

Governor's Regulatory Review Council

TITLE 1. RULES AND THE RULEMAKING PROCESS**CHAPTER 6. GOVERNOR'S REGULATORY REVIEW COUNCIL**

(Authority: A.R.S. § 41-1051)

ARTICLE 1. GENERAL RULES OF PROCEDURE

Article 1, consisting of Sections R1-6-101 through R1-6-106 and R1-6-108, adopted effective May 25, 1995 (Supp. 95-2).

Article 1, consisting of Sections R1-6-102 three R1-6-109, repealed effective May 25, 1995 (Supp. 95-2).

Article 1 consisting of Sections R1-6-102 through R1-6-109 adopted effective December 16, 1987.

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Article 2, consisting of Section R1-6-201, repealed by final rulemaking; new Article 2, consisting of Sections R1-6-201 to R1-6-207 made by final rulemaking effective October 5, 2013 (Supp. 13-3).

Article 2, consisting of Section R1-6-201, adopted effective May 25, 1995 (Supp. 95-2).

Article 2, consisting of Sections R1-6-202 three R1-6-206, repealed effective May 25, 1995 (Supp. 95-2).

Article 2, consisting of Section R1-6-201, adopted effective May 25, 1995 (Supp. 95-2).

Article 2, consisting of Sections R1-6-202 through R1-6-206, repealed effective May 25, 1995 (Supp. 95-2).

Article 2 consisting of Sections R1-6-202 through R1-6-206 adopted effective March 16, 1988.

Section

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R1-6-301 to R1-6-305 made by final rulemaking effective October 5, 2013 (Supp. 13-3).

Article 3, consisting of Section R1-6-301, adopted effective April 3, 1996 (Supp. 96-2).

Section

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Article 4, consisting of Section R1-6-401, adopted effective April 3, 1996 (Supp. 96-2).

Section

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Article 5, consisting of Section R1-6-501, repealed by final rulemaking; new Article 5, consisting of Sections R1-6-501 and R1-6-502, made by final rulemaking, effective October 5, 2013 (Supp. 13-3).

Article 5, consisting of Section R1-6-501, made at 17 A.A.R. 1410, effective September 5, 2011 (Supp. 11-3).

Section

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Section

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Section

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Section

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- R1-6-802. Petition for an Alternative Expiration Date under A.R.S. § 41-1008(G)

ARTICLE 1. GENERAL RULES OF PROCEDURE

R1-6-101. Definitions

- A. The definitions in A.R.S. § 41-1001 apply to this Chapter.
- B. In this Chapter:
1. "Agency head" means the chief officer of an agency or another person directly or indirectly purporting to act on behalf or under the authority of the agency head.
 2. "Chair" means the chairperson of the Council or the chairperson's designee.
 3. "Electronic copy" means a document submitted or filed by e-mail or CD.
 4. "Expedited rule" means a rule made according to the procedures in A.R.S. §§ 41-1027 and 41-1053.
 5. "Open Meeting Law" means A.R.S. Title 38, Chapter 3, Article 3.1.
 6. "Paper copy" means a document submitted on paper.
 7. "Regular rule" means a rule made according to the procedures in A.R.S. §§ 41-1021 through 41-1024 and 41-1052.

Historical Note

Adopted effective May 25, 1995 (Supp. 95-2). Amended effective April 3, 1996 (Supp. 96-2). Former Section R1-6-101 renumbered to R1-6-102; new Section R1-6-101 adopted by final rulemaking at 6 A.A.R. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 5538, effective December 2, 2003 (Supp. 03-4). Amended by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3).

R1-6-102. Meetings

- A. The Chair, in consultation with the Council, shall set monthly meeting dates of the Council for each calendar year by the preceding October 31 and shall post notice of each monthly meeting according to the Open Meeting Law.
- B. The Chair or Council may schedule a special meeting to consider any matter it may consider at a regularly scheduled monthly meeting. The Council shall post notice of a special meeting according to the Open Meeting Law at least 24 hours before the special meeting.
- C. The Council may recess a regularly scheduled monthly or special meeting to a later date if, before recessing, the Chair gives notice of the date and time of the resumption of the meeting and posts a notice of resumption of the meeting according to the Open Meeting Law.
- D. The Chair may temporarily adjourn or recess a regularly scheduled monthly or special meeting on the meeting day in an effort to ensure that a quorum of the Council is present.

Historical Note

Adopted effective December 16, 1987 (Supp. 87-4). Section repealed, new Section adopted effective May 25, 1995 (Supp. 95-2). Amended effective April 3, 1996 (Supp. 96-2). Former Section R1-6-102 renumbered to R1-6-103; new Section R1-6-102 renumbered from R1-6-101 and amended by final rulemaking at 6 A.A.R. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 17 A.A.R. 1410, effective September 5, 2011 (Supp. 11-3). Amended by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3).

R1-6-103. Schedule and Submission Deadlines

The Chair, in consultation with Council, shall establish for each calendar year, by the preceding October 31, a schedule containing submission deadlines based on the meeting dates established under R1-6-102 for:

1. Rules submitted or, if applicable, resubmitted to the Council including new, amended, repealed, or renumbered rules; and
2. Five-year review reports.

Historical Note

Adopted effective December 16, 1987 (Supp. 87-4). Section repealed, new Section adopted effective May 25, 1995 (Supp. 95-2). Amended effective April 3, 1996 (Supp. 96-2). Former Section R1-6-103 renumbered to R1-6-104; new Section R1-6-103 renumbered from R1-6-102 and amended by final rulemaking at 6 A.A.R. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 17 A.A.R. 1410, effective September 5, 2011 (Supp. 11-3). Amended by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3).

R1-6-104. Appearance by the Agency

- A. A representative of an agency shall appear at the Council meeting at which the agency's rule or five-year review report is to be considered for legal action to respond to questions by the Council.
- B. If an agency representative fails to appear at the Council meeting at which the agency's rule or five-year review report is considered for legal action, the Council may:
1. Reschedule consideration of the rule or report;
 2. Return a regular rule or report, in whole or in part, to the agency;
 3. Approve a regular rule or report, in whole or in part, after allowing public comment, if any;
 4. For an expedited rule, approve the rule, reject the rule, order the initiation of regular rulemaking, or provide comments on the expedited rule to the agency within the scope of A.R.S. § 41-1027(A) and require the agency to respond to comments or testimony in writing.

