

REFERENCE TITLE: regulatory rules; amendments

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

HB 2744

Introduced by
Representatives Reeve: Brophy McGee, Fann, Hobbs, Ugenti, Vogt

AN ACT

AMENDING SECTIONS 41-1001 AND 41-1001.01, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 6, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1001.02; AMENDING SECTIONS 41-1005, 41-1008, 41-1013 AND 41-1024, ARIZONA REVISED STATUTES; REPEALING SECTION 41-1027, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 6, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 41-1027; AMENDING SECTIONS 41-1032, 41-1033, 41-1047, 41-1051, 41-1052, 41-1053, 41-1055, 41-1056 AND 41-1057, ARIZONA REVISED STATUTES; REPEALING SECTION 41-1078, ARIZONA REVISED STATUTES; AMENDING SECTION 41-1091, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 6, ARTICLE 9, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1091.01; RELATING TO ADMINISTRATIVE PROCEDURES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 41-1001, Arizona Revised Statutes, is amended to
3 read:
4 41-1001. Definitions
5 In this chapter, unless the context otherwise requires:
6 1. "Agency" means any board, commission, department, officer or other
7 administrative unit of this state, including the agency head and one or more
8 members of the agency head or agency employees or other persons directly or
9 indirectly purporting to act on behalf or under the authority of the agency
10 head, whether created under the Constitution of Arizona or by enactment of
11 the legislature. Agency does not include the legislature, the courts or the
12 governor. Agency does not include a political subdivision of this state or
13 any of the administrative units of a political subdivision, but does include
14 any board, commission, department, officer or other administrative unit
15 created or appointed by joint or concerted action of an agency and one or
16 more political subdivisions of this state or any of their units. To the
17 extent an administrative unit purports to exercise authority subject to this
18 chapter, an administrative unit otherwise qualifying as an agency must be
19 treated as a separate agency even if the administrative unit is located
20 within or subordinate to another agency.
21 2. "Code" means the Arizona administrative code.
22 3. "Committee" means the administrative rules oversight committee.
23 4. "Contested case" means any proceeding, including rate making, price
24 fixing and licensing, in which the legal rights, duties or privileges of a
25 party are required or permitted by law, other than this chapter, to be
26 determined by an agency after an opportunity for an administrative hearing.
27 5. "Council" means the governor's regulatory review council.
28 6. "Delegation agreement" means an agreement between an agency and a
29 political subdivision that authorizes the political subdivision to exercise
30 functions, powers or duties conferred on the delegating agency by a provision
31 of law. Delegation agreement does not include intergovernmental agreements
32 entered into pursuant to title 11, chapter 7, article 3.
33 7. "Emergency rule" means a rule that is made pursuant to section
34 41-1026.
35 8. "Fee" means a charge prescribed by an agency for an inspection or
36 for obtaining a license.
37 9. "Final rule" means any rule filed with the secretary of state and
38 made pursuant to an exemption from this chapter in section 41-1005, made
39 pursuant to section 41-1026, approved by the council pursuant to section
40 41-1052 or 41-1053 or approved by the attorney general pursuant to section
41 41-1044. For purposes of judicial review, final rule includes ~~proposed~~
42 ~~summary~~ EXPEDITED rules ~~having interim effect~~ pursuant to section 41-1027.
43 10. "General permit" means a regulatory permit, license or agency
44 authorization that is for facilities, activities or practices in a class that
45 are substantially similar in nature and that is issued or granted by an

1 agency to a qualified applicant to conduct identified operations or
2 activities if the applicant meets the applicable requirements of the general
3 permit, that requires less information than an individual or traditional
4 permit, license or authorization and that does not require a public hearing.

5 11. "License" includes the whole or part of any agency permit,
6 certificate, approval, registration, charter or similar form of permission
7 required by law, but ~~it~~ does not include a license required solely for
8 revenue purposes.

9 12. "Licensing" includes the agency process respecting the grant,
10 denial, renewal, revocation, suspension, annulment, withdrawal or amendment
11 of a license.

12 13. "Party" means each person or agency named or admitted as a party or
13 properly seeking and entitled as of right to be admitted as a party.

14 14. "Person" means an individual, partnership, corporation,
15 association, governmental subdivision or unit of a governmental subdivision,
16 a public or private organization of any character or another agency.

17 15. "Preamble" means:

18 (a) For any rule making subject to this chapter, a statement
19 accompanying the rule that includes:

20 (i) Reference to the specific statutory authority for the rule.

21 (ii) The name and address of agency personnel with whom persons may
22 communicate regarding the rule.

23 (iii) An explanation of the rule, including the agency's reasons for
24 initiating the rule making.

25 (iv) A reference to any study relevant to the rule that the agency
26 reviewed and either proposes to rely on in its evaluation of or justification
27 for the rule or proposes not to rely on in its evaluation of or justification
28 for the rule, where the public may obtain or review each study, all data
29 underlying each study and any analysis of each study and other supporting
30 material.

31 (v) The economic, small business and consumer impact summary, or in
32 the case of a proposed rule, a preliminary summary and a solicitation of
33 input on the accuracy of the summary.

34 (vi) A showing of good cause why the rule is necessary to promote a
35 statewide interest if the rule will diminish a previous grant of authority of
36 a political subdivision of this state.

37 (vii) Such other matters as are prescribed by statute and that are
38 applicable to the specific agency or to any specific rule or class of rules.

39 (b) In addition to the information set forth in subdivision (a) of
40 this paragraph, for a proposed rule, the preamble also shall include a list
41 of all previous notices appearing in the register addressing the proposed
42 rule, a statement of the time, place and nature of the proceedings for the
43 making, amendment or repeal of the rule and where, when and how persons may
44 request an oral proceeding on the proposed rule if the notice does not
45 provide for one.

1 (c) In addition to the information set forth in subdivision (a) of
2 this paragraph, for ~~a proposed summary~~ AN EXPEDITED rule, the preamble also
3 shall include a statement of the time, place and nature of the proceedings
4 for the making, amendment or repeal of the rule and an explanation of why
5 ~~summary~~ EXPEDITED proceedings are justified.

6 (d) For a final rule, except an emergency rule, the preamble also
7 shall include, in addition to the information set forth in subdivision (a),
8 the following information:

9 (i) A list of all previous notices appearing in the register
10 addressing the final rule.

11 (ii) A description of the changes between the proposed rules,
12 including supplemental notices and final rules.

13 (iii) A summary of the comments made regarding the rule and the agency
14 response to them.

15 (iv) A summary of the council's action on the rule.

16 (v) A statement of the rule's effective date.

17 (e) In addition to the information set forth in subdivision (a) of
18 this paragraph, for an emergency rule, the preamble also shall include an
19 explanation of the situation justifying the rule being made as an emergency
20 rule, the date of the attorney general's approval of the rule and a statement
21 of the emergency rule's effective date.

22 16. "Provision of law" means the whole or a part of the federal or
23 state constitution, or of any federal or state statute, rule of court,
24 executive order or rule of an administrative agency.

25 17. "Register" means the Arizona administrative register.

26 18. "Rule" means an agency statement of general applicability that
27 implements, interprets or prescribes law or policy, or describes the
28 procedure or practice requirements of an agency. Rule includes prescribing
29 fees or the amendment or repeal of a prior rule but does not include
30 intraagency memoranda that are not delegation agreements.

31 19. "Rule making" means the process for formulation and finalization of
32 a rule.

33 20. "Small business" means a concern, including its affiliates, which
34 is independently owned and operated, which is not dominant in its field and
35 which employs fewer than one hundred full-time employees or which had gross
36 annual receipts of less than four million dollars in its last fiscal year.
37 For purposes of a specific rule, an agency may define small business to
38 include more persons if it finds that such a definition is necessary to adapt
39 the rule to the needs and problems of small businesses and organizations.

40 21. "Substantive policy statement" means a written expression which
41 informs the general public of an agency's current approach to, or opinion of,
42 the requirements of the federal or state constitution, federal or state
43 statute, administrative rule or regulation, or final judgment of a court of
44 competent jurisdiction, including, where appropriate, the agency's current
45 practice, procedure or method of action based upon that approach or opinion.

1 A substantive policy statement is advisory only. A substantive policy
2 statement does not include internal procedural documents which only affect
3 the internal procedures of the agency and does not impose additional
4 requirements or penalties on regulated parties, confidential information or
5 rules made in accordance with this chapter.

6 ~~22. "Summary rule" means a rule that is made pursuant to section~~
7 ~~41-1027.~~

8 Sec. 2. Section 41-1001.01, Arizona Revised Statutes, is amended to
9 read:

10 41-1001.01. Regulatory bill of rights

11 A. To ensure fair and open regulation by state agencies, a person:

12 1. Is eligible for reimbursement of fees and other expenses if the
13 person prevails by adjudication on the merits against an agency in a court
14 proceeding regarding an agency decision as provided in section 12-348.

15 2. Is eligible for reimbursement of the person's costs and fees if the
16 person prevails against any agency in an administrative hearing as provided
17 in section 41-1007.

18 3. Is entitled to have an agency not charge the person a fee unless
19 the fee for the specific activity is expressly authorized as provided in
20 section 41-1008.

21 4. Is entitled to receive the information and notice regarding
22 inspections prescribed in section 41-1009.

23 5. May review the full text or summary of all rule making activity,
24 the summary of substantive policy statements and the full text of executive
25 orders in the register as provided in article 2 of this chapter.

26 6. May participate in the rule making process as provided in articles
27 3, 4, 4.1 and 5 of this chapter, including:

28 (a) Providing written ~~or oral~~ comments **OR TESTIMONY** on proposed rules
29 to an agency as provided in section 41-1023 and having the agency adequately
30 address those comments as provided in section 41-1052, subsection D.

