

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

CHAPTER 352
HOUSE BILL 2744

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
46 agency to a qualified applicant to conduct identified operations or

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

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

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

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

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

16 15. "Preamble" means:

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

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

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

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

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

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

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

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

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

45 (c) In addition to the information set forth in subdivision (a) of
46 this paragraph, for ~~a proposed summary~~ AN EXPEDITED rule, the preamble also

1 shall include a statement of the time, place and nature of the proceedings
2 for the making, amendment or repeal of the rule and an explanation of why
3 ~~summary~~ EXPEDITED proceedings are justified.

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

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

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

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

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

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

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

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

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

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

29 19. "Rule making" means the process for formulation and finalization of
30 a rule.

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

38 21. "Substantive policy statement" means a written expression which
39 informs the general public of an agency's current approach to, or opinion of,
40 the requirements of the federal or state constitution, federal or state
41 statute, administrative rule or regulation, or final judgment of a court of
42 competent jurisdiction, including, where appropriate, the agency's current
43 practice, procedure or method of action based upon that approach or opinion.
44 A substantive policy statement is advisory only. A substantive policy
45 statement does not include internal procedural documents which only affect
46 the internal procedures of the agency and does not impose additional

1 requirements or penalties on regulated parties, confidential information or
2 rules made in accordance with this chapter.

3 ~~22. "Summary rule" means a rule that is made pursuant to section~~
4 ~~41-1027.~~

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

7 41-1001.01. Regulatory bill of rights

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

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

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

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

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

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

23 6. May participate in the rule making process as provided in articles
24 3, 4, 4.1 and 5 of this chapter, including:

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

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

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

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

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

42 9. May allege that an existing agency practice or substantive policy
43 statement constitutes a rule and have that agency practice or substantive
44 policy statement declared void because the practice or substantive policy
45 statement constitutes a rule as provided in section 41-1033.

1 10. May file a complaint with the administrative rules oversight
2 committee concerning:

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

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

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

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

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

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

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

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

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

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

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

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

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

39 B. The enumeration of the rights listed in subsection A of this
40 section does not grant any additional rights that are not prescribed in the
41 sections referenced in subsection A of this section.

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

44 41-1001.02. Clarification of interpretation

45 A. BEFORE SUBMITTING AN APPLICATION FOR A LICENSE A PERSON MAY REQUEST
46 FROM THE AGENCY ISSUING THE LICENSE A CLARIFICATION OF ITS INTERPRETATION OR

1 APPLICATION OF A STATUTE, RULE, DELEGATION AGREEMENT OR SUBSTANTIVE POLICY
2 STATEMENT AFFECTING THE PERSON'S PREPARATION OF THE APPLICATION FOR A LICENSE
3 BY PROVIDING THE AGENCY WITH A WRITTEN REQUEST THAT STATES:

- 4 1. THE NAME AND ADDRESS OF THE PERSON REQUESTING THE CLARIFICATION.
- 5 2. THE STATUTE, RULE, DELEGATION AGREEMENT OR SUBSTANTIVE POLICY
6 STATEMENT OR PART OF THE STATUTE, RULE, DELEGATION AGREEMENT OR SUBSTANTIVE
7 POLICY STATEMENT THAT THE PERSON IS REQUESTING BE CLARIFIED.
- 8 3. ANY FACTS RELEVANT TO THE REQUESTED CLARIFICATION.
- 9 4. THE PERSON'S PROPOSED INTERPRETATION OF THE APPLICABLE STATUTE,
10 RULE, DELEGATION AGREEMENT OR SUBSTANTIVE POLICY STATEMENT OR PART OF THE
11 STATUTE, RULE, DELEGATION AGREEMENT OR SUBSTANTIVE POLICY STATEMENT.
- 12 5. WHETHER, TO THE BEST KNOWLEDGE OF THE PERSON, THE ISSUES OR RELATED
13 ISSUES ARE BEING CONSIDERED BY THE AGENCY IN CONNECTION WITH AN EXISTING
14 LICENSE OR LICENSE APPLICATION.

15 B. ON RECEIPT OF A REQUEST THAT COMPLIES WITH SUBSECTION A OF THIS
16 SECTION:

17 1. THE AGENCY MAY MEET WITH THE PERSON TO DISCUSS THE WRITTEN REQUEST
18 AND SHALL RESPOND WITHIN THIRTY DAYS OF THE RECEIPT OF THE WRITTEN REQUEST
19 WITH A WRITTEN CLARIFICATION OF ITS INTERPRETATION OR APPLICATION AS RAISED
20 IN THE WRITTEN REQUEST.

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

23 C. NOTWITHSTANDING ANY OTHER LAW, AN AGENCY'S WRITTEN CLARIFICATION
24 PURSUANT TO THIS SECTION DOES NOT CONSTITUTE AN APPEALABLE ACTION AS DEFINED
25 IN SECTION 41-1092 OR AN ACTION AGAINST THE PARTY PURSUANT TO SECTION
26 41-1092.12.

27 D. NOTWITHSTANDING ANY OTHER LAW, THIS SECTION DOES NOT APPLY TO THE
28 ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD.

29 Sec. 4. Section 41-1005, Arizona Revised Statutes, is amended to read:
30 41-1005. Exemptions

31 A. This chapter does not apply to any:

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

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

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

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

43 5. Rule that only establishes specific prices to be charged for
44 particular goods or services sold by an agency.

45 6. Rule concerning only the physical servicing, maintenance or care of
46 agency owned or operated facilities or property.

