  - 1. Ensure that the comments relate to a final rulemaking filed with the Council;
  - 2. Cite the particular provision of A.R.S. § 41-1052(D) through (F) that is the basis for the Council's authority to consider each issue addressed;
  - 3. State specifically how each issue relates to the particular provision cited;
  - 4. Tell what other efforts the person made to communicate with the rulemaking agency about each issue; and

5. If making oral comments, submit one of the following by at least 5:00 p.m. Arizona time six business days before a scheduled Council meeting: one electronic copy of, a computer disk or CD, or 10 paper copies of any visual aids or written materials supplementing the oral comments to the Council analyst assigned. The Council analyst shall forward a copy to each member of the Council, the Council's Assistant Attorney General, and the person identified as responsible for the agency's rulemaking; or
  6. If not making oral comments, submit one of the following by at least 5:00 p.m. Arizona time six business days before a scheduled Council meeting: one electronic copy, of a computer disk or CD, or 10 paper copies of any written comments to the Council analyst assigned. The Council analyst shall forward a copy to each member of the Council, the Council's Assistant Attorney General, and the person identified as responsible for the agency's rulemaking.
- E.** If materials are submitted under subsection (C)(5) or (6) fewer than six business days before the Council meeting, the Chair, in the Chair's discretion, shall consider the reason for the untimely submittal, fairness to the rulemaking agency, and the best interests of the state in determining the action to take under A.R.S. § 41-1052.

**R1-6-113. Rescheduling a Five-year Review Report**

- A.** To request that a five-year review report be rescheduled under A.R.S. § 41-1056(C), an agency head shall submit a letter to the Chair before the report is due but not more than 90 days before the report is due that includes the following information:
1. The Title, Chapter, and Article of the rules for which rescheduling is sought;
  2. Whether the rules were initially made or substantially revised with an effective date that is within the two years before the due date of the report; and
    - a. If substantially revised:
      - i. A description of the revisions,
      - ii. Why the revisions are believed to be substantial, and
      - iii. The date on which the rules were published in the *Register* by the Office of the Secretary of State and the effective date of the rules; or
    - b. If initially made, the date on which the rules were published in the *Register* by the Office of the Secretary of State and the effective date of the rules.
- B.** The Chair or the Chair's designee, in the Chair's or Chair's designee's discretion, may grant the rescheduling of a five-year review report if all rules within an Article meet the requirements of this Section.

**R1-6-114. Extension to File a Five-year Review Report**

- A.** An agency may obtain an extension of 120 days to file a five-year review report by filing a written notice of extension with the Council before the due date of the report. The agency shall specify in the notice the reason for the extension.
- B.** An agency may request one extension of more than 120 days but less than 181 days to file the report by sending a written request to the Chair at least 40 days prior to the due date of the report. The agency shall specify the length of the requested extension and the reason for the requested extension.
1. A request for an extension of more than 120 days but less than 181 days shall be placed on the agenda of a Council meeting scheduled to occur prior to the due date of the report.

2. Council shall consider the extension request and may grant a request that is greater than 120 days but shall not grant an extension request that exceeds 180 days.

**R1-6-115. Petition under A.R.S. § 41-1056(I) for an Agency to Consider Including an Obsolete Rule in a Scheduled Five-year Review Report with Recommendation for Repeal**

- A.** A person shall file a petition under A.R.S. § 41-1056(I) at least 60 days before the original due date of the five-year review report in which the rule is scheduled to be reviewed. The person filing the petition shall deliver to the Council office one of the following: one electronic copy, a computer disk or CD, or one paper copy. The petition shall contain:
1. The name, mailing address, e-mail address, and fax and telephone numbers of the person filing the petition;
  2. The name of the person being represented by the person filing the petition, if applicable;
  3. A statement of why the rule is obsolete and should be repealed; and
  4. A statement of how the person is regulated or could be regulated by the rule.
- B.** The petition shall not exceed five double-spaced pages and shall be in Arial typeface of no less than 12 point.
- C.** The Council shall notify the agency head of the petition by 5:00 p.m. of the business day following Council receipt of the petition. Within 14 days of the date the petition is filed the agency shall file one electronic copy, a computer disk or CD, or one paper copy of a response to the petition that either:
1. Indicates the agency will consider including the obsolete rule in the five-year review report with a recommendation for repeal, or
  2. Includes a statement of why the rule is not obsolete and should not be repealed.
- D.** The Council shall schedule the petition for the next Council meeting as soon as practicable after receipt of the agency's response under subsection (C).
- E.** Within seven calendar days after the Council's decision on the petition, the Chair or the Chair's designee, shall send a letter to the affected agency head and the person filing the petition advising them of the Council's decision.

