

REFERENCE TITLE: administrative procedures; revisions

State of Arizona
House of Representatives
Fifty-seventh Legislature
Second Regular Session
2026

HB 4102

Introduced by
Representative Stahl Hamilton

AN ACT

AMENDING SECTIONS 1-215, 31-445, 41-1001, 41-1005, 41-1006, 41-1011, 41-1012, 41-1013, 41-1021 AND 41-1021.01, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 6, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1021.03; AMENDING SECTION 41-1022, ARIZONA REVISED STATUTES; REPEALING SECTION 41-1023, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 6, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 41-1023; AMENDING TITLE 41, CHAPTER 6, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 41-1023.01 AND 41-1023.02; AMENDING SECTIONS 41-1024, 41-1025, 41-1026, 41-1027, 41-1028, 41-1029, 41-1031, 41-1032, 41-1033, 41-1036, 41-1044 AND 41-1097.01, ARIZONA REVISED STATUTES; RELATING TO ADMINISTRATIVE PROCEDURE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 1-215, Arizona Revised Statutes, is amended to
3 read:

4 1-215. Definitions

5 In the statutes and laws of this state, unless the context otherwise
6 requires:

7 1. "Action" includes any matter or proceeding in a court, civil or
8 criminal.

9 ~~2. "Adopted rule" means a final rule as defined in section 41-1001.~~

10 ~~3.~~ 2. "Adult" means a person who ~~has attained~~ IS AT LEAST eighteen
11 years of age.

12 ~~4.~~ 3. "Alternative fuel" means:

13 (a) Electricity.

14 (b) Solar energy.

15 (c) Liquefied petroleum gas, natural gas, hydrogen or a blend of
16 hydrogen with liquefied petroleum or natural gas that complies with any of
17 the following:

18 (i) Is used in an engine that is certified to meet at a minimum the
19 United States environmental protection agency low emission vehicle
20 standard pursuant to 40 Code of Federal Regulations section 88.104-94 or
21 88.105-94.

22 (ii) Is used in an engine that is certified by the engine modifier
23 to meet the addendum to memorandum 1-A of the United States environmental
24 protection agency as printed in the federal register, volume 62, number
25 207, October 27, 1997, pages 55635 through 55637.

26 (iii) Is used in an engine that is the subject of a waiver for that
27 specific engine application from the United States environmental
28 protection agency's memorandum 1-A addendum requirements and that waiver
29 is documented to the reasonable satisfaction of the director of the
30 department of environmental quality.

31 (d) Only for vehicles that use alcohol fuels before August 21,
32 1998, alcohol fuels that contain not less than eighty-five percent alcohol
33 by volume.

34 (e) A combination of at least seventy percent alternative fuel and
35 not more than thirty percent petroleum based fuel that operates in an
36 engine that meets the United States environmental protection agency low
37 emission vehicle standard pursuant to 40 Code of Federal Regulations
38 section 88.104-94 or 88.105-94 and that is certified by the engine
39 manufacturer to consume at least seventy percent alternative fuel during
40 normal vehicle operations.

41 ~~5.~~ 4. "Bribe" means anything of value or advantage, present or
42 prospective, asked, offered, given, accepted or promised with a corrupt
43 intent to influence, unlawfully, the person to whom it is given in that
44 person's action, vote or opinion, in any public or official capacity.

1 ~~6.~~ 5. "Child" or "children" ~~as used in reference to age of persons~~
2 means ~~persons~~ A PERSON under eighteen years of age.

3 ~~7.~~ 6. "Clean burning fuel" means:

4 (a) An emulsion of water-phased hydrocarbon fuel that contains not
5 less than twenty percent water by volume and that complies with any of the
6 following:

7 (i) Is used in an engine that is certified to meet at a minimum the
8 United States environmental protection agency low emission vehicle
9 standard pursuant to 40 Code of Federal Regulations section 88.104-94 or
10 88.105-94.

11 (ii) Is used in an engine that is certified by the engine modifier
12 to meet the addendum to memorandum 1-A of the United States environmental
13 protection agency as printed in the federal register, volume 62, number
14 207, October 27, 1997, pages 55635 through 55637.

15 (iii) Is used in an engine that is the subject of a waiver for that
16 specific engine application from the United States environmental
17 protection agency's memorandum 1-A addendum requirements and that waiver
18 is documented to the reasonable satisfaction of the director of the
19 department of environmental quality.

20 (b) A diesel fuel substitute that is produced from nonpetroleum
21 renewable resources if the qualifying volume of the nonpetroleum renewable
22 resources meets the standards for California diesel fuel as adopted by the
23 California air resources board pursuant to 13 California Code of
24 Regulations sections 2281 and 2282 in effect on January 1, 2000, the
25 diesel fuel substitute meets the registration requirement for fuels and
26 additives established by the United States environmental protection agency
27 pursuant to section 211 of the clean air act as defined in section
28 49-401.01 and the use of the diesel fuel substitute complies with the
29 requirements listed in 10 Code of Federal Regulations part 490, as printed
30 in the federal register, volume 64, number 96, May 19, 1999.

31 (c) A diesel fuel that complies with all of the following:

32 (i) Contains a maximum of fifteen parts per million by weight of
33 sulfur.

34 (ii) Meets ASTM D975.

35 (iii) Meets the registration requirements for fuels and additives
36 established by the United States environmental protection agency pursuant
37 to section 211 of the clean air act as defined in section 49-401.01.

38 (iv) Is used in an engine that is equipped or has been retrofitted
39 with a device that has been certified by the California air resources
40 board diesel emission control strategy verification procedure, the United
41 States environmental protection agency voluntary diesel retrofit program
42 or the United States environmental protection agency verification protocol
43 for retrofit catalyst, particulate filter and engine modification control
44 technologies for highway and nonroad use diesel engines.

(d) A blend of unleaded gasoline that contains at minimum eighty-five percent ethanol by volume or eighty-five percent methanol by volume.

(e) Neat methanol.

(f) Neat ethanol.

~~8.~~ 7. "Corruptly" means a wrongful design to acquire or cause some pecuniary or other advantage to the person guilty of the act or omission referred to, or to some other person.

~~9.~~ 8. "Daytime" means the period ~~between~~ BEGINNING AT sunrise and ENDING AT sunset.

~~10.~~ 9. "Depose" includes every manner of written statement under oath or affirmation.

~~11.~~ 10. "Federal poverty guidelines" means the poverty guidelines as updated annually in the federal register by the United States department of health and human services.

~~12.~~ 11. "Grantee" includes every person to whom an estate or interest in real property passes, in or by a deed.

~~13.~~ 12. "Grantor" includes every person from or by whom an estate or interest in real property passes, in or by a deed.

~~14.~~ 13. "Includes" or "including" means not limited to and is not a term of exclusion.

~~15.~~ 14. "Inhabitant" means a resident of a city, town, village, district, county or precinct.

~~16.~~ 15. "Issue" as used in connection with descent of estates includes all lawful, lineal descendants of the ancestor.

~~17.~~ 16. "Knowingly":

(a) Means only a knowledge that the facts exist that bring the act or omission within the provisions of the statute using such word.

(b) Does not require any knowledge of the unlawfulness of the act or omission.

~~18.~~ 17. "Magistrate":

(a) Means an officer ~~having~~ THAT HAS THE power to issue a warrant for the arrest of a person charged with a public offense. ~~and~~

(b) Includes the chief justice and justices of the supreme court, judges of the superior court, judges of the court of appeals, justices of the peace and judges of a municipal court.

~~19.~~ 18. "Majority" or "age of majority" as used in reference to the age of ~~persons~~ A PERSON means AT LEAST eighteen years of age ~~or more~~.

~~20.~~ 19. "Malice" and "maliciously" mean a wish to vex, annoy or injure another person, or an intent to do a wrongful act, established either by proof or presumption of law.

~~21.~~ 20. "Minor" means a person under eighteen years of age.

~~22.~~ 21. "Minor ~~children~~ CHILD" means ~~persons~~ A PERSON under eighteen years of age.

~~23.~~ 22. "Month" means a GREGORIAN calendar month unless otherwise expressed.

~~24.~~ 23. "Moral turpitude" means an offense, whether a misdemeanor or felony, that is related to extortion, burglary, larceny, bribery, embezzlement, robbery, racketeering, money laundering, forgery, fraud, murder, voluntary manslaughter or a sexual offense that requires the individual to register pursuant to section 13-3821.

~~25.~~ 24. "Neglect", "negligence", "negligent" and "negligently" import a want of such attention to the nature or probable consequence of the act or omission as a prudent man ordinarily bestows in acting in his own concerns.

~~26.~~ 25. "Nighttime" means the period ~~between~~ STARTING AT sunset and ENDING AT sunrise.

~~27.~~ 26. "Oath" ~~includes~~ MEANS EITHER an affirmation or declaration.

~~28.~~ 27. "Peace officers" means sheriffs of counties, constables, marshals, policemen of cities and towns, commissioned personnel of the department of public safety, personnel who are employed by the state department of corrections and the department of juvenile corrections and who have received a certificate from the Arizona peace officer standards and training board, peace officers who are appointed by a multicounty water conservation district and who have received a certificate from the Arizona peace officer standards and training board, police officers who are appointed by community college district governing boards and who have received a certificate from the Arizona peace officer standards and training board, police officers who are appointed by the Arizona board of regents and who have received a certificate from the Arizona peace officer standards and training board, police officers who are appointed by the governing body of a public airport pursuant to section 28-8426 and who have received a certificate from the Arizona peace officer standards and training board, peace officers who are appointed by a private postsecondary institution pursuant to section 15-1897 and who have received a certificate from the Arizona peace officer standards and training board and special agents from the office of the attorney general, or of a county attorney, and who have received a certificate from the Arizona peace officer standards and training board.

~~29.~~ 28. "Person" ~~includes~~ MEANS A NATURAL PERSON, a corporation, company, partnership, firm, association or society, ~~as well as a natural person~~. When the word "person" is used to designate the party whose property may be the subject of a criminal or public offense, the term includes the United States, this state, or any territory, state or country, or any political subdivision of this state that may lawfully own any property, or a public or private corporation, or partnership or association. When the word "person" is used to designate the violator or

offender of any law, it includes a corporation, a partnership or any association of persons.

~~30.~~ 29. "Personal property" includes money, goods, chattels, things in action and evidences of debt.

~~31.~~ 30. "Population" means the population according to the most recent United States decennial census.

~~32.~~ 31. "Process" means a citation, writ or summons issued in the course of judicial proceedings.

~~33.~~ 32. "Property" includes both real and personal property.

~~34.~~ 33. "Real property" is coextensive with lands, tenements and hereditaments.

~~35.~~ 34. "Registered mail" includes certified mail.

~~36.~~ 35. "Seal" as used in reference to a paper issuing from a court or public office to which the seal of such court or office is required to be affixed means an impression of the seal on that paper, an impression of the seal affixed to that paper by a wafer or wax, a stamped seal, a printed seal, a screened seal or a ~~computer-generated~~ COMPUTER-GENERATED seal.

~~37.~~ 36. "Signature" or "subscription" includes a mark, if a person cannot write, with the person's name written near it and witnessed by a person who writes the person's own name as witness.

~~38.~~ 37. "State": ~~, as applied to the different parts of the United States,~~

(a) MEANS THIS STATE AND THE STATES OF THE UNION.

(b) Includes ~~the District of Columbia, this state and the territories, SUCH AS THE COMMONWEALTH OF PUERTO RICO, GUAM, THE UNITED STATES VIRGIN ISLANDS, NORTHERN MARIANA ISLANDS, AMERICAN SAMOA AND THE DISTRICT OF COLUMBIA.~~

~~39.~~ 38. "Testify" includes every manner of oral statement under oath or affirmation.

~~40.~~ 39. "United States" includes the District of Columbia and the territories.

~~41.~~ 40. "Vessel", as used in reference to shipping, includes ships of all kinds, steamboats, steamships, barges, canal boats and every structure adapted to navigation from place to place for the transportation of persons or property.

~~42.~~ 41. "Wilfully" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or believes that the person's conduct is of that nature or that the circumstance exists.

~~43.~~ 42. "Will" includes codicils.

~~44.~~ 43. "Workers' compensation" means workmen's compensation as used in article XVIII, section 8, Constitution of Arizona.

1 ~~45.~~ 44. "Writ" means an order or precept in writing issued in the
2 name of the state or by a court or judicial officer.

3 ~~46.~~ 45. "Writing" includes printing.

4 Sec. 2. Section 31-445, Arizona Revised Statutes, is amended to
5 read:

6 31-445. Publication of reasons for granting a commutation,
7 pardon, reprieve, stay or suspension of execution

8 When the governor grants a commutation, pardon, reprieve or stay or
9 suspends execution of sentence in a case where a sentence of death is
10 imposed, ~~he~~ THE GOVERNOR shall, ~~PUBLISH THE COMMUTATION, PARDON, REPRIEVE~~
11 ~~OR STAY OR SUSPENSION OF EXECUTION ON THE GOVERNOR'S WEBSITE AND NOTIFY~~
12 ~~THE MEDIA OF THE POSTING.~~ Within ten days after granting the commutation,
13 pardon, reprieve or stay or suspension of execution, ~~THE GOVERNOR SHALL~~
14 ~~PREPARE A STATEMENT DISCLOSING THE REASONS FOR GRANTING THE COMMUTATION,~~
15 ~~PARDON, REPRIEVE OR STAY OR SUSPENSION OF EXECUTION AND~~ ~~cause to be~~
16 ~~published~~ PUBLISH THE STATEMENT in bold type, in a newspaper of general
17 circulation, ~~published~~ LOCATED in the county where the conviction was
18 had, ~~and shall file with the secretary of state for publication in the~~
19 ~~Arizona administrative register, a statement setting forth his reasons for~~
20 ~~granting the commutation, pardon, reprieve or for staying or suspending~~
21 ~~such execution.~~ A further reprieve shall not be granted except ~~upon~~ ON
22 the same procedure.

23 Sec. 3. Section 41-1001, Arizona Revised Statutes, is amended to
24 read:

25 41-1001. Definitions

26 In this chapter, unless the context otherwise requires:

27 1. "ADOPT A RULE" MEANS A RULE APPROVED BY A BOARD OR COMMISSION
28 AND MAY BE MADE, AMENDED, RENUMBERED OR REPEALED UNDER THIS CHAPTER AS A
29 FINAL RULE OR RULE MADE UNDER AN EXEMPTION TO ALL OR PARTS OF THIS
30 CHAPTER.

31 ~~1.~~ 2. "Agency":

32 (a) Means ~~any~~ A board, commission, department, officer or other
33 administrative unit of this state, including the agency head, ~~and one~~ THE
34 AGENCY HEAD'S DESIGNEE or ~~more members of the~~ ANY agency head
35 ADMINISTRATION EMPLOYEE or agency employees or other ~~persons~~ STAFF
36 directly or indirectly ~~purporting to act~~ ACTING on behalf or under the
37 authority of the agency head, whether created under the Constitution of
38 Arizona or by enactment of the legislature. ~~Agency does not include the~~
39 ~~legislature, the courts or the governor. Agency does not include a~~
40 ~~political subdivision of this state or any of the administrative units of~~
41 ~~a political subdivision, but does include any~~

42 (b) INCLUDES:

43 (i) A board, commission, department, officer or other
44 administrative unit created or appointed by joint or concerted action of

1 an agency and one or more political subdivisions of this state or any of
2 ~~their~~ ITS units.

3 (ii) To the extent an administrative unit purports to exercise
4 authority subject to this chapter, an administrative unit otherwise
5 qualifying as an agency ~~must be treated as a separate agency~~ even if the
6 administrative unit is located within or subordinate to another agency.

7 (c) DOES NOT INCLUDE THE LEGISLATURE, THE COURTS OR THE GOVERNOR, A
8 POLITICAL SUBDIVISION OF THIS STATE OR ANY OF THE ADMINISTRATIVE UNITS OF
9 A POLITICAL SUBDIVISION OF THIS STATE.

10 3. "AGENCY CERTIFICATE" MEANS A GOVERNING DOCUMENT PREPARED BY AN
11 AGENCY AND SIGNED BY AN AGENCY HEAD OR DESIGNEE THAT ACCOMPANIES A
12 RULEMAKING NOTICE PACKAGE AND LISTS THE AGENCY'S NAME, ADMINISTRATIVE CODE
13 CHAPTER NUMBER AND HEADING AND, IF APPLICABLE, RULE SUBCHAPTER NUMBER AND
14 HEADING, ARTICLE, PART AND SECTION, NUMBER AND HEADING AND APPENDIX,
15 EXHIBIT, ILLUSTRATION TABLE, NUMBER OR LETTER AND HEADING.

16 ~~2.~~ 4. "Appealable agency action" has the same meaning prescribed
17 in section 41-1092.

18 ~~3.~~ 5. "Audit" means an ~~audit~~ EXAMINATION, investigation or
19 inspection pursuant to title 23, chapter 2 or 4.

20 6. "CLERICAL ERROR":

21 (a) MEANS THE UNINTENTIONAL ADDITION OR OMISSION OF A WORD, PHRASE
22 OR FIGURE IN A PROPOSED OR FINAL RULE.

23 (b) INCLUDES A PLAUSIBLE MISTAKE IN THE CODE CODIFICATION OUTLINE,
24 SUCH AS INCORRECTLY LABELING A HEADING OR SECTION NUMBER.

25 ~~4.~~ 7. "Code" means the Arizona administrative code, ~~which~~ THAT is
26 published BY THE SECRETARY OF STATE pursuant to section 41-1011.

27 8. "CODIFY" MEANS THE PROCESS OF COLLECTING, ARRANGING AND
28 PUBLISHING ADMINISTRATIVE RULES SYSTEMATICALLY IN THE ARIZONA
29 ADMINISTRATIVE CODE.

30 ~~5.~~ 9. "Committee" means the administrative rules oversight
31 committee ESTABLISHED BY SECTION 41-1046.

32 ~~6.~~ 10. "Contested case" means any proceeding, including rate
33 making, except rate making pursuant to article XV, Constitution of
34 Arizona, price fixing and licensing, in which the legal rights, duties or
35 privileges of a party are required or permitted by law, other than this
36 chapter, to be determined by an agency after an opportunity for an
37 administrative hearing.