Historical Note

Adopted effective December 16, 1987 (Supp. 87-4). Section repealed, new Section adopted effective May 25, 1995 (Supp. 95-2). Amended effective April 3, 1996 (Supp. 96-2). Former Section R1-6-104 renumbered to R1-6-108; new Section R1-6-104 renumbered from R1-6-103 and amended by final rulemaking at 6 A.A.R. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 5538, effective December 2, 2003 (Supp. 03-4). Amended by final rulemaking at 17 A.A.R. 1410, effective September 5, 2011 (Supp. 11-3). R1-6-104 renumbered to R1-6-201; new Section R1-6-104 renumbered from R1-6-110 and amended by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3).

R1-6-105. Repealed

Historical Note

Adopted effective December 16, 1987 (Supp. 87-4). Section repealed, new Section adopted effective May 25, 1995 (Supp. 95-2). Amended effective April 3, 1996 (Supp. 96-2). Former Section R1-6-105 renumbered to R1-6-109; new Section R1-6-105 adopted by final rulemaking at 6 A.A.R. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 5538, effective December 2, 2003 (Supp. 03-4). Repealed by final rulemaking at 19 A.A.R. 2731, effective October

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5, 2013 (Supp. 13-3).

R1-6-106. Repealed**Historical Note**

Adopted effective December 16, 1987 (Supp. 87-4). Section repealed, new Section adopted effective May 25, 1995 (Supp. 95-2). Former Section R1-6-106 renumbered to R1-6-110; new Section R1-6-106 adopted by final rulemaking at 6 A.A.R. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 5538, effective December 2, 2003 (Supp. 03-4). Amended by final rulemaking at 17 A.A.R. 1410, effective September 5, 2011 (Supp. 11-3). Repealed by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3).

R1-6-107. Renumbered**Historical Note**

Adopted effective December 16, 1987 (Supp. 87-4). Repealed effective May 25, 1995 (Supp. 95-2). New Section adopted effective April 3, 1996 (Supp. 96-2). Former Section R1-6-107 renumbered to R1-6-111; new Section R1-6-107 adopted by final rulemaking at 6 A.A.R. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 5538, effective December 2, 2003 (Supp. 03-4). Amended by final rulemaking at 17 A.A.R. 1410, effective September 5, 2011 (Supp. 11-3). Section R1-6-107 renumbered to R1-6-204 by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3).

R1-6-108. Renumbered**Historical Note**

Adopted effective December 16, 1987 (Supp. 87-4). Section repealed, new Section adopted effective May 25, 1995 (Supp. 95-2). Amended effective April 3, 1996 (Supp. 96-2). Former Section R1-6-108 renumbered to R1-6-112; new Section R1-6-108 renumbered from R1-6-104 and amended by final rulemaking at 6 A.A.R. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 5538, effective December 2, 2003 (Supp. 03-4). Amended by final rulemaking at 17 A.A.R. 1410, effective September 5, 2011 (Supp. 11-3). Section R1-6-108 renumbered to R1-6-205 by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3).

R1-6-109. Renumbered**Historical Note**

Adopted effective December 16, 1987 (Supp. 87-4). Repealed effective May 25, 1995 (Supp. 95-2). New Section R1-6-109 renumbered from R1-6-105 and amended by final rulemaking at 6 A.A.R. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 5538, effective December 2, 2003 (Supp. 03-4). Amended by final rulemaking at 17 A.A.R. 1410, effective September 5, 2011 (Supp. 11-3). Section R1-6-109 renumbered to R1-6-206 by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3).

R1-6-110. Appearance by the Agency

- A. A representative of an agency shall appear at the Council meeting at which the agency rule or five-year review report is to be considered to respond to questions and comments by the Council.

- B. If an agency representative fails to appear at the Council meeting at which the agency rule or five-year review report is considered, the Council may:

1. Reschedule consideration of the rule or report;
2. Return the rule or report, in whole or in part, to the agency; or
3. Approve the rule or report, in whole or in part, after allowing public comment, if any.

Historical Note

New Section R1-6-110 renumbered from R1-6-106 and amended by final rulemaking at 6 A.A.R. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 17 A.A.R. 1410, effective September 5, 2011 (Supp. 11-3).

R1-6-111. Renumbered**Historical Note**

New Section R1-6-111 renumbered from R1-6-107 and amended by final rulemaking at 6 A.A.R. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 5538, effective December 2, 2003 (Supp. 03-4). Former R1-6-111 renumbered to R1-6-112; new R1-6-111 renumbered from R1-1-112 and amended by final rulemaking at 17 A.A.R. 1410, effective September 5, 2011 (Supp. 11-3). Section R1-6-111 renumbered to R1-6-301 by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3).

R1-6-112. Renumbered**Historical Note**

New Section R1-6-112 renumbered from R1-6-108 and amended by final rulemaking at 6 A.A.R. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 5538, effective December 2, 2003 (Supp. 03-4). Former R1-6-112 renumbered to R1-6-111; new R1-6-112 renumbered from R1-1-111 and amended by final rulemaking at 17 A.A.R. 1410, effective September 5, 2011 (Supp. 11-3). Section R1-6-112 renumbered to R1-6-203 by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3).

R1-6-113. Renumbered**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 5538, effective December 2, 2003 (Supp. 03-4). Amended by final rulemaking at 17 A.A.R. 1410, effective September 5, 2011 (Supp. 11-3). Section R1-6-113 renumbered to R1-6-302 by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3).

R1-6-114. Renumbered**Historical Note**

New Section made by final rulemaking at 17 A.A.R. 1410, effective September 5, 2011 (Supp. 11-3). Section R1-6-114 renumbered to R1-6-303 by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3).

R1-6-115. Renumbered**Historical Note**

New Section made by final rulemaking at 17 A.A.R. 1410, effective September 5, 2011 (Supp. 11-3). R1-6-115 renumbered to R1-6-304 by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3).

ARTICLE 2. RULEMAKING PROCEDURES**R1-6-201. Submitting a Regular Rule**

A. To submit a regular rule for consideration by the Council, an agency shall deliver to the Council office one paper copy and one electronic copy of each rulemaking document that follows, prepared in the manner required by this subsection, subsection (B), and the rules of the Office of the Secretary of State:

1. A request for approval, in the form of an original cover letter signed by the agency head. The cover letter shall specify:
 - a. The close of record date;
 - b. Whether the rulemaking activity relates to a five-year review report and, if applicable, the date the report was approved by the Council;
 - c. Whether the rule establishes a new fee and, if it does, citation of the statute expressly authorizing the new fee;
 - d. Whether the rule contains a fee increase;
 - e. Whether an immediate effective date is requested for the rule under A.R.S. § 41-1032;
 - f. A certification that the preamble discloses a reference to any study relevant to the rule that the agency reviewed and either did or did not rely on in the agency's evaluation of or justification for the rule;
 - g. If one or more full-time employees are necessary to implement and enforce the rule, a certification that the preparer of the economic, small business, and consumer impact statement has notified the Joint Legislative Budget Committee of the number of new full-time employees necessary to implement and enforce the rule; and
 - h. A list of all documents enclosed.
2. Notice of Final Rulemaking, required by A.A.C. R1-1-602, including the preamble, table of contents for the rulemaking, and text of each rule;
3. Economic, small business, and consumer impact statement that contains the information required by A.R.S. § 41-1055;
4. The written comments received by the agency concerning the proposed rule and a written record, transcript, or minutes of any testimony received if the agency maintains a written record, transcript, or minutes; and
5. Any analysis submitted to the agency regarding the rule's impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states.

