

## NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

### NOTICE OF PROPOSED RULEMAKING

#### TITLE 1. RULES AND THE RULEMAKING PROCESS

#### CHAPTER 6. GOVERNOR'S REGULATORY REVIEW COUNCIL

*Editor's Note: The following Notice of Proposed Rulemaking was reviewed per Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 896.) The Governor's Office authorized the notice to proceed through the rulemaking process on June 4, 2012.*

[R13-49]

#### PREAMBLE

| <u>1. Article, Part, or Section Affected (as applicable)</u> | <u>Rulemaking Action</u> |
|--|--------------------------|
| Article 1  | Amend                    |
| R1-6-101   | Amend                    |
| R1-6-102   | Amend                    |
| R1-6-103   | Amend                    |
| R1-6-104   | Renumber                 |
| R1-6-104   | Amend                    |
| R1-6-105   | Repeal                   |
| R1-6-106   | Repeal                   |
| R1-6-107   | Renumber                 |
| R1-6-108   | Renumber                 |
| R1-6-109   | Renumber                 |
| R1-6-110   | Renumber                 |
| R1-6-111   | Renumber                 |
| R1-6-112   | Renumber                 |
| R1-6-113   | Renumber                 |
| R1-6-114   | Renumber                 |
| R1-6-115   | Renumber                 |
| Article 2  | Amend                    |
| R1-6-201   | Renumber                 |
| R1-6-201   | Amend                    |
| R1-6-202   | New Section              |
| R1-6-203   | Renumber                 |
| R1-6-203   | Amend                    |
| R1-6-204   | Renumber                 |
| R1-6-204   | Amend                    |
| R1-6-205   | Renumber                 |
| R1-6-205   | Amend                    |
| R1-6-206   | Renumber                 |
| R1-6-206   | Amend                    |
| R1-6-207   | New Section              |
| Article 3  | Amend                    |
| R1-6-301   | Renumber                 |
| R1-6-301   | Amend                    |
| R1-6-302   | Renumber                 |
| R1-6-302   | Amend                    |
| R1-6-303   | Renumber                 |
| R1-6-303   | Amend                    |

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|           |             |
|-----------|-------------|
| R1-6-304  | Renumber    |
| R1-6-304  | Amend       |
| R1-6-305  | New Section |
| Article 4 | Amend       |
| R1-6-401  | Renumber    |
| R1-6-401  | Amend       |
| Article 5 | Amend       |
| R1-6-501  | Renumber    |
| R1-6-501  | Amend       |
| R1-6-502  | Renumber    |
| R1-6-502  | Amend       |
| Article 6 | New Article |
| R1-6-601  | Renumber    |
| R1-6-601  | Amend       |
| Article 7 | New Article |
| R1-6-701  | Renumber    |
| R1-6-701  | Amend       |
| Article 8 | New Article |
| R1-6-801  | New Section |
| R1-6-802  | New Section |

**2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**

Authorizing statute: A.R.S. § 41-1051(E)

Implementing statutes: A.R.S. §§ 41-1008(E) and (G), 41-1027, 41-1055(E)

**3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:**

Notice of Rulemaking Docket Opening: 18 A.A.R. 1502, June 29, 2012

**4. The agency's contact person who can answer questions about the rulemaking:**

Name: Scott Cooley  
Address: 100 North 15th Ave., Suite 402  
Phoenix, AZ 85007  
Telephone: (602) 542-2058  
Fax: (602) 542-1486  
E-mail: scott.cooley@azdoa.gov  
Web site: http://grrc.az.gov

**5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**

The Governor's Regulatory Review Council (Council) is amending the rules in 1 A.A.C. 6 to implement changes made to the Administrative Procedure Act (A.R.S. Title 41, Chapter 6) by HB 2744 in 2012, Second Regular Session (Laws 2012, Ch. 352). The rulemaking will make citation references consistent with current statute and improve the clarity and conciseness of the rules. In addition, the Council is updating the rules to complete actions proposed in the last five-year review report, approved on July 7, 2009.

Laws 2012, Ch. 232 added statutory provisions related to expedited rulemaking and provided new avenues for requesting action from the Council. A new section added by this rulemaking establishes the procedures for a person submitting an expedited rule under A.R.S. § 41-1027 (R1-6-202). Three other new sections add petition or request procedures relating to an 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 (R1-6-801), establishment under A.R.S. § 41-1008(G) of an expiration date that is different than the two year or the extended expiration date (R1-6-802), and the Council determining whether an agency is required to file an economic, small business and consumer impact statement under A.R.S. § 41-1055(E) (R1-6-207).