**ARTICLE 2. DELEGATION AGREEMENTS**

**R1-6-201. Appeal of a Delegation Agreement**

- A.** Under A.R.S. § 41-1081(F), a person who appeals an agency decision to enter into a delegation agreement shall deliver to the Council office one original written request signed by the person submitting the appeal and eight paper copies or one electronic copy of, or a computer disk that contains, the request. The person submitting the appeal shall include the following in the request:
1. All written objections to the delegation agreement submitted to the delegating agency by the person filing the appeal;
  2. The name and address of each agency and each political subdivision entering into the delegation agreement;
  3. The name, address, and fax and telephone numbers of the person filing the appeal;
  4. The name of the person being represented by the person filing the appeal;
  5. The subject matter of the delegation agreement; and
  6. The reasons why the person is objecting to the delegation agreement and filing the appeal.
- B.** The head of an agency whose delegation agreement is being appealed shall deliver to the Council office one original and eight paper copies or one electronic copy of, or a computer disk that contains the following:

Section 8. Rules of G.R.R.C.

1. A memorandum that lists the date the delegating agency gave written notice of the decision to enter into the delegation agreement and the dates of all public proceedings regarding the delegation agreement;
  2. The name, address, and fax and telephone numbers of each agency and each political subdivision contact person;
  3. The delegation agreement; and
  4. A written summary prepared by the agency, responding to all oral or written comments received by the agency regarding the delegation agreement.
- C. The Council shall notify the delegating agency head of an appeal of a delegation agreement by 5:00 p.m. of the business day following Council receipt of the appeal. The agency head shall deliver to the Council office the information and documents listed in subsection (B) no later than 5:00 p.m. on the third business day following notification of the appeal by the Council.
- D. Within 14 calendar days after an appeal is filed with the Council, the Chair shall send written notice to the person filing the appeal and the delegating agency head stating whether three Council members have requested that the appeal be considered at a Council meeting. If an appeal is to be considered at a Council meeting, the notice shall include the date and time of the Council meeting.
- E. After the Council approves or disapproves a delegation agreement that has been appealed, the Chair shall send a written letter to the delegating agency head and person filing the appeal that specifies the reasons for the approval or disapproval and the date of Council action.

**R1-6-202. Repealed**

**R1-6-203. Repealed**

**R1-6-204. Repealed**

**R1-6-205. Repealed**

**R1-6-206. Repealed**

**ARTICLE 3. AGENCY PRACTICE OR SUBSTANTIVE POLICY STATEMENTS**

**R1-6-301. Petition for Council Rulemaking or Review**

- A. A person may petition the Council under A.R.S. § 41-1033(A) for a:
1. Rulemaking action relating to a Council rule, including making a new rule or amending or repealing an existing rule; or
  2. Review of an existing Council practice or substantive policy statement alleged to constitute a rule.
- B. To act under A.R.S. § 41-1033(A) and this Section, a person shall submit to the Council office a written petition including the following information:
1. Name, address, telephone number, and fax number, if any, of the person submitting the petition;
  2. Name of any person represented by the person submitting the petition;
  3. If requesting a rulemaking action:
    - a. Statement of the rulemaking action sought, including the A.A.C. citation of all existing rules, and the specific language of a new rule or rule amendment; and
    - b. Reasons for the rulemaking action, including an explanation of why an existing rule is inadequate, unreasonable, unduly burdensome, or unlawful;

4. If requesting a review of an existing practice or substantive policy statement:
    - a. Subject matter of the existing practice or substantive policy statement, and
    - b. Reasons why the existing practice or substantive policy statement constitutes a rule; and
  5. Dated signature of the person submitting the petition.
- C. A person may submit supporting information with a petition, including:
1. Statistical data; and
  2. A list of other persons likely to be affected by the rule-making action or the review, with an explanation of the likely effects.
- D. The Council shall send the person submitting a petition a written response within 60 calendar days of the date the Council receives the petition.