B. In addition to the documents required in subsection (A), an agency shall submit one electronic or paper copy of each reference document that follows:

1. Material incorporated by reference, if any;
2. The general and specific statutes authorizing the rule, including relevant statutory definitions;
3. If a term is defined in the rule by referring to another rule or a statute other than the general and specific statutes authorizing the rule, the statute or other rule referred to in the definition; and
4. The existing rule if any subsections within the existing rule are designated as "no change" in the revised text of a rule the agency is amending.

C. After a rule is placed on a Council agenda, Council staff shall review the rule for compliance with the requirements of A.R.S. §§ 41-1021 through 41-1024 and 41-1052 and this Chapter and may ask questions or suggest changes to the agency. If the agency revises any rulemaking document in response to a question or suggested change, the agency shall

submit one paper copy and one electronic copy of the revised rulemaking document to the Council for review, according to the schedule established by R1-6-103.

- D.** After a rule is placed on a Council agenda, an agency may have the rule moved to the agenda of a later meeting by having the agency head send a written notice to the Chair that includes the date of the later meeting. If the agency makes a subsequent request that the rule be moved, the Chair may grant or deny the request at the Chair's discretion.
- E.** If it is necessary for a rule to be heard at more than one Council meeting, the agency shall submit any revised documents for the later meeting, consistent with this Section.

Historical Note

Adopted effective May 25, 1995 (Supp. 95-2). Amended by final rulemaking at 6 A.A.A. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 5538, effective December 2, 2003 (Supp. 03-4). R1-6-201 renumbered to R1-6-401; new Section R1-6-201 renumbered from R1-6-104 and amended by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3).

R1-6-202. Submitting an Expedited Rule

A. To submit an expedited rule for consideration by the Council, an agency shall deliver to the Council office one paper copy and one electronic copy of each rulemaking document that follows, prepared in the manner required by this subsection, subsection (B), and the rules of the Office of the Secretary of State:

1. A request for approval, in the form of an original cover letter signed by the agency head. The cover letter shall specify:
 - a. The close of record date;
 - b. An explanation of how the expedited rule meets the criteria in A.R.S. § 41-1027(A);
 - c. Whether the rulemaking activity relates to a five-year review report and, if applicable, the date the report was approved by the Council;
 - d. A certification that the preamble discloses a reference to any study relevant to the rule that the agency reviewed and either did or did not rely on in the agency's evaluation of or justification for the rule; and
 - e. A list of all documents enclosed.
2. Notice of Final Expedited Rulemaking, required by A.A.C. R1-1-803, including the preamble, table of contents for the rulemaking, and text of each rule;
3. The written comments, including objections that the rulemaking does not meet the criteria in A.R.S. § 41-1027(A), received by the agency or contained in a notice concerning the proposed rule; and
4. Any analysis submitted to the agency regarding the rule's impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states.

B. In addition to the documents required in subsection (A), an agency shall submit one electronic or paper copy of each reference document that follows:

1. Material incorporated by reference, if any;
2. For a statute declared unconstitutional, the court's decision;
3. The general and specific statutes authorizing the rule, including relevant statutory definitions;
4. If a term is defined in the rule by referring to another rule or a statute other than the general and specific statutes

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authorizing the rule, the statute or other rule referred to in the definition; and

5. The existing rule if any subsections within the existing rule are designated as "no change" in the revised text of a rule the agency is amending.
- C.** After a rule is placed on a Council agenda, Council staff shall review the rule for compliance with the requirements of A.R.S. §§ 41-1027, 41-1053, and this Chapter and may ask questions or suggest changes to the agency. If the agency revises any rulemaking document in response to a question or suggested change, the agency shall submit one paper copy and one electronic copy of the revised rulemaking document to the Council for review, according to the schedule established by R1-6-103.
- D.** After a rule is placed on a Council agenda, an agency may have the rule moved to the agenda of a later meeting by having the agency head send a written notice to the Chair that includes the date of the later meeting. If the agency makes a subsequent request that the rule be moved, the Chair may grant or deny the request at the Chair's discretion.

Historical Note

Adopted effective March 16, 1988 (Supp. 88-1).
Repealed effective May 25, 1995 (Supp. 95-2). New Section made by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3).

R1-6-203. Testimony and Written Comments

- A.** Consistent with A.R.S. §§ 41-1027(G) and 41-1052(I) a person may submit written comments about an agency rulemaking to the Council within 30 days from Council receipt of the rulemaking. Written comments may include any visual aids or written materials supplementing planned testimony. For an expedited rulemaking, a person may submit written comments to the Council that are within the scope of A.R.S. § 41-1027(A). The date of receipt of the rule shall be posted on the Council's web site. Council staff shall notify the agency of any written comments received by the Council. An agency may submit a written response to the Council before or during the scheduled Council meeting or, if more time is needed to respond, request in writing that the rulemaking be moved to the next regularly scheduled Council meeting.
- B.** A person may provide testimony about regular rulemaking at a Council meeting and may request that an expedited rulemaking be removed from the consent agenda and heard by the Council under A.R.S. § 41-1052 for the purpose of providing testimony.
- C.** The Chair may limit the time allotted to each speaker and preclude repetitious testimony.
- D.** A person who provides testimony or submits written comments to the Council shall:
1. Ensure that the testimony or comments relate to a final rulemaking submitted to the Council;
 2. Address the provision of A.R.S. §§ 41-1027 or 41-1052(D) through (G) that is the basis for the Council's authority to consider each issue addressed;
 3. State specifically how each issue relates to the particular provision addressed;
 4. Explain the efforts the person made to communicate with the rulemaking agency about each issue;
 5. Submit to Council staff one electronic copy and one paper copy of each written comment, including any visual aid or written material supplementing planned testimony; and
 6. At the same time written comments are provided to the Council, provide a copy of written comments, including

any visual aids or written materials supplementing planned testimony, to the agency.

- E.** If a person does not comply with the requirements of this Section, the Chair, in the Chair's discretion, shall consider the reason for the noncompliance, fairness to the rulemaking agency, and the best interests of the state in determining the action to take under A.R.S. §§ 41-1027, 41-1052, or 41-1053.