- 1 7. Rule or substantive policy statement concerning inmates or
2 committed youths of a correctional or detention facility in secure custody or
3 patients admitted to a hospital, if made by the state department of
4 corrections, the department of juvenile corrections, the board of executive
5 clemency or the department of health services or a facility or hospital under
6 the jurisdiction of the state department of corrections, the department of
7 juvenile corrections or the department of health services.
- 8 8. Form whose contents or substantive requirements are prescribed by
9 rule or statute, and instructions for the execution or use of the form.
- 10 9. Capped fee-for-service schedule adopted by the Arizona health care
11 cost containment system administration pursuant to title 36, chapter 29.
- 12 10. Fees prescribed by section 6-125.
- 13 11. Order of the director of water resources adopting or modifying a
14 management plan pursuant to title 45, chapter 2, article 9.
- 15 12. Fees established under section 3-1086.
- 16 13. Fee-for-service schedule adopted by the department of economic
17 security pursuant to section 8-512.
- 18 14. Fees established under sections 41-2144 and 41-2189.
- 19 15. Rule or other matter relating to agency contracts.
- 20 16. Fees established under section 32-2067 or 32-2132.
- 21 17. Rules made pursuant to section 5-111, subsection A.
- 22 18. Rules made by the Arizona state parks board concerning the
23 operation of the Tonto natural bridge state park, the facilities located in
24 the Tonto natural bridge state park and the entrance fees to the Tonto
25 natural bridge state park.
- 26 19. Fees or charges established under section 41-511.05.
- 27 20. Emergency medical services protocols except as provided in section
28 36-2205, subsection C.
- 29 21. Fee schedules established pursuant to section 36-3409.
- 30 22. Procedures of the state transportation board as prescribed in
31 section 28-7048.
- 32 23. Rules made by the state department of corrections.
- 33 24. Fees prescribed pursuant to section 32-1527.
- 34 25. Rules made by the department of economic security pursuant to
35 section 46-805.
- 36 26. Schedule of fees prescribed by section 23-908.
- 37 27. Procedure that is established pursuant to title 23, chapter 6,
38 article 5 or 6.
- 39 28. Rules, administrative policies, procedures and guidelines adopted
40 for any purpose by the Arizona commerce authority pursuant to chapter 10 of
41 this title if the authority provides, as appropriate under the circumstances,
42 for notice of an opportunity for comment on the proposed rules,
43 administrative policies, procedures and guidelines.
- 44 29. Rules made by a marketing commission or marketing committee
45 pursuant to section 3-414.

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

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

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

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

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

31 Sec. 5. Section 41-1008, Arizona Revised Statutes, is amended to read:
32 41-1008. Fees; specific statutory authority

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

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

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

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

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

1 D. UNLESS THE LEGISLATURE GRANTS AN EXPRESS EXEMPTION THROUGH STATUTE
2 OR SESSION LAW FROM ALL REQUIREMENTS OF THIS CHAPTER FOR ESTABLISHING OR
3 INCREASING A FEE, AN AGENCY SHALL COMPLY WITH ALL APPLICABLE RULE MAKING
4 PROVISIONS TO ESTABLISH OR INCREASE THE FEE. THE AGENCY SHALL NOT CHARGE OR
5 RECEIVE THE FEE UNTIL THE RULE ESTABLISHING OR INCREASING THE FEE IS
6 EFFECTIVE UNDER THE APPLICABLE LAW OF THIS STATE.

7 E. A FEE THAT IS ESTABLISHED OR INCREASED BY EXEMPT RULE MAKING FROM
8 AND AFTER SEPTEMBER 30, 2012 IS EFFECTIVE FOR TWO YEARS UNLESS AN EXTENSION
9 IS GRANTED BY THE COUNCIL.

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

14 G. A PERSON REGULATED BY THE RULE MAY PETITION THE COUNCIL TO
15 ESTABLISH A DATE THAT IS DIFFERENT THAN THE DATE UNDER SUBSECTION E OF THIS
16 SECTION BUT NO EARLIER THAN TWO YEARS AFTER THE EXEMPT RULE IS MADE. THE
17 AGENCY SHALL RESPOND TO THE PETITION WITHIN TWO WEEKS AFTER THE COUNCIL
18 NOTIFIES THE AGENCY THAT THE PETITION HAS BEEN FILED. WITHIN SIXTY DAYS THE
19 COUNCIL SHALL GRANT OR DENY THE PETITION AFTER CONSIDERING WHETHER THE PUBLIC
20 INTEREST REQUIRES A DIFFERENT DATE.

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

22 41-1013. Register

23 A. The secretary of state shall publish the register at least once
24 each month, including the information which is provided under subsection B of
25 this section and which is filed with the secretary of state during the
26 preceding thirty days. The secretary of state shall publish an index to the
27 register at least twice each year.

28 B. The register shall contain:

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

31 2. Each governor's executive order.

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

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

36 5. Each governor's appointment of state officials and board and
37 commission members.

38 6. A table of contents.

39 7. The notice and agency summary of each docket opening.

40 8. The full text and accompanying preamble of each proposed rule.

41 9. The full text and accompanying preamble of each final rule.

42 10. The full text and accompanying preamble of each emergency rule.

43 11. Supplemental notices of a proposed rule ~~or summary rule~~.