31 (b) Filing an early review petition with the governor's regulatory
32 review council as provided in article 5 of this chapter.

33 (c) Providing written ~~or oral~~ comments **OR TESTIMONY** on rules to the
34 governor's regulatory review council during the mandatory sixty-day comment
35 period as provided in article 5 of this chapter.

36 7. Is entitled to have an agency not base a licensing decision in
37 whole or in part on licensing conditions or requirements that are not
38 specifically authorized by statute, rule or state tribal gaming compact as
39 provided in section 41-1030, subsection B.

40 8. Is entitled to have an agency not make a rule under a specific
41 grant of rule making authority that exceeds the subject matter areas listed
42 in the specific statute or not make a rule under a general grant of rule
43 making authority to supplement a more specific grant of rule making authority
44 as provided in section 41-1030, subsection C.

1 9. May allege that an existing agency practice or substantive policy
2 statement constitutes a rule and have that agency practice or substantive
3 policy statement declared void because the practice or substantive policy
4 statement constitutes a rule as provided in section 41-1033.

5 10. May file a complaint with the administrative rules oversight
6 committee concerning:

7 (a) A rule's, practice's or substantive policy statement's lack of
8 conformity with statute or legislative intent as provided in section 41-1047.

9 (b) An existing statute, rule, practice alleged to constitute a
10 rule or substantive policy statement that is alleged to be duplicative or
11 onerous as provided in section 41-1048.

12 11. May have the person's administrative hearing on contested cases and
13 appealable agency actions heard by an independent administrative law judge as
14 provided in articles 6 and 10 of this chapter.

15 12. May have administrative hearings governed by uniform administrative
16 appeal procedures as provided in articles 6 and 10 of this chapter.

17 13. May have an agency approve or deny the person's license application
18 within a predetermined period of time as provided in article 7.1 of this
19 chapter.

20 14. Is entitled to receive written notice from an agency on denial of a
21 license application:

22 (a) That justifies the denial with references to the statutes or rules
23 on which the denial is based as provided in section 41-1076.

24 (b) That explains the applicant's right to appeal the denial as
25 provided in section 41-1076.

26 15. Is entitled to receive information regarding the license
27 application process at the time the person obtains an application for a
28 license as provided in section 41-1079.

29 16. May receive public notice and participate in the adoption or
30 amendment of agreements to delegate agency functions, powers or duties to
31 political subdivisions as provided in section 41-1026.01 and article 8 of
32 this chapter.

33 17. May inspect all rules and substantive policy statements of an
34 agency, including a directory of documents, in the office of the agency
35 director as provided in section 41-1091.

36 18. May file a complaint with the office of the ombudsman-citizens aide
37 to investigate administrative acts of agencies as provided in chapter 8,
38 article 5 of this title.

39 19. Unless specifically authorized by statute, may expect state
40 agencies to avoid duplication of other laws that do not enhance regulatory
41 clarity and to avoid dual permitting to the extent practicable as prescribed
42 in section 41-1002.

43 B. The enumeration of the rights listed in subsection A of this
44 section does not grant any additional rights that are not prescribed in the
45 sections referenced in subsection A of this section.

1 Sec. 3. Title 41, chapter 6, article 1, Arizona Revised Statutes, is
2 amended by adding section 41-1001.02, to read:

3 41-1001.02. Clarification of interpretation

4 A. BEFORE SUBMITTING AN APPLICATION FOR A LICENSE A PERSON MAY REQUEST
5 FROM THE AGENCY ISSUING THE LICENSE A CLARIFICATION OF ITS INTERPRETATION OR
6 APPLICATION OF A STATUTE, RULE, DELEGATION AGREEMENT OR SUBSTANTIVE POLICY
7 STATEMENT AFFECTING THE PERSON'S PREPARATION OF THE APPLICATION FOR A LICENSE
8 BY PROVIDING THE AGENCY WITH A WRITTEN REQUEST THAT STATES:

9 1. THE NAME AND ADDRESS OF THE PERSON REQUESTING THE CLARIFICATION.

10 2. THE STATUTE, RULE, DELEGATION AGREEMENT OR SUBSTANTIVE POLICY
11 STATEMENT OR PART OF THE STATUTE, RULE, DELEGATION AGREEMENT OR SUBSTANTIVE
12 POLICY STATEMENT THAT THE PERSON IS REQUESTING BE CLARIFIED.

13 3. ANY FACTS RELEVANT TO THE REQUESTED CLARIFICATION.

14 4. THE PERSON'S PROPOSED INTERPRETATION OF THE APPLICABLE STATUTE,
15 RULE, DELEGATION AGREEMENT OR SUBSTANTIVE POLICY STATEMENT OR PART OF THE
16 STATUTE, RULE, DELEGATION AGREEMENT OR SUBSTANTIVE POLICY STATEMENT.

17 5. WHETHER, TO THE BEST KNOWLEDGE OF THE PERSON, THE ISSUES OR RELATED
18 ISSUES ARE BEING CONSIDERED BY THE AGENCY IN CONNECTION WITH AN EXISTING
19 LICENSE OR LICENSE APPLICATION.

20 B. ON RECEIPT OF A REQUEST THAT COMPLIES WITH SUBSECTION A OF THIS
21 SECTION:

22 1. THE AGENCY MAY MEET WITH THE PERSON TO DISCUSS THE WRITTEN REQUEST
23 AND SHALL RESPOND WITHIN THIRTY DAYS OF THE RECEIPT OF THE WRITTEN REQUEST
24 WITH A WRITTEN CLARIFICATION OF ITS INTERPRETATION OR APPLICATION AS RAISED
25 IN THE WRITTEN REQUEST.

26 2. THE AGENCY SHALL PROVIDE THE REQUESTOR WITH AN OPPORTUNITY TO MEET
27 AND DISCUSS THE AGENCY'S WRITTEN CLARIFICATION.

28 C. NOTWITHSTANDING ANY OTHER LAW, AN AGENCY'S WRITTEN CLARIFICATION
29 PURSUANT TO THIS SECTION DOES NOT CONSTITUTE AN APPEALABLE ACTION AS DEFINED
30 IN SECTION 41-1092 OR AN ACTION AGAINST THE PARTY PURSUANT TO SECTION
31 41-1092.12.

32 Sec. 4. Section 41-1005, Arizona Revised Statutes, is amended to read:

33 41-1005. Exemptions

34 A. This chapter does not apply to any:

35 1. Rule that relates to the use of public works, including streets and
36 highways, under the jurisdiction of an agency if the effect of the order is
37 indicated to the public by means of signs or signals.

38 2. Order of the Arizona game and fish commission that opens, closes or
39 alters seasons or establishes bag or possession limits for wildlife.

40 3. Rule relating to section 28-641 or to any rule regulating motor
41 vehicle operation that relates to speed, parking, standing, stopping or
42 passing enacted pursuant to title 28, chapter 3.

43 4. Rule concerning only the internal management of an agency that does
44 not directly and substantially affect the procedural or substantive rights or
45 duties of any segment of the public.

- 1 5. Rule that only establishes specific prices to be charged for
2 particular goods or services sold by an agency.
- 3 6. Rule concerning only the physical servicing, maintenance or care of
4 agency owned or operated facilities or property.
- 5 7. Rule or substantive policy statement concerning inmates or
6 committed youths of a correctional or detention facility in secure custody or
7 patients admitted to a hospital, if made by the state department of
8 corrections, the department of juvenile corrections, the board of executive
9 clemency or the department of health services or a facility or hospital under
10 the jurisdiction of the state department of corrections, the department of
11 juvenile corrections or the department of health services.
- 12 8. Form whose contents or substantive requirements are prescribed by
13 rule or statute, and instructions for the execution or use of the form.
- 14 9. Capped fee-for-service schedule adopted by the Arizona health care
15 cost containment system administration pursuant to title 36, chapter 29.
- 16 10. Fees prescribed by section 6-125.
- 17 11. Order of the director of water resources adopting or modifying a
18 management plan pursuant to title 45, chapter 2, article 9.
- 19 12. Fees established under section 3-1086.
- 20 13. Fee-for-service schedule adopted by the department of economic
21 security pursuant to section 8-512.
- 22 14. Fees established under sections 41-2144 and 41-2189.
- 23 15. Rule or other matter relating to agency contracts.
- 24 16. Fees established under section 32-2067 or 32-2132.
- 25 17. Rules made pursuant to section 5-111, subsection A.
- 26 18. Rules made by the Arizona state parks board concerning the
27 operation of the Tonto natural bridge state park, the facilities located in
28 the Tonto natural bridge state park and the entrance fees to the Tonto
29 natural bridge state park.
- 30 19. Fees or charges established under section 41-511.05.
- 31 20. Emergency medical services protocols except as provided in section
32 36-2205, subsection C.
- 33 21. Fee schedules established pursuant to section 36-3409.
- 34 22. Procedures of the state transportation board as prescribed in
35 section 28-7048.
- 36 23. Rules made by the state department of corrections.
- 37 24. Fees prescribed pursuant to section 32-1527.
- 38 25. Rules made by the department of economic security pursuant to
39 section 46-805.
- 40 26. Schedule of fees prescribed by section 23-908.
- 41 27. Procedure that is established pursuant to title 23, chapter 6,
42 article 5 or 6.
- 43 28. Rules, administrative policies, procedures and guidelines adopted
44 for any purpose by the Arizona commerce authority pursuant to chapter 10 of
45 this title if the authority provides, as appropriate under the circumstances,

1 for notice of an opportunity for comment on the proposed rules,
2 administrative policies, procedures and guidelines.