Historical Note

Adopted effective March 16, 1988 (Supp. 88-1).
Repealed effective May 25, 1995 (Supp. 95-2). New Section R1-6-203 renumbered from R1-6-112 and amended by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3).

R1-6-204. Submitting an Approved Regular or Expedited Rule with Changes

- A.** If a final regular or expedited rule is approved by the Council with changes, an agency shall deliver to the Council office within 14 calendar days after Council approval, unless a later date is arranged under subsection (B), one paper copy and one electronic copy of each document that follows, prepared in the manner required by this Chapter and the rules of the Office of the Secretary of State:
1. A letter identifying each change made at the direction of the Council; and
 2. The following rulemaking documents:
 - a. Notice of Final Rulemaking or Notice of Final Expedited Rulemaking, as applicable; and
 - b. Economic, small business, and consumer impact statement, if applicable.
- B.** If an agency is unable to deliver an approved regular rule or expedited rule to the Council office within the time specified in subsection (A), the agency shall contact the Council office in writing and arrange to submit the approved rule at a later date.

Historical Note

Adopted effective March 16, 1988 (Supp. 88-1).
Repealed effective May 25, 1995 (Supp. 95-2). New Section R1-6-204 renumbered from R1-6-107 and amended by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3).

R1-6-205. Filing a Regular or Expedited Rule Approved by the Council

- A.** If the Council approves a final regular or expedited rule as submitted, an agency shall print the Council's scanned original certificate of approval, the approved notice and, if applicable, the approved economic, small business, and consumer impact statement, transmitted by e-mail to the agency by Council staff, and file the final regular or expedited rule according to the rules of the Office of the Secretary of State. The Council shall file with the Office of the Secretary of State the original certificate of approval, specifying the Sections approved and the date of Council approval. The Council shall transmit by e-mail the Council's scanned original certificate of approval to the Office of the Secretary of State.
- B.** If the Council approves a final regular or expedited rule subject to the agency making changes as directed by the Council, and the agency submits the documents required by R1-6-204:
1. Council staff shall verify whether each change required by the Council was made.
 2. Once Council staff notifies the agency that the verification process is complete, the agency shall print the notice and, if applicable, the economic, small business, and consumer impact statement, approved as revised, as well as the Council's scanned original certificate of approval,

transmitted by e-mail to the agency by Council staff, and file the final regular or expedited rule according to the rules of the Office of the Secretary of State. The Council shall file with the Office of the Secretary of State the original of a certificate of approval, specifying the Sections approved and the date of Council approval. The Council shall transmit by e-mail the Council's scanned original certificate of approval to the Office of the Secretary of State.

3. If an agency submits a revised preamble, table of contents, rule, or economic, small business, and consumer impact statement that does not contain the exact words approved by the Council, Council staff shall notify the agency and require that the items be submitted as approved or schedule the matter for reconsideration by the Council.
- C. Except as specified in subsection (B), an agency shall not make any change to a preamble, table of contents, rule, economic, small business, and consumer impact statement, or materials incorporated by reference after Council approval.

Historical Note

Adopted effective March 16, 1988 (Supp. 88-1).
Repealed effective May 25, 1995 (Supp. 95-2). New Section R1-6-205 renumbered from R1-6-108 and amended by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3).

R1-6-206. Returned Rules

The Council may vote to return a preamble, table of contents, rule, or economic, small business, and consumer impact statement under A.R.S. § 41-1052(C), after identifying the manner in which the returned portion does not meet the standards at A.R.S. § 41-1052(D) through (G).

1. The Council may schedule a date for resubmission in consultation with the agency representative.
2. An agency shall resubmit the notice, with a revised preamble, table of contents, or rule or the economic, small business, and consumer impact statement, or both to the Council, and attach to each resubmitted document a letter that:
 - a. Identifies all changes made in response to the Council's explanation for the returned portion,
 - b. Explains how the changes ensure that the document meets the standards at A.R.S. § 41-1052(D) through (G), and
 - c. If applicable, shows that the resubmitted rule is not substantially different from the proposed rule under the standards in A.R.S. § 41-1025.
3. In accordance with R1-6-104, an agency representative shall appear at the Council meeting at which the resubmitted notice, with a revised preamble, table of contents, or rule, or economic, small business, and consumer impact statement is to be considered for legal action.

Historical Note

Adopted effective March 16, 1988 (Supp. 88-1).
Repealed effective May 25, 1995 (Supp. 95-2). New Section R1-6-206 renumbered from R1-6-109 and amended by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3).

R1-6-207. Petition Regarding an Economic, Small Business and Consumer Impact Statement under A.R.S. § 41-1055(E)

- A. Under A.R.S. § 41-1055(E), an agency may petition the Council for a determination that the agency is not required to file an economic, small business and consumer impact statement for a regular rule. The agency shall file a petition in the form of a letter, signed by the agency head. The agency representative

filing the petition shall deliver to the Council office both an original and one electronic copy of the petition. The petition shall contain:

1. The name, mailing address, e-mail address, telephone number, and fax number, if any, of the agency and the agency representative filing the petition;
 2. The statutory authority under which petition is allowed;
 3. A statement that the agency is seeking a determination that it is not required to file an economic, small business and consumer impact statement;
 4. The reasons why the petition should be granted, based on an analysis of the factors in A.R.S. § 41-1055(E).
- B. The petition shall be printed on one side, not exceed five double-spaced or space-and-a-half pages, and be in a clear and legible typeface from 9 to 12 point. The Chair may allow for a different format, based on a written explanation by the agency of why a different format is necessary.
- C. The Council shall place the petition on the agenda of its next meeting if at least four Council members request that the matter be considered within 14 days after the filing of the petition. The Chair or the Chair's designee shall provide written notification to the agency that the Council is considering the petition.
- D. Within seven calendar days after the Council's decision on the petition, the Chair shall send a letter to notify the affected agency head of the Council's decision, including the reasons for and date of the decision.

Historical Note

New Section R1-6-207 made by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3).