44 12. PROPOSED AND FINAL NOTICES OF EXPEDITED RULE MAKING AND NOTICES
45 THAT AN OBJECTION WAS RECEIVED REGARDING A PROPOSED EXPEDITED RULE MAKING.

46 ~~12-~~ 13. A summary of council action on each rule.

1 ~~13.~~ 14. The full text of any exempt final rule filed with the
2 secretary of state pursuant to section 41-1005, subsection C.

3 ~~14.~~ 15. The ~~identification~~ NOTICE and a summary of substantive policy
4 statements and notice and a summary of any guidance document publication or
5 revision submitted by an agency. THE NOTICE FOR A SUBSTANTIVE POLICY
6 STATEMENT SHALL CONTAIN THE WEBSITE ADDRESS WHERE THE FULL TEXT OF THE
7 DOCUMENT IS AVAILABLE, IF PRACTICABLE.

8 ~~15.~~ 16. Notices of oral proceedings, public workshops or other
9 meetings on an open rule making docket.

10 C. The register shall be available by subscription and for single copy
11 purchase. The charge for each register or periodic subscription shall be a
12 reasonable charge, not to exceed all costs of production and distribution of
13 the register.

14 D. For purposes of this section, full text publication in the register
15 includes all new, amended or added language and such existing language as the
16 proposing agency deems necessary for a proper understanding of the proposed
17 rule. Rules that are undergoing extensive revision may be reprinted in
18 whole. Existing rule language not required for understanding shall be
19 omitted and marked "no change".

20 Sec. 7. Section 41-1024, Arizona Revised Statutes, is amended to read:

21 41-1024. Time and manner of rule making

22 A. An agency may not submit a rule to the council until the rule
23 making record is closed.

24 B. Within one hundred twenty days after the close of the record on the
25 proposed rule making, an agency shall take one of the following actions:

26 1. Submit the rule to the council, ~~or~~, or, if the rule is exempt pursuant
27 to section 41-1057, to the attorney general.

28 2. Terminate the proceeding by publication of a notice to that effect
29 in the register.

30 C. Before submitting a rule to the council or the attorney general, an
31 agency shall consider the written submissions, the oral submissions or any
32 memorandum summarizing oral submissions and the economic, small business and
33 consumer impact statement regarding the rule or information in the preamble.

34 D. Within the scope of its delegated authority, an agency may use its
35 own experience, technical competence, specialized knowledge and judgment in
36 the making of a rule.

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

41 1. The preamble.

42 2. The exact words of the rule, including existing language and any
43 deletions.

44 3. The economic, small business and consumer impact statement.

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

1 G. If the rule is exempt from council approval, pursuant to section
2 41-1057, the agency shall submit the rule package set forth in subsection E
3 of this section to the attorney general for approval pursuant to section
4 41-1044.

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

10 Sec. 8. Repeal

11 Section ~~41-1027~~, Arizona Revised Statutes, is repealed.

12 Sec. 9. Title 41, chapter 6, article 3, Arizona Revised Statutes, is
13 amended by adding a new section 41-1027, to read:

14 ~~41-1027.~~ Expedited rule making

15 A. AN AGENCY MAY CONDUCT EXPEDITED RULE MAKING PURSUANT TO THIS
16 SECTION IF THE RULE MAKING DOES NOT INCREASE THE COST OF REGULATORY
17 COMPLIANCE, INCREASE A FEE OR REDUCE PROCEDURAL RIGHTS OF PERSONS REGULATED
18 AND DOES ONE OR MORE OF THE FOLLOWING:

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

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

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

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

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

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

34 7. REDUCES OR CONSOLIDATES STEPS, PROCEDURES OR PROCESSES IN THE
35 RULES.

36 B. IF THE PROPOSED EXPEDITED RULE MAKING IS SOLELY FOR A PURPOSE
37 PRESCRIBED IN SUBSECTION A, PARAGRAPH 1, 3 OR 5 OF THIS SECTION, AN AGENCY
38 SHALL NOTIFY THE GOVERNOR, THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE
39 HOUSE OF REPRESENTATIVES AND THE COUNCIL OF THE PROPOSED EXPEDITED RULE
40 MAKING. THE NOTICE SHALL CONTAIN THE NAME, ADDRESS AND TELEPHONE NUMBER OF
41 THE AGENCY CONTACT PERSON AND THE EXACT WORDING OF THE PROPOSED EXPEDITED
42 RULE MAKING AND INDICATE HOW THE PROPOSED EXPEDITED RULE MAKING ACHIEVES THE
43 PURPOSE PRESCRIBED IN SUBSECTION A, PARAGRAPH 1, 3 OR 5 OF THIS SECTION.

44 C. IF THE PROPOSED EXPEDITED RULE MAKING IS FOR A PURPOSE PRESCRIBED
45 IN SUBSECTION A, PARAGRAPH 2, 4, 6 OR 7 OF THIS SECTION, AN AGENCY SHALL FILE
46 A REQUEST FOR PROPOSED EXPEDITED RULE MAKING WITH THE GOVERNOR AND NOTIFY THE

1 PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE
2 COUNCIL OF THE REQUEST. THE REQUEST SHALL CONTAIN THE NAME, ADDRESS AND
3 TELEPHONE NUMBER OF THE AGENCY CONTACT PERSON AND THE EXACT WORDING OF THE
4 PROPOSED EXPEDITED RULE MAKING AND AN EXPLANATION OF HOW THE PROPOSED
5 EXPEDITED RULE MAKING MEETS THE CRITERIA IN SUBSECTION A OF THIS SECTION.