38 ~~7.~~ 11. "Council" means the governor's regulatory review council
39 ESTABLISHED BY SECTION 41-1051.

40 ~~8.~~ 12. "Delegation agreement":

41 (a) Means an agreement between an agency and a political
42 subdivision that authorizes the political subdivision to exercise
43 functions, powers or duties conferred on the delegating agency by a
44 provision of law. ~~Delegation agreement~~

(b) Does not include intergovernmental agreements entered into pursuant to title 11, chapter 7, article 3.

13. "DOCKET OPENING" MEANS A NOTICE PREPARED BY AN AGENCY THAT ANNOUNCES ITS INTENT TO CONSIDER AND INITIATE A RULEMAKING PURSUANT TO SECTION 41-1021.

~~9.~~ 14. "Emergency rule" means a rule PREPARED BY AN AGENCY that is made, AMENDED, REPEALED OR RENUMBERED pursuant to section 41-1026.

~~10.~~ 15. "Fee" means a MONETARY charge prescribed by an agency for ~~an~~ A SERVICE, REGISTRATION, LICENSE, inspection, PERMIT OR COMMISSION or ~~for obtaining a license~~ ADMISSION OR ENTRANCE INTO A STATE PARK.

~~11.~~ 16. "Final rule":

(a) Means ~~any~~ A rule PREPARED BY AN AGENCY AND filed with the secretary of state ~~and~~ THAT IS made, AMENDED, REPEALED OR RENUMBERED pursuant to an exemption from this chapter in section 41-1005 OR ANY OTHER STATUTE OR LAW, ~~OR THAT IS~~ made, AMENDED, REPEALED OR RENUMBERED pursuant to section 41-1026, ~~AND~~ approved by the council pursuant to section 41-1052 or 41-1053 or approved by the attorney general pursuant to section 41-1044.

(b) For purposes of judicial review, ~~final rule~~ includes expedited rules MADE, AMENDED, REPEALED OR RENUMBERED pursuant to section 41-1027.

~~12.~~ 17. "General permit" means a regulatory permit, license or agency authorization that is for facilities, activities or practices in a class that are substantially similar in nature and that is issued or granted by an agency to a qualified applicant to conduct identified operations or activities if the applicant meets the applicable requirements of the general permit, that requires less information than an individual or traditional permit, license or authorization and that does not require a public hearing.

~~13.~~ 18. "License" ~~includes~~ MEANS the whole or part of any agency permit, certificate, approval, registration, charter or similar form of permission required by law, but does not include a license required solely for revenue purposes.

~~14.~~ 19. "Licensing" ~~includes~~ MEANS the agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, change, reduction, modification or amendment of a license, including an existing permit, certificate, approval, registration, charter or similar form of permission, approval or authorization obtained from an agency by the holder of a license.

~~15.~~ 20. "Licensing decision" means ~~any action by~~ an agency ACTION to grant or deny any request for permission, approval or authorization issued in response to any request from an applicant for a license or to the holder of a license to exercise authority within the scope of the license.

1 ~~16.~~ 21. "Party" means each person or agency named or admitted as a
2 party or properly seeking and entitled as of right to be admitted as a
3 party.

4 ~~17. "Person" means an individual, partnership, corporation,~~
5 ~~association, governmental subdivision or unit of a governmental~~
6 ~~subdivision, a public or private organization of any character or another~~
7 ~~agency.~~

8 ~~18.~~ 22. "Preamble" means:— AN INTRODUCTION TO ANY RULEMAKING
9 NOTICE PREPARED UNDER THIS CHAPTER OR AN EXEMPTION FROM THIS CHAPTER THAT
10 INCLUDES THE PURPOSE, BACKGROUND AND JUSTIFICATION FOR A RULE PURSUANT TO
11 SECTION 41-1036.

12 ~~(a) For any rulemaking subject to this chapter, a statement~~
13 ~~accompanying the rule that includes:~~

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

15 ~~(ii) The name and address of agency personnel with whom persons may~~
16 ~~communicate regarding the rule.~~

17 ~~(iii) An explanation of the rule, including the agency's reasons~~
18 ~~for initiating the rulemaking.~~

19 ~~(iv) A reference to any study relevant to the rule that the agency~~
20 ~~reviewed and either proposes to rely on in its evaluation of or~~
21 ~~justification for the rule or proposes not to rely on in its evaluation of~~
22 ~~or justification for the rule, where the public may obtain or review each~~
23 ~~study, all data underlying each study and any analysis of each study and~~
24 ~~other supporting material.~~

25 ~~(v) The economic, small business and consumer impact summary, or in~~
26 ~~the case of a proposed rule, a preliminary summary and a solicitation of~~
27 ~~input on the accuracy of the summary.~~

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

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

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

41 ~~(c) In addition to the information set forth in subdivision (a) of~~
42 ~~this paragraph, for an expedited rule, the preamble also shall include a~~
43 ~~statement of the time, place and nature of the proceedings for the making,~~
44 ~~amendment or repeal of the rule and an explanation of why expedited~~
45 ~~proceedings are justified.~~

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

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

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

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

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

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

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

~~19.~~ 23. "Provision of law" means the whole or a part of the federal or state constitution, or of any federal or state statute, rule of court, executive order or rule of an administrative agency.

24. "PUBLIC COMMENT PERIOD" MEANS THE NUMBER OF CALENDAR DAYS IN WHICH AN AGENCY GIVES AN INTERESTED PERSON THE OPPORTUNITY TO PARTICIPATE IN A SUBJECT OR RULE PRESENTED IN A NOTICE BY SUBMITTING DATA, VIEWS OR ARGUMENTS, EITHER IN WRITING OR ORALLY, WHEN APPLICABLE.

25. "PUBLISH" MEANS TO FORMAT THE TEXT OF A RULE OR A LEGAL NOTICE FILED WITH THE SECRETARY OF STATE AND MAKE THE NOTICES AVAILABLE FOR REVIEW IN THE REGISTER OR, WHEN APPLICABLE, TO CODIFY A RULE IN THE CODE.

~~20.~~ 26. "Register" means the Arizona administrative register, which is:

(a) This state's official publication of rulemaking notices ~~that are filed~~ AND OTHER NOTICES REQUIRED UNDER THE LAW TO BE FILED BY AN AGENCY, with the ~~office of~~ secretary of state.

(b) Published pursuant to section 41-1011.

27. "RECEIPT" MEANS AN AGENCY-PREPARED DOCUMENT FILED WITH A NOTICE THAT IS EVIDENCE THAT THE SECRETARY OF STATE RECEIVED THE NOTICE FILING AND IS DATE STAMPED BY THE SECRETARY OF STATE AND RETURNED TO AN AGENCY AS PROOF THAT THE NOTICE WAS FILED.

28. "REGULAR RULEMAKING":

(a) MEANS A RULEMAKING MADE UNDER THE GENERAL REQUIREMENTS OF THIS CHAPTER.

(b) INCLUDES A NOTICE OF PROPOSED RULEMAKING AND ANY SUPPLEMENTAL NOTICES OF PROPOSED RULEMAKING, AND A NOTICE OF FINAL RULEMAKING.

~~21.~~ 29. "Rule":

(a) Means an agency statement of general applicability that implements, interprets or prescribes law or policy, or describes the procedure or practice requirements of an agency. ~~Rule~~

1 (b) Includes prescribing fees or the amendment TO, RENUMBERING OF
2 or repeal of a ~~prior~~ CODIFIED rule. ~~but~~

3 (c) Does not include ~~intraagency~~ INTERAGENCY memoranda that are not
4 delegation agreements.

5 ~~22-~~ 30. "Rulemaking":

6 (a) Means the process to make a new rule or amend, repeal or
7 renumber a rule UNDER THIS CHAPTER.

8 (b) INCLUDES MAKING A RULE OR AMENDING, REPEALING OR RENUMBERING A
9 RULE EXEMPT FROM ALL OR PARTS OF THE REQUIREMENTS IN THIS CHAPTER.

10 31. "RULEMAKING ACTIVITY" MEANS THE TIME FRAME WHEN AN AGENCY
11 BEGINS TO CONSIDER PROPOSING A RULE AS OUTLINED UNDER THIS CHAPTER UNTIL
12 ONE OF THE FOLLOWING OCCURS:

13 (a) AN AGENCY FILES A RULEMAKING NOTICE FOR CODIFICATION, UNDER THE
14 REQUIREMENTS OF THIS CHAPTER OR CERTAIN EXEMPTIONS FROM THIS CHAPTER.

15 (b) AN AGENCY TERMINATES A RULEMAKING.

16 (c) AN AGENCY LETS ITS NOTICE OF RULEMAKING DOCKET OPENING EXPIRE.

17 32. "RULEMAKING NOTICE" MEANS AN AGENCY'S WRITTEN COMMUNICATION
18 ABOUT ITS RULEMAKING ACTIVITY THAT IS PREPARED BY THE AGENCY AND FILED
19 WITH THE SECRETARY OF STATE FOR PUBLISHING IN THE REGISTER AND
20 CODIFICATION OF A RULE IN THE CODE.

21 33. "RULEMAKING PACKAGE":

22 (a) MEANS A COMPILATION OF DOCUMENTS REQUIRED FOR FILING A
23 RULEMAKING NOTICE WITH THE SECRETARY OF STATE, INCLUDING A RECEIPT, AN
24 AGENCY CERTIFICATE, AN ATTORNEY GENERAL OR COUNCIL CERTIFICATE, NOTICE
25 WITH A PREAMBLE AND RULES, AN AGENCY REQUEST TO PROCEED WITH A RULEMAKING
26 AND THE GOVERNOR'S RESPONSE WITH PERMISSION TO PROCEED WITH THE
27 RULEMAKING.

28 (b) INCLUDES A SUMMARY OF THE SMALL BUSINESS AND ECONOMIC IMPACT
29 STATEMENT.

30 34. "RULEMAKING PROCEEDING" MEANS THE TIME FRAME, IN CALENDAR DAYS,
31 IN WHICH AN AGENCY BEGINS TO CONSIDER AND INITIATE MAKING, AMENDING,
32 RENUMBERING OR REPEALING A RULE OR PROPOSING THESE CHANGES FOR PUBLIC
33 REVIEW AND COMPLETING THE RULEMAKING PROCESS AS FINAL, EXPEDITED OR
34 EMERGENCY RULES OR TERMINATING A RULEMAKING.

35 35. "RULEMAKING RECORD":

36 (a) MEANS THE CURRENT ACTIVITY OF ALL NOTICES, RECEIPTS AND
37 CERTIFICATES THAT ARE FILED WITH THE SECRETARY OF STATE AND THAT PERTAIN
38 TO AN AGENCY'S RULEMAKING.

39 (b) INCLUDES ANY RULEMAKING NOTICE AND INFORMATION LISTED UNDER
40 SECTION 41-1029.

41 ~~23-~~ 36. "Small business" means a concern, including its
42 affiliates, ~~which~~ THAT is independently owned and operated, ~~which~~ THAT is
43 not dominant in its field and ~~which~~ THAT employs fewer than one hundred
44 full-time employees or ~~which~~ THAT had gross annual receipts of less than
45 ~~four million dollars~~ \$4,000,000 in its last fiscal year. ~~AND~~ for purposes

of a specific rule, an agency may define small business to include more persons if it finds that such a definition is necessary to adapt the rule to the needs and problems of small businesses and organizations.

37. "SUBSTANTIVE CHANGE" MEANS A WORD, PHRASE, NUMBER, SYMBOL OR FEE THAT CHANGES THE MEANING OF OR IS A SIGNIFICANT MODIFICATION TO A RULE. A SUBSTANTIVE CHANGE TO A RULE REQUIRES AN AGENCY TO PREPARE AND FILE A NOTICE OF SUPPLEMENTAL PROPOSED RULEMAKING FOR PUBLIC REVIEW WITH THE SECRETARY OF STATE TO BE PUBLISHED IN THE REGISTER.

~~24.~~ 38. "Substantive policy statement":

(a) Means a written expression ~~which~~ THAT informs the general public of an agency's current approach to, or opinion of, the requirements of the federal or state constitution, A federal or state statute, AN administrative rule or regulation, or A final judgment of a court of competent jurisdiction, including, ~~where~~ IF appropriate, the agency's current practice, procedure or method of action based ~~upon~~ ON that approach or opinion. ~~A substantive policy statement AND~~ is advisory only. ~~A substantive policy statement~~

(b) Does not include internal procedural documents ~~which only~~ THAT affect the internal procedures of the agency and ~~does~~ THAT DO not impose additional requirements or penalties on regulated parties, confidential information or rules made in accordance with this chapter.

39. "TYPOGRAPHICAL ERROR":

(a) MEANS A MISTAKE IN THE TYPING PROCESS.

(b) INCLUDES THE OMISSION OF LETTERS OR TRANSPOSING LETTERS IN A WORD, MISSPELLING A WORD OR USING THE WRONG LETTER OR NUMBER IN THE CODE CODIFICATION SCHEME OUTLINE.

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

41-1005. Exemptions

A. This chapter does not apply to any:

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

2. Order or rule of the Arizona game and fish commission that does the following:

(a) Opens, closes or alters seasons or establishes bag or possession limits for wildlife.

(b) Establishes a fee pursuant to section 5-321, 5-322 or 5-327.

(c) Establishes a license classification, fee or application fee pursuant to title 17, chapter 3, article 2.

(d) Limits the number or use of licenses or permits that are issued to nonresidents pursuant to section 17-332.

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

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

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

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

8 7. Rule or substantive policy statement concerning inmates or
9 committed youths of a correctional or detention facility in secure custody
10 or patients admitted to a hospital if made by the state department of
11 corrections, the department of juvenile corrections, the board of
12 executive clemency or the department of health services or a facility or
13 hospital under the jurisdiction of the state department of corrections,
14 the department of juvenile corrections or the department of health
15 services.

16 8. Form whose contents or substantive requirements are prescribed
17 by rule or statute and instructions for the execution or use of the form.

18 9. Capped fee-for-service schedule adopted by the Arizona health
19 care cost containment system administration pursuant to title 36,
20 chapter 29.

21 10. Fees prescribed by section 6-125.

22 11. Order of the director of water resources adopting or modifying
23 a management plan pursuant to title 45, chapter 2, article 9.

24 12. Fees established under section 3-1086.

25 13. Fees established under sections 41-4010 and 41-4042.

26 14. Rule or other matter relating to agency contracts.

27 15. Fees established under section 32-2067 or 32-2132.

28 16. Rules made pursuant to section 5-111, subsection A.

29 17. Rules made by the Arizona state parks board concerning the
30 operation of the Tonto natural bridge state park, the facilities located
31 in the Tonto natural bridge state park and the entrance fees to the Tonto
32 natural bridge state park.

33 18. Fees or charges established under section 41-511.05.

34 19. Emergency medical services protocols except as provided in
35 section 36-2205, subsection B.

36 20. Fee schedules established pursuant to section 36-3409.

37 21. Procedures of the state transportation board as prescribed in
38 section 28-7048.

39 22. Rules made by the state department of corrections.

40 23. Fees prescribed pursuant to section 32-1527.

41 24. Rules made by the department of economic security pursuant to
42 section 46-805.

43 25. Schedule of fees prescribed by section 23-908.

44 26. Procedure that is established pursuant to title 23, chapter 6,
45 article 6.

1 27. Rules, administrative policies, procedures and guidelines
2 adopted for any purpose by the Arizona commerce authority pursuant to
3 chapter 10 of this title if the authority provides, as appropriate under
4 the circumstances, for notice of an opportunity for comment on the
5 proposed rules, administrative policies, procedures and guidelines.

6 28. Rules made by a marketing commission or marketing committee
7 pursuant to section 3-414.

8 29. Administration of public assistance program monies authorized
9 for liabilities that are incurred for disasters declared pursuant to
10 sections 26-303 and 35-192.

11 30. User charges, tolls, fares, rents, advertising and sponsorship
12 charges, services charges or similar charges established pursuant to
13 section 28-7705.

14 31. Administration and implementation of the hospital assessment
15 pursuant to section 36-2901.08, except that the Arizona health care cost
16 containment system administration must provide notice and an opportunity
17 for public comment at least thirty days before establishing or
18 implementing the administration of the assessment.

19 32. Rules made by the Arizona department of agriculture to adopt
20 and implement the provisions of the federal milk ordinance as prescribed
21 by section 3-605.

22 33. Rules made by the Arizona department of agriculture to adopt,
23 implement and administer the United States food and drug administration
24 produce safety rule (21 Code of Federal Regulations part 112) and any
25 other federal produce safety regulation, order or guideline or other
26 requirement adopted pursuant to the FDA food safety modernization act
27 (P.L. 111-353; 21 United States Code sections 2201 through 2252) as
28 provided by title 3, chapter 3, article 4.1.

29 34. Calculations that are performed by the department of economic
30 security and that are associated with the adjustment of the sliding fee
31 scale and formula for determining child care assistance pursuant to
32 section 46-805.

33 35. Rules made by the Arizona department of agriculture to
34 implement and administer the livestock operator fire and flood assistance
35 grant program established by section 3-109.03.

36 B. Notwithstanding subsection A, paragraph 21 of this section, if
37 the federal highway administration authorizes the privatization of rest
38 areas, the state transportation board shall make rules governing the lease
39 or license by the department of transportation to a private entity for the
40 purposes of privatization of a rest area.

41 C. Coincident with ~~the~~ making ~~of~~ a final rule pursuant to an
42 exemption from the applicability of this chapter under this section,
43 another statute or session law, the agency shall:

1 1. Prepare a notice OF PROPOSED EXEMPT, EXEMPT OR FINAL EXEMPT
2 RULEMAKING, AS APPLICABLE, and follow formatting guidelines AND FILING
3 REQUIREMENTS prescribed by the secretary of state.

4 2. Prepare the rulemaking exemption notices pursuant to chapter 6.2
5 of this title.

6 3. File a copy of the ~~rule~~ RULEMAKING PACKAGE with the secretary of
7 state for publication pursuant to section 41-1012 and provide a copy to
8 the council.