ARTICLE 3. FIVE-YEAR REVIEW REPORTS

R1-6-301. Five-year Review Report

- A. To submit a five-year review report for consideration by the Council, an agency shall deliver to the Council office an original cover letter signed by the agency head; one set of paper documents and one set of electronic documents, prepared in the manner required by this subsection and subsections (C) and (D). The agency shall ensure that the submission contains one paper copy and one electronic copy of the five-year review report required by A.R.S. § 41-1056, including rules made pursuant to an exemption, in whole or in part, from A.R.S. Title 41, Chapter 6. Consistent with subsection (B), the agency shall concisely analyze and provide the following information in the five-year review report in the following order for each rule:
1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules;
 2. Objective of the rule, including the purpose for the existence of the rule;
 3. Effectiveness of the rule in achieving the objective, including a summary of any available data supporting the conclusion reached;
 4. Consistency of the rule with state and federal statutes and other rules made by the agency, and a listing of the statutes or rules used in determining the consistency;
 5. Agency enforcement policy, including whether the rule is currently being enforced and, if so, whether there are any problems with enforcement;
 6. Clarity, conciseness, and understandability of the rule;
 7. Summary of the written criticisms of the rule received by the agency within the five years immediately preceding the five-year review report, including letters, memoranda, reports, written analyses submitted to the agency questioning whether the rule is based on valid scientific or reliable principles or methods, and written allegations

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made in litigation or administrative proceedings in which the agency was a party that the rule is discriminatory, unfair, unclear, inconsistent with statute, or beyond the authority of the agency to enact, and the result of the litigation or administrative proceedings;

8. A comparison of the estimated economic, small business, and consumer impact of the rule with the economic, small business, and consumer impact statement prepared on the last making of the rule or, if no economic, small business, and consumer impact statement was prepared on the last making of the rule, an assessment of the actual economic, small business, and consumer impact of the rule;
 9. Any analysis submitted to the agency by another person regarding the rule's impact on this state's business competitiveness as compared to the competitiveness of businesses in other states;
 10. If applicable, how the agency completed the course of action indicated in the agency's previous five-year review report;
 11. A determination after analysis that the probable benefits of the rule within this state outweigh the probable costs of the rule, and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective;
 12. A determination after analysis that the rule is not more stringent than a corresponding federal law unless there is statutory authority to exceed the requirements of that federal law;
 13. For a rule adopted after July 29, 2010, that requires issuance of a regulatory permit, license or agency authorization, whether the rule complies with A.R.S. § 41-1037; and
 14. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency determines it is necessary to amend or repeal an existing rule, or to make a new rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule.
- B.** To avoid repetition, an agency shall use a narrative format rather than a tabular format to present the information in the report. The narrative shall be organized according to the categories in subsection (A). For subsection (A)(2), the agency shall provide a specific objective, including the purpose for the existence of each individual rule. Within the remaining categories, an agency shall analyze each rule individually or, if the analysis for each rule is the same, consolidate the analysis, either by article or for all rules in the report. If the analysis for a category is identical for all of the rules in a report, the agency shall specify that the analysis within that category applies to all of the rules in the report. If the analysis for a category is identical for all of the rules in an article, the agency shall specify that the analysis within that category applies to all of the rules in the article.
- C.** In addition to the documents required in subsection (A), an agency shall submit one paper copy and one electronic copy of the cover letter. The cover letter shall provide the following information:
1. A person to contact for information regarding the report,
 2. Any rule that is not reviewed with the intention that the rule will expire under A.R.S. § 41-1056(J),
 3. Any rule that is not reviewed because the Council rescheduled the review of an article under A.R.S. § 41-1056(H), and
 4. The certification that the agency is in compliance with A.R.S. § 41-1091.
- D.** In addition to the documents required in subsections (A) and (C), an agency shall submit one electronic copy of the following reference documents:
1. Rules being reviewed;
 2. General and specific statutes authorizing the rules, including any statute that authorizes the agency to make rules; and
 3. If an economic, small business, and consumer impact statement was prepared on the last making of a rule being reviewed, the economic, small business, and consumer impact statement for the rule.
- E.** After a five-year review report is placed on a Council agenda, Council staff shall review the report for compliance with the requirements of A.R.S. § 41-1056 and this Chapter and may ask questions or suggest changes to the agency. If the agency revises any document in response to a question or suggested change, the agency shall submit one paper copy and one electronic copy of the revised document to the Council for review, according to the schedule established by R1-6-103.
- F.** After a five-year review report is placed on a Council agenda, an agency may have the report moved to the agenda of a later meeting by having the agency head send a written notice to the Chair that includes the date of the later meeting. If the agency makes a subsequent request to have a five-year review report moved, the Chair may grant or deny the request at the Chair's discretion.
- G.** A person may submit written comments to the Council that are within the scope of subsection (A). The Council may also permit testimony at a Council meeting within the scope of subsection (A).

Historical Note

Adopted effective April 3, 1996 (Supp. 96-2). Former Section R1-6-301 renumbered to R1-6-302; new Section R1-6-301 adopted by final rulemaking at 6 A.A.R. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 5538, effective December 2, 2003 (Supp. 03-4). R1-6-301 renumbered to R1-6-501; new R1-6-301 renumbered from R1-6-111 and amended by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3).

R1-6-302. Rescheduling a Five-year Review Report

- A.** To request that a five-year review report be rescheduled under A.R.S. § 41-1056(H), an agency head shall submit a letter to the Chair before the report is due that includes the following information:
1. The title, chapter, and article of the rules for which rescheduling is sought;
 2. Whether the rules were initially made or substantially revised with an effective date that is within two years before the due date of the report; and
 - a. If substantially revised:
 - i. A description of the revisions,
 - ii. Why the revisions are believed to be substantial, and
 - iii. The date on which the rules were published in the *Register* by the Office of the Secretary of State and the effective date of the rules; or
 - b. If initially made, the date on which the rules were published in the *Register* by the Office of the Secretary of State and the effective date of the rules.
- B.** The Chair, in the Chair's discretion, may grant the rescheduling of a five-year review report if all rules within an article meet the requirements of this Section.

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- C. The Chair may, on the Chair's own initiative, reschedule a five-year review report if all rules within an article meet the requirements of this Section.

Historical Note

New Section renumbered from R1-6-301 and amended by final rulemaking at 6 A.A.R. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 5538, effective December 2, 2003 (Supp. 03-4).

R1-6-302 renumbered to R1-6-502; new R1-6-302 renumbered from R1-6-113 and amended by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3).

R1-6-303. Extension of the Due Date for a Five-year Review Report

- A. An agency may obtain an extension of 120 days to submit a five-year review report by filing a written notice of extension with the Council before the due date of the report. The agency shall specify in the notice the reason for the extension.
- B. An agency may, as an alternative, request a longer extension that is more than 120 days but does not exceed 180 days by sending a written request to the Chair at least 40 days prior to the due date of the report. The agency shall specify the length of the requested extension and the reason for the requested extension.
1. A request for an extension that is more than 120 days but does not exceed 180 days shall be placed on the agenda of a Council meeting scheduled to occur prior to the due date of the report.
 2. Council shall consider the reason for the requested extension and may grant a request for an extension that is more than 120 days but does not exceed 180 days.

Historical Note

New Section R1-6-303 renumbered from R1-6-114 and amended by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3).