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

8 E. ON DELIVERY OF THE NOTICE REQUIRED IN SUBSECTION B OF THIS SECTION
9 OR ON APPROVAL BY THE GOVERNOR OF A REQUEST FOR PROPOSED EXPEDITED RULE
10 MAKING THE AGENCY SHALL FILE A NOTICE OF THE PROPOSED EXPEDITED RULE MAKING
11 WITH THE SECRETARY OF STATE FOR PUBLICATION IN THE NEXT STATE ADMINISTRATIVE
12 REGISTER CONTAINING THE INFORMATION AND PROVISIONS OF THE PROPOSED RULE
13 MAKING FILED WITH THE GOVERNOR PURSUANT TO SUBSECTION B OR C OF THIS SECTION
14 AND ALLOW ANY PERSON TO PROVIDE WRITTEN COMMENT TO THE AGENCY FOR AT LEAST
15 THIRTY DAYS AFTER PUBLICATION IN THE REGISTER, INCLUDING OBJECTIONS TO THE
16 RULE MAKING BECAUSE IT DOES NOT MEET THE CRITERIA PURSUANT TO SUBSECTION A OF
17 THIS SECTION. THE AGENCY SHALL ADEQUATELY RESPOND IN WRITING TO THE COMMENTS
18 ON THE PROPOSED EXPEDITED RULE MAKING.

19 F. AN AGENCY MAY NOT SUBMIT AN EXPEDITED RULE TO THE COUNCIL THAT IS
20 SUBSTANTIALLY DIFFERENT FROM THE PROPOSED RULE CONTAINED IN THE NOTICE OF
21 PROPOSED EXPEDITED RULE MAKING. HOWEVER, AN AGENCY MAY TERMINATE AN
22 EXPEDITED RULE MAKING PROCEEDING PURSUANT TO SUBSECTION K OF THIS SECTION AND
23 COMMENCE A NEW RULE MAKING PROCEEDING FOR THE PURPOSE OF MAKING A
24 SUBSTANTIALLY DIFFERENT RULE. AN AGENCY SHALL USE THE CRITERIA PRESCRIBED IN
25 SECTION 41-1025, SUBSECTION B FOR DETERMINING WHETHER AN EXPEDITED RULE IS
26 SUBSTANTIALLY DIFFERENT FROM THE PUBLISHED PROPOSED EXPEDITED RULE.

27 G. AFTER ADEQUATELY ADDRESSING, IN WRITING, ANY WRITTEN OBJECTIONS, AN
28 AGENCY SHALL FILE A REQUEST FOR APPROVAL WITH THE COUNCIL. THE REQUEST SHALL
29 CONTAIN THE NOTICE OF PROPOSED EXPEDITED RULE MAKING FILED WITH THE SECRETARY
30 OF STATE PURSUANT TO THIS SECTION AND THE AGENCY'S RESPONSES TO ANY WRITTEN
31 COMMENTS. THE COUNCIL MAY REQUIRE A REPRESENTATIVE OF AN AGENCY WHOSE
32 PROPOSED EXPEDITED RULE MAKING IS UNDER EXAMINATION TO ATTEND A COUNCIL
33 MEETING AND ANSWER QUESTIONS. THE COUNCIL MAY COMMUNICATE TO THE AGENCY ITS
34 COMMENTS ON THE PROPOSED EXPEDITED RULE MAKING WITHIN THE SCOPE OF SUBSECTION
35 A OF THIS SECTION AND REQUIRE THE AGENCY TO RESPOND TO ITS COMMENTS OR
36 TESTIMONY IN WRITING. A PERSON MAY SUBMIT WRITTEN COMMENTS TO THE COUNCIL
37 THAT ARE WITHIN THE SCOPE OF SUBSECTION A OF THIS SECTION.

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

- 41 1. THE RULE SATISFIES THE CRITERIA FOR EXPEDITED RULE MAKING PURSUANT
42 TO SUBSECTION A OF THIS SECTION.
- 43 2. THE RULE IS CLEAR, CONCISE AND UNDERSTANDABLE.
- 44 3. THE RULE IS NOT ILLEGAL, INCONSISTENT WITH LEGISLATIVE INTENT OR
45 BEYOND THE AGENCY'S STATUTORY AUTHORITY.

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

3 5. IF APPLICABLE, THE PERMITTING REQUIREMENTS COMPLY WITH SECTION
4 41-1037.

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

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

9 I. ON RECEIPT OF COUNCIL APPROVAL, THE AGENCY SHALL FILE A NOTICE OF
10 FINAL EXPEDITED RULE MAKING WITH THE SECRETARY OF STATE THAT CONTAINS THE
11 INFORMATION AND PROVISIONS REQUIRED IN SUBSECTION B OR C OF THIS SECTION AND
12 THAT THE AGENCY DID RECEIVE APPROVAL FROM THE COUNCIL PURSUANT TO THIS
13 SECTION.

14 J. THE EXPEDITED RULE MAKING BECOMES EFFECTIVE THIRTY DAYS FOLLOWING
15 PUBLICATION OF THE NOTICE OF FINAL EXPEDITED RULE MAKING.