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

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

22 F. Unless otherwise required by law, articles 2, 3, 4 and 5 of this
23 chapter do not apply to the state board of education, except that the
24 state board of education shall adopt policies or ADOPT rules for the board
25 and the institutions under its jurisdiction that provide, as appropriate
26 under the circumstances, for notice of and opportunity for comment on the
27 policies or rules proposed for adoption. In order to implement or change
28 any rule, the state board of education shall provide at least two
29 opportunities for public comment. AS A RESULT OF AN INTERNAL REVIEW, THE
30 STATE BOARD OF EDUCATION MAY PROVIDE NOTIFICATION TO COMMENT ON A POLICY
31 IN A NOTICE OF PUBLIC INFORMATION OR PREPARE AND FILE A NOTICE OF PROPOSED
32 RULEMAKING TO BE PUBLISHED IN THE REGISTER. THE STATE BOARD OF EDUCATION
33 SHALL PROVIDE NOTIFICATION TO COMMENT AND A DEADLINE TO COMMENT ON A
34 POLICY OR RULE ON THE STATE BOARD OF EDUCATION'S WEBSITE. The state board
35 of education shall consider the fiscal impact of any proposed rule BEING
36 CONSIDERED pursuant to this subsection. ON ADOPTION BY THE STATE BOARD OF
37 EDUCATION, THE STATE BOARD OF EDUCATION SHALL IMMEDIATELY FILE THE NOTICE
38 OF FINAL RULEMAKING PACKAGE WITH THE SECRETARY OF STATE.

39 ~~G. Unless otherwise required by law, articles 2, 3, 4 and 5 of this~~
40 ~~chapter do not apply to the state board for charter schools, except that~~
41 ~~the board shall adopt policies or rules for the board and the charter~~
42 ~~schools sponsored by the board that provide, as appropriate under the~~
43 ~~circumstances, for notice of and opportunity for comment on the policies~~
44 ~~or rules proposed for adoption. In order to implement or change any~~
45 ~~policy or rule, the board shall provide at least two opportunities for~~

~~public comment. The state board for charter schools shall consider the fiscal impact of any proposed rule pursuant to this subsection.~~

Sec. 5. Section 41-1006, Arizona Revised Statutes, is amended to read:

41-1006. State agency ombudsmen; duties; identification and publication

A. Each state agency shall ~~publish annually in the register, in the state directory and in a telephone directory for Maricopa county the name or names of those employees~~ SUBMIT TO THE SECRETARY OF STATE FOR PUBLICATION A NOTICE OF AGENCY OMBUDSMAN, who ~~are~~ IS designated by the agency HEAD to assist members of the public or regulated community ~~in seeking information or assistance from the agency~~ ABOUT RULES ADOPTED UNDER THIS CHAPTER. THE NOTICE SHALL INCLUDE THE NAME AND TITLE OF THE EMPLOYEE AND ANY CONTACT INFORMATION.

B. ~~In any written communication between a state agency and a person, the~~ A state agency shall provide, IN ANY WRITTEN CORRESPONDENCE, the name, telephone number and email address of the ~~employee who is~~ OMBUDSMAN authorized ~~and able~~ to provide information ~~about the communication~~ if the communication does any of the following:

1. Demands payment of a tax, fee, penalty, fine or assessment.

2. Denies an application for a permit, ~~or~~ license, REGISTRATION, SERVICE OR INSPECTION OR OTHER AUTHORIZATION that is issued by the state agency.

3. Requests corrections, revisions or additional information or materials needed for approval of any application for a permit, REGISTRATION, license, SERVICE OR INSPECTION or other authorization that is issued by the state agency.

C. An ~~employee who is authorized and able to provide information about any communication that is described in subsection B of this section~~ OMBUDSMAN shall reply within five business days after the state agency receives ~~that~~ ANY communication.

Sec. 6. Section 41-1011, Arizona Revised Statutes, is amended to read:

41-1011. Administrative code and register

A. The secretary of state shall ~~prepare and publish~~ BE THE OFFICIAL PUBLISHER OF THIS STATE'S ADMINISTRATIVE RULES AND OTHER LEGAL FILINGS AS SPECIFIED IN THIS CHAPTER TO BE PUBLISHED IN the code and register. THE SECRETARY OF STATE SHALL ARRANGE AND CORRELATE RULES AND OTHER NOTICE FILINGS AS NECESSARY WHEN PUBLISHING THE CODE AND REGISTER.

B. The secretary of state shall prescribe a uniform CODIFICATION SCHEME AND numbering system and UNIFORM FILING REQUIREMENTS. THE SECRETARY OF STATE SHALL have reasonable discretion to determine the form and style for rules filed with and published by the office. The secretary of state shall refuse to accept a rule notice or other notice filing if the notice or filing does not comply with the secretary of state's

1 prescribed filing requirements, numbering system, form and style. THE
2 SECRETARY OF STATE MAY NOT ALTER THE SENSE OR MEANING OR MAKE A
3 SUBSTANTIVE CHANGE TO A RULE.

4 ~~C. The secretary of state shall assign titles and chapters to~~
5 ~~agencies and prepare, arrange and correlate rules and other text as~~
6 ~~necessary when publishing the code and register. The secretary of state~~
7 ~~may not alter the sense, meaning or effect of any rule but may renumber~~
8 ~~rules and parts of rules, rearrange rules, change reference numbers to~~
9 ~~agree with renumbered rules and parts of rules, substitute the proper rule~~
10 ~~number for "the preceding rule" and similar terms, delete figures if they~~
11 ~~are merely a repetition of written words, change capitalization for the~~
12 ~~purpose of uniformity and correct manifest clerical or typographical~~
13 ~~errors. With the consent of the attorney general, the secretary of state~~
14 ~~may remove from the code a provision of a rule that a court of final~~
15 ~~appeal declares unconstitutional or otherwise invalid and a rule made by~~
16 ~~an agency that is abolished if the rule is not transferred to a successor~~
17 ~~agency. The secretary of state shall remove a rule from the code when~~
18 ~~notified by the governor's regulatory review council that the rule has~~
19 ~~expired pursuant to section 41-1056, subsection j.~~

20 C. THE SECRETARY OF STATE SHALL ASSIGN A CODE TITLE AND CHAPTER TO
21 AN AGENCY IN THIS STATE. THE SECRETARY OF STATE SHALL DO ALL OF THE
22 FOLLOWING:

23 1. MAINTAIN CONSISTENCY IN THE CODIFICATION OUTLINE AND
24 APPROPRIATELY LABEL A RULE OR SUBSECTION OF A RULE.

25 2. CORRECT A CODE CITATION IN RULE TEXT TO BE CONSISTENT WITH
26 RENUMBERED AND RECODIFIED RULES OR PARTS OF RULES.

27 3. REFERENCE THE CORRECT RULE CITATION FOR THE PHRASE "THE
28 PRECEDING RULE" AND SIMILAR TERMS.

29 4. REMOVE LETTERS, FIGURES OR NUMERALS WHEN THEY ARE A REPETITION
30 OF WRITTEN WORDS.

31 5. CHANGE CAPITALIZATION FOR THE PURPOSES OF UNIFORMITY.

32 6. CORRECT MANIFEST CLERICAL OR TYPOGRAPHICAL ERRORS.

33 D. WITH THE ATTORNEY GENERAL'S CONSENT, THE SECRETARY OF STATE
34 SHALL REMOVE ANY OF THE FOLLOWING FROM THE CODE:

35 1. A PROVISION OF A RULE THAT A COURT OF FINAL APPEAL DECLARES
36 UNCONSTITUTIONAL OR OTHERWISE INVALID.

37 2. A RULE MADE BY AN AGENCY THAT IS REPEALED BY THE LEGISLATURE IF
38 THE AUTHORITY TO MAKE, AMEND, REPEAL, RENUMBER OR RECODIFY THE RULE HAS
39 NOT TRANSFERRED TO THE SUCCESSOR AGENCY.

40 E. WHEN NOTIFIED BY THE GOVERNOR'S REGULATORY REVIEW COUNCIL, THE
41 SECRETARY OF STATE SHALL REMOVE A RULE FROM THE CODE WHEN A RULE HAS
42 EXPIRED PURSUANT TO SECTION 41-1056, SUBSECTION J.

43 F. THE SECRETARY OF STATE SHALL ADOPT RULES UNDER THE PROVISIONS
44 AND REQUIREMENTS OF THIS CHAPTER.

1 Sec. 7. Section 41-1012, Arizona Revised Statutes, is amended to
2 read:

3 41-1012. Publication of administrative code; notification;
4 posting

5 A. THE SECRETARY OF STATE SHALL PUBLISH ELECTRONICALLY IN the code
6 the full text of each final, expedited and emergency rule filed ~~with the~~
7 ~~secretary of state~~ and each exempt rule filed ~~with the secretary of state~~
8 BY AN AGENCY OR THE ATTORNEY GENERAL to be published pursuant to a
9 statutory exemption from the applicability of this chapter. The secretary
10 of state shall remove ~~each~~ FROM THE CODE AN expired rule as prescribed in
11 section 41-1011, ~~subsection C~~ SUBSECTIONS D AND E.

12 B. The secretary of state shall ~~electronically publish at least~~
13 ~~once every quarter a code supplement~~ PREPARE EACH CALENDAR QUARTER RULES
14 FILED WITHIN THE CALENDAR QUARTER TO BE PUBLISHED IN THE CODE. RULES SHALL
15 BE PUBLISHED BY CHAPTER ON THE SECRETARY OF STATE'S WEBSITE WITH EACH
16 CHAPTER ELECTRONICALLY AUTHENTICATED. Publication AND CODIFICATION of a
17 rule by the secretary of state as provided in this section constitutes
18 prima facie evidence of ~~the~~ making, THE COUNCIL OR ATTORNEY GENERAL
19 approving and filing ~~of~~ a final, emergency or exempt rule pursuant to this
20 chapter or a statutory exemption from ~~the applicability~~ SOME OR ALL OF THE
21 RULEMAKING REQUIREMENTS of this chapter.

22 C. The secretary of state shall offer an ~~e-mail~~ EMAIL service for
23 persons to receive notification when a quarterly supplement has been
24 published. The service shall include a list of chapters published and
25 where the chapters are posted.

26 D. The secretary of state shall publish the code electronically for
27 free. The secretary of state shall establish a commercial use fee FOR THE
28 CODE pursuant to section 39-121.03. ~~The secretary of state shall honor~~
29 ~~any paper subscription in place by the end of fiscal year 2017-2018 until~~
30 ~~the subscription expires.~~

31 Sec. 8. Section 41-1013, Arizona Revised Statutes, is amended to
32 read:

33 41-1013. Register

34 A. The secretary of state shall DIGITALLY AUTHENTICATE AND
35 electronically publish THE NOTICES LISTED UNDER SUBSECTION B OF THIS
36 SECTION IN the register at least once each month ~~and include the contents~~
37 ~~listed under subsection B of this section~~ FOR FREE. The secretary of
38 state shall publish ~~the~~ notices ~~that are filed with the secretary of state~~
39 FILED BY AN AGENCY during the preceding thirty days. The SECRETARY OF
40 STATE SHALL PREPARE AND INCLUDE IN THE register ~~shall include~~ a table of
41 contents and a cumulative index.

42 B. The register shall contain the following:

43 ~~1. Notices of rulemaking docket openings, including the subject~~
44 ~~matter of the rules under consideration.~~

~~2.~~ 1. Notices of proposed rulemaking AND SUPPLEMENTAL PROPOSED RULEMAKING PURSUANT TO SECTION 41-1022.

~~3. Notices of supplemental proposed rulemaking.~~

2. NOTICES OF FINAL RULEMAKING.

~~4.~~ 3. Notices of proposed exempt rulemaking AND SUPPLEMENTAL PROPOSED EXEMPT RULEMAKING for agencies that are exempt from SOME OR ALL OF the requirements of THIS chapter ~~6 of this title~~ but that are required to publish the notice in the register.

~~5. Notices of oral proceedings if the oral proceeding was not listed in the notice of rulemaking docket opening as provided in section 41-1021, subsection B, paragraph 5.~~

~~6.~~ 4. Notices of final exempt rulemaking for agencies that are exempt from the requirements of THIS chapter ~~6 of this title~~. For the purposes of this paragraph, "final exempt rulemaking" means rulemaking in which an agency received public comment on the rulemaking regardless of whether the proposed rulemaking was published in the register or elsewhere by the agency as required in the exemption.

~~7.~~ 5. Notices of exempt rulemaking for agencies that have a onetime exemption from the requirements of THIS chapter ~~6 of this title~~ or that are exempt pursuant to section 41-1005. For the purposes of this paragraph, "exempt rulemaking" means a rulemaking in which an agency ~~did~~ WAS not REQUIRED TO publish a notice of proposed EXEMPT rulemaking IN THE REGISTER and the agency was not required to conduct ~~a~~ AN ORAL PROCEEDING OR public hearing or ~~receive~~ TO ACCEPT public comments.

~~8.~~ 6. NOTICES OF proposed ~~and final notices of~~ OR SUPPLEMENTAL PROPOSED expedited rulemaking ~~and notices that an objection was received regarding a proposed expedited rulemaking~~ PURSUANT TO SECTION 41-1027.

7. NOTICES OF FINAL EXPEDITED RULEMAKING PURSUANT TO SECTION 41-1027.

8. NOTICES OF EMERGENCY AND EMERGENCY RENEWALS PURSUANT TO SECTION 41-1026.

9. NOTICES OF EXPIRATION OF RULES PURSUANT TO SECTION 41-1052, SUBSECTION N.

10. NOTICES OF A RULEMAKING DOCKET OPENING, INCLUDING THE SUBJECT MATTER OF THE RULES UNDER CONSIDERATION PURSUANT TO SECTION 41-1021.

11. NOTICES OF AN INFORMAL PUBLIC MEETING ON OPEN RULEMAKING DOCKET.

12. NOTICES OF A FORMAL ADVISORY COMMITTEE PURSUANT TO SECTION 41-1021, SUBSECTION D.

13. NOTICES OF ORAL PROCEEDING ON PROPOSED OR SUPPLEMENTAL PROPOSED RULEMAKING PURSUANT TO SECTION 41-1023, SUBSECTION C.

14. NOTICES OF ORAL PROCEEDING OR PUBLIC MEETINGS ON A NOTICE OF PROPOSED OR SUPPLEMENTAL PROPOSED EXEMPT RULEMAKING FOR AN AGENCY EXEMPT FROM THE REQUIREMENTS OF THIS CHAPTER, BUT ARE REQUIRED TO PUBLISH THE NOTICE IN THE REGISTER.

15. NOTICES OF TERMINATION OF RULEMAKING AS PROVIDED FOR REGULAR RULEMAKING PURSUANT TO SECTION 41-1024, SUBSECTION B, PARAGRAPH 2, EXPEDITED RULEMAKING PURSUANT TO SECTION 41-1027, SUBSECTION D AND EXEMPT RULEMAKING AS PROVIDED IN AN AGENCY'S EXEMPTION.

16. NOTICES OF RECODIFICATION FOR AGENCIES THAT HAVE A ONETIME REQUIREMENT UNDER THE LAW TO MOVE THE TABLE OF CONTENTS AND RULES IN ONE CODE CHAPTER TO A NEW OR EXISTING CODE CHAPTER.

~~9.~~ 17. Notices of an agency substantive policy statement PURSUANT TO SECTION 41-1091. The notice of a substantive policy statement shall contain the AGENCY'S name, THE NAME OF THE SUBSTANTIVE POLICY STATEMENT, THE AGENCY'S ASSIGNED NUMBER, ~~and~~ A summary of the policy statement, THE AGENCY'S AUTHORITY TO MAKE THE POLICY, THE AGENCY'S CONTACT INFORMATION and the PHYSICAL AND website ~~address~~ ADDRESSES where ~~the full text of the document is available, if practicable~~ A PERSON MAY REVIEW THE STATEMENT IN ITS ENTIRETY.

~~10. Notices of intent to increase state museum fees pursuant to section 15-1631.~~

~~11.~~ 18. Notices ~~of actions taken~~ PREPARED by the governor's regulatory review council, INCLUDING NOTICES OF SUMMARY ON COUNCIL ACTION, NOTICES OF DECISIONS OF REVIEW PURSUANT TO SECTION 41-1033 AND SECTION 41-1056, SUBSECTION J, NOTICES OF COUNCIL DEADLINES AND NOTICES OF COUNCIL MEETING SCHEDULES.

~~12.~~ 19. Notices of an agency guidance document or revisions to a guidance document. This notice shall contain the AGENCY'S name ~~and~~, THE NAME OF THE DOCUMENT, THE AGENCY'S ASSIGNED NUMBER, THE EFFECTIVE AND PUBLICATION DATE OF THE DOCUMENT AND, IF APPLICABLE, THE REVISION DATE, a summary of the ~~guidance~~ document ~~and~~, THE AGENCY CONTACT information AND THE PHYSICAL AND WEBSITE ADDRESSES where a person may view the document in its entirety.

20. NOTICES OF A PROPOSED DELEGATION AGREEMENT, A PUBLIC HEARING ON THE PROPOSED DELEGATION AGREEMENT, THE AGENCY'S WRITTEN SUMMARY TO PUBLIC COMMENTS ON THE PROPOSED DELEGATION AGREEMENT, THE FINAL DELEGATION AGREEMENT, AN EMERGENCY AND EXTENSION OF EMERGENCY AGREEMENT AND A TERMINATION OF EMERGENCY AGREEMENT PURSUANT TO SECTION 41-1081.

~~13.~~ 21. Notices of each agency ombudsman pursuant to section 41-1006.

~~14.~~ 22. Notices of public information that pertain to rulemaking AND LEGAL notices.