3 29. Rules made by a marketing commission or marketing committee
4 pursuant to section 3-414.

5 B. Notwithstanding subsection A, paragraph 22 of this section, at such
6 time as the federal highway administration authorizes the privatization of
7 rest areas, the state transportation board shall make rules governing the
8 lease or license by the department of transportation to a private entity for
9 the purposes of privatization of a rest area.

10 C. Coincident with the making of a FINAL rule pursuant to an exemption
11 FROM THE APPLICABILITY OF THIS CHAPTER under this section, ANOTHER STATUTE OR
12 SESSION LAW, the agency shall file a copy of the rule with the secretary of
13 state for publication pursuant to section 41-1012 AND PROVIDE A COPY TO THE
14 COUNCIL.

15 D. Unless otherwise required by law, articles 2, 3, 4 and 5 of this
16 chapter do not apply to the Arizona board of regents and the institutions
17 under its jurisdiction, except that the Arizona board of regents shall make
18 policies or rules for the board and the institutions under its jurisdiction
19 that provide, as appropriate under the circumstances, for notice of and
20 opportunity for comment on the policies or rules proposed.

21 E. Unless otherwise required by law, articles 2, 3, 4 and 5 of this
22 chapter do not apply to the Arizona state schools for the deaf and the blind,
23 except that the board of directors of all the state schools for the deaf and
24 the blind shall adopt policies for the board and the schools under its
25 jurisdiction that provide, as appropriate under the circumstances, for notice
26 of and opportunity for comment on the policies proposed for adoption.

27 F. Unless otherwise required by law, articles 2, 3, 4 and 5 of this
28 chapter do not apply to the state board of education, except that the state
29 board of education shall adopt policies or rules for the board and the
30 institutions under its jurisdiction that provide, as appropriate under the
31 circumstances, for notice of and opportunity for comment on the policies or
32 rules proposed for adoption. In order to implement or change any rule, the
33 state board of education shall provide at least two opportunities for public
34 comment.

35 Sec. 5. Section 41-1008, Arizona Revised Statutes, is amended to read:
36 41-1008. Fees; specific statutory authority

37 A. ~~Beginning on July 1, 1999,~~ Except as provided in subsection C OF
38 THIS SECTION, an agency shall not:

39 1. Charge or receive a fee or make a rule establishing a fee unless
40 the fee for the specific activity is expressly authorized by statute or
41 tribal state gaming compact.

42 2. Make a rule establishing a fee that is solely based on a statute
43 that generally authorizes an agency to recover its costs or to accept gifts
44 or donations.

1 B. ~~Beginning on July 1, 1999,~~ An agency shall identify the statute or
2 tribal state gaming compact that authorizes the fee on documents relating to
3 collection of the fee.

4 C. An agency authorized by statute or tribal state gaming compact to
5 conduct background checks may charge a fingerprint fee without a statute
6 expressly authorizing the fee.

7 D. UNLESS THE LEGISLATURE GRANTS AN EXPRESS EXEMPTION THROUGH STATUTE
8 OR SESSION LAW FROM ALL REQUIREMENTS OF THIS CHAPTER FOR ESTABLISHING OR
9 INCREASING A FEE, AN AGENCY SHALL COMPLY WITH ALL APPLICABLE RULE MAKING
10 PROVISIONS TO ESTABLISH OR INCREASE THE FEE. THE AGENCY SHALL NOT CHARGE OR
11 RECEIVE THE FEE UNTIL THE RULE ESTABLISHING OR INCREASING THE FEE IS
12 EFFECTIVE UNDER THE APPLICABLE LAW OF THIS STATE.

13 E. A FEE THAT IS ESTABLISHED OR INCREASED BY EXEMPT RULE MAKING FROM
14 AND AFTER SEPTEMBER 30, 2012 IS EFFECTIVE FOR TWO YEARS OR UNTIL THE DUE
15 DATE, NOT INCLUDING ANY EXTENSION GRANTED BY THE COUNCIL, OF THE FIVE-YEAR
16 REVIEW REPORT UNDER SECTION 41-1056 FOR THE RULE IN WHICH THE FEE IS
17 CONTAINED, WHICHEVER DATE IS LATER.

18 F. AFTER THE EXPIRATION OF THE APPLICABLE PERIOD UNDER SUBSECTION E OF
19 THIS SECTION, THE AGENCY SHALL NOT CHARGE OR RECEIVE THE FEE UNLESS THE
20 AGENCY HAS COMPLIED WITH THE RULE MAKING REQUIREMENTS OF THIS CHAPTER TO
21 ESTABLISH OR INCREASE THE FEE.

22 G. A PERSON REGULATED BY THE RULE MAY PETITION THE COUNCIL TO
23 ESTABLISH A DATE THAT IS DIFFERENT THAN THE DATE UNDER SUBSECTION E OF THIS
24 SECTION BUT NO EARLIER THAN TWO YEARS AFTER THE EXEMPT RULE IS MADE. THE
25 AGENCY SHALL RESPOND TO THE PETITION WITHIN TWO WEEKS AFTER THE COUNCIL
26 NOTIFIES THE AGENCY THAT THE PETITION HAS BEEN FILED. WITHIN SIXTY DAYS THE
27 COUNCIL SHALL GRANT OR DENY THE PETITION AFTER CONSIDERING WHETHER THE PUBLIC
28 INTEREST REQUIRES A DIFFERENT DATE.

29 Sec. 6. Section 41-1013, Arizona Revised Statutes, is amended to read:
30 41-1013. Register

31 A. The secretary of state shall publish the register at least once
32 each month, including the information which is provided under subsection B of
33 this section and which is filed with the secretary of state during the
34 preceding thirty days. The secretary of state shall publish an index to the
35 register at least twice each year.

36 B. The register shall contain:

37 1. A schedule of the time, date and place of all hearings on proposed
38 repeals, makings or amendments of rules.

39 2. Each governor's executive order.

40 3. Each governor's proclamation of general applicability, and each
41 statement filed by the governor in granting a commutation, pardon or reprieve
42 or stay or suspension of execution where a sentence of death is imposed.

43 4. A summary of each attorney general's opinion.

44 5. Each governor's appointment of state officials and board and
45 commission members.

- 1 6. A table of contents.
- 2 7. The notice and agency summary of each docket opening.
- 3 8. The full text and accompanying preamble of each proposed rule.
- 4 9. The full text and accompanying preamble of each final rule.
- 5 10. The full text and accompanying preamble of each emergency rule.
- 6 11. Supplemental notices of a proposed rule ~~or summary rule~~.
- 7 12. PROPOSED AND FINAL NOTICES OF EXPEDITED RULE MAKING AND NOTICES
- 8 THAT AN OBJECTION WAS RECEIVED REGARDING A PROPOSED EXPEDITED RULE MAKING.
- 9 ~~12-~~ 13. A summary of council action on each rule.
- 10 ~~13-~~ 14. The full text of any exempt final rule filed with the
- 11 secretary of state pursuant to section 41-1005, subsection C.
- 12 ~~14-~~ 15. The ~~identification~~ NOTICE and a summary of substantive policy
- 13 statements and notice and a summary of any guidance document publication or
- 14 revision submitted by an agency. THE NOTICE FOR A SUBSTANTIVE POLICY
- 15 STATEMENT SHALL CONTAIN THE WEBSITE ADDRESS WHERE THE FULL TEXT OF THE
- 16 DOCUMENT IS AVAILABLE, IF PRACTICABLE.
- 17 ~~15-~~ 16. Notices of oral proceedings, public workshops or other
- 18 meetings on an open rule making docket.
- 19 C. The register shall be available by subscription and for single copy
- 20 purchase. The charge for each register or periodic subscription shall be a
- 21 reasonable charge, not to exceed all costs of production and distribution of
- 22 the register.
- 23 D. For purposes of this section, full text publication in the register
- 24 includes all new, amended or added language and such existing language as the
- 25 proposing agency deems necessary for a proper understanding of the proposed
- 26 rule. Rules that are undergoing extensive revision may be reprinted in
- 27 whole. Existing rule language not required for understanding shall be
- 28 omitted and marked "no change".
- 29 Sec. 7. Section 41-1024, Arizona Revised Statutes, is amended to read:
- 30 41-1024. Time and manner of rule making
- 31 A. An agency may not submit a rule to the council until the rule
- 32 making record is closed.
- 33 B. Within one hundred twenty days after the close of the record on the
- 34 proposed rule making, an agency shall take one of the following actions:
- 35 1. Submit the rule to the council, ~~or~~, or, if the rule is exempt pursuant
- 36 to section 41-1057, to the attorney general.
- 37 2. Terminate the proceeding by publication of a notice to that effect
- 38 in the register.
- 39 C. Before submitting a rule to the council or the attorney general, an
- 40 agency shall consider the written submissions, the oral submissions or any
- 41 memorandum summarizing oral submissions and the economic, small business and
- 42 consumer impact statement regarding the rule or information in the preamble.
- 43 D. Within the scope of its delegated authority, an agency may use its
- 44 own experience, technical competence, specialized knowledge and judgment in
- 45 the making of a rule.

1 E. Unless exempted by section 41-1005 or 41-1057 or unless the rule is
2 an emergency rule made pursuant to section 41-1026, if the agency chooses to
3 make the rule, the agency shall submit a rule package to the council and to
4 the committee. The rule package shall include:

- 5 1. The preamble.
- 6 2. The exact words of the rule, including existing language and any
7 deletions.
- 8 3. The economic, small business and consumer impact statement.

9 F. If the rule is exempt pursuant to section 41-1005, the agency shall
10 file it as a final rule with the secretary of state.