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

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

21 41-1032. Effective date of rules

22 A. A rule FILED PURSUANT TO SECTION 41-1031 becomes effective sixty
23 days after a certified original and two copies of the rule and preamble are
24 filed in the office of the secretary of state and the time and date are
25 affixed as provided in section 41-1031, unless the rule making agency
26 includes in the preamble information that demonstrates that the rule needs to
27 be effective immediately on filing in the office of the secretary of state
28 and the time and date are affixed as provided in section 41-1031. A rule may
29 only be effective immediately for any of the following reasons:

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

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

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

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

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

43 B. Notwithstanding subsection A of this section, a rule making agency
44 may specify an effective date more than sixty days after the filing of the
45 rule in the office of the secretary of state if the agency determines that

1 good cause exists for and the public interest will not be harmed by the later
2 date.

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

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

8 41-1033. Petition for a rule or review of a practice or policy

9 A. Any person, in a manner and form prescribed by the agency, may
10 petition an agency requesting the making of a final rule or a review of an
11 existing agency practice or substantive policy statement that the petitioner
12 alleges to constitute a rule. The petition shall clearly state the rule,
13 agency practice or substantive policy statement which the person wishes the
14 agency to make or review. Within sixty days after submission of a petition,
15 the agency shall either deny the petition in writing, stating its reasons for
16 denial, initiate rule making proceedings in accordance with this chapter or,
17 if otherwise lawful, make a rule.

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

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

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

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

36 **3. WITHIN THIRTY DAYS OF RECEIVING NOTICE FROM THE COUNCIL, THE AGENCY**
37 **SHALL SUBMIT A STATEMENT THAT ADDRESSES WHETHER THE EXISTING AGENCY PRACTICE**
38 **OR SUBSTANTIVE POLICY STATEMENT CONSTITUTES A RULE.**

39 **D. FOR THE PURPOSES OF SUBSECTION C OF THIS SECTION, THE COUNCIL**
40 **MEETING SHALL NOT BE HELD UNTIL THE EXPIRATION OF THE AGENCY RESPONSE PERIOD**
41 **PRESCRIBED IN SUBSECTION C, PARAGRAPH 3 OF THIS SUBSECTION.**

42 ~~C.~~ **E.** An agency practice or substantive policy statement ~~appealed to~~
43 ~~and~~ considered by the council pursuant to this section shall remain in effect
44 while under consideration of the council. If the council ultimately decides
45 the agency practice or statement constitutes a rule, the practice or
46 statement shall be considered void.

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

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

7 41-1047. Committee review of rules; practices alleged to
8 constitute rules; substantive policy statements

9 The committee may review any proposed or final rule, ~~summary~~ EXPEDITED
10 rule, agency practice alleged to constitute a rule or substantive policy
11 statement for conformity with statute and legislative intent. The committee
12 may hold hearings on whether a proposed or final rule, ~~summary~~ EXPEDITED
13 rule, agency practice alleged to constitute a rule or substantive policy
14 statement is consistent with statute and legislative intent. The committee
15 may comment to the agency, attorney general or council on whether the
16 proposed or final rule, ~~summary~~ EXPEDITED rule, agency practice alleged to
17 constitute a rule or substantive policy statement is consistent with statute
18 or legislative intent. The committee may designate a representative to
19 testify before the council. The council shall consider the comments of the
20 committee and any testimony. The administrative records shall contain the
21 comments of the committee and any testimony.

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

24 41-1051. Governor's regulatory review council; membership;
25 terms; compensation; powers

26 A. A governor's regulatory review council is established that consists
27 of six members who are appointed by the governor pursuant to section 38-211,
28 and the director of the department of administration or the assistant
29 director of the department of administration who is responsible for
30 administering the council. The director or assistant director is an ex
31 officio member and chairperson of the council. The council shall elect a
32 vice-chairperson to serve as chairperson in the chairperson's absence. The
33 governor shall appoint at least one member who represents the public
34 interest, at least one member who represents the business community, one
35 member from a list of three persons who are not legislators submitted by the
36 president of the senate and one member from a list of three persons who are
37 not legislators submitted by the speaker of the house of representatives. At
38 least one member of the council shall be an attorney licensed to practice law
39 in this state. The governor shall appoint the members of the council for
40 staggered terms of three years. A vacancy occurring during the term of
41 office of any member shall be filled by appointment by the governor for the
42 unexpired portion of the term in the same manner as provided in this section.

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

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

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

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

10 F. The council shall make ~~the following information~~ A LIST OF AGENCY
11 RULES APPROVED OR RETURNED PURSUANT TO SECTIONS 41-1027 AND 41-1052 AND
12 SECTION 41-1056, SUBSECTION C FOR THE PREVIOUS TWELVE MONTH PERIOD available
13 to the public on request and on the council's website. :-

14 ~~1. A list of agency rules approved or returned pursuant to section~~
15 ~~41-1052.~~

16 ~~2. A list of agencies not certifying compliance as provided in section~~
17 ~~41-1091.~~

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

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

22 41-1052. Council review and approval

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

30 B. The council shall accept an early review petition of a proposed
31 rule, in whole or in part, if the proposed rule is alleged to violate any of
32 the criteria prescribed in subsection D of this section and if the early
33 petition is filed by a person who would be adversely impacted by the proposed
34 rule. The council may determine whether the proposed rule, in whole or in
35 part, violates any of the criteria prescribed in subsection D of this
36 section.

37 C. Within one hundred twenty days of receipt of the rule, preamble and
38 economic, small business and consumer impact statement, the council shall
39 review and approve or return, in whole or in part, the rule, preamble or
40 economic, small business and consumer impact statement. An agency may
41 resubmit a rule, preamble or economic, small business and consumer impact
42 statement if the council returns the rule, economic, small business and
43 consumer impact statement or preamble, in whole or in part, to the agency.