**R1-6-302. Appeal of an Existing Agency Practice or Substantive Policy Statement**

- A. A person appealing an agency's final decision regarding a petition for review of an existing agency practice or substantive policy statement filed under A.R.S. § 41-1033(B) shall deliver to the Council office one original and eight paper copies or one electronic copy of, or a computer disk that contains, the following:
1. A request signed by the person submitting the appeal that includes the following:
    - a. Name of the agency upon which the appeal is taken;
    - b. Name, address, telephone number, and fax number, if any, of the person filing the appeal;
    - c. Name of the person being represented by the person filing the appeal;
    - d. Subject matter of the existing agency practice or substantive policy statement being appealed; and
    - e. Reasons why the existing agency practice or substantive policy statement constitutes a rule.
  2. The petition requesting a review of the agency's existing practice or substantive policy statement; and
  3. The agency's written decision that is being appealed.
- B. The Council shall notify the affected agency head of an appeal of an existing agency practice or a substantive policy statement by 5:00 p.m. of the business day following Council receipt of the appeal. The agency shall deliver to the Council office the information and documents listed in subsection (C) no later than 5:00 p.m. on the third business day following notification by the Council of the appeal.
- C. The head of an agency whose final decision is being appealed shall deliver to the Council office one original and eight paper copies or one electronic copy of, or a computer disk that contains, the following:
1. A memorandum that includes the following:
    - a. Date the agency gave written notice of its decision under A.R.S. § 41-1033(A);
    - b. Name, address, telephone number, and fax number, if any, of each agency contact person; and
    - c. Reasons why the agency believes that the existing agency practice or substantive policy statement does not constitute a rule.
  2. The existing agency practice or substantive policy statement being appealed; and
  3. If a petition other than that of the appellant was filed with the agency requesting a review of the same existing practice or substantive policy statement being appealed:
    - a. The other petition, and
    - b. The agency's written decision regarding the other petition.

- D. Within 14 calendar days after an appeal is filed with the Council, the Chair shall send written notice to the person filing the appeal and the affected agency head stating whether three Council members have requested that the appeal be considered at a Council meeting. If the appeal is to be considered at a Council meeting, the notice shall include the date and time of the Council meeting.
- E. Within seven calendar days after the Council decides whether the agency practice or substantive policy statement constitutes a rule, the Chair shall send a letter to the affected agency head and the person filing the appeal that specifies the decision and the reasons for and date of the Council decision.