**6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

None

**7. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**8. The preliminary summary of the economic, small business, and consumer impact:**

The primary economic impact of the rules is from providing procedures necessary to implement recent statutory changes. A new section added by this rulemaking establishes the procedures for a person submitting an expedited rule under A.R.S. § 41-1027 (R1-6-202). Three other new sections add petition or request procedures relating to an 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 (R1-6-801), establishment under A.R.S. § 41-1008(G) of an expiration date that is different than the two year or the extended expiration date (R1-6-802), and the Council determining whether an agency is required to file an economic, small business and consumer impact statement under A.R.S. § 41-1055(E) (R1-6-207). Additional changes to clarify existing rules should have a beneficial economic impact on all users of the rules. The rulemaking will apply to all state agencies subject to Council review, currently estimated at 110 agencies. The rulemaking will also apply to members of the public filing appeals with the Council or making comments, including objections under A.R.S. § 41-1027, on a rulemaking or five-year review report submitted to the Council.

The economic impact of the rulemaking is expected to be minimal (less than \$1,000) for all persons involved in the rulemaking, five-year review, and appeal processes. The rules establishing procedures for filing a new petition or request make the most efficient use of staff resources while providing necessary information to the Council in a timely fashion.

**9. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:**

Name: Allen Malanowski  
Address: 100 N. 15th Ave., Suite 402  
Phoenix, AZ 85007  
Telephone: (602) 542-2058  
Fax: (602) 542-1486  
E-mail: allen.malanowski@azdoa.gov  
Web site: http://grcc.az.gov

**10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

An oral proceeding on the proposed rules will be held as follows:

Date: May 29, 2013  
Time: 9:00 a.m.  
Location: 100 N. 15th Ave., Suite 402  
Phoenix, AZ 85007

Written comments regarding the proposed rules and the economic impact of the rules may be submitted to the person identified in item #4 until 5:00 p.m. on May 29, 2013.

**11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

None

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

The rules do not require issuance of a regulatory permit, license or agency authorization.

**b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**

There is no corresponding federal law that is applicable. The rules are being promulgated under state law.

**c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**

None

**12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**

None

**13. The full text of the rules follows:**

**TITLE 1. RULES AND THE RULEMAKING PROCESS**

**CHAPTER 6. GOVERNOR'S REGULATORY REVIEW COUNCIL**

**ARTICLE 1. GENERAL RULES OF PROCEDURE**

Section

- R1-6-101. Definitions  
R1-6-102. Meetings  
R1-6-103. Schedule and ~~Filing~~ Submission Deadlines  
~~R1-6-110~~ R1-6-104. Appearance by the Agency  
R1-6-105. ~~Submitting a Proposed Summary Rule~~ Repealed  
R1-6-106. ~~Placing a Final Summary Rule on the Council Agenda~~ Repealed

**ARTICLE 2. ~~DELEGATION AGREEMENTS~~ RULEMAKING PROCEDURES**

Section

- ~~R1-6-104~~ R1-6-201. ~~Placing~~ Submitting a Regular Rule on the Council Agenda  
R1-6-202. Submitting an Expedited Rule  
~~R1-6-112~~ R1-6-203. ~~Oral Testimony~~ and Written Comments  
~~R1-6-107~~ R1-6-204. Submitting an Approved Regular ~~or Expedited Rules~~ Rule with Changes  
~~R1-6-108~~ R1-6-205. Filing a Regular or Expedited Rules Rule Approved by the Council  
~~R1-6-109~~ R1-6-206. ~~Returned Rules and Five-year Review Reports~~  
R1-6-207. Petition Regarding an Economic, Small Business and Consumer Impact Statement under A.R.S. § 41-1055(E)

**ARTICLE 3. ~~AGENCY PRACTICE OR SUBSTANTIVE POLICY STATEMENTS~~ FIVE-YEAR REVIEW REPORTS**

Section

- ~~R1-6-111~~ R1-6-301. Five-year Review Report  
~~R1-6-113~~ R1-6-302. Rescheduling a Five-year Review Report  
~~R1-6-114~~ R1-6-303. Extension to ~~File~~ of the Due Date for a Five-year Review Report  
~~R1-6-115~~ R1-6-304. Petition under A.R.S. § 41-1056(~~IM~~) for an Agency to Consider Including an Obsolete Rule in a Scheduled Five-year Review Report with Recommendation for Repeal  
R1-6-305. Returned Five-year Review Reports

**ARTICLE 4. ~~APPEALS OF ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENTS~~ APPEAL OF A DELEGATION AGREEMENT**

Section

- ~~R1-6-201~~ R1-6-401. Appeal of a Delegation Agreement

**ARTICLE 5. ~~EARLY REVIEW PETITION~~ PETITION FOR REVIEW OR APPEAL OF AN AGENCY PRACTICE OR SUBSTANTIVE POLICY STATEMENT**