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

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

- 1 2. The economic, small business and consumer impact statement is
2 generally accurate.
- 3 3. The probable benefits of the rule outweigh **WITHIN THIS STATE** the
4 probable costs of the rule and the agency has demonstrated that it has
5 selected the alternative that imposes the least burden and costs to persons
6 regulated by the rule, including paperwork and other compliance costs,
7 necessary to achieve the underlying regulatory objective.
- 8 4. The rule is written in a manner that is clear, concise and
9 understandable to the general public.
- 10 5. The rule is not illegal, inconsistent with legislative intent or
11 beyond the agency's statutory authority.
- 12 6. The agency adequately addressed, **IN WRITING**, the comments on the
13 proposed rule and any supplemental proposals.
- 14 7. The rule is not a substantial change, considered as a whole, from
15 the proposed rule and any supplemental notices.
- 16 8. The preamble discloses a reference to any study relevant to the
17 rule that the agency reviewed and either did or did not rely on in the
18 agency's evaluation of or justification for the rule.
- 19 9. The rule is not more stringent than a corresponding federal law
20 unless there is statutory authority to exceed the requirements of that
21 federal law.
- 22 10. If a rule requires a permit, the permitting requirement complies
23 with section 41-1037.
- 24 E. The council shall verify that a rule with new fees does not violate
25 section 41-1008. The council shall not approve a rule that contains a fee
26 increase unless two-thirds of the voting quorum present vote to approve the
27 rule.
- 28 F. The council shall verify that a rule with an immediate effective
29 date complies with section 41-1032. The council shall not approve a rule
30 with an immediate effective date unless two-thirds of the voting quorum
31 present vote to approve the rule.
- 32 **G. IF THE RULE RELIES ON SCIENTIFIC PRINCIPLES OR METHODS, INCLUDING A**
33 **STUDY DISCLOSED PURSUANT TO SUBSECTION D, PARAGRAPH 8 OF THIS SECTION, AND A**
34 **PERSON SUBMITS AN ANALYSIS TO THE COUNCIL QUESTIONING WHETHER THE RULE IS**
35 **BASED ON VALID SCIENTIFIC OR RELIABLE PRINCIPLES OR METHODS, THE COUNCIL**
36 **SHALL NOT APPROVE THE RULE UNLESS THE COUNCIL DETERMINES THAT THE RULE IS**
37 **BASED ON VALID SCIENTIFIC OR RELIABLE PRINCIPLES OR METHODS THAT ARE SPECIFIC**
38 **AND NOT OF A GENERAL NATURE. IN MAKING A DETERMINATION OF RELIABILITY OR**
39 **VALIDITY, THE COUNCIL SHALL CONSIDER THE FOLLOWING FACTORS AS APPLICABLE TO**
40 **THE RULE:**
- 41 (a) **THE AUTHORS OF THE STUDY, PRINCIPLE OR METHOD HAVE SUBJECT MATTER**
42 **KNOWLEDGE, SKILL, EXPERIENCE, TRAINING AND EXPERTISE.**
- 43 (b) **THE STUDY, PRINCIPLE OR METHOD IS BASED ON SUFFICIENT FACTS OR**
44 **DATA.**
- 45 (c) **THE STUDY IS THE PRODUCT OF RELIABLE PRINCIPLES AND METHODS.**

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

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

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

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

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

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

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

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

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

31 41-1053. Council review of expedited rules

32 A. After receipt of the ~~summary~~ EXPEDITED rule package from the
33 agency, the council shall place the ~~summary~~ EXPEDITED rule on its consent
34 agenda for approval unless a member of the council or the committee requests
35 a hearing.

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

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

44 ~~D.~~ C. The council, at any time a proposed ~~summary~~ EXPEDITED rule is
45 pending, may disapprove the ~~summary~~ EXPEDITED rule making and order
46 initiation of a regular rule making pursuant to sections 41-1022, 41-1023 and

1 41-1024. ~~The council's disapproval of the proposed summary rule revokes the~~
2 ~~interim effect of the proposed summary rule as of the date of initial~~
3 ~~publication of the proposed summary rule in the register unless the council~~
4 ~~orders otherwise.~~

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

7 41-1055. Economic, small business and consumer impact statement

8 A. The economic, small business and consumer impact summary **IN THE**
9 **PREAMBLE** shall include:

10 1. An identification of the proposed rule making, including all of the
11 following:

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

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

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

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

20 3. If the economic, small business and consumer impact summary
21 accompanies a proposed rule or a proposed ~~summary~~ **EXPEDITED** rule, the name
22 and address of agency employees who may be contacted to submit or request
23 additional data on the information included in the economic, small business
24 and consumer impact statement.

25 B. The economic, small business and consumer impact statement shall
26 include:

27 1. An identification of the proposed rule making.

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

30 3. A cost benefit analysis of the following:

31 (a) The probable costs and benefits to the implementing agency and
32 other agencies directly affected by the implementation and enforcement of the
33 proposed rule making. The probable costs to the implementing agency shall
34 include the number of new full-time employees necessary to implement and
35 enforce the proposed rule. The preparer of the economic, small business and
36 consumer impact statement shall notify the joint legislative budget committee
37 of the number of new full-time employees necessary to implement and enforce
38 the rule before the rule is approved by the council.

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

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

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

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

6 (a) An identification of the small businesses subject to the proposed
7 rule making.