~~15. Deadlines of the governor's regulatory review council.~~

~~C. All notices listed in subsection B of this section, except the notices under subsection B, paragraphs 1, 5, 9, 10, 11, 12, 13, 14 and 15 of this section, must include a preamble and the full text of the rule being proposed, amended, renumbered or repealed.~~

~~D. C. The register shall be published electronically for free.~~
The secretary of state shall establish a commercial-use fee FOR USE OF THE

REGISTER pursuant to section 39-121.03. ~~Any paper subscription in place at the end of fiscal year 2016-2017 shall be honored until the subscription expires.~~

D. THE SECRETARY OF STATE SHALL CREATE TEMPLATES FOR THE NOTICES LISTED IN THIS SECTION FOR AN AGENCY.

E. For the purposes of this section, ~~full text~~ publication ~~in the register~~ OF A RULEMAKING NOTICE includes ITS PREAMBLE, TABLE OF CONTENTS AND new, amended, renumbered, repealed and existing language that an agency deems necessary for the proper understanding of a rule notice. Rules that are undergoing extensive revision may be reprinted in whole. Existing rule language that is not required for understanding shall be omitted and marked "no change".

F. AT THE DISCRETION OF AN AGENCY, EXISTING CODIFIED SUBSECTIONS OF A RULE MAY BE:

1. OMITTED AND MARKED AS "NO CHANGE" FOR BREVITY IF THE OMISSION DOES NOT AFFECT THE MEANING OF A PROPOSED RULE.

2. INCLUDED IN WHOLE WITH RULES UNDERGOING EXTENSIVE REVISIONS.

G. FOR THE PURPOSES OF THIS SECTION, A LEGAL NOTICE IS A WRITTEN DOCUMENT THAT INFORMS THE PUBLIC AND STAKEHOLDERS OF AGREEMENTS, POLICY OR OTHER MATTERS REQUIRED TO BE PUBLISHED IN THE REGISTER UNDER THE ADMINISTRATIVE PROCEDURE ACT OR LEGISLATIVE ENACTMENT NOT LISTED AS A RULEMAKING NOTICE UNDER SUBSECTION B OF THIS SECTION.

Sec. 9. Section 41-1021, Arizona Revised Statutes, is amended to read:

41-1021. Public rulemaking docket; notice

~~A. Each agency shall establish and maintain a current, public rule making docket for each pending rule making proceeding. A rule making proceeding is pending from the time the agency begins to consider proposing the rule under section 41-1022 until any one of the following occurs:~~

~~1. The time the rule making proceeding is terminated by the agency indicating in the rule making docket that the agency is no longer actively considering proposing the rule.~~

~~2. One year after the notice of rule making docket opening is published in the register if the agency has not filed a notice of the proposed rule making with the secretary of state pursuant to section 41-1022.~~

~~3. The rule becomes effective.~~

~~4. One year after the notice of the proposed rule making is published in the register if the agency has not submitted the rule to the council for review and approval.~~

~~5. Publication of a notice of termination.~~

~~B. For each rule making proceeding, the docket shall indicate all of the following:~~

~~1. The subject matter of the proposed rule.~~

- ~~2. A citation to all published notices relating to the proceeding.~~
- ~~3. The name and address of agency personnel with whom persons may communicate regarding the rule.~~
- ~~4. Where written submissions on the proposed rule may be inspected.~~
- ~~5. The time during which written submissions may be made and the time and place where oral comments may be made.~~
- ~~6. Where a copy of the economic, small business and consumer impact statement and the minutes of the pertinent council meeting may be inspected.~~
- ~~7. The current status of the proposed rule.~~
- ~~8. Any known timetable for agency decisions or other action in the proceeding.~~
- ~~9. The date the rule was sent to the council.~~
- ~~10. The date of the rule's filing and publication.~~
- ~~11. The date the rule was approved by the council.~~
- ~~12. When the rule will become effective.~~

A. UNLESS EXEMPT FROM THIS CHAPTER OR PREPARING A NOTICE OF EXPEDITED RULEMAKING PURSUANT TO SECTION 41-1027, EACH AGENCY SHALL ANNOUNCE ITS RULEMAKING INTENTIONS BY OPENING A DOCKET AND SHALL PREPARE AND FILE A NOTICE OF RULEMAKING DOCKET OPENING WITH THE SECRETARY OF STATE BEFORE EACH PENDING RULEMAKING PROCEEDING. AN AGENCY SHALL FOLLOW THE FORMATTING GUIDELINES AND USE A TEMPLATE PRESCRIBED BY THE SECRETARY OF STATE WHEN PREPARING THE NOTICE.

B. A RULEMAKING PROCEEDING DOES ALL OF THE FOLLOWING:

1. BEGINS WITH THE PUBLICATION OF THE NOTICE OF RULEMAKING DOCKET OPENING IN THE REGISTER. FOR THE PURPOSES OF A NOTICE OF PROPOSED EXPEDITED RULEMAKING, IT BEGINS ON THE DATE OF THE PUBLICATION OF THE NOTICE IN THE REGISTER.

2. EXPIRES EXACTLY THREE HUNDRED SIXTY-FIVE DAYS FROM THE REGISTER PUBLICATION DATE SPECIFIED UNDER PARAGRAPH 1 OF THIS SUBSECTION IF THE AGENCY HAS NOT FILED A NOTICE OF PROPOSED RULEMAKING WITH THE SECRETARY OF STATE PURSUANT TO SECTION 41-1022.

3. ENDS WHEN A NOTICE OF FINAL, FINAL EXPEDITED OR EXEMPT RULEMAKING IS APPROVED BY THE COUNCIL OR ATTORNEY GENERAL.

4. EXPIRES EXACTLY THREE HUNDRED SIXTY-FIVE DAYS AFTER THE REGISTER ISSUE DATE OF THE PUBLICATION OF A NOTICE OF PROPOSED RULEMAKING OR SUPPLEMENTAL PROPOSED RULEMAKING IF THE AGENCY HAS NOT SUBMITTED A NOTICE OF FINAL RULEMAKING TO THE COUNCIL OR ATTORNEY GENERAL, AS APPLICABLE, FOR REVIEW AND APPROVAL.

5. TERMINATES WHEN AN AGENCY PREPARES A NOTICE OF TERMINATION AND FILES THE NOTICE WITH THE SECRETARY OF STATE FOR PUBLICATION IN THE REGISTER. THE TERMINATION OF THE PROCEEDING IS EFFECTIVE ON THE DATE THAT THE AGENCY FILES THE NOTICE.

1 C. EXCEPT AS PROVIDED IN SUBSECTION A OF THIS SECTION, AN AGENCY
2 SHALL MAINTAIN A RULEMAKING DOCKET FOR EACH RULEMAKING PROCEEDING.

3 D. THE NOTICE OF DOCKET OPENING SHALL INCLUDE ALL OF THE FOLLOWING:

4 1. THE NOTICE TITLE, "NOTICE OF RULEMAKING DOCKET OPENING".

5 2. THE AGENCY NAME.

6 3. THE CODE TITLE NUMBER AND ITS HEADING.

7 4. THE CODE CHAPTER NUMBER AND ITS HEADING.

8 5. IF APPLICABLE, THE SUBCHAPTER LETTER AND HEADING.

9 6. IF KNOWN, THE ARTICLE NUMBER HEADING.

10 7. IF KNOWN, THE PART NUMBER AND HEADING.

11 8. IF KNOWN, THE SECTION NUMBER AND HEADING

12 9. THE SUBJECT MATTER OF THE NEW RULE OR RULES UNDER CONSIDERATION
13 TO BE PROPOSED AND, IF KNOWN, THE SECTION NUMBERS, AND THE SECTION NUMBERS
14 OF A CODIFIED RULE OR RULES BEING REVIEWED TO BE AMENDED, REPEALED OR
15 RENUMBERED.

16 10. IF THE NOTICE OF PROPOSED RULEMAKING IS FILED WITH THE NOTICE
17 OF DOCKET OPENING, THE REGISTER CITATION TO THE NOTICE OF PROPOSED
18 RULEMAKING.

19 11. THE NAME OF THE AGENCY OMBUDSMAN WHO CAN ANSWER QUESTIONS ABOUT
20 THE NOTICE AND THE OMBUDSMAN'S TITLE, DIVISION AND, IF APPLICABLE,
21 SUBDIVISION, ADDRESS, TELEPHONE NUMBER, EMAIL AND AGENCY WEBSITE.

22 12. IF AN AGENCY SOLICITS COMMENTS ON THE SUBJECT MATTER PROVIDED
23 IN THE DOCKET, INFORMATION ON THE COMMENT PERIOD AND HOW A PERSON SHALL
24 SUBMIT COMMENTS TO THE AGENCY.

25 13. IF AN AGENCY SCHEDULES AN INFORMAL PUBLIC MEETING ON NOTICE OF
26 RULEMAKING DOCKET OPENING, THE DATE, TIME AND PLACE OF THE INFORMAL PUBLIC
27 MEETING ON THE NOTICE. THE INFORMAL PUBLIC MEETING SHALL INCLUDE TIME FOR
28 QUESTIONS AND ANSWERS ABOUT THE DOCKET AND TIME FOR THE PUBLIC TO COMMENT
29 ORALLY.

30 14. IF KNOWN, A SUMMARY OF ITS RULEMAKING OBJECTIVES WITH DEADLINES
31 FOR ITS DECISIONS.

32 ~~C.~~ E. The agency shall provide public notice of ~~the establishment~~
33 ~~of a rule making~~ ESTABLISHING A RULEMAKING docket by causing a notice of
34 docket opening to be published in the register, including the information
35 set forth in subsection ~~B~~ D, paragraphs ~~1, 2, 3, 5 and 8~~ 9, 10, 11 AND 12
36 of this section.

37 ~~D.~~ F. An agency may appoint formal advisory committees to comment,
38 before publication of a notice of proposed ~~rule making~~ RULEMAKING under
39 section 41-1022, on the subject matter of a possible ~~rule making~~
40 RULEMAKING under active consideration within the agency. The membership
41 of these committees shall be published at the time of formation and
42 annually thereafter in the register. Members of these committees are not
43 eligible to receive compensation except as otherwise provided by law.

1 Sec. 10. Section 41-1021.01, Arizona Revised Statutes, is amended
2 to read:

3 41-1021.01. Permissive examples

4 A. An agency may include a diagram, example, table, chart or
5 formula in a ~~rule~~, preamble, economic impact, small business and consumer
6 impact statement or concise explanatory statement to the extent that it
7 assists in making the document understandable by the persons affected by
8 the rule.

9 B. AN AGENCY MAY INCLUDE SUPPLEMENTARY MATERIAL, INCLUDING AN
10 APPENDIX, ILLUSTRATION, EXHIBIT OR TABLE IN ITS CHAPTER. AN AGENCY SHALL
11 MAKE THE SUPPLEMENTARY MATERIAL AS ITS OWN RULE, WITH A NUMBER OR LETTER
12 AND HEADING ASSIGNED TO FOLLOW THE CODE CODIFICATION SCHEME. THE
13 SUPPLEMENTARY MATERIAL SHALL BE PLACED AT THE END OF A CHAPTER,
14 SUBCHAPTER, ARTICLE, PART OR SECTION, AS APPLICABLE.

15 Sec. 11. Title 41, chapter 6, article 3, Arizona Revised Statutes,
16 is amended by adding section 41-1021.03, to read:

17 41-1021.03. Rulemaking advisory committee

18 A. NOTWITHSTANDING ANY OTHER LAW, AN AGENCY MAY APPOINT A FORMAL
19 ADVISORY COMMITTEE TO REPORT ON THE SUBJECT MATTER OF A DOCKET OPENING FOR
20 GUIDANCE IN PREPARING A NOTICE OF PROPOSED RULEMAKING. THE AGENCY SHALL
21 APPOINT COMMITTEE BEFORE FILING A NOTICE OF PROPOSED RULEMAKING FOR
22 PUBLICATION PURSUANT TO SECTION 41-1022. IF MULTIPLE SUBJECTS ARE PROVIDED
23 ON THE DOCKET, THE AGENCY MAY APPOINT ADDITIONAL ADVISORY COMMITTEES WITH
24 MEMBERS WHO HAVE EXPERTISE IN THE SUBJECT AREA. THE AGENCY SHALL NAME
25 EACH COMMITTEE.

26 B. THE PURPOSE OF A COMMITTEE IS TO EVALUATE THE AGENCY'S
27 OBJECTIVES AS STATED IN THE DOCKET OPENING AND TO COMPLETE A STUDY BY A
28 DEADLINE ESTABLISHED BY THE AGENCY.

29 C. COMMITTEE MEMBERS SHALL BE APPOINTED BY THE DIRECTOR OF THE
30 AGENCY AND SERVE AT THE PLEASURE OF THE DIRECTOR. MEMBERS ARE NOT
31 ELIGIBLE TO RECEIVE COMPENSATION TO SERVE EXCEPT AS OTHERWISE PROVIDED BY
32 LAW.

33 D. AN AGENCY SHALL ANNOUNCE THE ESTABLISHMENT OF A COMMITTEE BY
34 PREPARING A NOTICE OF FORMAL ADVISORY COMMITTEE AND SHALL FILE THE NOTICE
35 WITH THE SECRETARY OF STATE TO BE PUBLISHED IN THE REGISTER. THE NOTICE OF
36 FORMAL ADVISORY COMMITTEE MUST INCLUDE:

- 37 1. THE NAME OF THE AGENCY.
- 38 2. THE SUBJECT MATTER ON WHICH THE COMMITTEE IS TO COMMENT AND, IF
39 KNOWN, THE SPECIFIC RULE OR RULE SECTION NUMBERS AND THE SECTION HEADINGS.
- 40 3. THE REGISTER ISSUE IN WHICH THE REFERENCED DOCKET OPENING WAS
41 PUBLISHED.
- 42 4. THE COMMITTEE'S NAME.
- 43 5. THE COMMITTEE MEMBERS' NAMES, THE TITLE OR SPECIALTY AREA OF
44 EACH MEMBER AND THE NAME OF THE COMMITTEE CHAIRPERSON.
- 45 6. THE DATE THE COMMITTEE WAS ESTABLISHED.

1 7. COMMITTEE CONTACT INFORMATION.

2 8. THE DEADLINE ESTABLISHED FOR THE STUDY TO BE COMPLETED PURSUANT
3 TO SUBSECTION B OF THIS SECTION.

4 E. AN AGENCY, ON THE CHANGE OF A COMMITTEE MEMBER, MAY FILE A
5 NOTICE AS SPECIFIED UNDER SUBSECTION D OF THIS SECTION AND INCLUDE THE
6 PREVIOUS MEMBER'S NAME AND THE NAME OF THE NEW MEMBER.

7 F. AN AGENCY MAY TERMINATE A FORMAL ADVISORY COMMITTEE AT ANY TIME.
8 THE AGENCY SHALL FILE A NOTICE THAT THE COMMITTEE WAS TERMINATED WITH THE
9 SECRETARY OF STATE TO BE PUBLISHED IN THE REGISTER. THE NOTICE MUST
10 INCLUDE:

11 1. THE AGENCY'S NAME.

12 2. THE COMMITTEE'S NAME.

13 3. A CITATION TO THE REGISTER ISSUE OF ANY NOTICES RELATED TO THE
14 COMMITTEE.

15 4. THE DATE THAT THE COMMITTEE RELEASED THE REPORT TO THE DIRECTOR
16 OF THE AGENCY AND, IF THE COMMITTEE DID NOT COMPLETE THE REPORT, THE
17 REASONS WHY.

18 5. THE DATE THE COMMITTEE WAS TERMINATED.

19 G. AN AGENCY SHALL PREPARE A SUMMARY OF THE COMMITTEE REPORT AND
20 INCLUDE THE FINDINGS IN THE PREAMBLE OF THE NOTICE OF PROPOSED RULEMAKING.
21 THE AGENCY SHALL POST THE COMMITTEE REPORT ON THE AGENCY'S WEBSITE FOR
22 PUBLIC REVIEW.

23 Sec. 12. Section 41-1022, Arizona Revised Statutes, is amended to
24 read:

25 41-1022. Notice of proposed rulemaking; contents of notice

26 A. An agency shall prepare a notice of proposed rulemaking to make,
27 amend, renumber or repeal a rule. The agency shall follow formatting
28 guidelines AND USE A TEMPLATE prescribed by the secretary of state ~~in the~~
29 ~~preparation of~~ WHEN PREPARING the notice. The agency shall file the
30 notice with the secretary of state. The notice shall include all of the
31 following:

32 1. The preamble, AS PRESCRIBED BY SECTION 41-1036.

33 2. The code chapter ~~and~~ NUMBER AND HEADING, IF APPLICABLE, THE
34 SUBCHAPTER NUMBER AND HEADING, THE article NUMBER AND HEADING AND, IF
35 APPLICABLE, THE PART LETTER AND HEADING in which the rule is being
36 proposed.

37 3. The NEW proposed SECTION NUMBER AND HEADING or current rule
38 section number AND HEADING.

39 4. The exact wording of the rule, including the full text of a new
40 rule and any amendment to, renumbering of or repeal of a ~~current~~ CODIFIED
41 rule. AN AGENCY SHALL FOLLOW PROCEDURES OUTLINED UNDER SECTION 41-1013,
42 SUBSECTION E WHEN FORMATTING A RULE SECTION.

43 B. THE AGENCY SHALL FILE THE NOTICE FOR PUBLICATION IN THE REGISTER
44 WITH AN AGENCY CERTIFICATE, RECEIPT AND SUMMARY OF THE PRELIMINARY
45 ECONOMIC, SMALL BUSINESS AND CONSUMER IMPACT STATEMENT, IF APPLICABLE.

1 ~~B.~~ C. The secretary of state shall publish the notice in the
 2 register pursuant to section 41-1013. THE SECRETARY OF STATE MAY NOT
 3 PUBLISH THE FULL TEXT OF THE SMALL BUSINESS AND ECONOMIC IMPACT STATEMENT.
 4 THE AGENCY SHALL MAKE THE FULL STATEMENT AVAILABLE TO THE PUBLIC ON
 5 REQUEST.

6 ~~C. When the agency files the notice, the agency shall notify by~~
 7 ~~first class mail, fax or e-mail each person who has requested notification~~
 8 ~~of the proposed rulemaking and each person who has requested notification~~
 9 ~~of all proposed rulemakings. An agency may provide the notification~~
 10 ~~prescribed in this subsection in a periodic agency newsletter. An agency~~
 11 ~~may purge its list of persons requesting notification of proposed~~
 12 ~~rulemakings once each year~~

13 D. AFTER THE NOTICE IS PUBLISHED, THE AGENCY SHALL NOTIFY EACH
 14 PERSON WHO HAS REQUESTED NOTIFICATION TO REVIEW PROPOSED RULES PURSUANT TO
 15 SECTION 41-1023. THE NOTIFICATION SHALL INCLUDE THE REGISTER PUBLICATION
 16 DATE AND THE ISSUE AND PAGE NUMBER IN WHICH THE NOTICE WAS PUBLISHED.