#### **ARTICLE 4. APPEALS OF ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENTS**

##### **R1-6-401. Appeal of an Economic, Small Business, and Consumer Impact Statement**

- A. A person appealing an agency's final decision on whether to initiate a rulemaking under A.R.S. § 41-1056.01(D), shall deliver to the Council office one of the following: one electronic copy, a computer disk or CD, or one original and eight paper copies of an appeal. The appeal shall contain:
  1. A request signed by the person submitting the appeal, citing the rule or rules being appealed and:
    - a. Name of the agency upon which the appeal is taken;
    - b. Name, mailing address, e-mail address, telephone number, and fax number, if any, of the person filing the appeal;
    - c. Name of the person being represented by the person filing the appeal, if applicable;
    - d. How the person filing the appeal is or may be affected by the agency's final decision made under A.R.S. § 41-1056.01(C); and
    - e. Why the person appealing believes that:
      - i. Under A.R.S. § 41-1056.01(A)(1), the actual economic, small business, or consumer impact significantly exceeded the estimated impact; or
      - ii. Under A.R.S. § 41-1056.01(A)(2), the actual economic, small business, or consumer impact was not estimated on adoption of the rule; and the impact imposes a significant burden on persons subject to the rule; or
      - iii. Under A.R.S. § 41-1056.01(A)(3), the agency did not select the alternative that imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.
  2. A copy of the economic, small business, and consumer impact statement being addressed in the appeal; and
  3. The data used by the person appealing to support the reasons listed under subsection (A)(1)(e).
- B. The Council shall notify the affected agency head of an appeal of the economic impact of a rule by 5:00 p.m. of the business day following Council receipt of the appeal. The affected agency head shall deliver to the Council office the information and documents listed in subsection (C) no later than 5:00 p.m. on the third business day following notification by the Council of the appeal.
- C. The head of an agency whose final decision is being appealed shall deliver to the Council office one of the following: one electronic copy, a computer disk or CD, or one original and eight paper copies of a response. The response shall contain:
  1. A memorandum that includes the following:
    - a. Date of publication of the agency's final decision under A.R.S. § 41-1056.01(C);
    - b. Name, mailing address, e-mail address, telephone number, and fax number, if any, of each agency contact person;
    - c. Reasons why the agency believes that:
      - i. The actual economic, small business, and consumer impact did not significantly exceed the estimated economic, small business, and consumer impact; or
      - ii. The actual economic, small business, and consumer impact was estimated on approval of the rule and the impact does not impose a significant burden on persons subject to the rule; or
      - iii. Under A.R.S. § 41-1056.01(A)(3), the agency selected the alternative that imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective; and
    - d. A copy of final judgments, if any, issued by a court of competent jurisdiction that are based on whether the contents of the rule's economic, small business, and consumer impact statement were insufficient or inaccurate;
  2. A copy of the rule being appealed; and
  3. The agency's written summary prepared and published as required by A.R.S. § 41-1056.01(C).

- D. Within 14 calendar days after an appeal is filed with the Council, the Chair shall send written notice to the person filing the appeal and the affected agency head stating whether three Council members have requested that the appeal be considered at a Council meeting. If the appeal is to be considered at a Council meeting, the notice shall include the date and time of the Council meeting.

- E. Within seven calendar days after the Council decides whether one or more of the provisions in A.R.S. § 41-1056.01(A) are met, the Chair shall send a letter to the affected agency head and the person filing the appeal that specifies the decision, the reasons for and date of the Council decision, and the action, if any, required by the agency.

#### **ARTICLE 5. EARLY REVIEW PETITION**

##### **R1-6-501. Early Review Petition of a Proposed Rule**

- A. A person may file an early review petition with Council after a proposed rule is published in the *Register* but before the rule is filed with Council as a final rule under R1-6-104 or R1-6-106.
- B. The person filing the petition shall deliver to the Council office one of the following: one electronic copy, a computer disk or CD, or one paper copy. The petition shall contain:
  1. The name, mailing address, e-mail address, and fax and telephone numbers of the person filing the petition;
  2. The name of the person being represented by the person filing the petition, if applicable;
  3. An explanation of how the proposed rule violates any of the criteria in A.R.S. § 41-1052(D);
  4. An explanation of why the Council should consider the petition at the proposed rulemaking stage; and
  5. An explanation of how the person would be adversely affected by the proposed rule.
- C. The petition shall not exceed five double-spaced pages and shall be in Arial typeface of not less than 12 point.
- D. The Council shall notify the agency head of the petition by 5:00 p.m. of the business day following Council receipt of the petition. Within 14 days of the date the petition is filed the agency shall file a response to the petition and deliver to the Council one of the following: one electronic copy, a computer disk or CD, or one paper copy. The agency shall deliver by

Section 8. Rules of G.R.R.C.

mail or in person a copy of the response to the Petitioner. The response shall contain:

1. An explanation of why the proposed rule does not violate any of the criteria in A.R.S. § 41-1052(D);
  2. If applicable, an explanation of why the person would not be adversely affected by the proposed rule; and
  3. An explanation of why the rulemaking should be permitted to proceed to final rulemaking.
- E.** A reply brief is not permitted. Documents and exhibits supporting the petition or response shall only be allowed by a majority vote of the quorum present and upon written request that demonstrates good cause.
- F.** An early review petition filed under this Section does not stay the rulemaking process.
- G.** The Council shall consider the petition at a scheduled Council meeting as soon as practicable after receipt of the agency's response under subsection (D).
- H.** Within seven calendar days after the Council considers the petition, the Chair shall send a letter to the affected agency head and the person filing the petition, advising them of the Council's decision.

## Section 9

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