11 G. If the rule is exempt from council approval, pursuant to section
12 41-1057, the agency shall submit the rule package set forth in subsection E
13 of this section to the attorney general for approval pursuant to section
14 41-1044.

15 H. An agency shall not file a final rule with the secretary of state
16 without prior approval from the council, unless the final rule is exempted
17 pursuant to section 41-1005 or 41-1057 or the rule is an emergency rule made
18 pursuant to section 41-1026 or ~~a summary proposed~~ AN EXPEDITED rule made
19 pursuant to section 41-1027.

20 Sec. 8. Repeal

21 Section 41-1027, Arizona Revised Statutes, is repealed.

22 Sec. 9. Title 41, chapter 6, article 3, Arizona Revised Statutes, is
23 amended by adding section 41-1027, to read:

24 41-1027. Expedited rule making

25 A. AN AGENCY MAY CONDUCT EXPEDITED RULE MAKING PURSUANT TO THIS
26 SECTION IF THE RULE MAKING DOES NOT INCREASE THE COST OF REGULATORY
27 COMPLIANCE OR REDUCE PROCEDURAL RIGHTS OF PERSONS REGULATED AND DOES ONE OR
28 MORE OF THE FOLLOWING:

29 1. AMENDS OR REPEALS RULES MADE OBSOLETE BY REPEAL OR SUPERSESSION OF
30 AN AGENCY'S STATUTORY AUTHORITY.

31 2. AMENDS OR REPEALS RULES FOR WHICH THE STATUTE ON WHICH THE RULE IS
32 AUTHORIZED HAS BEEN DECLARED UNCONSTITUTIONAL BY A COURT WITH JURISDICTION,
33 THERE IS A FINAL JUDGMENT AND NO STATUTE HAS BEEN ENACTED TO REPLACE THE
34 UNCONSTITUTIONAL STATUTE.

35 3. MAKES, AMENDS OR REPEALS RULES THAT REPEAT VERBATIM EXISTING
36 STATUTORY AUTHORITY GRANTED TO THE AGENCY.

37 4. MAKES, AMENDS OR REPEALS RULES RELATING ONLY TO INTERNAL
38 GOVERNMENTAL OPERATIONS THAT ARE NOT SUBJECT TO VIOLATION BY A PERSON.

39 5. CORRECTS TYPOGRAPHICAL ERRORS, MAKES ADDRESS OR NAME CHANGES OR
40 CLARIFIES LANGUAGE OF A RULE WITHOUT CHANGING ITS EFFECT.

41 6. ADOPTS OR INCORPORATES BY REFERENCE WITHOUT MATERIAL CHANGE FEDERAL
42 STATUTES OR REGULATIONS, STATUTES OF THIS STATE OR RULES OF OTHER AGENCIES OF
43 THIS STATE PURSUANT TO SECTION 41-1028.

44 7. REDUCES OR CONSOLIDATES STEPS, PROCEDURES OR PROCESSES IN THE
45 RULES.

1 B. IF THE PROPOSED EXPEDITED RULE MAKING IS SOLELY FOR A PURPOSE
2 PRESCRIBED IN SUBSECTION A, PARAGRAPH 1, 3 OR 5 OF THIS SECTION, AN AGENCY
3 SHALL NOTIFY THE GOVERNOR, THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE
4 HOUSE OF REPRESENTATIVES AND THE COUNCIL OF THE PROPOSED EXPEDITED RULE
5 MAKING. THE NOTICE SHALL CONTAIN THE NAME, ADDRESS AND TELEPHONE NUMBER OF
6 THE AGENCY CONTACT PERSON AND THE EXACT WORDING OF THE PROPOSED EXPEDITED
7 RULE MAKING AND INDICATE HOW THE PROPOSED EXPEDITED RULE MAKING ACHIEVES THE
8 PURPOSE PRESCRIBED IN SUBSECTION A, PARAGRAPH 1, 3 OR 5 OF THIS SECTION.

9 C. IF THE PROPOSED EXPEDITED RULE MAKING IS FOR A PURPOSE PRESCRIBED
10 IN SUBSECTION A, PARAGRAPH 2, 4, 6 OR 7 OF THIS SECTION, AN AGENCY SHALL FILE
11 A REQUEST FOR PROPOSED EXPEDITED RULE MAKING WITH THE GOVERNOR AND NOTIFY THE
12 PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE
13 COUNCIL OF THE REQUEST. THE REQUEST SHALL CONTAIN THE NAME, ADDRESS AND
14 TELEPHONE NUMBER OF THE AGENCY CONTACT PERSON AND THE EXACT WORDING OF THE
15 PROPOSED EXPEDITED RULE MAKING AND AN EXPLANATION OF HOW THE PROPOSED
16 EXPEDITED RULE MAKING MEETS THE CRITERIA IN SUBSECTION A OF THIS SECTION.

17 D. THE GOVERNOR MAY APPROVE THE REQUEST FOR EXPEDITED RULE MAKING IF
18 THE REQUEST COMPLIES WITH SUBSECTION A OF THIS SECTION.

19 E. ON DELIVERY OF THE NOTICE REQUIRED IN SUBSECTION B OF THIS SECTION
20 OR ON APPROVAL BY THE GOVERNOR OF A REQUEST FOR PROPOSED EXPEDITED RULE
21 MAKING THE AGENCY SHALL FILE A NOTICE OF THE PROPOSED EXPEDITED RULE MAKING
22 WITH THE SECRETARY OF STATE FOR PUBLICATION IN THE NEXT STATE ADMINISTRATIVE
23 REGISTER CONTAINING THE PROVISIONS OF THE PROPOSED RULE MAKING FILED WITH THE
24 GOVERNOR PURSUANT TO SUBSECTION B OR C OF THIS SECTION AND ALLOW ANY PERSON
25 TO PROVIDE WRITTEN COMMENT TO THE AGENCY FOR AT LEAST THIRTY DAYS AFTER
26 PUBLICATION IN THE REGISTER, INCLUDING OBJECTIONS TO THE RULE MAKING BECAUSE
27 IT DOES NOT MEET THE CRITERIA PURSUANT TO SUBSECTION A OF THIS SECTION. THE
28 AGENCY SHALL ADEQUATELY RESPOND IN WRITING TO THE COMMENTS ON THE PROPOSED
29 EXPEDITED RULE MAKING.

30 F. AN AGENCY MAY NOT SUBMIT AN EXPEDITED RULE TO THE COUNCIL THAT IS
31 SUBSTANTIALLY DIFFERENT FROM THE PROPOSED RULE CONTAINED IN THE NOTICE OF
32 PROPOSED EXPEDITED RULE MAKING. HOWEVER, AN AGENCY MAY TERMINATE AN
33 EXPEDITED RULE MAKING PROCEEDING PURSUANT TO SUBSECTION K OF THIS SECTION AND
34 COMMENCE A NEW RULE MAKING PROCEEDING FOR THE PURPOSE OF MAKING A
35 SUBSTANTIALLY DIFFERENT RULE. AN AGENCY SHALL USE THE CRITERIA PRESCRIBED IN
36 SECTION 41-1025, SUBSECTION B FOR DETERMINING WHETHER AN EXPEDITED RULE IS
37 SUBSTANTIALLY DIFFERENT FROM THE PUBLISHED PROPOSED EXPEDITED RULE.

38 G. AFTER ADEQUATELY ADDRESSING, IN WRITING, ANY WRITTEN OBJECTIONS, AN
39 AGENCY SHALL FILE A REQUEST FOR APPROVAL WITH THE COUNCIL. THE REQUEST SHALL
40 CONTAIN THE NOTICE FILED WITH THE SECRETARY OF STATE PURSUANT TO THIS SECTION
41 AND THE AGENCY'S RESPONSES TO ANY WRITTEN COMMENTS. THE COUNCIL MAY REQUIRE
42 A REPRESENTATIVE OF AN AGENCY WHOSE PROPOSED EXPEDITED RULE MAKING IS UNDER
43 EXAMINATION TO ATTEND A COUNCIL MEETING AND ANSWER QUESTIONS. THE COUNCIL
44 MAY COMMUNICATE TO THE AGENCY ITS COMMENTS ON THE PROPOSED EXPEDITED RULE
45 MAKING WITHIN THE SCOPE OF SUBSECTION A OF THIS SECTION AND REQUIRE THE

1 AGENCY TO RESPOND TO ITS COMMENTS OR TESTIMONY IN WRITING. A PERSON MAY
2 SUBMIT WRITTEN COMMENTS TO THE COUNCIL THAT ARE WITHIN THE SCOPE OF
3 SUBSECTION A OF THIS SECTION.

4 H. BEFORE AN AGENCY FILES A NOTICE OF FINAL EXPEDITED RULE MAKING WITH
5 THE SECRETARY OF STATE, THE COUNCIL SHALL APPROVE ANY PROPOSED EXPEDITED RULE
6 MAKING. THE COUNCIL SHALL NOT APPROVE THE RULE UNLESS:

7 1. THE RULE SATISFIES THE CRITERIA FOR EXPEDITED RULE MAKING PURSUANT
8 TO SUBSECTION A OF THIS SECTION.

9 2. THE RULE IS CLEAR, CONCISE AND UNDERSTANDABLE.

10 3. THE RULE IS NOT ILLEGAL, INCONSISTENT WITH LEGISLATIVE INTENT OR
11 BEYOND THE AGENCY'S STATUTORY AUTHORITY.

12 4. THE AGENCY, IN WRITING, ADEQUATELY ADDRESSED THE COMMENTS ON THE
13 PROPOSED RULE AND ANY SUPPLEMENTARY PROPOSAL.