17 ~~B.~~ E. An agency shall allow for and accept A WRITTEN public
 18 comment on the proposed rulemaking as PROVIDED IN THE AGENCY'S PREAMBLE
 19 AND AS prescribed in section 41-1023, subsection B. If the proposed
 20 rulemaking is exempt from the rulemaking requirements, the agency shall
 21 allow for and accept public comment as provided under the exemption.

22 ~~E.~~ F. If, as a result of public comments or internal review, an
 23 agency determines that a proposed rule requires a substantial change
 24 pursuant to section 41-1025, the agency shall prepare a notice of
 25 supplemental rulemaking that contains the change in the proposed rule.
 26 WHEN PREPARING A NOTICE OF SUPPLEMENTAL PROPOSED RULEMAKING, AN AGENCY
 27 SHALL CONSIDER AND RESPOND TO THE WRITTEN SUBMISSIONS, THE ORAL
 28 SUBMISSIONS OR ANY MEMORANDUM SUMMARIZING ORAL SUBMISSIONS AND THE
 29 ECONOMIC, SMALL BUSINESS AND CONSUMER IMPACT STATEMENT REGARDING THE RULE.
 30 The agency shall provide for additional public comment pursuant to section
 31 41-1023 and file the notice with the secretary of state. The secretary of
 32 state shall publish the notice in the register pursuant to section
 33 41-1013.

34 Sec. 13. Repeal

35 Section 41-1023, Arizona Revised Statutes, is repealed.

36 Sec. 14. Title 41, chapter 6, article 3, Arizona Revised Statutes,
 37 is amended by adding a new section 41-1023, to read:

38 41-1023. Public participation; rulemaking

39 A. AN AGENCY SHALL MAINTAIN A LIST OF PEOPLE AND STAKEHOLDERS
 40 INTERESTED IN AGENCY RULEMAKING. THE AGENCY SHALL CREATE AND MAINTAIN THE
 41 NOTIFICATION LIST AS LONG AS A RULEMAKING RECORD IS OPEN. THE AGENCY MAY
 42 REMOVE THE LIST ONCE A RULEMAKING RECORD IS CLOSED OR CONTINUE TO MAINTAIN
 43 THE LIST AS A PUBLIC SERVICE TO NOTIFY PERSONS ABOUT ALL AGENCY
 44 RULEMAKINGS.

1 B. A PERSON SHALL BE ALLOWED TO:

2 1. BE NOTIFIED BY FIRST CLASS MAIL, FAX, EMAIL OR ELECTRONIC
3 NEWSLETTER OR ANY COMBINATION OF THESE CONTACTING METHODS WHEN AN AGENCY
4 PROCEEDS WITH A RULEMAKING.

5 2. COMMENT IN WRITING ON ANY PROPOSED NOTICE PUBLISHED IN THE
6 REGISTER PURSUANT TO SECTION 41-1023.01 OR PUBLISHED ELSEWHERE IF PROVIDED
7 FOR UNDER A RULEMAKING EXEMPTION.

8 C. A PERSON MAY DO ANY OF THE FOLLOWING:

9 1. REQUEST AN ORAL PROCEEDING IF ONE IS NOT ALREADY SCHEDULED ON
10 ANY PROPOSED NOTICE PUBLISHED IN THE REGISTER PURSUANT TO SECTION
11 41-1023.02 OR PUBLISHED ELSEWHERE, SUCH AS AN AGENCY'S WEBSITE OR IN A
12 NEWSPAPER OF GENERAL CIRCULATION, IF PROVIDED FOR UNDER AN EXEMPTION.

13 2. PETITION AN AGENCY TO MAKE A NEW RULE OR AMEND, REPEAL OR
14 RENUMBER A RULE CODIFIED IN THE CODE PURSUANT TO SECTION 41-1033.

15 3. PETITION THE COUNCIL TO REQUEST A REVIEW OF A FINAL RULE AS
16 PRESCRIBED IN SECTION 41-1030.

17 4. PETITION THE COUNCIL TO REQUEST A REVIEW OF WHETHER AN EXISTING
18 AGENCY PRACTICE OR SUBSTANTIVE POLICY STATEMENT CONSTITUTES A RULE
19 PURSUANT TO SECTION 41-1030.

20 Sec. 15. Title 41, chapter 6, article 3, Arizona Revised Statutes,
21 is amended by adding sections 41-1023.01 and 41-1023.02, to read:

22 41-1023.01. Public participation written statement

23 A. AN AGENCY SHALL ALLOW A PERSON TO RESPOND IN WRITING TO A
24 RULEMAKING NOTICE PUBLISHED UNDER THIS CHAPTER OR EXEMPTED FROM SOME OR
25 ALL OF THE REQUIREMENTS OF THIS CHAPTER AS PROVIDED BY LAW.

26 B. A PERSON SHALL BE GIVEN AT LEAST THIRTY DAYS AFTER THE DATE OF
27 PUBLICATION OF THE NOTICE IN THE REGISTER TO COMMENT IN WRITING. DURING
28 THE THIRTY-DAY PERIOD AN AGENCY MAY CHOOSE TO PROVIDE A PERSON ADDITIONAL
29 DAYS TO RESPOND IN WRITING UNDER SUBSECTION D OF THIS SECTION.

30 C. AN AGENCY SHALL PROVIDE INFORMATION IN THE NOTICE PREAMBLE ON
31 HOW A PERSON MAY COMMENT IN WRITING, WHERE AND HOW TO SUBMIT THE COMMENT
32 AND THE LAST DAY THE AGENCY WILL ACCEPT THE WRITTEN COMMENT.

33 D. IF, AS A RESULT OF CONTINUED PUBLIC INTEREST OR INTERNAL REVIEW,
34 THE AGENCY EXTENDS THE PUBLIC COMMENT PERIOD, NOTICE OF THE EXTENSION OF
35 THE PUBLIC COMMENT PERIOD SHALL BE PROVIDED IN A NOTICE OF PUBLIC
36 INFORMATION FILED WITH THE SECRETARY OF STATE. THE AGENCY SHALL NOTIFY
37 THOSE INTERESTED IN THE RULEMAKING PRESCRIBED UNDER SECTION 41-1023 OF THE
38 EXTENSION OF THE COMMENT PERIOD.

39 E. A PERSON RESPONDING UNDER SUBSECTION A OF THIS SECTION SHALL
40 PROVIDE A COMMENT ON THE RULE, WHICH MAY INCLUDE AN ARGUMENT FOR OR
41 AGAINST THE RULE AND, IF APPLICABLE, DATA SUPPORTING THE PERSON'S
42 ARGUMENT. A PERSON SHALL SUBMIT THE WRITTEN STATEMENT ON OR BEFORE THE
43 AGENCY'S STATED DEADLINE.

44 F. AN AGENCY SHALL ADEQUATELY RESPOND IN WRITING TO WRITTEN
45 COMMENTS PROVIDED BY A PERSON UNDER THIS SECTION. RESPONSES SHALL BE

1 INCLUDED IN THE PREAMBLE OF THE FINAL NOTICE. THE AGENCY MAY DIRECTLY
2 RESPOND TO THE COMMENTER BY MAIL OR EMAIL ABOUT ITS REVIEW OF AND RESPONSE
3 TO A COMMENT.

4 41-1023.02. Public participation; oral proceeding

5 A. AN AGENCY SHALL SCHEDULE AND CONDUCT AN ORAL PROCEEDING PURSUANT
6 TO THIS SECTION WHETHER CHOSEN BY THE AGENCY OR REQUESTED BY A PERSON.

7 B. AN AGENCY MAY CHOOSE TO SCHEDULE AN ORAL PROCEEDING AND INCLUDE
8 INFORMATION ABOUT THE PROCEEDING IN THE PREAMBLE FOR A NOTICE PREPARED
9 UNDER THIS CHAPTER TO ADOPT A RULE. AN AGENCY SCHEDULING A PROCEEDING
10 UNDER THIS SECTION SHALL ALLOW ANY PERSON TO SUBMIT COMMENTS IN WRITING
11 PURSUANT TO SECTION 41-1023.01.

12 C. AN AGENCY SHALL REFER TO THE PUBLISHING DEADLINES IN THE
13 REGISTER BEFORE SCHEDULING A DATE FOR AN ORAL PROCEEDING. AN AGENCY SHALL
14 SCHEDULE AN ORAL PROCEEDING AT LEAST THIRTY DAYS AFTER THE NOTICE IS
15 PUBLISHED IN THE REGISTER TO PROVIDE AN OPPORTUNITY FOR THE PUBLIC TO
16 REVIEW THE NOTICE AND PREPARE FOR THE PROCEEDING.

17 D. AN AGENCY SHALL CHOOSE AND INCLUDE THE DATE, TIME AND LOCATION
18 OF THE ORAL PROCEEDING TO ALLOW A REASONABLE OPPORTUNITY FOR A PERSON TO
19 PARTICIPATE, AND SHALL INCLUDE CONTACT INFORMATION IN THE NOTICE PREAMBLE.

20 E. AN AGENCY MAY SCHEDULE MORE THAN ONE ORAL PROCEEDING.

21 F. A PERSON MAY PROVIDE WRITTEN COMMENTS PURSUANT TO SECTION
22 41-1023.01 AT AN ORAL PROCEEDING WITHOUT SPEAKING.

23 G. AS A RESULT OF AN INTERNAL REVIEW, AN AGENCY MAY CHOOSE NOT TO
24 SCHEDULE AN ORAL PROCEEDING WHEN PREPARING A NOTICE UNDER THIS CHAPTER.
25 IF AN AGENCY CHOOSES NOT TO CONDUCT AN ORAL PROCEEDING IT SHALL STILL
26 PROVIDE AND ALLOW THE PUBLIC TO COMMENT IN WRITING PURSUANT TO SECTION
27 41-1023.01.

28 H. WHEN AN AGENCY CHOOSES NOT TO SCHEDULE AN ORAL PROCEEDING, THE
29 AGENCY SHALL ALLOW A PERSON TO REQUEST AN ORAL PROCEEDING AT LEAST THIRTY
30 DAYS AFTER THE PUBLICATION DATE OF THE NOTICE. AN AGENCY SHALL PROVIDE
31 INFORMATION ON HOW A PERSON MAY REQUEST AN ORAL PROCEEDING IN THE NOTICE
32 PREAMBLE. A PERSON SHALL SUBMIT THE REQUEST TO AGENCY AS SPECIFIED IN THE
33 PREAMBLE.

34 I. IF A PERSON REQUESTS AN ORAL PROCEEDING TO BE CONDUCTED BY THE
35 AGENCY, THE AGENCY SHALL DETERMINE A DATE, LOCATION AND TIME FOR THE
36 PROCEEDING THAT ALLOWS A REASONABLE OPPORTUNITY FOR A PERSON TO
37 PARTICIPATE.

38 J. AN AGENCY SHALL PREPARE AND FILE A NOTICE OF ORAL PROCEEDING
39 WITH THE SECRETARY OF STATE TO INCLUDE ALL OF THE FOLLOWING:

40 1. THE NAME OF THE AGENCY.

41 2. CODE INFORMATION, INCLUDING, IF APPLICABLE, THE TITLE AND
42 HEADING, CHAPTER TITLE AND HEADING, SUBCHAPTER TITLE AND HEADING, ARTICLE
43 AND HEADING, PART AND HEADING AND A LIST OF AFFECTED ARTICLES, PARTS OR
44 SECTIONS AND CORRESPONDING RULEMAKING ACTIONS.

3. A LIST OF CITATIONS TO ALL NOTICES PUBLISHED IN THE REGISTER AS PART OF THE NOTICE RULEMAKING RECORD.

4. THE DATE, TIME AND LOCATION OF THE ORAL PROCEEDING.

5. CONTACT INFORMATION OF THE AGENCY OMBUDSMAN WHO CAN ANSWER QUESTIONS ABOUT THE PROCEEDING OR LISTED NOTICES ALREADY PUBLISHED IN THE REGISTER.

K. AN AGENCY SHALL CONTACT DIRECTLY THE PERSON WHO REQUESTED TO SCHEDULE THE ORAL PROCEEDING AND LET THE PERSON KNOW THE INFORMATION PROVIDED UNDER THIS SECTION.

L. AS A RESULT OF CONTINUED PUBLIC INTEREST OR INTERNAL AGENCY REVIEW, AN AGENCY MAY SCHEDULE ADDITIONAL ORAL PROCEEDINGS AND PROVIDE NOTICE. AN AGENCY SHALL NOTIFY THOSE INTERESTED IN THE RULEMAKING PURSUANT TO SECTION 41-1023 OF THE ADDITIONAL ORAL PROCEEDINGS.

M. AN AGENCY MAY ADOPT RULES ON HOW TO CONDUCT ORAL PROCEEDINGS PURSUANT TO THIS SECTION. THE RULES MAY INCLUDE PROVISIONS THAT PREVENT UNDUE REPETITION AT A PROCEEDING.

N. THE DIRECTOR OF THE AGENCY, OR THE DIRECTOR'S DESIGNEE, SHALL CONDUCT AN ORAL PROCEEDING. ANY DIVISION OF THE AGENCY ASSIGNED BY THE DIRECTOR THAT CONDUCTS AN ORAL PROCEEDING ON BEHALF OF THE DIRECTOR SHALL PREPARE A MEMORANDUM FOR CONSIDERATION BY THE AGENCY THAT SUMMARIZES THE ORAL COMMENTS MADE AT THE ORAL PROCEEDING.

Sec. 16. Section 41-1024, Arizona Revised Statutes, is amended to read:

41-1024. Time and manner of rulemaking

A. An agency ~~may~~ SHALL not submit a rule to the council OR THE ATTORNEY GENERAL until THE PUBLIC COMMENT PERIOD AND the ~~rule making~~ RULEMAKING record ~~is~~ ARE closed.

B. Within one hundred twenty days after the close of the record on the proposed ~~rule making~~ RULEMAKING OR THE SUPPLEMENTAL PROPOSED RULEMAKING, an agency shall take one of the following actions:

1. Submit the rule to the council PURSUANT TO SECTION 41-1052 or, if the rule is exempt pursuant to section 41-1057, to the attorney general.

2. Terminate the proceeding by PREPARING A NOTICE OF TERMINATION OF RULEMAKING AND FILING IT WITH THE SECRETARY OF STATE FOR publication ~~of a notice to that effect~~ in the register.

C. ~~Before submitting a rule to the council or the attorney general,~~ An agency shall ~~consider~~ ADEQUATELY RESPOND IN THE PREAMBLE OF THE NOTICE TO the written ~~submissions, the oral submissions~~ COMMENTS AND IF AN ORAL PROCEEDING WAS CONDUCTED, ORAL COMMENTS, or any memorandum summarizing THE COMMENTS RECEIVED AT THE oral ~~submissions~~ PROCEEDING and COMMENTS RECEIVED ON the RULE'S economic, small business and consumer impact statement ~~regarding the rule or information in the preamble.~~

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

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

8 ~~1. The preamble.~~

9 ~~2. The exact words of the rule, including existing language and any~~
10 ~~deletions.~~

11 ~~3. The economic, small business and consumer impact statement.~~

12 F. If the rule is exempt pursuant to section 41-1005, the agency
13 shall ~~PREPARE AND~~ file ~~it~~ ~~THE NOTICE~~ as ~~a final~~ ~~AN EXEMPT~~ rule with the
14 secretary of state.

15 G. ~~if the rule is~~ ~~AN AGENCY THAT IS~~ exempt from council
16 approval, ~~pursuant to section 41-1057, the agency~~ shall submit the rule
17 package ~~set forth in subsection E of this section~~ to the attorney general
18 for approval pursuant to section 41-1044.

19 H. An agency shall not file a final rule with the secretary of
20 state without ~~prior~~ ~~FIRST RECEIVING~~ approval from the council, unless the
21 final rule is exempted pursuant to section 41-1005 or 41-1057 or the rule
22 is an emergency rule made pursuant to section 41-1026 or an expedited rule
23 made pursuant to section 41-1027.

24 Sec. 17. Section 41-1025, Arizona Revised Statutes, is amended to
25 read:

26 41-1025. Variance between rule and published notice of
27 proposed rule; substantive change

28 A. An agency ~~may~~ ~~SHALL~~ not submit a rule to the council that is
29 substantially different from the ~~proposed~~ rule ~~contained~~ ~~SUBMITTED~~ in the
30 notice of proposed ~~rule making~~ ~~RULEMAKING~~ or a ~~NOTICE OF~~ supplemental
31 ~~notice~~ ~~RULEMAKING~~ filed with the secretary of state pursuant to section
32 41-1022. However, an agency may ~~CHOOSE TO~~ terminate a ~~rule making~~
33 ~~RULEMAKING~~ proceeding and commence a new ~~rule making~~ ~~RULEMAKING OR AN~~
34 ~~AMENDING, REPEALING OR RENUMBERING~~ proceeding for the purpose of making a
35 substantially different rule.

36 B. In determining whether a rule is substantially different from
37 the published proposed rule on which it is required to be based, all of
38 the following must be considered:

39 1. The extent to which all persons affected by the rule should have
40 understood that the published proposed rule would affect their interests.

41 2. The extent to which the subject matter of the rule or the issues
42 determined by that rule are different from the subject matter or issues
43 involved in the published proposed rule.

44 3. The extent to which the effects of the rule differ from the
45 effects of the published proposed rule if it had been made instead.