R1-6-304. Petition under A.R.S. § 41-1056(M) for an Agency to Consider Including an Obsolete Rule in a Scheduled Five-year Review Report with Recommendation for Repeal

- A. A person shall file a petition under A.R.S. § 41-1056(M) at least 60 days before the original due date of the five-year review report in which the rule is scheduled to be reviewed. The person filing the petition shall deliver to the Council office both an original and one electronic copy of a petition in the form of a letter. The petition shall be signed by the person filing the petition, and shall contain:
1. The name, mailing address, e-mail address, and fax and telephone numbers of the person filing the petition;
 2. The name of the person being represented by the person filing the petition, if applicable;
 3. A statement of why the rule is obsolete and should be repealed; and
 4. A statement of how the person is regulated or could be regulated by the rule.
- B. The petition shall be printed on one side, not exceed five double-spaced or space-and-a-half pages, and be in a clear and legible typeface from 9 to 12 point.
- C. The Council shall notify the agency head of the petition by 5:00 p.m. of the business day following receipt of the petition. Within 14 days of the date the petition is filed the agency shall file an original and one electronic copy of a response, in the form of a letter, signed by the agency head, that either:
1. Indicates the agency will consider including the rule in the five-year review report with a recommendation for repeal, or

2. Includes a statement of why the rule is not obsolete and should not be repealed.

- D. The Council shall schedule the petition for the next Council meeting as soon as practicable after receipt of the agency's response under subsection (C) if the agency's response states that the rule is not obsolete and should not be repealed.
- E. Within seven calendar days after the Council's decision on the petition, the Chair shall send a letter to the affected agency head and the person filing the petition advising them of the Council's decision, including the reasons for and date of the decision.

Historical Note

New Section R1-6-304 renumbered from R1-6-115 and amended by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3).

R1-6-305. Returned Five-year Review Reports

The Council may vote to return, in whole or in part, a five-year review report after identifying the manner in which the five-year review report does not meet the standards in A.R.S. § 41-1056(A).

1. The Council, in consultation with the agency, shall schedule submission of a revised report.
2. An agency submitting a revised five-year review report shall attach to the revised report a letter that:
 - a. Identifies all changes made in response to the Council's explanation for return of the five-year review report, and
 - b. Explains how the changes ensure that the five-year review report meets the standards in A.R.S. § 41-1056(A).

Historical Note

New Section R1-6-305 made by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3).

ARTICLE 4. APPEAL OF A DELEGATION AGREEMENT**R1-6-401. Appeal of a Delegation Agreement**

- A. Under A.R.S. § 41-1081(F), a person appealing an agency's decision to enter into a delegation agreement shall file in the Council office an original and one electronic copy of an appeal. The appeal shall consist of an original letter, signed by the person filing the appeal, that includes the following:
1. All written objections to the delegation agreement submitted to the delegating agency by the person filing the appeal;
 2. The name, mailing address, and e-mail address of each agency and each political subdivision entering into the delegation agreement;
 3. The name, mailing address, e-mail address, fax and telephone numbers of the person filing the appeal;
 4. The name of the person being represented by the person filing the appeal, if applicable;
 5. The subject matter of the delegation agreement; and
 6. The reasons why the person is objecting to the delegation agreement and filing the appeal.
- B. The head of an agency whose delegation agreement is being appealed shall file in the Council office an original and one electronic copy of a response. The response shall contain an original transmittal letter, signed by the agency head and the following:
1. A memorandum that includes:
 - a. The date the delegating agency gave written notice of the decision to enter into the delegation agreement;
 - b. The dates of all public proceedings regarding the delegation agreement; and

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- c. The name, mailing address, e-mail address, fax and telephone numbers of each agency and each political subdivision contact person.
 - 2. The delegation agreement; and
 - 3. The agency's written summary, prepared as required by A.R.S. § 41-1081(E), responding to all oral or written comments received by the agency regarding the delegation agreement.
- C.** The appeal and response letters in subsections (A) and (B) and the memorandum in subsection (B)(1) shall each be printed on one side, not exceed five double-spaced or space-and-a-half pages, and be in a clear and legible typeface from 9 to 12 point. The Chair may allow for a different format, based on a written explanation by the person or agency of why a different format is necessary.
- D.** The Council shall notify the delegating agency head of an appeal of a delegation agreement by 5:00 p.m. of the business day following receipt of the appeal letter. The agency head shall file in the Council office the information and documents listed in subsection (B) no later than 5:00 p.m. on the third business day following notification by the Council of the appeal.
- E.** Within 14 calendar days after an appeal is filed with the Council, the Chair shall send written notice to the person filing the appeal and the delegating agency head stating whether three Council members have requested that the appeal be considered at a Council meeting. If an appeal is to be considered at a Council meeting, the notice shall include the date and time of the Council meeting.
- F.** Within seven calendar days after the Council approves or disapproves a delegation agreement that has been appealed, the Chair shall send a letter to the delegating agency head and person filing the appeal that specifies the reasons for the approval or disapproval and the date of the Council decision.
- a. Statement of the rulemaking action sought, including the *Arizona Administrative Code* citation of all existing rules, and the specific language of a new rule or rule amendment; and
 - b. Reasons for the rulemaking action, including an explanation of why an existing rule is inadequate, unreasonable, unduly burdensome, or unlawful;
4. If the petition is for a review of an existing practice or substantive policy statement:
- a. Subject matter of the existing practice or substantive policy statement, and
 - b. Reasons why the existing practice or substantive policy statement constitutes a rule.
- C.** The petition shall be printed on one side, not exceed five double-spaced or space-and-a-half pages, and be in a clear and legible typeface from 9 to 12 point. The Chair may allow for a different format, based on a written explanation by the person of why a different format is necessary.
- D.** A person may submit supporting information with a petition, including:
- 1. Statistical data; and
 - 2. A list of other persons likely to be affected by the rulemaking action or the review, with an explanation of the likely effects.
- E.** The Council shall send a letter in response to the petition within 60 calendar days of the date the Council receives the petition.

Historical Note

New Section made by final rulemaking at 17 A.A.R. 1410, effective September 5, 2011 (Supp. 11-3). R1-6-501 renumbered to R1-6-701; new Section R1-6-501 renumbered from R1-6-301 and amended by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3).