14 5. IF APPLICABLE, THE PERMITTING REQUIREMENTS COMPLY WITH SECTION
15 41-1037.

16 6. THE RULE IS NOT A SUBSTANTIAL CHANGE, CONSIDERED AS A WHOLE, FROM
17 THE PROPOSED RULE AND ANY SUPPLEMENTARY PROPOSAL.

18 7. THE RULE IMPOSES THE LEAST BURDEN AND COSTS TO PERSONS REGULATED BY
19 THE RULE.

20 I. ON RECEIPT OF COUNCIL APPROVAL, THE AGENCY SHALL FILE A NOTICE OF
21 FINAL EXPEDITED RULE MAKING WITH THE SECRETARY OF STATE THAT CONTAINS THE
22 INFORMATION REQUIRED IN SUBSECTION B OF THIS SECTION AND THAT THE AGENCY DID
23 RECEIVE APPROVAL FROM THE COUNCIL PURSUANT TO THIS SECTION.

24 J. THE EXPEDITED RULE MAKING BECOMES EFFECTIVE THIRTY DAYS FOLLOWING
25 PUBLICATION OF THE NOTICE OF PROPOSED EXPEDITED RULE MAKING.

26 K. AN AGENCY MAY TERMINATE AN EXPEDITED RULE MAKING PROCEEDING ON
27 APPROVAL OF THE GOVERNOR AND WRITTEN NOTICE TO THE PRESIDENT OF THE SENATE,
28 THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE COUNCIL.

29 Sec. 10. Section 41-1032, Arizona Revised Statutes, is amended to
30 read:

31 41-1032. Effective date of rules

32 A. A rule FILED PURSUANT TO SECTION 41-1031 becomes effective sixty
33 days after a certified original and two copies of the rule and preamble are
34 filed in the office of the secretary of state and the time and date are
35 affixed as provided in section 41-1031, unless the rule making agency
36 includes in the preamble information that demonstrates that the rule needs to
37 be effective immediately on filing in the office of the secretary of state
38 and the time and date are affixed as provided in section 41-1031. A rule may
39 only be effective immediately for any of the following reasons:

40 1. To preserve the public peace, health or safety.

41 2. To avoid a violation of federal law or regulation or state law, if
42 the need for an immediate effective date is not created due to the agency's
43 delay or inaction.

1 3. To comply with deadlines in amendments to an agency's governing
2 statute or federal programs, if the need for an immediate effective date is
3 not created due to the agency's delay or inaction.

4 4. To provide a benefit to the public and a penalty is not associated
5 with a violation of the rule.

6 5. To adopt a rule that is less stringent than the rule that is
7 currently in effect and that does not have an impact on the public health,
8 safety, welfare or environment, or that does not affect the public
9 involvement and public participation process.

10 B. Notwithstanding subsection A of this section, a rule making agency
11 may specify an effective date more than sixty days after the filing of the
12 rule in the office of the secretary of state if the agency determines that
13 good cause exists for and the public interest will not be harmed by the later
14 date.

15 C. This section does not affect the validity of an existing rule until
16 the new or amended rule that is filed with the secretary of state is
17 effective pursuant to this section.

18 Sec. 11. Section 41-1033, Arizona Revised Statutes, is amended to
19 read:

20 41-1033. Petition for a rule or review of a practice or policy

21 A. Any person, in a manner and form prescribed by the agency, may
22 petition an agency requesting the making of a final rule or a review of an
23 existing agency practice or substantive policy statement that the petitioner
24 alleges to constitute a rule. The petition shall clearly state the rule,
25 agency practice or substantive policy statement which the person wishes the
26 agency to make or review. Within sixty days after submission of a petition,
27 the agency shall either deny the petition in writing, stating its reasons for
28 denial, initiate rule making proceedings in accordance with this chapter or,
29 if otherwise lawful, make a rule.

30 B. A person may appeal to the council the agency's final decision
31 within thirty days after the agency gives written notice pursuant to
32 subsection A **OF THIS SECTION**. The appeal shall be limited to whether an
33 existing agency practice or substantive policy statement constitutes a rule.
34 The council **CHAIRPERSON** shall place this appeal on the agenda of ~~it's~~ **THE**
35 **COUNCIL'S** next meeting if at least three council members make such a request
36 of the council ~~chairman~~ **CHAIRPERSON** within two weeks after the filing of the
37 appeal.

38 **C. IF THE COUNCIL RECEIVES INFORMATION INDICATING THAT AN EXISTING**
39 **AGENCY PRACTICE OR SUBSTANTIVE POLICY STATEMENT MAY CONSTITUTE A RULE AND AT**
40 **LEAST FOUR COUNCIL MEMBERS REQUEST THE CHAIRPERSON THAT THE MATTER BE HEARD**
41 **IN A PUBLIC MEETING:**

42 **1. WITHIN NINETY DAYS OF RECEIPT OF THE FOURTH COUNCIL MEMBER REQUEST,**
43 **THE COUNCIL SHALL DETERMINE IF THE AGENCY PRACTICE OR SUBSTANTIVE POLICY**
44 **STATEMENT CONSTITUTES A RULE.**

1 2. WITHIN TEN DAYS OF RECEIPT OF THE FOURTH COUNCIL MEMBER REQUEST,
2 THE COUNCIL SHALL NOTIFY THE AGENCY THAT THE MATTER HAS BEEN OR WILL BE
3 PLACED ON AN AGENDA.

4 3. WITHIN THIRTY DAYS OF RECEIVING NOTICE FROM THE COUNCIL, THE AGENCY
5 SHALL SUBMIT A STATEMENT THAT ADDRESSES WHETHER THE EXISTING AGENCY PRACTICE
6 OR SUBSTANTIVE POLICY STATEMENT CONSTITUTES A RULE.

7 D. FOR THE PURPOSES OF SUBSECTION C OF THIS SECTION, THE COUNCIL
8 MEETING SHALL NOT BE HELD UNTIL THE EXPIRATION OF THE AGENCY RESPONSE PERIOD
9 PRESCRIBED IN SUBSECTION C, PARAGRAPH 3 OF THIS SUBSECTION.

10 ~~C.~~ E. An agency practice or substantive policy statement ~~appealed to~~
11 ~~and~~ considered by the council pursuant to this section shall remain in effect
12 while under consideration of the council. If the council ultimately decides
13 the agency practice or statement constitutes a rule, the practice or
14 statement shall be considered void.

15 ~~D.~~ F. A decision by the agency pursuant to this section is not
16 subject to judicial review, except that, in addition to the procedure
17 prescribed in this section or in lieu of the procedure prescribed in this
18 section, a person may seek declaratory relief pursuant to section 41-1034.

19 Sec. 12. Section 41-1047, Arizona Revised Statutes, is amended to
20 read:

21 41-1047. Committee review of rules; practices alleged to
22 constitute rules; substantive policy statements

23 The committee may review any proposed or final rule, ~~summary~~ EXPEDITED
24 rule, agency practice alleged to constitute a rule or substantive policy
25 statement for conformity with statute and legislative intent. The committee
26 may hold hearings on whether a proposed or final rule, ~~summary~~ EXPEDITED
27 rule, agency practice alleged to constitute a rule or substantive policy
28 statement is consistent with statute and legislative intent. The committee
29 may comment to the agency, attorney general or council on whether the
30 proposed or final rule, ~~summary~~ EXPEDITED rule, agency practice alleged to
31 constitute a rule or substantive policy statement is consistent with statute
32 or legislative intent. The committee may designate a representative to
33 testify before the council. The council shall consider the comments of the
34 committee and any testimony. The administrative records shall contain the
35 comments of the committee and any testimony.

36 Sec. 13. Section 41-1051, Arizona Revised Statutes, is amended to
37 read:

38 41-1051. Governor's regulatory review council; membership;
39 terms; compensation; powers

40 A. A governor's regulatory review council is established that consists
41 of six members who are appointed by the governor pursuant to section 38-211,
42 and the director of the department of administration or the assistant
43 director of the department of administration who is responsible for
44 administering the council. The director or assistant director is an ex
45 officio member and chairperson of the council. The council shall elect a

1 vice-chairperson to serve as chairperson in the chairperson's absence. The
2 governor shall appoint at least one member who represents the public
3 interest, at least one member who represents the business community, one
4 member from a list of three persons who are not legislators submitted by the
5 president of the senate and one member from a list of three persons who are
6 not legislators submitted by the speaker of the house of representatives. At
7 least one member of the council shall be an attorney licensed to practice law
8 in this state. The governor shall appoint the members of the council for
9 staggered terms of three years. A vacancy occurring during the term of
10 office of any member shall be filled by appointment by the governor for the
11 unexpired portion of the term in the same manner as provided in this section.

12 B. The council shall meet at least once a month at a time and place
13 set by the chairperson and at other times and places as the chairperson deems
14 necessary.

15 C. Members of the council are eligible to receive compensation in an
16 amount of two hundred dollars for each day on which the council meets and
17 reimbursement of expenses pursuant to title 38, chapter 4, article 2.

18 D. The chairperson, subject to chapter 4, articles 5 and 6 of this
19 title, shall employ, determine the conditions of employment of and specify
20 the duties of administrative, secretarial and clerical employees as the
21 chairperson deems necessary.