Section

- ~~R1-6-301~~ R1-6-501. Petition for Council Rulemaking or Review  
~~R1-6-302~~ R1-6-502. Appeal of an Existing Agency Practice or Substantive Policy Statement

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

Section

- ~~R1-6-401~~ R1-6-601. Appeal of an Economic, Small Business, and Consumer Impact Statement

**ARTICLE 7. EARLY REVIEW PETITION**

Section

- ~~R1-6-501~~ R1-6-701. Early Review Petition of a Proposed Rule

**ARTICLE 8. REQUEST OR PETITION REGARDING A FEE ESTABLISHED OR INCREASED BY EXEMPT RULEMAKING**

Section

- R1-6-801. Request for Extension of the Two Year Time Period under A.R.S. § 41-1008(E) for Charging or Receiving a

R1-6-802. Fee Established or Increased by Exempt Rulemaking  
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.
  - 4.5. "Open Meeting Law" means A.R.S. §§ ~~38-431 through 38-431.09~~ Title 38, Chapter 3, Article 3.1.
  6. "Paper copy" means a document submitted on paper.
  - 5-7. "Regular rule" means a rule made according to the procedures in A.R.S. §§ 41-1021, ~~41-1022 through 41-1025~~ 41-1024, 41-1028 through 41-1032, 41-1035, and 41-1052, and 41-1055.

**R1-6-102. Meetings**

- A. The Chair, in consultation with the Council, shall set ~~regular~~ monthly meeting dates of the Council for each calendar year by the preceding October 31 and shall post notice of each ~~regular~~ 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 ~~regular~~ 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 ~~regular~~ 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.

**R1-6-103. Schedule and ~~Filing~~ Submission Deadlines**

The Chair, in consultation with Council, shall establish for each calendar year, by the preceding October 31, a schedule containing ~~filing~~ 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.

~~R1-6-110~~ **R1-6-104. Appearance by the Agency**

- A. A representative of an agency shall appear at the Council meeting at which the ~~agency~~ agency's rule or five-year review report is to be considered for legal action 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~~ 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 ~~the a~~ a regular rule or report, in whole or in part, to the agency; ~~or~~
  3. Approve ~~the a~~ 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.

**R1-6-105. Submitting a Proposed Summary Rule Repealed**

~~To submit a proposed summary rule, an agency shall deliver to the Council office one copy of the following items, assembled in the following order and prepared in the manner required by this Chapter and the rules of the Office of the Secretary of State:~~

1. ~~Notice of Proposed Summary Rulemaking, including the preamble, table of contents for the proposed summary rulemaking, and text of the proposed summary rule filed with the Office of the Secretary of State as required by A.R.S. § 41-1027(B); and~~
2. ~~Statute that repeals or supersedes the authority under which the original rule was enacted or the statute that is repeated verbatim in the original rule or proposed summary rule.~~

**R1-6-106. Placing a Final Summary Rule on the Council Agenda Repealed**

~~To place a final summary rule on the Council agenda, an agency shall deliver to the Council office the following items, prepared in the manner required by this Chapter and the rules of the Office of the Secretary of State:~~

1. ~~The cover letter described in subsection (B)(1);~~

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2. Four paper copies of the Notice of Final Summary Rulemaking in subsection (B)(2) and the economic, small business, and consumer impact statement in subsection (B)(3);
  3. One original and three paper copies of an agency certificate prepared as provided in A.A.C. R1-1-105, except that the statement in A.A.C. R1-1-105(A)(3)(f) that no changes have been made since the Council approved the rule shall be omitted;
  4. Two paper copies of an agency receipt prepared as provided in A.A.C. R1-1-106; and
  5. A computer disk or CD that contains all the items listed in subsection (B) and the general and specific statutes authorizing the rule; or
  6. A computer disk or CD that contains the Notice of Final Summary Rulemaking in subsection (B)(2) and an electronic copy of all the items listed in subsection (B) and the general and specific statutes authorizing the rule.
- B.** An agency shall ensure that the rule package contains the following items assembled in the following order:
1. Cover letter signed by the agency head specifying:
    - a. The close of record date;
    - b. Whether the rulemaking relates to a five-year review report and, if applicable, the date the report was approved by the Council;
    - c. Whether an immediate effective date is requested for the rule under A.R.S. § 41-1032;
    - d. A certification that the preamble discloses a reference to any study relevant to the rule that the agency reviewed and either did or did not rely on in the agency's evaluation of or justification for the rule; and
    - e. A list of all items enclosed.
  2. Notice of Final Summary Rulemaking, required by A.A.C. R1-1-801, including the preamble, table of contents for the final summary rulemaking, and text of each final summary rule;
  3. Economic, small business, and consumer impact statement that:
    - a. Contains the information required by A.R.S. § 41-1055 or a statement that the rulemaking is exempt from this requirement under A.R.S. § 41-1055(D)(2); and
    - b. If applicable, contains an explanation of why repeal of the obsolete rule does not increase the cost of compliance under A.R.S. § 41-1027(A)(3).
- C.** In addition to the items specified in subsection (B), an agency shall submit one copy of all written comments received by the agency concerning the proposed summary rule and any analysis submitted to the agency that compares the rule's impact on the competitiveness of businesses in this state to the impact on businesses in other states.