1 Sec. 18. Section 41-1026, Arizona Revised Statutes, is amended to
2 read:

3 41-1026. Emergency rulemaking

4 A. AN AGENCY SHALL CONDUCT EMERGENCY RULEMAKING PURSUANT TO THIS
5 SECTION. If an agency makes a finding that a rule is necessary as an
6 emergency measure, the rule may be made, amended, ~~or~~ repealed ~~as an~~
7 ~~emergency measure, OR RENUMBERED IN A NOTICE OF EMERGENCY RULEMAKING~~
8 without the notice BEING prescribed by sections 41-1021 and 41-1022 and
9 prior review by the council. ~~; if the rule is first approved by the~~
10 ~~attorney general and filed with the secretary of state. The attorney~~
11 ~~general may not approve the making, amendment or repeal of a rule as an~~
12 ~~emergency measure if the emergency situation is created due to the~~
13 ~~agency's delay or inaction and the emergency situation could have been~~
14 ~~averted by timely compliance with the notice and public participation~~
15 ~~provisions of this chapter, unless~~ The AGENCY SHALL PREPARE THE NOTICE IN
16 COMPLIANCE WITH THIS CHAPTER, INCLUDING RECEIVING APPROVAL FROM THE
17 GOVERNOR'S OFFICE TO PROCEED WITH THE RULEMAKING AND PROVIDING THE NOTICE
18 TO THE ATTORNEY GENERAL FOR APPROVAL. WHEN PREPARING THE NOTICE, THE
19 agency ~~submits~~ SHALL SUBMIT substantial evidence that the rule is
20 necessary as an emergency measure to do any of the following:

- 21 1. Protect the public health, safety or welfare.
- 22 2. Comply with deadlines in amendments to an agency's governing law
- 23 or federal programs.
- 24 3. ~~COMPLY WITH A FEDERAL LAW OR~~ avoid A violation of federal law,
- 25 ~~RULE~~ or regulation or ~~other~~ A state law.
- 26 4. Avoid an imminent budget reduction.
- 27 5. Avoid serious prejudice to the public interest or the interest
- 28 of the parties concerned.

29 B. Within sixty days after receipt OF THE NOTICE, the attorney
30 general shall review the ~~demonstration~~ AGENCY'S SUBSTANTIAL EVIDENCE of
31 emergency and the EMERGENCY rule ~~in accordance~~ TO ENSURE IT COMPLIES with
32 the standards prescribed in section 41-1044. THE ATTORNEY GENERAL MAY NOT
33 APPROVE AN EMERGENCY RULE IF THE EMERGENCY SITUATION WAS CREATED DUE TO
34 THE AGENCY'S DELAY OR INACTION AND THE EMERGENCY SITUATION COULD HAVE BEEN
35 AVERTED BY TIMELY COMPLIANCE WITH A REGULAR PROPOSED RULEMAKING NOTICE AND
36 THE PUBLIC PARTICIPATION PROVISIONS OF THIS CHAPTER.

37 C. If the emergency ~~is in accordance~~ COMPLIES with the standards in
38 section 41-1044, the attorney general shall create a certificate of
39 approval and file the ~~rule~~ NOTICE OF EMERGENCY RULEMAKING with the
40 secretary of state. The secretary of state shall publish the ~~rule~~ NOTICE
41 OF EMERGENCY RULEMAKING in the register as provided in section 41-1013 and
42 publish the rule in the code. IF THE EMERGENCY DOES NOT COMPLY WITH THE
43 STANDARDS PURSUANT TO SECTION 41-1044, THE ATTORNEY GENERAL SHALL RETURN
44 THE NOTICE TO THE AGENCY STATING THE REASON OR REASONS OF NONCOMPLIANCE.

1 D. ~~A rule made, amended or repealed pursuant to this section~~ A
 2 NOTICE OF EMERGENCY RULEMAKING is valid for one hundred eighty days ~~after~~
 3 ~~the filing of the rule~~ STARTING ON THE DATE THE NOTICE WAS FILED with the
 4 secretary of state. The ~~emergency may be renewed~~ AGENCY MAY RENEW THE
 5 EMERGENCY for one ~~more~~ ADDITIONAL one hundred eighty-day period if all of
 6 the following requirements are met:

7 1. The agency determines that the emergency situation still exists
 8 PURSUANT TO SUBSECTION A OF THIS SECTION.

9 ~~2. The agency follows the procedures prescribed in this section.~~

10 ~~3.~~ 2. BEFORE THE INITIAL ONE HUNDRED EIGHTY-DAY PERIOD EXPIRES,
 11 the agency ~~files~~ PREPARES a notice of EMERGENCY RULEMAKING RENEWAL AND
 12 FILES the renewal ~~of the emergency~~ with the attorney general ~~before the~~
 13 ~~expiration of the preceding one hundred eighty-day period~~ FOR REVIEW AND
 14 APPROVAL.

15 ~~4.~~ 3. The agency ~~makes the rule as a proposed rule or has issued~~
 16 ~~an alternative proposed rule~~ PROPOSES TO MAKE, AMEND, REPEAL OR RENUMBER
 17 THE EMERGENCY RULE UNDER THE REGULAR RULEMAKING PROCESS pursuant to
 18 section 41-1022.

19 ~~5. The agency receives approval of the renewal from the attorney~~
 20 ~~general before the expiration of the preceding one hundred eighty-day~~
 21 ~~period.~~

22 E. THE ATTORNEY GENERAL SHALL FOLLOW THE PROCEDURES PURSUANT TO
 23 SUBSECTIONS B AND C OF THIS SECTION WHEN REVIEWING A RENEWAL NOTICE. THE
 24 NOTICE OF EMERGENCY RULEMAKING RENEWAL IS EFFECTIVE AS PROVIDED UNDER
 25 SUBSECTION D OF THIS SECTION.

26 ~~6.~~ F. ~~The attorney general creates a certificate of approval and~~
 27 ~~files the rule with the secretary of state.~~ The secretary of state shall
 28 publish the renewal of the emergency rule in the register as provided in
 29 section 41-1013 and publish the rule in the code.

30 ~~E.~~ G. IF AN AGENCY INITIATES a FINAL rule ~~that is made~~ pursuant to
 31 this chapter AND THE RULE IS APPROVED BY THE COUNCIL, THE RULE MADE UNDER
 32 THE REGULAR RULEMAKING PROCESS shall repeal an emergency rule made,
 33 amended, ~~or~~ repealed OR RENUMBERED if the emergency is still effective
 34 within the one hundred eighty-day period.

35 ~~F.~~ H. IF A FINAL RULE WAS NOT MADE PURSUANT TO SUBSECTION G OF
 36 THIS SECTION, on expiration of the one hundred eighty-day period, the
 37 secretary of state shall remove the emergency rule from the code CHAPTER
 38 IN THE NEXT CODE SUPPLEMENT AND RESTORE THE RULE THAT WAS CODIFIED BEFORE
 39 THE EMERGENCY. If a rule ~~has not been made pursuant to subsection E of~~
 40 ~~this section, the rule in place~~ HEADING WAS LABELED AS "RENUMBERED" OR
 41 "RESERVED" before the emergency ~~is restored~~ WAS ENACTED, THE RULE SECTION
 42 BECOMES RESERVED.

1 Sec. 19. Section 41-1027, Arizona Revised Statutes, is amended to
2 read:

3 41-1027. Expedited rulemaking

4 A. An agency ~~may~~ SHALL conduct expedited rulemaking pursuant to
5 this section. THE AGENCY SHALL RECEIVE APPROVAL FROM THE GOVERNOR'S
6 OFFICE TO PROCEED WITH THE RULEMAKING. EXPEDITED RULEMAKING MAY BE
7 CONDUCTED if the rulemaking does not increase the cost of regulatory
8 compliance, increase a fee or reduce procedural rights of persons
9 regulated and does one or more of the following:

10 1. Amends or repeals rules made obsolete by repeal or supersession
11 of an agency's statutory authority.

12 2. Amends or repeals rules for which the statute on which the rule
13 is authorized has been declared unconstitutional by a court with
14 jurisdiction, there is a final judgment and no statute has been enacted to
15 replace the unconstitutional statute.

16 3. Corrects typographical errors, ~~makes~~ UPDATES AN address or
17 AMENDS A name ~~changes~~ OR DIVISION OF A STATE OR FEDERAL AGENCY or
18 clarifies language of a rule without changing its ~~effect~~ MEANING.

19 4. Adopts or incorporates by reference without material change
20 federal statutes or regulations pursuant to section 41-1028, statutes of
21 this state or rules of other agencies of this state.

22 5. Reduces or consolidates steps, procedures or processes in the
23 rules.

24 6. Amends or repeals rules that are outdated, redundant or
25 otherwise no longer necessary for the operation of state government.

26 7. Implements, without material change, a course of action that is
27 proposed in a five-year review report approved by the council pursuant to
28 section 41-1056 within one hundred eighty days ~~of~~ AFTER the date that the
29 agency files the proposed expedited rulemaking with the secretary of
30 state.

31 8. ~~Adopts, without material change,~~ IF LEGISLATION PROVIDES THE
32 AUTHORITY TO MOVE rules of another agency of this state that has been or
33 imminently will be consolidated ~~into the~~ TO ANOTHER agency, THE AGENCY
34 SHALL RECODIFY THE RULES WITHOUT MATERIAL CHANGE, OTHER THAN AMENDING
35 CITATION REFERENCES TO SECTIONS WITHIN A CHAPTER TO THE OTHER AGENCY'S
36 CHAPTER IN A NOTICE OF RECODIFICATION.

37 B. An agency shall ~~deliver~~ PREPARE a notice of proposed expedited
38 rulemaking AND SHALL SPECIFY IN THE NOTICE PREAMBLE HOW THE PROPOSED
39 EXPEDITED RULEMAKING QUALIFIES TO BE INITIATED UNDER THE STANDARDS LISTED
40 UNDER SUBSECTION A OF THIS SECTION AND THE EXACT WORDING OF THE RULE,
41 INCLUDING THE FULL TEXT OF A NEW RULE AND ANY AMENDMENT TO, RENUMBERING OF
42 OR REPEAL OF A CODIFIED RULE. THE AGENCY SHALL DELIVER THE NOTICE OF
43 PROPOSED EXPEDITED RULEMAKING to the governor, the president of the
44 senate, the speaker of the house of representatives, the committee and the
45 council. ~~The notice shall contain the name, address and telephone number~~

~~of the agency contact person and the exact wording of the proposed expedited rulemaking and indicate how the proposed expedited rulemaking achieves the purpose prescribed in subsection A of this section.~~

C. On delivery of the notice required in subsection B of this section, the agency shall file the notice of proposed expedited rulemaking with the secretary of state for publication in the ~~next state administrative~~ register. The agency and the council shall post the notice of proposed expedited rulemaking on their respective websites ~~and shall allow any person to provide written comment for at least thirty days after posting the notice.~~ FOR AT LEAST THIRTY DAYS AFTER POSTING THE NOTICE, A PERSON MAY SUBMIT A WRITTEN STATEMENT, INCLUDING AN ARGUMENT FOR OR AGAINST, DATA SUPPORTING THE ARGUMENT AND COMMENT ON THE NOTICE. The agency shall adequately respond in writing to the comments on the proposed expedited rulemaking.

D. An agency may ~~not submit a final expedited rule to the council that~~ PREPARE A NOTICE OF FINAL EXPEDITED RULEMAKING AND DETERMINE IF THE NOTICE is substantially different from the proposed rule contained in the notice of proposed expedited rulemaking UNDER THE CRITERIA PRESCRIBED IN SECTION 41-1025, SUBSECTION B. AN AGENCY MAY NOT SUBMIT A NOTICE OF FINAL EXPEDITED RULEMAKING TO THE COUNCIL THAT HAS A SUBSTANTIAL CHANGE. ~~However, an~~ THE agency may DO EITHER OF THE FOLLOWING:

1. Terminate an expedited rulemaking proceeding and commence a new rulemaking proceeding for the purpose of making a substantially different rule. ~~An agency shall use the criteria prescribed in section 41-1025, subsection B for determining whether a final expedited rule is substantially different from the proposed expedited rule.~~

2. PREPARE A NOTICE OF SUPPLEMENTAL PROPOSED EXPEDITED RULEMAKING UNDER THIS SECTION.

E. ~~After adequately addressing, in writing, any written objections, an~~ IF AN AGENCY DETERMINES THERE ARE NO SUBSTANTIAL CHANGES BETWEEN THE NOTICE OF PROPOSED EXPEDITED RULEMAKING AND THE NOTICE OF FINAL EXPEDITED RULEMAKING, THE agency shall ~~file~~ RECEIVE APPROVAL FROM THE GOVERNOR'S OFFICE TO PROCEED WITH THE NOTICE. ON APPROVAL FROM THE GOVERNOR, THE AGENCY SHALL SUBMIT TO THE COUNCIL THE FINAL NOTICE WITH a request for approval ~~with the council.~~ The request shall ~~contain~~ INCLUDE the notice ~~of final expedited rulemaking~~ and the agency's responses to any written comments. The council may require a representative of an agency whose FINAL expedited rulemaking is under ~~examination~~ REVIEW to attend a council meeting and answer questions. The council may ~~communicate to the agency its comments~~ REQUIRE THE AGENCY TO RESPOND IN WRITING TO THE COUNCIL'S COMMENTS OR TESTIMONY on the expedited rulemaking within the scope of subsection A of this section ~~and require the agency to respond to its comments or testimony in writing.~~ WHILE THE FINAL NOTICE IS UNDER REVIEW BY THE COUNCIL, a person may submit written comments to the council that are within the scope of subsection A of this section.

1 F. ~~Before an agency files a notice of final expedited rulemaking~~
2 ~~with the secretary of state,~~ The council shall approve ~~any~~ THE FINAL
3 expedited rulemaking. ~~The council shall not approve the rule unless IF~~
4 ALL OF THE FOLLOWING APPLY:

5 1. The rule satisfies the criteria for expedited rulemaking
6 pursuant to subsection A of this section.

7 2. The rule is clear, concise and understandable.

8 3. The rule is not illegal, inconsistent with legislative intent or
9 beyond the agency's statutory authority.

10 4. The agency, ~~in writing,~~ adequately addressed the WRITTEN
11 comments on the NOTICE OF proposed ~~rule~~ RULEMAKING and any ~~supplementary~~
12 ~~proposals~~ NOTICE OF SUPPLEMENTAL PROPOSED EXPEDITED RULEMAKING.

13 5. If applicable, the permitting requirements comply with section
14 41-1037.

15 6. The FINAL EXPEDITED rule ~~is~~ DOES not INCLUDE a ~~substantiated~~
16 SUBSTANTIVE change, ~~considered as a whole,~~ from the proposed rule and any
17 supplementary ~~proposals~~ PROPOSED RULE.

18 7. The rule imposes the least burden and costs to persons regulated
19 by the rule.

20 G. On receipt of council approval, the agency shall file a notice
21 of final expedited rulemaking and the council's certificate of approval
22 with the secretary of state. THE SECRETARY OF STATE SHALL PUBLISH THE
23 NOTICE IN THE REGISTER AND CODIFY THE RULES IN THE CODE.

24 H. The ~~expedited rulemaking becomes effective immediately on the~~
25 ~~filing of~~ notice of final expedited rulemaking AND THE COUNCIL'S
26 CERTIFICATE OF APPROVAL IS IMMEDIATELY EFFECTIVE ON THE DATE THAT IT IS
27 FILED WITH THE SECRETARY OF STATE.

28 Sec. 20. Section 41-1028, Arizona Revised Statutes, is amended to
29 read:

30 41-1028. Incorporation by reference

31 A. AN AGENCY SHALL INCORPORATE BY REFERENCE MATERIALS IN RULE
32 PURSUANT TO THIS SECTION. AN AGENCY MAY NOT AMEND IN RULE A PART OF A
33 CODE, STANDARD, RULE OR REGULATION OR A NATIONALLY RECOGNIZED ORGANIZATION
34 OR ASSOCIATION'S MATERIAL IN A RULE IF IT VIOLATES COPYRIGHT STANDARDS.
35 AS A RESULT OF AN INTERNAL REVIEW, an agency may incorporate by reference
36 in its rules, ~~and without publishing the incorporated matter in full,~~ all
37 or any part of a code, standard, rule or regulation of an agency of the
38 United States or of this state or a nationally recognized organization or
39 association, ~~if incorporation of its text in agency rules would be unduly~~
40 ~~cumbersome, expensive or otherwise inexpedient.~~

41 B. ~~The reference in the agency rules shall fully identify the~~
42 ~~incorporated matter by location, date and otherwise and shall state that~~
43 ~~the rule~~ AN AGENCY SHALL INCORPORATE MATERIALS IN RULE BY THE NAME OF THE
44 INCORPORATED MATTER AND PUBLISHER INFORMATION, INCLUDING AN ADDRESS AND,
45 IF APPLICABLE, THE PUBLISHER'S WEBSITE ADDRESS AND PUBLICATION OR RELEASE

DATE. AN AGENCY SHALL INCLUDE THIS STATEMENT FOLLOWING THE INCORPORATED BY REFERENCE MATERIALS IN RULE, "THIS INCORPORATED MATERIAL does not include any later amendments or editions of the incorporated matter".

C. An agency ~~may~~ SHALL incorporate by reference such matter in its rules only if the agency, organization or association originally issuing that matter makes copies of it readily available ~~to the public~~ for PUBLIC inspection, ~~and~~ reproduction OR PURCHASE.

D. ~~The rules~~ AN AGENCY shall state IN RULE where ~~copies~~ A PERSON MAY REVIEW A COPY of the incorporated matter ~~are available~~ EITHER from the agency ~~issuing~~ ADOPTING the rule, ~~and~~ FROM ANOTHER STATE AGENCY OR from the agency of the United States ~~or this state or the organization or association~~ originally issuing the matter.

E. An agency ~~may~~ SHALL incorporate later amendments or editions of the ~~incorporated matter only after compliance~~ REFERENCE MATERIAL CODIFIED IN RULE BY COMPLYING with the ~~rule making~~ requirements of this ~~chapter~~ SECTION.