22 E. The council may make rules pursuant to this chapter to carry out
23 the purposes of this chapter.

24 F. The council shall make ~~the following information~~ A LIST OF AGENCY
25 RULES APPROVED OR RETURNED PURSUANT TO SECTIONS 41-1027 AND 41-1052 AND
26 SECTION 41-1056, SUBSECTION H FOR THE PREVIOUS TWELVE MONTH PERIOD available
27 to the public on request and on the council's website. ~~+~~

28 ~~1. A list of agency rules approved or returned pursuant to section~~
29 ~~41-1052.~~

30 ~~2. A list of agencies not certifying compliance as provided in section~~
31 ~~41-1091.~~

32 ~~3. A list of agencies that report a lack of progress pursuant to~~
33 ~~section 41-1056, subsection H.~~

34 Sec. 14. Section 41-1052, Arizona Revised Statutes, is amended to
35 read:

36 41-1052. Council review and approval

37 A. Before filing a final rule SUBJECT TO THIS SECTION with the
38 secretary of state, an agency shall prepare, transmit to the council and the
39 committee and obtain the council's approval of the rule and its preamble and
40 economic, small business and consumer impact statement that meets the
41 requirements of section 41-1055. The governor's office of strategic planning
42 and budgeting shall prepare the economic, small business and consumer impact
43 statement if the legislature appropriates monies for this purpose.

1 B. The council shall accept an early review petition of a proposed
2 rule, in whole or in part, if the proposed rule is alleged to violate any of
3 the criteria prescribed in subsection D of this section and if the early
4 petition is filed by a person who would be adversely impacted by the proposed
5 rule. The council may determine whether the proposed rule, in whole or in
6 part, violates any of the criteria prescribed in subsection D of this
7 section.

8 C. Within one hundred twenty days of receipt of the rule, preamble and
9 economic, small business and consumer impact statement, the council shall
10 review and approve or return, in whole or in part, the rule, preamble or
11 economic, small business and consumer impact statement. An agency may
12 resubmit a rule, preamble or economic, small business and consumer impact
13 statement if the council returns the rule, economic, small business and
14 consumer impact statement or preamble, in whole or in part, to the agency.

15 D. The council shall not approve the rule unless:

16 1. The economic, small business and consumer impact statement contains
17 information from the state, data and analysis prescribed by this article.

18 2. The economic, small business and consumer impact statement is
19 generally accurate.

20 3. The probable benefits of the rule outweigh **WITHIN THIS STATE** the
21 probable costs of the rule and the agency has demonstrated that it has
22 selected the alternative that imposes the least burden and costs to persons
23 regulated by the rule, including paperwork and other compliance costs,
24 necessary to achieve the underlying regulatory objective.

25 4. The rule is written in a manner that is clear, concise and
26 understandable to the general public.

27 5. The rule is not illegal, inconsistent with legislative intent or
28 beyond the agency's statutory authority.

29 6. The agency adequately addressed, **IN WRITING**, the comments on the
30 proposed rule and any supplemental proposals.

31 7. The rule is not a substantial change, considered as a whole, from
32 the proposed rule and any supplemental notices.

33 8. The preamble discloses a reference to any study relevant to the
34 rule that the agency reviewed and either did or did not rely on in the
35 agency's evaluation of or justification for the rule.

36 9. The rule is not more stringent than a corresponding federal law
37 unless there is statutory authority to exceed the requirements of that
38 federal law.

39 10. If a rule requires a permit, the permitting requirement complies
40 with section 41-1037.

41 E. The council shall verify that a rule with new fees does not violate
42 section 41-1008. The council shall not approve a rule that contains a fee
43 increase unless two-thirds of the voting quorum present vote to approve the
44 rule.

1 F. The council shall verify that a rule with an immediate effective
2 date complies with section 41-1032. The council shall not approve a rule
3 with an immediate effective date unless two-thirds of the voting quorum
4 present vote to approve the rule.

5 G. IF THE RULE RELIES ON SCIENTIFIC PRINCIPLES OR METHODS, INCLUDING A
6 STUDY DISCLOSED PURSUANT TO SUBSECTION D, PARAGRAPH 8 OF THIS SECTION, AND A
7 PERSON SUBMITS AN ANALYSIS TO THE COUNCIL QUESTIONING WHETHER THE RULE IS
8 BASED ON VALID SCIENTIFIC OR RELIABLE PRINCIPLES OR METHODS, THE COUNCIL
9 SHALL NOT APPROVE THE RULE UNLESS THE COUNCIL DETERMINES THAT THE RULE IS
10 BASED ON VALID SCIENTIFIC OR RELIABLE PRINCIPLES OR METHODS. IN MAKING A
11 DETERMINATION OF RELIABILITY OR VALIDITY, THE COUNCIL SHALL CONSIDER THE
12 FOLLOWING FACTORS AS APPLICABLE TO THE RULE:

13 (a) THE AUTHORS OF THE STUDY, PRINCIPLE OR METHOD HAVE SUBJECT MATTER
14 KNOWLEDGE, SKILL, EXPERIENCE, TRAINING AND EXPERTISE.

15 (b) THE STUDY, PRINCIPLE OR METHOD IS BASED ON SUFFICIENT FACTS AND
16 DATA.

17 (c) THE STUDY IS THE PRODUCT OF RELIABLE PRINCIPLES AND METHODS.

18 (d) THE STUDY AND ITS CONCLUSIONS, PRINCIPLES OR METHODS HAVE BEEN
19 TESTED OR SUBJECTED TO PEER REVIEWED PUBLICATIONS.

20 (e) THE KNOWN OR POTENTIAL ERROR RATE OF THE STUDY, PRINCIPLE OR
21 METHOD HAS BEEN IDENTIFIED ALONG WITH ITS BASIS.

22 (f) THE METHODOLOGY AND APPROACH OF THE STUDY, PRINCIPLE OR METHOD ARE
23 GENERALLY ACCEPTED IN THE SCIENTIFIC COMMUNITY.

24 ~~G.~~ H. The council may require a representative of an agency whose
25 rule is under examination to attend a council meeting and answer questions.
26 The council may also communicate to the agency its comments on any rule,
27 preamble or economic, small business and consumer impact statement and
28 require the agency to respond to its comments in writing.

29 ~~H.~~ I. At any time during the ~~sixty~~ THIRTY days immediately following
30 receipt of the rule, a person may submit written comments to the council that
31 are within the scope of subsection D, E ~~or~~, F OR G of this section. The
32 council may permit ~~oral-comments~~ TESTIMONY at a council meeting within the
33 scope of subsection D, E ~~or~~, F OR G of this section.

34 ~~I.~~ J. If the agency makes a good faith effort to comply with the
35 requirements prescribed in this article and has explained in writing the
36 methodology used to produce the economic, small business and consumer impact
37 statement, the rule may not be invalidated after it is finalized on the
38 ground that the contents of the economic, small business and consumer impact
39 statement are insufficient or inaccurate or on the ground that the council
40 erroneously approved the rule, except as provided ~~for~~ by section 41-1056.01.

41 ~~J.~~ K. The absence of comments pursuant to subsection D, E ~~or~~, F OR G
42 of this section or article 4.1 of this chapter does not prevent the council
43 from acting pursuant to this section.

44 L. THE COUNCIL SHALL REVIEW AND APPROVE OR REJECT A NOTICE OF PROPOSED
45 EXPEDITED RULE MAKING PURSUANT TO SECTION 41-1027.

1 Sec. 15. Section 41-1053, Arizona Revised Statutes, is amended to
2 read:

3 41-1053. Council review of expedited rules

4 A. After receipt of the ~~summary~~ EXPEDITED rule package from the
5 agency, the council shall place the ~~summary~~ EXPEDITED rule on its consent
6 agenda for approval unless a member of the council or the committee requests
7 a hearing.

8 B. If a hearing is requested, the council shall act on the ~~summary~~
9 EXPEDITED rule pursuant to section 41-1052 or shall remand the ~~summary~~
10 EXPEDITED rule to the agency for initiation of a rule making pursuant to
11 sections 41-1022, 41-1023 and 41-1024.

12 ~~C. If the council returns the rule pursuant to section 41-1052 or~~
13 ~~remands the rule, the proposed summary rule's interim effect is revoked as of~~
14 ~~the date of initial publication of the proposed summary rule in the register~~
15 ~~unless the council orders otherwise.~~

16 ~~D.~~ C. The council, at any time a proposed ~~summary~~ EXPEDITED rule is
17 pending, may disapprove the ~~summary~~ EXPEDITED rule making and order
18 initiation of a regular rule making pursuant to sections 41-1022, 41-1023 and
19 41-1024. ~~The council's disapproval of the proposed summary rule revokes the~~
20 ~~interim effect of the proposed summary rule as of the date of initial~~
21 ~~publication of the proposed summary rule in the register unless the council~~
22 ~~orders otherwise.~~

23 Sec. 16. Section 41-1055, Arizona Revised Statutes, is amended to
24 read:

25 41-1055. Economic, small business and consumer impact statement

26 A. The economic, small business and consumer impact summary ~~IN THE~~
27 ~~PREAMBLE~~ shall include:

28 1. An identification of the proposed rule making, including all of the
29 following:

30 (a) The conduct and its frequency of occurrence that the rule is
31 designed to change.

32 (b) The harm resulting from the conduct the rule is designed to change
33 and the likelihood it will continue to occur if the rule is not changed.

34 (c) The estimated change in frequency of the targeted conduct expected
35 from the rule change.

36 2. A brief summary of the information included in the economic, small
37 business and consumer impact statement.

38 3. If the economic, small business and consumer impact summary
39 accompanies a proposed rule or a proposed ~~summary~~ EXPEDITED rule, the name
40 and address of agency employees who may be contacted to submit or request
41 additional data on the information included in the economic, small business
42 and consumer impact statement.

43 B. The economic, small business and consumer impact statement shall
44 include:

45 1. An identification of the proposed rule making.