R1-6-502. Appeal of an Existing Agency Practice or Substantive Policy Statement

- A.** Under A.R.S. § 41-1033(B), a person may appeal an agency's final decision regarding a petition for review of an existing agency practice or substantive policy statement. The person shall file with the Council office an original and one electronic copy of an appeal within 30 days after the agency gives written notice of its decision. The appeal shall consist of:
- 1. A letter, signed by the person filing the appeal, which includes the following:
 - a. Name of the agency;
 - b. Name, mailing address, e-mail address, telephone number, and fax number, if any, of the person filing the appeal;
 - c. Name of the person being represented by the person filing the appeal;
 - d. Subject matter of the existing agency practice or substantive policy statement being appealed; and
 - e. Reasons why the existing agency practice or substantive policy statement constitutes a rule.
 - 2. The petition requesting a review of the agency's existing practice or substantive policy statement; and
 - 3. The agency's written decision that is being appealed.
- B.** The Council shall notify the affected agency head of an appeal of an agency's decision regarding a petition for review of an existing agency practice or a substantive policy statement by 5:00 p.m. of the business day following receipt of the appeal. The agency shall file in the Council office the information and documents listed in subsection (C) no later than 5:00 p.m. on the third business day following notification by the Council of the appeal.

ARTICLE 5. PETITION FOR REVIEW OR APPEAL OF AN AGENCY PRACTICE OR SUBSTANTIVE POLICY STATEMENT**R1-6-501. Petition for Council Rulemaking or Review**

- A.** A person may petition the Council under A.R.S. § 41-1033(A) for a:
- 1. Rulemaking action relating to a Council rule, including making a new rule or amending or repealing an existing rule; or
 - 2. Review of an existing Council practice or substantive policy statement alleged to constitute a rule.
- B.** To act under A.R.S. § 41-1033(A) and this Section, a person shall submit to the Council office a petition, in the form of a letter, signed by the person submitting the petition, that includes the following information:
- 1. Name, mailing address, email address, telephone number, and fax number, if any, of the person submitting the petition;
 - 2. Name of any person represented by the person submitting the petition;
 - 3. If the petition is for rulemaking action:

- C. The head of an agency whose final decision is being appealed shall file in the Council office an original and one electronic copy of a response. The response shall contain an original transmittal letter, signed by the agency head, and the following:
1. A memorandum that includes:
 - a. Date the agency gave written notice of its decision under A.R.S. § 41-1033(A);
 - b. Name, mailing address, e-mail address, telephone number, and fax number, if any, of each agency contact person; and
 - c. Reasons why the agency believes that the existing agency practice or substantive policy statement does not constitute a rule.
 2. The existing agency practice or substantive policy statement being appealed; and
 3. If a petition other than that of the appellant was submitted to the agency, requesting a review of the same existing practice or substantive policy statement being appealed:
 - a. The other petition, and
 - b. The agency's written decision regarding the other petition.
- D. The appeal and response letters in subsections (A)(1) and (C) and the memorandum in subsection (C)(1) shall each be printed on one side, not exceed five double-spaced or space-and-a-half pages, and be in a clear and legible typeface from 9 to 12 point. The Chair may allow for a different format, based on a written explanation by the person or agency of why a different format is necessary.
- E. Within 14 calendar days after an appeal is filed with the Council, the Chair shall send written notice to the person filing the appeal and the affected agency head stating whether three Council members have requested that the appeal be considered at a Council meeting. If the appeal is to be considered at a Council meeting, the notice shall include the date and time of the Council meeting.
- F. Within seven calendar days after the Council decides whether the agency practice or substantive policy statement constitutes a rule, the Chair shall send a letter to the affected agency head and the person filing the appeal that specifies the decision and the reasons for and date of the Council decision.
- i. Under A.R.S. § 41-1056.01(A)(1), the actual economic, small business, or consumer impact significantly exceeded the estimated impact; or
 - ii. Under A.R.S. § 41-1056.01(A)(2), the actual economic, small business, or consumer impact was not estimated on adoption of the rule; and the impact imposes a significant burden on persons subject to the rule; or
 - iii. Under A.R.S. § 41-1056.01(A)(3), the agency did not select the alternative that imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.
2. A copy of the economic, small business, and consumer impact statement being addressed in the appeal; and
 3. The data, if any, used by the person appealing to support the reasons listed under subsection (A)(1)(e).
- B. The Council shall notify the affected agency head of an appeal of the agency's decision on whether to initiate a rulemaking under A.R.S. § 41-1056.01(C) by 5:00 p.m. of the business day following receipt of the appeal. The affected agency head shall file in the Council office the information and documents listed in subsection (C) no later than 5:00 p.m. on the third business day following notification by the Council of the appeal.
- C. The head of an agency whose final decision is being appealed shall file in the Council office an original and one electronic copy, of a response. The response shall contain an original transmittal letter, signed by the agency head, and the following:
1. A memorandum that includes:
 - a. Date of publication of the agency's final decision under A.R.S. § 41-1056.01(C);
 - b. Name, mailing address, e-mail address, telephone number, and fax number, if any, of each agency contact person;
 - c. Reasons why the agency believes that:
 - i. The actual economic, small business, and consumer impact did not significantly exceed the estimated economic, small business, and consumer impact;
 - ii. The actual economic, small business, and consumer impact was estimated on approval of the rule and the impact does not impose a significant burden on persons subject to the rule; or
 - iii. The agency selected the alternative that imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.
 2. A copy of final judgments, if any, issued by a court of competent jurisdiction that are based on whether the contents of the rule's economic, small business, and consumer impact statement were insufficient or inaccurate;
 3. A copy of the rule being appealed; and
 4. The agency's written summary of comments received, the agency's response to those comments, and the final decision of agency on whether to initiate rulemaking, prepared and published as required by A.R.S. § 41-1056.01(C).
- D. The appeal and response letters in subsections (A)(1) and (C) and the memorandum in subsection (C)(1) shall each be printed on one side, not exceed five double-spaced or space-and-a-half pages, and be in a clear and legible typeface from 9 to 12 point. The Chair may allow for a different format, based

Historical Note

New Section R1-6-502 renumbered from R1-6-302 and amended by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3).

ARTICLE 6. APPEAL OF AN ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENT

R1-6-601. Appeal of an Economic, Small Business, and Consumer Impact Statement

- A. A person appealing an agency's final decision on whether to initiate a rulemaking under A.R.S. § 41-1056.01(D), shall file in the Council office an original and one electronic copy of an appeal. The appeal shall consist of:
1. An original letter, signed by the person filing the appeal, citing the rule or rules being appealed and:
 - a. Name of the agency upon which the appeal is taken;
 - b. Name, mailing address, e-mail address, telephone number, and fax number, if any, of the person filing the appeal;
 - c. Name of the person being represented by the person filing the appeal, if applicable;
 - d. How the person filing the appeal is or may be affected by the agency's final decision made under A.R.S. § 41-1056.01(C); and
 - e. Why the person appealing believes that:

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on a written explanation by the person or agency of why a different format is necessary.