Sec. 21. Section 41-1029, Arizona Revised Statutes, is amended to read:

41-1029. Agency rulemaking record

A. An agency shall maintain an official ~~rule making~~ RULEMAKING record for each rule it proposes ~~by publication in the register of a notice of proposed rule making and each final rule filed in the office of the secretary of state. The record and matter~~ TO MAKE AS NEW OR TO AMEND, RENUMBER, REPEAL OR RECODIFY. THE AGENCY SHALL MAKE AVAILABLE FOR PUBLIC INSPECTION MATERIALS THAT ARE INCLUDED IN A RULE AND THAT ARE incorporated by reference ~~must be available for public inspection.~~

B. The agency ~~rule making~~ RULEMAKING record shall contain all of the following:

~~1. A copy of the notice initially filed in the office of the secretary of state.~~

~~2. Copies of all publications in the register with respect to the rule or the proceeding on which the rule is based.~~

~~3. Copies of any portions of the agency's rule making docket containing entries relating to the rule or the proceeding on which the rule is based.~~

~~4. All written petitions, requests, submissions and comments received by the agency and all other written materials considered or prepared by the agency in connection with the rule or the proceeding on which the rule is based.~~

~~5. Any official transcript of oral presentations made in the proceeding on which the rule is based, or if not transcribed, any tape recording or stenographic record of those presentations, and any memorandum prepared by a presiding official summarizing the contents of those presentations.~~

1 1. A LIST OF ALL NOTICES FILED WITH THE SECRETARY OF STATE,
2 INCLUDING THE DATE OF FILING AND THE DATE WHEN A NOTICE WAS PUBLISHED IN
3 THE REGISTER OR, IF APPLICABLE TO AN EXEMPTION, WHEN AND WHERE A NOTICE
4 WAS PUBLISHED ON THE AGENCY'S WEBSITE OR IN A NEWSPAPER OF GENERAL
5 CIRCULATION.

6 2. A DATE-STAMPED COPY OF AN AGENCY RECEIPT.

7 3. A DATE-STAMPED COPY OF AN AGENCY CERTIFICATE, IF APPLICABLE.

8 4. A COPY OF AN APPROVAL CERTIFICATE SIGNED BY THE COUNCIL OR
9 ATTORNEY GENERAL, IF APPLICABLE.

10 5. A COPY OF AN AGENCY'S WRITTEN REQUEST TO THE GOVERNOR FOR
11 PERMISSION TO PROCEED WITH THE RULEMAKING AND A COPY OF GOVERNOR'S
12 APPROVAL TO PROCEED WITH THE RULEMAKING.

13 6. COPIES OF ALL NOTICES PURSUANT TO THIS CHAPTER THAT PERTAIN TO
14 THE RULES BEING ISSUED AND, IF APPLICABLE, A NOTICE PREAMBLE AND ECONOMIC,
15 SMALL BUSINESS AND CONSUMER IMPACT STATEMENT REFERRED TO AS A RULEMAKING
16 PACKAGE. THIS INCLUDES A NOTICE OF DOCKET OPENING, NOTICE OF FORMAL
17 ADVISORY COMMITTEE, NOTICE OF INFORMAL MEETING ON DOCKET OPENING AND
18 NOTICE OF ORAL PROCEEDING.

19 7. A COPY OF ANY WRITTEN COMMENTS RECEIVED AND THE AGENCY'S
20 RESPONSE TO THE COMMENTS.

21 8. A COPY OF A WRITTEN REQUEST FOR AN ORAL PROCEEDING ON A
22 RULEMAKING NOTICE.

23 9. A COPY OF AN OFFICIAL TRANSCRIPT, RECORDING OR STENOGRAPHIC
24 RECORD OF AN ORAL PROCEEDING CONDUCTED BY THE AGENCY ABOUT THE NOTICE AND
25 A LIST OF PEOPLE IN ATTENDANCE.

26 10. A COPY OF ANY PRESENTATION GIVEN AT AN ORAL PROCEEDING.

27 11. A COPY OF MEETING MINUTES AND DISCUSSION OF A BOARD'S OR
28 COMMISSION'S ADOPTION OF A RULE AT A PUBLIC MEETING BEFORE PRESENTING A
29 RULEMAKING NOTICE TO THE COUNCIL FOR FINAL REVIEW.

30 ~~6- 12. A copy of ~~all~~ THE NOTICE AND materials submitted to the~~
31 ~~council, including the economic, small business and consumer impact~~
32 ~~statement~~ and the minutes of the council meeting at which the rule was
33 reviewed.

34 ~~7. A copy of the final rule and preamble.~~

35 ~~8- 13. A COPY OF THE~~ information requested regarding the
36 experience, technical competence, specialized knowledge and judgment of ~~an~~
37 THE agency if the agency relies on section 41-1024, subsection D in the
38 making of a rule and ~~a~~ IF A PUBLIC request ~~is~~ WAS made TO REVIEW THE
39 INFORMATION.

40 14. IF THE AGENCY RELIES ON SECTION 41-1024, SUBSECTION D IN THE
41 ISSUANCE OF A RULE, THE AGENCY SHALL INCLUDE THE INFORMATION REGARDING THE
42 EXPERIENCE, TECHNICAL COMPETENCE AND SPECIALIZED KNOWLEDGE WITH THE
43 RULEMAKING RECORD. THE AGENCY SHALL MAKE THIS INFORMATION AVAILABLE TO
44 THE PUBLIC ON REQUEST.

15. A COPY OF A WRITTEN PETITION PRESENTED BY A PERSON UNDER SECTION 41-1033, THE AGENCY'S RESPONSE TO THE PETITION AND WHETHER THE AGENCY DECIDED TO MAKE A NEW RULE OR TO AMEND, REPEAL OR RENUMBER A RULE UNDER THE PETITIONER'S REQUEST.

C. On judicial review, the record required by this section constitutes the official agency ~~rule making~~ RULEMAKING record with respect to a rule. Except as provided in section 41-1036 or otherwise required by a provision of law, the agency ~~rule making~~ RULEMAKING record need not constitute the exclusive basis for agency action on that rule or for judicial review of that rule.

Sec. 22. Section 41-1031, Arizona Revised Statutes, is amended to read:

41-1031. Filing rules and preamble with secretary of state;
permanent record

~~A. Following the filing of a rule made pursuant to an exemption to this chapter or following approval and filing of a rule and preamble and an economic, small business and consumer impact statement by the council as provided in article 5 of this chapter or by the attorney general as provided in article 4 of this chapter, the secretary of state shall affix to each rule document, preamble and economic, small business and consumer impact statement the time and date of filing.~~

A. AN AGENCY SHALL FILE WITH A RULEMAKING NOTICE ALL OF THE FOLLOWING:

1. A RECEIPT.
2. IF APPLICABLE, THE AGENCY CERTIFICATE.
3. IF APPLICABLE, A COUNCIL CERTIFICATE OR ATTORNEY GENERAL CERTIFICATE.
4. NOTICE TO INCLUDE A PREAMBLE AND RULES.
5. IF APPLICABLE, A SUMMARY OF THE ECONOMIC, SMALL BUSINESS AND CONSUMER IMPACT STATEMENT.
6. OTHER CORRESPONDENCE RELATED TO THE RULEMAKING.

B. AN AGENCY SHALL FILE WITH A LEGAL NOTICE A RECEIPT AND THE NOTICE.

C. THE ATTORNEY GENERAL SHALL FILE A NOTICE AS REQUIRED PURSUANT TO SECTION 41-1044.

D. WHEN A NOTICE IS FILED WITH THE SECRETARY OF STATE UNDER THIS CHAPTER, THE SECRETARY OF STATE SHALL DATE AND TIME STAMP THE DOCUMENTS LISTED UNDER SUBSECTIONS A, B AND C OF THIS SECTION. A rule is not final until the secretary of state affixes the time and date of filing to the rule document as provided in this section.

~~B. E. The secretary of state shall keep a permanent record of rules, preambles and economic, small business and consumer impact statements filed with the office~~ NOTICES AND DOCUMENTS FILED UNDER THIS CHAPTER.

1 Sec. 23. Section 41-1032, Arizona Revised Statutes, is amended to
2 read:

3 41-1032. Effective date of rules

4 A. A FINAL rule filed BY AN AGENCY WITH THE SECRETARY OF STATE
5 pursuant to section 41-1031 becomes effective sixty days after ~~a certified~~
6 ~~original and two copies of the rule and preamble are filed in the office~~
7 ~~of the secretary of state and the time and date are affixed as provided in~~
8 ~~section 41-1031, unless the rule making agency includes~~ THE APPROVED
9 NOTICE AND DOCUMENTS LISTED UNDER SECTION 41-1031, SUBSECTION A ARE DATE
10 AND TIME STAMPED. ON INTERNAL REVIEW, IF AN AGENCY DETERMINES THE RULE
11 NECESSITATES AN IMMEDIATE EFFECTIVE DATE, THE AGENCY SHALL INCLUDE in the
12 NOTICE preamble ~~information~~ JUSTIFICATION that demonstrates that the rule
13 needs to be effective immediately on filing ~~in the office of~~ WITH the
14 secretary of state ~~and the time and date are affixed as provided in~~
15 ~~section 41-1031~~. A rule ~~may~~ SHALL only be effective immediately for any
16 of the following reasons:

- 17 1. To preserve the public peace, health or safety.
- 18 2. To avoid a violation of federal law or regulation or state law,
19 if the need for an immediate effective date is not created due to the
20 agency's delay or inaction.
- 21 3. To comply with deadlines in amendments to an agency's governing
22 statute or federal programs, if the need for an immediate effective date
23 is not created due to the agency's delay or inaction.
- 24 4. To provide a benefit to the public and a penalty is not
25 associated with a violation of the rule.
- 26 5. To adopt a rule that is less stringent than the rule that is
27 currently in effect and that does not have an impact on the public health,
28 safety, welfare or environment, or that does not affect the public
29 involvement and public participation process.

30 B. ~~Notwithstanding subsection A of this section, a rule making~~
31 ~~agency may specify an effective date~~ ON INTERNAL REVIEW, IF AN AGENCY
32 DETERMINES THE RULE NECESSITATES A DELAYED EFFECTIVE DATE, THE AGENCY
33 SHALL INCLUDE IN THE NOTICE PREAMBLE JUSTIFICATION THAT DEMONSTRATES THE
34 RULE NEEDS TO BE EFFECTIVE more than sixty days after the filing of the
35 rule ~~in the office of the~~ WITH THE secretary of state ~~if the agency~~
36 ~~determines~~ AND SHALL SPECIFY THE DATE. THE AGENCY SHALL DETERMINE that
37 good cause exists for and the public interest will not be harmed by the
38 later date.

39 C. This section does not affect the validity of an existing
40 CODIFIED rule until the ~~new or amended~~ NEWLY MADE OR THE AMENDED, REPEALED
41 OR RENUMBERED rule that is filed with the secretary of state is effective
42 pursuant to this section.

43 D. THE COUNCIL SHALL APPROVE OR DENY AN IMMEDIATE OR DELAYED
44 EFFECTIVE DATE ON THE COUNCIL'S CERTIFICATE OF APPROVAL.

1 Sec. 24. Section 41-1033, Arizona Revised Statutes, is amended to
2 read:

3 41-1033. Petition for a rule or review of an agency practice,
4 substantive policy statement, final rule or unduly
5 burdensome licensing requirement; notice

6 A. Any person may petition an agency to do ~~either of~~ the following:

7 1. Make, ~~A NEW RULE AND~~ amend, ~~or~~ repeal ~~OR RENUMBER~~ a final rule.

8 2. Review an existing agency practice or substantive policy
9 statement that the petitioner alleges to constitute a rule.

10 B. THE PETITIONER SHALL STATE ON THE PETITION THE RULEMAKING TO
11 REVIEW OR THE AGENCY PRACTICE OR SUBSTANTIVE POLICY STATEMENT TO CONSIDER
12 REVISING, REPEALING OR MAKING INTO A RULE.

13 ~~B. C.~~ C. An agency shall prescribe the form of the petition and the
14 procedures for the petition's submission, consideration and disposition.
15 ~~The person shall state on the petition the rulemaking to review or the~~
16 ~~agency practice or substantive policy statement to consider revising,~~
17 ~~repealing or making into a rule.~~

18 ~~C. D.~~ D. Not later than sixty days after ~~submission~~ RECEIPT of the
19 petition, the agency shall either:

20 1. Reject the petition and state ~~its~~ THE AGENCY'S reasons in
21 writing for rejection to the petitioner.

22 2. Initiate rulemaking proceedings in accordance with this chapter.

23 3. If otherwise lawful, make, AMEND, REPEAL OR RENUMBER a rule
24 UNDER THIS CHAPTER, AN EXEMPTION TO THIS CHAPTER OR AN EXEMPTION TO
25 CERTAIN PROVISIONS OF THIS CHAPTER.

26 ~~D. E.~~ E. The agency's response to the petition is open to public
27 inspection.

28 ~~E. F.~~ F. If an agency rejects a petition pursuant to subsection ~~E~~ D
29 of this section, the petitioner has thirty days AFTER THE DATE OF THE
30 WRITTEN REJECTION to appeal to the council to review whether the existing
31 agency practice or substantive policy statement constitutes a rule. The
32 petitioner's appeal ~~may~~ SHALL not be more than five double-spaced pages.
33 THE COUNCIL SHALL PRESCRIBE THE FORM OF THE PETITION, INCLUDING FONT AND
34 FONT SIZE AND THE PROCEDURES FOR THE PETITION'S SUBMISSION.

35 ~~F. G.~~ G. A person may petition the council to request a review of a
36 final rule based on the person's belief that the final rule does not meet
37 the requirements prescribed in section 41-1030. A petition submitted
38 under this subsection ~~may~~ SHALL not be more than five double-spaced pages.

39 ~~G. H.~~ H. A person may petition the council to request a review of an
40 existing agency practice, substantive policy statement, final rule or
41 regulatory licensing requirement that the petitioner alleges is not
42 specifically authorized by statute, exceeds the agency's statutory
43 authority, is unduly burdensome or is not demonstrated to be necessary to
44 specifically fulfill a public health, safety or welfare concern. On
45 receipt of a ~~properly~~ submitted petition pursuant to this section, the

1 council shall review the existing agency practice, substantive policy
2 statement, final rule or regulatory licensing requirement as prescribed by
3 this section. A petition submitted under this subsection ~~may~~ SHALL not be
4 more than five double-spaced pages. THE COUNCIL SHALL PRESCRIBE THE FORM
5 OF THE PETITION, INCLUDING FONT AND FONT SIZE AND THE PROCEDURES FOR THE
6 PETITION'S SUBMISSION. This subsection does not apply to an individual or
7 institution that is subject to title 36, chapter 4, article 10 or
8 chapter 20.

9 ~~H~~ I. If the council receives information that alleges an existing
10 agency practice or substantive policy statement may constitute a rule,
11 that a final rule does not meet the requirements prescribed in section
12 41-1030 or that an existing agency practice, substantive policy statement,
13 final rule or regulatory licensing requirement exceeds the agency's
14 statutory authority, is not specifically authorized by statute or does not
15 meet the guidelines prescribed in subsection ~~G~~ H of this section, or if
16 the council receives an appeal under subsection ~~F~~ F of this section, and
17 at least three council members request of the chairperson that the matter
18 be heard in a public meeting:

19 1. Within ninety days after receiving the third council member's
20 request, the council shall determine whether any of the following applies:

21 (a) The agency practice or substantive policy statement constitutes
22 a rule.

23 (b) The final rule meets the requirements prescribed in section
24 41-1030.

25 (c) An existing agency practice, substantive policy statement,
26 final rule or regulatory licensing requirement exceeds the agency's
27 statutory authority, is not specifically authorized by statute or ~~meets~~
28 DOES NOT MEET the guidelines prescribed in subsection ~~G~~ H of this
29 section.

30 2. Within ten days after receiving the third council member's
31 request, the council shall notify the agency that the matter has been or
32 will be placed on the council's agenda for consideration on the merits.

33 3. Not later than thirty days after receiving notice from the
34 council, the agency shall submit a statement of not more than five
35 double-spaced pages to the council that addresses whether any of the
36 following applies:

37 (a) The existing agency practice or substantive policy statement
38 constitutes a rule.

39 (b) The final rule meets the requirements prescribed in section
40 41-1030.

41 (c) An existing agency practice, substantive policy statement,
42 final rule or regulatory licensing requirement exceeds the agency's
43 statutory authority, is not specifically authorized by statute or meets
44 the guidelines prescribed in subsection ~~G~~ H of this section.

1 ~~J.~~ J. At the hearing, the council shall allocate the petitioner
 2 and the agency an equal amount of time for oral comments, not including
 3 any time spent answering questions raised by council members. ~~BEFORE THE~~
 4 ~~MEETING IS SCHEDULED~~, the council may also allocate time for ~~members of~~
 5 ~~the public who have an interest in the issue to provide~~ oral comments ~~AND~~
 6 ~~MAY INCLUDE PUBLIC COMMENT INFORMATION ON THE MEETING AGENDA.~~

7 ~~J.~~ K. For the purposes of subsection ~~H~~ I of this section, the
 8 council meeting shall not be scheduled until the expiration of the agency
 9 response period prescribed in subsection ~~H~~ I, paragraph 3 of this
 10 section.

11 ~~K.~~ L. An agency practice, substantive policy statement, final rule
 12 or regulatory licensing requirement considered by the council pursuant to
 13 this section shall remain in effect while under consideration of the
 14 council. If the council determines that the agency practice, substantive
 15 policy statement or regulatory licensing requirement exceeds the agency's
 16 statutory authority, is not authorized by statute or constitutes a rule or
 17 that the final rule does not meet the requirements prescribed in section
 18 41-1030, the practice, policy statement, rule or regulatory licensing
 19 requirement shall be void. If the council determines that the existing
 20 agency practice, substantive policy statement, final rule or regulatory
 21 licensing requirement is unduly burdensome or is not demonstrated to be
 22 necessary to specifically fulfill a public health, safety or welfare
 23 concern, the council shall modify, revise or declare void any such
 24 existing agency practice, substantive policy statement, final rule or
 25 regulatory licensing requirement. If an agency decides to further pursue
 26 a practice, substantive policy statement or regulatory licensing
 27 requirement that has been declared void or has been modified or revised by
 28 the council, the agency ~~may~~ ~~SHALL~~ do so only pursuant to a new rulemaking.

29 ~~L.~~ M. A council decision ~~pursuant to this section~~ shall be made by
 30 a majority of the council members who are present and voting on the
 31 issue. Notwithstanding any other law, the council ~~may~~ ~~SHALL~~ not base any
 32 decision concerning an agency's compliance with the requirements of
 33 section 41-1030 in issuing a final rule or substantive policy statement on
 34 whether any party or person commented on the rulemaking or substantive
 35 policy statement.