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

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

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

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

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

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

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

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

27 C. If for any reason adequate data are not reasonably available to
28 comply with the requirements of subsection B of this section, the agency
29 shall explain the limitations of the data and the methods that were employed
30 in the attempt to obtain the data and shall characterize the probable impacts
31 in qualitative terms. The absence of adequate data, if explained in
32 accordance with this subsection, shall not be grounds for a legal challenge
33 to the sufficiency of the economic, small business and consumer impact
34 statement.

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

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

41 ~~2. Summary rule makings pursuant to section 41-1027 that only repeat~~
42 ~~existing rule language.~~

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

1 2. PROPOSED EXPEDITED RULE MAKING OR FINAL EXPEDITED RULE MAKING.
2 E. BEFORE FILING A PROPOSED RULE WITH THE SECRETARY OF STATE, AN
3 AGENCY MAY PETITION THE COUNCIL FOR A DETERMINATION THAT THE AGENCY IS NOT
4 REQUIRED TO FILE AN ECONOMIC, SMALL BUSINESS AND CONSUMER IMPACT STATEMENT.
5 THE PETITION SHALL DEMONSTRATE BOTH OF THE FOLLOWING:

- 6 1. THE RULE MAKING DECREASES MONITORING, RECORD KEEPING, COSTS OR
7 REPORTING BURDENS ON AGENCIES, POLITICAL SUBDIVISIONS, BUSINESSES OR PERSONS.
8 2. THE RULE MAKING DOES NOT INCREASE MONITORING, RECORD KEEPING, COSTS
9 OR REPORTING BURDENS ON PERSONS SUBJECT TO THE PROPOSED RULE MAKING.

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

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

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

21 ~~G.~~ I. If a person submits an analysis to the agency ~~that compares~~
22 REGARDING the rule's impact on the competitiveness of businesses in this
23 state ~~to the impact on~~ AS COMPARED TO THE COMPETITIVENESS OF businesses in
24 other states, the agency shall consider the ~~analyses~~ ANALYSIS.

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

27 41-1056. Review by agency

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

- 36 1. The rule's effectiveness in achieving its objectives, including a
37 summary of any available data supporting the conclusions reached.
38 2. Written criticisms of the rule received during the previous five
39 years, INCLUDING ANY WRITTEN ANALYSES SUBMITTED TO THE AGENCY QUESTIONING
40 WHETHER THE RULE IS BASED ON VALID SCIENTIFIC OR RELIABLE PRINCIPLES OR
41 METHODS.
42 3. Authorization of the rule by existing statutes.
43 4. Whether the rule is consistent with STATUTES OR other rules made by
44 the agency, ~~AND~~ current agency enforcement policy ~~and current agency views~~
45 ~~regarding the wisdom of the rule.~~
46 5. The clarity, conciseness and understandability of the rule.

1 6. The estimated economic, small business and consumer impact of the
2 rules as compared to the economic, small business and consumer impact
3 statement prepared on the last making of the rules.

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

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

10 9. A determination that the PROBABLE BENEFITS OF THE RULE OUTWEIGH
11 WITHIN THIS STATE THE PROBABLE COSTS OF THE RULE, AND THE rule imposes the
12 least burden and costs to persons regulated by the rule, including paperwork
13 and other compliance costs, necessary to achieve the underlying regulatory
14 objective.

15 10. A DETERMINATION THAT THE RULE IS NOT MORE STRINGENT THAN A
16 CORRESPONDING FEDERAL LAW UNLESS THERE IS STATUTORY AUTHORITY TO EXCEED THE
17 REQUIREMENTS OF THAT FEDERAL LAW.

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

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

23 ~~B.~~ C. The council shall schedule the periodic review of each agency's
24 rules and shall approve or return, in whole or in part, the agency's report
25 on its review. The council may grant an agency an extension from filing an
26 agency's report. If the council returns an agency's report, in whole or in
27 part, the council shall inform the agency of the manner in which its report
28 is inadequate and, in consultation with the agency, shall schedule submission
29 of a revised report. The council shall not approve a report unless the
30 report complies with subsection A OF THIS SECTION.

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

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

38 1. IS NOT AUTHORIZED BY STATUTE.

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

42 3. IMPOSES PROBABLE COSTS, INCLUDING COSTS TO THE REGULATED PERSON,
43 THAT SIGNIFICANTLY EXCEED THE PROBABLE BENEFITS OF THE RULE WITHIN THIS
44 STATE.