1 2. An identification of the persons who will be directly affected by,
2 bear the costs of or directly benefit from the proposed rule making.

3 3. A cost benefit analysis of the following:

4 (a) The probable costs and benefits to the implementing agency and
5 other agencies directly affected by the implementation and enforcement of the
6 proposed rule making. The probable costs to the implementing agency shall
7 include the number of new full-time employees necessary to implement and
8 enforce the proposed rule. The preparer of the economic, small business and
9 consumer impact statement shall notify the joint legislative budget committee
10 of the number of new full-time employees necessary to implement and enforce
11 the rule before the rule is approved by the council.

12 (b) The probable costs and benefits to a political subdivision of this
13 state directly affected by the implementation and enforcement of the proposed
14 rule making.

15 (c) The probable costs and benefits to businesses directly affected by
16 the proposed rule making, including any anticipated effect on the revenues or
17 payroll expenditures of employers who are subject to the proposed rule
18 making.

19 4. A general description of the probable impact on private and public
20 employment in businesses, agencies and political subdivisions of this state
21 directly affected by the proposed rule making.

22 5. A statement of the probable impact of the proposed rule making on
23 small businesses. The statement shall include:

24 (a) An identification of the small businesses subject to the proposed
25 rule making.

26 (b) The administrative and other costs required for compliance with
27 the proposed rule making.

28 (c) A description of the methods **PRESCRIBED IN SECTION 41-1035** that
29 the agency may use to reduce the impact on small businesses, **WITH REASONS FOR**
30 **THE AGENCY'S DECISION TO USE OR NOT TO USE EACH METHOD.** ~~These methods may~~
31 ~~include:~~

32 ~~(i) Establishing less costly compliance requirements in the proposed~~
33 ~~rule making for small businesses.~~

34 ~~(ii) Establishing less costly schedules or less stringent deadlines~~
35 ~~for compliance in the proposed rule making.~~

36 ~~(iii) Exempting small businesses from any or all requirements of the~~
37 ~~proposed rule making.~~

38 (d) The probable cost and benefit to private persons and consumers who
39 are directly affected by the proposed rule making.

40 6. A statement of the probable effect on state revenues.

41 7. A description of any less intrusive or less costly alternative
42 methods of achieving the purpose of the proposed rule making, including the
43 monetizing of the costs and benefits for each option and providing the
44 rationale for not using nonselected alternatives.

1 C. If for any reason adequate data are not reasonably available to
2 comply with the requirements of subsection B of this section, the agency
3 shall explain the limitations of the data and the methods that were employed
4 in the attempt to obtain the data and shall characterize the probable impacts
5 in qualitative terms. The absence of adequate data, if explained in
6 accordance with this subsection, shall not be grounds for a legal challenge
7 to the sufficiency of the economic, small business and consumer impact
8 statement.

9 D. An agency is not required to prepare an economic, small business
10 and consumer impact statement pursuant to this chapter AND IS NOT REQUIRED TO
11 FILE A PETITION PURSUANT TO SUBSECTION E OF THIS SECTION for the following
12 rule makings:

13 1. Initial making, but not renewal, of an emergency rule pursuant to
14 section 41-1026.

15 2. Summary EXPEDITED rule makings pursuant to section 41-1027 that
16 only repeal existing rule language.

17 ~~3. Any rule making that decreases monitoring, record keeping or~~
18 ~~reporting burdens on agencies, political subdivisions, businesses or persons,~~
19 ~~unless the agency determines that increased costs of implementation or~~
20 ~~enforcement may equal or exceed the reduction in burdens.~~

21 3. PROPOSED EXPEDITED RULE MAKING OR FINAL EXPEDITED RULE MAKING.

22 E. BEFORE FILING A PROPOSED RULE WITH THE SECRETARY OF STATE, AN
23 AGENCY MAY PETITION THE COUNCIL FOR A DETERMINATION THAT THE AGENCY IS NOT
24 REQUIRED TO FILE AN ECONOMIC, SMALL BUSINESS AND CONSUMER IMPACT STATEMENT.
25 THE PETITION SHALL DEMONSTRATE THAT:

26 1. THE RULE MAKING DECREASES MONITORING, RECORD KEEPING OR REPORTING
27 BURDENS ON AGENCIES, POLITICAL SUBDIVISIONS, BUSINESSES OR PERSONS.

28 2. THE INCREASED COSTS OF IMPLEMENTATION OR ENFORCEMENT DO NOT EQUAL
29 OR EXCEED THE REDUCTION IN BURDENS.

30 3. AN ECONOMIC, SMALL BUSINESS AND CONSUMER IMPACT STATEMENT WOULD NOT
31 PROVIDE NECESSARY OR MEANINGFUL INFORMATION TO THE COUNCIL IN DETERMINING
32 WHETHER TO APPROVE THE RULE.

33 F. THE COUNCIL SHALL PLACE A PETITION UNDER SUBSECTION E OF THIS
34 SECTION ON THE AGENDA OF ITS NEXT MEETING IF AT LEAST FOUR COUNCIL MEMBERS
35 MAKE SUCH A REQUEST OF THE COUNCIL CHAIRPERSON WITHIN TWO WEEKS AFTER THE
36 FILING OF THE PETITION.

37 ~~E.~~ G. The ~~economic, small business and consumer impact statement~~
38 PREAMBLE for a rule making that is exempt pursuant to subsection D OR E of
39 this section shall state that the ~~proposed~~ rule making is exempt FROM THE
40 REQUIREMENTS TO PREPARE AND FILE AN ECONOMIC, SMALL BUSINESS AND CONSUMER
41 IMPACT STATEMENT.

42 ~~F.~~ H. The cost-benefit analysis required by subsection B of this
43 section shall calculate only the costs and benefits that occur in this state.

44 ~~G.~~ I. If a person submits an analysis to the agency ~~that compares~~
45 REGARDING the rule's impact on the competitiveness of businesses in this

1 state ~~to the impact on~~ AS COMPARED TO THE COMPETITIVENESS OF businesses in
2 other states, the agency shall consider the ~~analyses~~ ANALYSIS.

3 Sec. 17. Section 41-1056, Arizona Revised Statutes, is amended to
4 read:

5 41-1056. Review by agency

6 A. At least once every five years, each agency shall review all of its
7 rules, INCLUDING RULES MADE PURSUANT TO AN EXEMPTION FROM THIS CHAPTER OR ANY
8 PART OF THIS CHAPTER, to determine whether any rule should be amended or
9 repealed. The agency shall prepare and obtain council approval of a written
10 report summarizing its findings, its supporting reasons and any proposed
11 course of action. THE REPORT SHALL CONTAIN A CERTIFICATION THAT THE AGENCY
12 IS IN COMPLIANCE WITH SECTION 41-1091. For each rule, the report shall
13 include a concise analysis of all of the following:

14 1. The rule's effectiveness in achieving its objectives, including a
15 summary of any available data supporting the conclusions reached.

16 2. Written criticisms of the rule received during the previous five
17 years, INCLUDING ANY WRITTEN ANALYSES SUBMITTED TO THE AGENCY QUESTIONING
18 WHETHER THE RULE IS BASED ON VALID SCIENTIFIC OR RELIABLE PRINCIPLES OR
19 METHODS.

20 3. Authorization of the rule by existing statutes.

21 4. Whether the rule is consistent with STATUTES OR other rules made by
22 the agency, ~~AND~~ current agency enforcement policy ~~and current agency views~~
23 ~~regarding the wisdom of the rule.~~

24 5. The clarity, conciseness and understandability of the rule.

25 6. The estimated economic, small business and consumer impact of the
26 rules as compared to the economic, small business and consumer impact
27 statement prepared on the last making of the rules.

28 7. Any analysis submitted to the agency by another person ~~that~~
29 ~~compares~~ REGARDING the rule's impact on this state's business competitiveness
30 ~~to the impact on~~ AS COMPARED TO THE COMPETITIVENESS OF businesses in other
31 states.

32 8. If applicable, that the agency completed the previous five-year
33 review process.

34 9. A determination that the PROBABLE BENEFITS OF THE RULE OUTWEIGH
35 WITHIN THIS STATE THE PROBABLE COSTS OF THE RULE, AND THE rule imposes the
36 least burden and costs to persons regulated by the rule, including paperwork
37 and other compliance costs, necessary to achieve the underlying regulatory
38 objective.

39 10. A DETERMINATION THAT THE RULE IS NOT MORE STRINGENT THAN A
40 CORRESPONDING FEDERAL LAW UNLESS THERE IS STATUTORY AUTHORITY TO EXCEED THE
41 REQUIREMENTS OF THAT FEDERAL LAW.

42 11. FOR RULES ADOPTED AFTER JULY 29, 2010 THAT REQUIRE THE ISSUANCE OF
43 A REGULATORY PERMIT, LICENSE OR AGENCY AUTHORIZATION, WHETHER THE RULE
44 COMPLIES WITH SECTION 41-1037.

1 B. AN AGENCY MAY ALSO INCLUDE AS PART OF THE REPORT THE TEXT OF A
2 PROPOSED EXPEDITED RULE PURSUANT TO SECTION 41-1027.

3 ~~B.~~ C. The council shall schedule the periodic review of each agency's
4 rules and shall approve or return, in whole or in part, the agency's report
5 on its review. The council may grant an agency an extension from filing an
6 agency's report. If the council returns an agency's report, in whole or in
7 part, the council shall inform the agency of the manner in which its report
8 is inadequate and, in consultation with the agency, shall schedule submission
9 of a revised report. The council shall not approve a report unless the
10 report complies with subsection A OF THIS SECTION.