36 ~~M.~~ N. A decision by the council ~~pursuant to this section~~ is not
 37 subject to judicial review, except that, in addition to the procedure
 38 prescribed in this section or in lieu of the procedure prescribed in this
 39 section, a person may seek declaratory relief pursuant to section 41-1034.

40 ~~N.~~ O. Each agency, ~~THE COUNCIL~~ and the secretary of state shall
 41 post prominently on their websites notice of ~~an individual's~~ ~~A PERSON'S~~
 42 right to petition the council for review pursuant to this section.

1 Sec. 25. Section 41-1036, Arizona Revised Statutes, is amended to
2 read:

3 41-1036. Preamble; justifications for rulemaking

4 A. Only the reasons contained in the preamble may be used by any
5 party as justifications for ~~the~~ making ~~of~~ the rule in any proceeding in
6 which its validity is at issue.

7 B. A PREAMBLE MUST CONTAIN ALL OF THE FOLLOWING:

8 1. THE DATE THE GOVERNOR GAVE THE AGENCY PERMISSION TO PROCEED WITH
9 THE RULEMAKING PURSUANT TO SECTION 41-1039.

10 2. A LIST OF ARTICLES, PARTS AND SECTIONS AFFECTED AND
11 CORRESPONDING RULEMAKING ACTIONS.

12 3. CITATIONS TO THE AGENCY'S RULEMAKING AUTHORITY, INCLUDING THE
13 AGENCY'S AUTHORIZING STATUTES AND IMPLEMENTING STATUTES.

14 4. A LIST OF CITATIONS TO ALL NOTICES OF THE RULEMAKING RECORD
15 PUBLISHED IN THE REGISTER.

16 5. THE AGENCY'S OBJECTIVE AND EXPECTED OUTCOME OF THE RULEMAKING,
17 INCLUDING THE AGENCY'S EXPLANATION AND THE JUSTIFICATION TO INITIATE THE
18 RULEMAKING.

19 6. THE CONTACT INFORMATION OF THE PERSON WHO CAN ANSWER QUESTIONS
20 ABOUT THE NOTICE, INCLUDING THE PERSON'S NAME, TITLE, AGENCY DIVISION OR
21 SUBDIVISION, TELEPHONE NUMBER, EMAIL AND AGENCY WEBSITE.

22 7. IF APPLICABLE, A REFERENCE OF THE AGENCY'S REVIEW OF AN INTERNAL
23 STUDY, ANALYSIS, DATA OR REPORT THAT THE AGENCY EITHER PROPOSES TO SUPPORT
24 THE EVALUATION OF OR JUSTIFICATION FOR THE RULE, OR AN EXTERNAL STUDY,
25 ANALYSIS, DATA, REPORT OR AGENCY'S EXPERTISE THAT WILL BE USED TO JUSTIFY
26 THE RULE. THE AGENCY SHALL INCLUDE WHERE THE PUBLIC MAY OBTAIN OR REVIEW
27 EACH STUDY, ANALYSIS, DATA OR REPORT AND ITS SUPPORTING ARGUMENT FOR OR
28 AGAINST THE USE OF THE STUDY, ANALYSIS, DATA OR REPORT.

29 8. GOOD CAUSE, SHOWN BY THE AGENCY, REGARDING THE REASON THE RULE
30 IS NECESSARY TO PROMOTE A STATEWIDE INTEREST OR IF THE RULE WILL DIMINISH
31 A PREVIOUS GRANT OF AUTHORITY OF A POLITICAL SUBDIVISION OF THIS STATE.

32 9. IF APPLICABLE, A PRELIMINARY OR FINAL SUMMARY OF THE ECONOMIC,
33 SMALL BUSINESS AND CONSUMER IMPACT STATEMENT AND WHERE THE ECONOMIC, SMALL
34 BUSINESS AND CONSUMER IMPACT STATEMENT MAY BE VIEWED IN ITS ENTIRETY.

35 10. THE CONTACT INFORMATION OF THE PERSON WHO CAN ANSWER QUESTIONS
36 ABOUT THE ECONOMIC IMPACT STATEMENT, INCLUDING THE PERSON'S NAME, TITLE,
37 AGENCY DIVISION OR SUBDIVISION, TELEPHONE NUMBER, EMAIL AND AGENCY
38 WEBSITE.

39 11. A LIST OF MATERIALS INCORPORATED BY REFERENCE AND ITS LOCATION
40 IN THE RULES PURSUANT TO SECTION 41-1028.

41 12. ANY OTHER MATTERS AND INFORMATION AS PRESCRIBED BY STATUTE THAT
42 IS APPLICABLE TO THE SPECIFIC AGENCY OR TO ANY SPECIFIC RULE OR CLASS OF
43 RULES.

1 B. AN AGENCY SUBJECT TO COUNCIL REVIEW SHALL RESPOND IN THE
2 PREAMBLE TO THE FOLLOWING QUESTIONS PURSUANT TO SECTIONS 41-1052 AND
3 41-1055:

4 1. WHETHER THE RULE REQUIRES A PERMIT AND WHETHER A GENERAL PERMIT
5 IS USED AND IF NOT, THE REASONS WHY A GENERAL PERMIT IS NOT USED.

6 2. WHETHER A FEDERAL LAW IS APPLICABLE TO THE SUBJECT OF THE RULE
7 AND WHETHER THE RULE IS MORE STRINGENT THAN FEDERAL LAW AND IF SO, THE
8 CITATION TO THE STATUTORY AUTHORITY TO EXCEED THE REQUIREMENTS OF FEDERAL
9 LAW.

10 3. WHETHER A PERSON SUBMITTED AN ANALYSIS TO THE AGENCY THAT
11 COMPARES THE RULE'S IMPACT ON THE COMPETITIVENESS OF BUSINESS IN THIS
12 STATE TO THE IMPACT ON BUSINESS IN OTHER STATES.

13 C. IN ADDITION TO THE CONTENTS REQUIRED IN A PREAMBLE PURSUANT TO
14 THIS SECTION, FOR A NOTICE OF PROPOSED OR SUPPLEMENTAL PROPOSED
15 RULEMAKING, A PREAMBLE MUST ALSO INCLUDE:

16 1. INFORMATION ON ORAL PROCEEDINGS PURSUANT TO SECTION 41-1023.02.

17 2. A DESCRIPTION AND LIST OF ANY TYPOGRAPHICAL OR CLERICAL ERROR OR
18 OTHER CHANGE OR VARIANCE BETWEEN THE PROPOSED AND SUPPLEMENTAL PROPOSED
19 RULEMAKING.

20 D. IN ADDITION TO THE CONTENTS REQUIRED IN A PREAMBLE PURSUANT TO
21 THIS SECTION, FOR A NOTICE OF FINAL RULEMAKING, A PREAMBLE MUST ALSO
22 INCLUDE:

23 1. THE EFFECTIVE DATE OF THE RULE PURSUANT TO SECTION 41-1032.

24 2. A DESCRIPTION AND LIST OF ANY TYPOGRAPHICAL OR CLERICAL ERROR OR
25 OTHER CHANGE OR VARIANCE BETWEEN THE PROPOSED OR SUPPLEMENTAL PROPOSED
26 RULEMAKING AND THE FINAL RULEMAKING.

27 3. A SUMMARY OF THE PUBLIC OR STAKEHOLDER COMMENTS MADE ABOUT THE
28 RULEMAKING, THE AGENCY RESPONSE TO THE COMMENTS AND WHETHER THE AGENCY
29 IMPLEMENTED ANY CHANGE TO A RULE BECAUSE OF A COMMENT OR COMMENTS.

30 4. A SUMMARY OF THE PUBLIC OR STAKEHOLDER COMMENTS MADE ABOUT THE
31 ECONOMIC, SMALL BUSINESS AND CONSUMER IMPACT STATEMENT, THE AGENCY
32 RESPONSE TO THE COMMENTS AND WHETHER THE AGENCY IMPLEMENTED ANY CHANGE TO
33 A RULE BECAUSE OF A COMMENT OR COMMENTS.

34 E. IN ADDITION TO THE CONTENTS REQUIRED IN A PREAMBLE PURSUANT TO
35 THIS SECTION, FOR A NOTICE OF EMERGENCY RULEMAKING OR NOTICE OF EMERGENCY
36 RULEMAKING RENEWAL, A PREAMBLE MUST ALSO INCLUDE:

37 1. AN AGENCY STATEMENT THAT JUSTIFIES THE EMERGENCY RULEMAKING.

38 2. THE EFFECTIVE DATE OF THE RULE.

39 3. THE DATE THE ATTORNEY GENERAL APPROVED THE RULE.

40 4. FOR AN EMERGENCY RULEMAKING RENEWAL, A DESCRIPTION AND LIST OF
41 ANY TYPOGRAPHICAL OR CLERICAL ERROR OR OTHER CHANGE OR VARIANCE BETWEEN
42 THE NOTICE OF EMERGENCY RULEMAKING AND NOTICE OF EMERGENCY RULEMAKING
43 RENEWAL.

1 F. IN ADDITION TO THE CONTENTS REQUIRED IN A PREAMBLE PURSUANT TO
2 THIS SECTION, FOR A NOTICE OF PROPOSED EXEMPT RULEMAKING, A PREAMBLE MUST
3 ALSO INCLUDE:

4 1. THE CITATION TO THE AGENCY'S EXEMPTION AS PROVIDED IN A STATUTE
5 OR TEMPORARY LAW.

6 2. IF REQUIRED UNDER THE AGENCY'S EXEMPTION, INFORMATION ON ORAL
7 PROCEEDINGS OUTLINED PURSUANT TO SECTION 41-1023.02 OR AS OUTLINED UNDER
8 STATUTE.

9 3. WHETHER THE RULE WAS PREVIOUSLY MADE AS AN EMERGENCY RULE.

10 G. IN ADDITION TO THE CONTENTS REQUIRED IN A PREAMBLE PURSUANT TO
11 THIS SECTION, FOR A NOTICE OF FINAL EXEMPT RULEMAKING, A PREAMBLE MUST
12 ALSO INCLUDE:

13 1. THE EFFECTIVE DATE OF THE RULE AS PROVIDED IN THE AGENCY'S
14 EXEMPTION.

15 2. A DESCRIPTION AND LIST OF ANY TYPOGRAPHICAL OR CLERICAL ERROR OR
16 OTHER CHANGE OR VARIANCE BETWEEN THE PROPOSED EXEMPT OR SUPPLEMENTAL
17 PROPOSED EXEMPT RULEMAKING AND THE FINAL EXEMPT RULEMAKING.

18 Sec. 26. Section 41-1044, Arizona Revised Statutes, is amended to
19 read:

20 41-1044. Attorney general review of certain exempt rules

21 A. The attorney general shall review rules that are exempt pursuant
22 to section 41-1057 AND OTHER STATUTES THAT PROVIDE SPECIFIC EXEMPTIONS TO
23 THIS CHAPTER.

24 B. WITHIN SIXTY DAYS AFTER RECEIVING AN AGENCY'S FILING OF A NOTICE
25 OF EXEMPT RULEMAKING OR NOTICE OF FINAL EXEMPT RULEMAKING, THE ATTORNEY
26 GENERAL SHALL EITHER APPROVE IN WHOLE, APPROVE IN PART AND DISAPPROVE IN
27 PART OR DISAPPROVE IN WHOLE, THE EXEMPT RULE.

28 ~~B. C. Rules that are exempt pursuant to section 41-1057 shall not~~
29 ~~be filed with the secretary of state unless~~ The attorney general ~~approves~~
30 ~~the rule as~~ SHALL REVIEW AND APPROVE A RULE EXEMPTED PURSUANT TO SECTION
31 41-1057 UNDER THE FOLLOWING STANDARDS:

32 1. ~~To form~~ IS THE RULE LEGAL AND BINDING.

33 2. IS THE RULE clear, concise and understandable.

34 3. ~~Within the power of~~ DOES the agency HAVE THE AUTHORITY to make,
35 AMEND, RENUMBER OR REPEAL THE RULE AS AN EXEMPT RULE and IS THE RULE BEING
36 ISSUED within the enacted legislative standards.

37 4. HAS THE RULE BEEN made, AMENDED, RENUMBERED OR REPEALED in
38 compliance with the ~~appropriate~~ STATUTORY procedures.

39 5. HAS THE RULE BEEN MADE, AMENDED, RENUMBERED OR REPEALED IN
40 COMPLIANCE WITH SECRETARY OF STATE'S STANDARDS.

41 ~~C. D.~~ D. The attorney general shall not approve ~~a~~ AN EXEMPT rule
42 with an immediate effective date unless the attorney general determines
43 ~~that the rule complies with~~ AN AGENCY HAS DEMONSTRATED THE NEED FOR AN
44 IMMEDIATE EFFECTIVE DATE UNDER THE STANDARDS LISTED PURSUANT TO section
45 41-1032, SUBSECTION A. THE ATTORNEY GENERAL SHALL NOT APPROVE AN EXEMPT

1 RULE WITH A DELAYED EFFECTIVE DATE UNLESS THE ATTORNEY GENERAL DETERMINES
 2 AN AGENCY HAS DEMONSTRATED THE NEED FOR A DELAYED EFFECTIVE DATE UNDER THE
 3 STANDARDS LISTED PURSUANT TO SECTION 41-1032, SUBSECTION B.

4 ~~D.~~ E. Within sixty days ~~of receipt of~~ AFTER RECEIVING the rule, IF
 5 the attorney general ~~shall endorse the attorney general's approval on the~~
 6 ~~rule package. After approval,~~ DETERMINES THE EXEMPT RULE COMPLIES WITH THE
 7 STANDARDS LISTED PURSUANT TO SUBSECTION C OF THIS SECTION, THE ATTORNEY
 8 GENERAL SHALL CREATE A CERTIFICATE OF APPROVAL AND NOTIFY THE AGENCY OF
 9 APPROVAL. The attorney general shall file the ~~rule~~ RULEMAKING package with
 10 the secretary of state.

11 ~~E.~~ F. If the attorney general determines that the EXEMPT rule does
 12 not comply with ~~subsection B~~ THE STANDARDS LISTED UNDER SUBSECTION C of
 13 this section, the attorney general shall ~~endorse the attorney general's~~
 14 CREATE A CERTIFICATE OF disapproval ~~of the rule on the rule package,~~ state
 15 the reasons for the disapproval and within sixty days after receipt of the
 16 rule return the rule package to the agency that ~~made~~ SUBMITTED the ~~rule~~
 17 RULEMAKING PACKAGE.

18 G. IF THE ATTORNEY GENERAL APPROVES CERTAIN RULEMAKING SECTIONS IN
 19 WHOLE OR IN PART, THE ATTORNEY GENERAL SHALL SPECIFY THE DISAPPROVAL OF
 20 THE WHOLE SECTION OR PART OF SECTION ON THE ATTORNEY GENERAL CERTIFICATE.

21 Sec. 27. Section 41-1097.01, Arizona Revised Statutes, is amended
 22 to read:

23 41-1097.01. Filing and publication of exempt rules:
 24 definition

25 A. AN AGENCY SHALL FILE EXEMPT RULES WITH THE SECRETARY OF STATE
 26 PURSUANT TO THIS SECTION AND OTHER STATUTORY PROCEDURES.

27 ~~A.~~ B. The secretary of state shall prescribe a uniform
 28 CODIFICATION SCHEME, numbering system and UNIFORM FILING REQUIREMENTS FOR
 29 EXEMPT RULES. THE SECRETARY OF STATE SHALL have reasonable discretion to
 30 determine the form and style for exempt rules filed with and published by
 31 the secretary of state's office. The secretary of state shall refuse to
 32 accept a notice of exempt rulemaking if the notice or ~~filing~~ RULEMAKING
 33 PACKAGE does not comply with the secretary of state's prescribed filing
 34 requirements, numbering system, form and style. THE SECRETARY OF STATE
 35 SHALL NOT ALTER THE SENSE OR MEANING OR MAKE A SUBSTANTIVE CHANGE TO AN
 36 EXEMPT RULE.

37 ~~B.~~ C. ~~If~~ An agency ~~files a notice of exempt rulemaking, the~~
 38 ~~secretary of state shall publish the notice in the register~~ SHALL PREPARE
 39 NOTICE OF EXEMPT RULEMAKING pursuant to the exemption requirements
 40 prescribed in statute or session law AND THE FILING REQUIREMENTS AND FORM
 41 AND STYLE OF RULES PRESCRIBED UNDER SUBSECTION B OF THIS SECTION. THE
 42 NOTICE MUST INCLUDE A PREAMBLE AS DEFINED IN SECTION 41-1001. THE
 43 SECRETARY OF STATE SHALL PROVIDE A NOTICE OF EXEMPT RULEMAKING TEMPLATE TO
 44 AN AGENCY FOR FILING PURPOSES. AN AGENCY SHALL FILE THE NOTICE WITH THE
 45 SECRETARY OF STATE.

1 D. AN AGENCY SHALL MAINTAIN THE RULEMAKING RECORD OF AN EXEMPT
2 RULEMAKING AS DEFINED IN SECTION 41-1001.

3 ~~C. E. All exempt rules shall be codified and published~~ THE
4 SECRETARY OF STATE SHALL PUBLISH THE NOTICE IN THE REGISTER AND CODIFY THE
5 RULE in the code only as prescribed in statute or session law.

6 F. THE OFFICE OF THE SECRETARY OF STATE MAY CORRECT A CLERICAL
7 ERROR AND A TYPOGRAPHICAL ERROR AS DEFINED IN SECTION 41-1001 IN AN EXEMPT
8 RULEMAKING FILED UNDER THIS SECTION.

9 G. FOR THE PURPOSES OF THIS SECTION, "RULEMAKING PACKAGE" HAS THE
10 SAME MEANING PRESCRIBED IN SECTION 41-1001.

11 Sec. 28. Conforming legislation

12 The legislative council staff shall prepare proposed legislation
13 conforming the Arizona Revised Statutes to the provisions of this act for
14 consideration in the fifty-eighth legislature, first regular session.