- E. Within 14 calendar days after an appeal is filed with the Council, the Chair shall send written notice to the person filing the appeal and the affected agency head stating whether three Council members have requested that the appeal be considered at a Council meeting. If the appeal is to be considered at a Council meeting, the notice shall include the date and time of the Council meeting.
- F. Within seven calendar days after the Council decides whether one or more of the provisions in A.R.S. § 41-1056.01(A) are met, the Chair shall send a letter to the affected agency head and the person filing the appeal that specifies the decision, the reasons for and date of the Council decision, and the action, if any, required by the agency.

Historical Note

New Section R1-6-601 renumbered from R1-6-401 and amended by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3).

ARTICLE 7. EARLY REVIEW PETITION**R1-6-701. Early Review Petition of a Proposed Rule**

- A. Under A.R.S. § 41-1052(B), a person may file an early review petition with Council, in the form of a letter signed by the person filing the petition, after a proposed rule is published in the *Register* but before the rule is filed with Council as a final rule under R1-6-201 or R1-6-202.
- B. The person filing a petition shall deliver to the Council office both an original and one electronic copy of the petition. The petition shall contain:
 1. The name, mailing address, e-mail address, and fax and telephone numbers of the person filing the petition;
 2. The name of the person being represented by the person filing the petition, if applicable;
 3. An explanation of how the proposed rule violates any of the criteria in A.R.S. § 41-1052(D);
 4. An explanation of why the Council should consider the petition at the proposed rulemaking stage; and
 5. An explanation of how the person would be adversely affected by the proposed rule.
- C. The petition shall be printed on one side, not exceed five double-spaced or space-and-a-half pages and be in a clear and legible typeface from 9 to 12 point. The Chair may allow for a different format, based on a written explanation by the person of why a different format is necessary.
- D. The Council shall notify the agency head of the petition by 5:00 p.m. of the business day following receipt of the petition. Within 14 days of the date the petition is filed the agency shall file an original and one electronic copy of a response, in the form of a letter signed by the agency head. The response letter shall contain:
 1. An explanation of why the proposed rule does not violate any of the criteria in A.R.S. § 41-1052(D);
 2. If applicable, an explanation of why the person would not be adversely affected by the proposed rule; and
 3. An explanation of why the rulemaking should be permitted to proceed to final rulemaking.
- E. An early review petition filed under this Section does not stay the rulemaking process.
- F. The Council shall consider the petition at a scheduled Council meeting as soon as practicable after receipt of the agency's response under subsection (D).
- G. Within seven calendar days after the Council considers the petition, the Chair shall send a letter to the affected agency head and the person filing the petition, advising them of the

Council's decision, including the reasons for and date of the decision.

Historical Note

New Section R1-6-701 renumbered from R1-6-501 and amended by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3).

ARTICLE 8. REQUEST OR PETITION REGARDING A FEE ESTABLISHED OR INCREASED BY EXEMPT RULEMAKING**R1-6-801. Request for Extension of the Two Year Time Period under A.R.S. § 41-1008(E) for Charging or Receiving a Fee Established or Increased by Exempt Rulemaking**

- A. An agency may obtain an extension of the two year time period during which a fee established or increased by exempt rulemaking is effective by filing a written request for an extension under A.R.S. § 41-1008(E). The agency shall file a request, in the form of a letter, signed by the agency head, before expiration of the two year time period established in the statute so that the request may be considered at a regularly scheduled Council meeting. The agency representative filing the request shall deliver to the Council office both an original and one electronic copy of the request. The request shall contain:
 1. The name, mailing address, e-mail address, telephone number, and fax number, if any, of the agency and the agency representative filing the request;
 2. The statutory authority under which the request is allowed;
 3. The extended time period sought;
 4. The reasons why the request should be considered and the two year time period extended; and
 5. Other supporting information, such as statistical data or a description of persons likely to be adversely affected if the request is denied, if applicable.
- B. The request shall be printed on one side, not exceed five double-spaced or space-and-a-half pages, and be in a clear and legible typeface from 9 to 12 point. The Chair may allow for a different format, based on a written explanation by the agency of why a different format is necessary.
- C. The Council shall schedule consideration of the request for a Council meeting as soon as practicable after receipt of the agency's request.
- D. Within seven calendar days after the Council's decision on the request, the Chair shall provide written notification of the Council's decision to the affected agency, including the reasons for and date of the decision.

Historical Note

New Section R1-6-801 made by final rulemaking at 19 A.A.R. 2731, effective October 5, 2013 (Supp. 13-3).

R1-6-802. Petition for an Alternative Expiration Date under A.R.S. § 41-1008(G)

- A. Under A.R.S. § 41-1008(G), a person regulated by a fee established or increased by exempt rulemaking from and after September 30, 2012, may petition the Council to establish an expiration date that is different than the two year or the extended expiration date under A.R.S. § 41-1008(E), but no earlier than two years after the exempt rule is made. The person shall file a petition, in the form of a letter, signed by the person making the petition, before expiration of the two year time period or the extended time period so that the petition may be considered at a regularly scheduled Council meeting. The person filing the petition shall deliver to the Council office both an original and one electronic copy of the petition. The petition shall contain:

1. The name, mailing address, e-mail address, telephone number, and fax number, if any, of the person filing the petition and any person representing the petitioner's interest, if applicable;
 2. The statutory authority under which petition is allowed;
 3. The expiration date sought;
 4. The reasons why the petition should be heard and a different expiration date selected;
 5. An explanation of how the person is regulated by the fee rule; and
 6. Other supporting information, such as statistical data or a description of persons likely to be adversely affected if the petition is denied, if applicable.
- B.** The petition shall be printed on one side, not exceed five double-spaced or space-and-a-half pages, and be in a clear and legible typeface from 9 to 12 point. The Chair may allow for a different format, based on a written explanation by the person of why a different format is necessary.
- C.** The Council shall notify the agency of the petition by 5:00 p.m. of the business day following receipt of the petition. Within 14 days of the date the petition is filed the agency shall file an original and one electronic copy of a response, in the form of a letter signed by the agency head, indicating whether the agency:
1. Agrees with the expiration date proposed by the petitioner, or
 2. Disagrees with the expiration date proposed by the petitioner and providing any reasons for denying the petition.
- D.** The Council shall schedule the petition for a Council meeting as soon as practicable, but no later than 60 days after receipt of the agency's response under subsection (C).
- E.** Within seven calendar days after the Council's decision on the petition, the Chair shall send a letter to the affected agency head and the person filing the petition, advising them of the Council's decision, including the reasons for and date of the decision.

Historical Note

New Section R1-6-802 made by final rulemaking at 19
A.A.R. 2731, effective October 5, 2013 (Supp. 13-3).