11 D. THE COUNCIL MAY REVIEW RULES OUTSIDE OF THE FIVE-YEAR REVIEW
12 PROCESS IF REQUESTED BY AT LEAST FOUR COUNCIL MEMBERS.

13 E. THE COUNCIL MAY REQUIRE THE AGENCY TO PROPOSE AN AMENDMENT OR
14 REPEAL OF THE RULE BY A DATE NO EARLIER THAN SIX MONTHS AFTER THE DATE OF THE
15 MEETING AT WHICH THE COUNCIL CONSIDERS THE AGENCY'S REPORT ON ITS RULE IF THE
16 COUNCIL DETERMINES THE AGENCY'S ANALYSIS UNDER SUBSECTION A OF THIS SECTION
17 DEMONSTRATES THAT THE RULE IS MATERIALLY FLAWED, INCLUDING THAT THE RULE:

18 1. IS NOT AUTHORIZED BY STATUTE.

19 2. IS INCONSISTENT WITH OTHER STATUTES, RULES OR AGENCY ENFORCEMENT
20 POLICIES AND THE INCONSISTENCY RESULTS IN A SIGNIFICANT BURDEN ON THE
21 REGULATED PUBLIC.

22 3. IMPOSES PROBABLE COSTS THAT SIGNIFICANTLY EXCEED THE PROBABLE
23 BENEFITS OF THE RULE WITHIN THIS STATE.

24 4. IS MORE STRINGENT THAN A CORRESPONDING FEDERAL LAW AND THERE IS NO
25 STATUTORY AUTHORITY TO EXCEED THE REQUIREMENTS OF FEDERAL LAW.

26 5. IS NOT CLEAR, CONCISE AND UNDERSTANDABLE.

27 6. DOES NOT USE GENERAL PERMITS IF REQUIRED UNDER SECTION 41-1037.

28 7. DOES NOT IMPOSE THE LEAST BURDEN TO PERSONS REGULATED BY THE RULE
29 AS NECESSARY TO ACHIEVE THE UNDERLYING REGULATORY OBJECTIVE OF THE RULE.

30 8. DOES NOT RELY ON VALID SCIENTIFIC OR RELIABLE PRINCIPLES AND
31 METHODS, INCLUDING A STUDY, IF THE RULE RELIES ON SCIENTIFIC PRINCIPLES OR
32 METHODS, AND A PERSON HAS SUBMITTED AN ANALYSIS UNDER SUBSECTION A OF THIS
33 SECTION QUESTIONING WHETHER THE RULE IS BASED ON VALID SCIENTIFIC OR RELIABLE
34 PRINCIPLES OR METHODS. IN MAKING A DETERMINATION OF VALIDITY OR RELIABILITY,
35 THE COUNCIL SHALL CONSIDER THE FACTOR LISTED IN SECTION 41-1052,
36 SUBSECTION G.

37 F. AN AGENCY MAY REQUEST AN EXTENSION OF NO LONGER THAN ONE YEAR FROM
38 THE DATE SPECIFIED BY THE COUNCIL PURSUANT TO SUBSECTION E OF THIS SECTION BY
39 SENDING A WRITTEN REQUEST TO THE COUNCIL THAT:

40 1. IDENTIFIES THE REASON FOR THE EXTENSION REQUEST.

41 2. DEMONSTRATES GOOD CAUSE FOR THE EXTENSION.

42 G. THE AGENCY SHALL NOTIFY THE COUNCIL OF AN AMENDMENT OR REPEAL OF A
43 RULE FOR WHICH THE COUNCIL HAS SET AN EXPIRATION DATE UNDER SUBSECTION E OF
44 THIS SECTION. IF THE AGENCY DOES NOT AMEND OR REPEAL THE RULE BY THE DATE
45 SPECIFIED BY THE COUNCIL UNDER SUBSECTION E OF THIS SECTION OR THE EXTENDED

1 DATE UNDER SUBSECTION F OF THIS SECTION, THE RULE AUTOMATICALLY EXPIRES. THE
2 COUNCIL SHALL FILE A NOTICE OF RULE EXPIRATION WITH THE SECRETARY OF STATE
3 AND NOTIFY THE AGENCY OF THE EXPIRATION OF THE RULE.

4 ~~E.~~ H. The council may reschedule a report or portion of a report for
5 any rule that is scheduled for review and that was initially made or
6 substantially revised within two years before the due date of the report as
7 scheduled by the council.

8 ~~D.~~ I. If an agency finds that it cannot provide the written report to
9 the council by the date it is due, the agency may file an extension with the
10 council before the due date indicating the reason for the extension. The
11 timely filing for an extension permits the agency to submit its report on or
12 before the date prescribed by the council.

13 ~~E.~~ J. If an agency fails to submit its report, including a revised
14 report pursuant to subsection A OR B OF THIS SECTION, or file an extension
15 before the due date of the report or if it files an extension and does not
16 submit its report within the extension period, the rules scheduled for review
17 expire and the council shall:

18 1. Cause a notice to be published in the next register that states the
19 rules have expired and are no longer enforceable.

20 2. Notify the secretary of state that the rules have expired and that
21 the rules are to be removed from the code.

22 3. Notify the agency that the rules have expired and are no longer
23 enforceable.

24 ~~F.~~ K. If a rule expires as provided in subsection ~~E- J OF THIS~~
25 SECTION and the agency wishes to reestablish the rule, the agency shall
26 comply with ~~article 3~~ THE REQUIREMENTS of this chapter.

27 ~~G.~~ L. Not less than ninety days before the due date of a report, the
28 council shall send a written notice to the head of the agency whose report is
29 due, ~~the governor and the director of the department of administration~~. The
30 notice shall list the rules to be reviewed and the date the report is due.

31 ~~H. On or before June 30 of each year, each agency shall report to the~~
32 ~~council the agency's progress toward completion of the course of action~~
33 ~~established in all reports submitted to the council during the previous five~~
34 ~~years. The annual report prescribed by this subsection shall be on a form~~
35 ~~developed by the council.~~

36 ~~I.~~ M. A person who is regulated or could be regulated by an obsolete
37 rule may petition the council to require an agency that has the obsolete rule
38 to consider including the rule in the five-year report with a recommendation
39 for repeal of the rule.

40 Sec. 18. Section 41-1057, Arizona Revised Statutes, is amended to
41 read:

42 41-1057. Exemptions

43 A. In addition to the exemptions stated in section 41-1005, this
44 article does not apply to:

1 1. An agency which is a unit of state government headed by a single
2 elected official.

3 2. The corporation commission, which shall adopt substantially similar
4 rule review procedures, including the preparation of an economic impact
5 statement and a statement of the effect of the rule on small business.

6 3. The industrial commission of Arizona when incorporating by
7 reference the federal occupational safety and health standards as published
8 in 29 Code of Federal Regulations parts 1904, 1910, 1926 and 1928.

9 4. The Arizona state lottery if making rules that relate only to the
10 design, operation or prize structure of a lottery game.

11 B. AN AGENCY EXEMPT UNDER SUBSECTION A OF THIS SECTION MAY ELECT TO
12 FOLLOW THE REQUIREMENTS OF THIS ARTICLE INSTEAD OF SECTION 41-1044 FOR A
13 PARTICULAR RULE MAKING. THE AGENCY SHALL INCLUDE WITH A FINAL RULE MAKING
14 FILED WITH COUNCIL A STATEMENT THAT THE AGENCY HAS ELECTED TO FOLLOW THE
15 REQUIREMENTS OF THIS ARTICLE.

16 Sec. 19. Repeal

17 Section 41-1078, Arizona Revised Statutes, is repealed.

18 Sec. 20. Section 41-1091, Arizona Revised Statutes, is amended to
19 read:

20 41-1091. Substantive policy statements; directory

21 A. An agency shall file substantive policy statements pursuant to
22 section 41-1013, subsection B.

23 B. An agency shall ensure that the first page of each substantive
24 policy statement includes the following notice:

25 This substantive policy statement is advisory only. A
26 substantive policy statement does not include internal
27 procedural documents that only affect the internal procedures of
28 the agency and does not impose additional requirements or
29 penalties on regulated parties or include confidential
30 information or rules made in accordance with the Arizona
31 administrative procedure act. If you believe that this
32 substantive policy statement does impose additional requirements
33 or penalties on regulated parties you may petition the agency
34 under ~~Arizona Revised Statutes~~ section 41-1033, ARIZONA REVISED
35 STATUTES, for a review of the statement.

36 C. The agency shall publish at least annually a directory summarizing
37 the subject matter of all currently applicable rules and substantive policy
38 statements. The agency shall keep copies of this directory and all of its
39 substantive policy statements at one location. The directory, rules and
40 substantive policy statements and any materials incorporated by reference in
41 the rules or substantive policy statements shall be open to public inspection
42 at the office of the agency director.

43 ~~D. On or before June 30 of each year, the agency head shall certify to~~
44 ~~the council that the agency is in compliance with this section.~~

1 Sec. 21. Title 41, chapter 6, article 9, Arizona Revised Statutes, is
2 amended by adding section 41-1091.01, to read:
3 41-1091.01. Posting substantive policy statement and rules
4 AN AGENCY SHALL POST ON THE AGENCY'S WEBSITE:
5 1. THE FULL TEXT OF EACH RULE CURRENTLY IN USE OR THE WEBSITE ADDRESS
6 AND LOCATION OF THE FULL TEXT OF EACH RULE CURRENTLY IN USE.
7 2. EACH SUBSTANTIVE POLICY STATEMENT CURRENTLY IN USE, INCLUDING ITS
8 FULL TEXT, IF PRACTICABLE.
9 3. THE NOTICE REQUIRED BY SECTION 41-1091, SUBSECTION B.