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

1 5. IS NOT CLEAR, CONCISE AND UNDERSTANDABLE.
2 6. DOES NOT USE GENERAL PERMITS IF REQUIRED UNDER SECTION 41-1037.
3 7. DOES NOT IMPOSE THE LEAST BURDEN TO PERSONS REGULATED BY THE RULE
4 AS NECESSARY TO ACHIEVE THE UNDERLYING REGULATORY OBJECTIVE OF THE RULE.
5 8. DOES NOT RELY ON VALID SCIENTIFIC OR RELIABLE PRINCIPLES AND
6 METHODS, INCLUDING A STUDY, IF THE RULE RELIES ON SCIENTIFIC PRINCIPLES OR
7 METHODS, AND A PERSON HAS SUBMITTED AN ANALYSIS UNDER SUBSECTION A OF THIS
8 SECTION QUESTIONING WHETHER THE RULE IS BASED ON VALID SCIENTIFIC OR RELIABLE
9 PRINCIPLES OR METHODS. IN MAKING A DETERMINATION OF VALIDITY OR RELIABILITY,
10 THE COUNCIL SHALL CONSIDER THE FACTORS LISTED IN SECTION 41-1052,
11 SUBSECTION G.
12 F. AN AGENCY MAY REQUEST AN EXTENSION OF NO LONGER THAN ONE YEAR FROM
13 THE DATE SPECIFIED BY THE COUNCIL PURSUANT TO SUBSECTION E OF THIS SECTION BY
14 SENDING A WRITTEN REQUEST TO THE COUNCIL THAT:
15 1. IDENTIFIES THE REASON FOR THE EXTENSION REQUEST.
16 2. DEMONSTRATES GOOD CAUSE FOR THE EXTENSION.
17 G. THE AGENCY SHALL NOTIFY THE COUNCIL OF AN AMENDMENT OR REPEAL OF A
18 RULE FOR WHICH THE COUNCIL HAS SET AN EXPIRATION DATE UNDER SUBSECTION E OF
19 THIS SECTION. IF THE AGENCY DOES NOT AMEND OR REPEAL THE RULE BY THE DATE
20 SPECIFIED BY THE COUNCIL UNDER SUBSECTION E OF THIS SECTION OR THE EXTENDED
21 DATE UNDER SUBSECTION F OF THIS SECTION, THE RULE AUTOMATICALLY EXPIRES. THE
22 COUNCIL SHALL FILE A NOTICE OF RULE EXPIRATION WITH THE SECRETARY OF STATE
23 AND NOTIFY THE AGENCY OF THE EXPIRATION OF THE RULE.
24 ~~E.~~ H. The council may reschedule a report or portion of a report for
25 any rule that is scheduled for review and that was initially made or
26 substantially revised within two years before the due date of the report as
27 scheduled by the council.
28 ~~D.~~ I. If an agency finds that it cannot provide the written report to
29 the council by the date it is due, the agency may file an extension with the
30 council before the due date indicating the reason for the extension. The
31 timely filing for an extension permits the agency to submit its report on or
32 before the date prescribed by the council.
33 ~~E.~~ J. If an agency fails to submit its report, including a revised
34 report pursuant to ~~subsection B~~ SUBSECTIONS A AND C OF THIS SECTION, or file
35 an extension before the due date of the report or if it files an extension
36 and does not submit its report within the extension period, the rules
37 scheduled for review expire and the council shall:
38 1. Cause a notice to be published in the next register that states the
39 rules have expired and are no longer enforceable.
40 2. Notify the secretary of state that the rules have expired and that
41 the rules are to be removed from the code.
42 3. Notify the agency that the rules have expired and are no longer
43 enforceable.
44 ~~F.~~ K. If a rule expires as provided in subsection ~~E~~ J OF THIS
45 SECTION and the agency wishes to reestablish the rule, the agency shall
46 comply with ~~article 3~~ THE REQUIREMENTS of this chapter.

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

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

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

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

16 41-1057. Exemptions

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

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

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

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

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

29 B. AN AGENCY EXEMPT UNDER SUBSECTION A OF THIS SECTION MAY ELECT TO
30 FOLLOW THE REQUIREMENTS OF THIS ARTICLE INSTEAD OF SECTION 41-1044 FOR A
31 PARTICULAR RULE MAKING. THE AGENCY SHALL INCLUDE WITH A FINAL RULE MAKING
32 FILED WITH COUNCIL A STATEMENT THAT THE AGENCY HAS ELECTED TO FOLLOW THE
33 REQUIREMENTS OF THIS ARTICLE.

34 Sec. 19. Repeal

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

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

38 41-1091. Substantive policy statements; directory

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

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

43 This substantive policy statement is advisory only. A
44 substantive policy statement does not include internal
45 procedural documents that only affect the internal procedures of
46 the agency and does not impose additional requirements or

1 penalties on regulated parties or include confidential
2 information or rules made in accordance with the Arizona
3 administrative procedure act. If you believe that this
4 substantive policy statement does impose additional requirements
5 or penalties on regulated parties you may petition the agency
6 under ~~Arizona Revised Statutes~~ section 41-1033, ARIZONA REVISED
7 STATUTES, for a review of the statement.

8 C. The agency shall publish at least annually a directory summarizing
9 the subject matter of all currently applicable rules and substantive policy
10 statements. The agency shall keep copies of this directory and all of its
11 substantive policy statements at one location. The directory, rules and
12 substantive policy statements and any materials incorporated by reference in
13 the rules or substantive policy statements shall be open to public inspection
14 at the office of the agency director.

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

17 Sec. 21. Title 41, chapter 6, article 9, Arizona Revised Statutes, is
18 amended by adding section 41-1091.01, to read:

19 41-1091.01. Posting substantive policy statement and rules

20 AN AGENCY SHALL POST ON THE AGENCY'S WEBSITE:

21 1. THE FULL TEXT OF EACH RULE CURRENTLY IN USE OR THE WEBSITE ADDRESS
22 AND LOCATION OF THE FULL TEXT OF EACH RULE CURRENTLY IN USE.

23 2. EACH SUBSTANTIVE POLICY STATEMENT CURRENTLY IN USE, INCLUDING ITS
24 FULL TEXT, IF PRACTICABLE.

25 3. THE NOTICE REQUIRED BY SECTION 41-1091, SUBSECTION B.

APPROVED BY THE GOVERNOR MAY 14, 2012.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 14, 2012.