**ARTICLE 2. DELEGATION AGREEMENTS RULEMAKING PROCEDURES**

**R1-6-104 R1-6-201. Placing Submitting a Regular Rule on the Council Agenda**

- A.** To ~~place~~ submit a regular rule ~~on the~~ for consideration by the Council agenda, an agency shall deliver to the Council office ~~two rule packages one paper copy and one electronic copy of each rulemaking document that follows~~, prepared in the manner required by this Chapter subsection, subsection (B), and the rules of the Office of the Secretary of State. ~~The agency shall ensure that each rule package contains the following items assembled in the following order:~~
1. Cover letter A request for approval, in the form of an original cover letter signed by the agency head. The cover letter shall specifying specify:
    - a. The close of record date;
    - b. ~~Whether definitions of terms contained in statutes or other rules and used in the rule are attached;~~
    - ~~e.b.~~ Whether the rulemaking activity relates to a five-year review report and, if applicable, the date the report was approved by the Council;
    - ~~d.c.~~ Whether the rule contains establishes a new fee and, if it does, citation of the statute expressly authorizing the new fee;
    - ~~e.d.~~ Whether the rule contains a fee increase;
    - ~~f.e.~~ Whether an immediate effective date is requested for the rule under A.R.S. § 41-1032;
    - ~~g.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;
    - ~~h.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
    - ~~i.h.~~ A list of all items 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. ~~Copy of the existing rule if the entire existing rule is not shown as part of the revised text of a rule the agency is amending; and~~ The written comments received by the agency concerning the proposed rule and a written record, tran-

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- script, or minutes of any testimony received if the agency maintains a written record, transcript, or minutes; and
5. Copy of definitions of terms, used in the rule, that are defined in statute or another rule, if any; 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 ~~items~~ documents ~~specified~~ required in subsection (A), an agency shall submit one electronic or paper copy of each reference document that follows of the following:
1. ~~All written comments received by the agency concerning the proposed rule and a written record, transcript, or minutes of any oral comments received if the agency maintains a written record, transcript, or minutes;~~
  2. ~~1. Materials~~ Material incorporated by reference, if any; ~~and~~
  3. ~~Any analysis submitted to the agency that compares the rule's impact on the competitiveness of businesses in this state to the impact on businesses in other states.~~
  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 ~~the a~~ 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(D), (E), and (F) and this Chapter and may ask questions or suggest changes to the agency. After If the agency revises any rulemaking document in response to a question or making any suggested change, the agency shall submit the rule package 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. office under one of the following alternatives:
1. ~~If the agency believes it is likely that the rule package will be approved by the Council without change, it shall submit:~~
    - a. ~~Four paper copies of the Notice of Final Rulemaking as specified in subsection (A)(2) and the economic, small business, and consumer impact statement as specified in subsection (A)(3);~~
    - b. ~~One original and three paper copies of an agency certificate prepared as provided in A.A.C. R1-1-105 except that the statement in A.A.C. R1-1-105(A)(3)(f) that no changes have been made since the Council approved the rule shall be omitted;~~
    - e. ~~Two paper copies of an agency receipt prepared as provided in A.A.C. R1-1-106; and~~
    - d. ~~One of the following:~~
      - i. ~~A computer disk or CD that contains the items listed in subsection (A) and the general and specific statutes authorizing the rule, or~~
      - ii. ~~A computer disk or CD that contains the Notice of Final Rulemaking specified in subsection (A)(2) and an electronic copy of all the items listed in subsection (A) and the general and specific statutes authorizing the rule; or~~
  2. ~~If the agency is uncertain whether the rule package will be approved by the Council without change, it shall submit:~~
    - a. ~~One paper copy of the Notice of Final Rulemaking in subsection (A)(2) and the economic, small business, and consumer impact statement in subsection (A)(3); and~~
    - b. ~~One of the following:~~
      - i. ~~A computer disk or CD that contains all the items listed in subsection (A) and the general and specific statutes authorizing the rule, or~~
      - ii. ~~An electronic copy of all the items listed in subsection (A) and the general and specific statutes authorizing the rule.~~
- D.** After a rule is placed on ~~the a~~ 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 ~~contact the Council staff to learn which rule package items the agency needs to resubmit~~ submit any revised documents for the later meeting, consistent with this Section.

**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);

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- 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 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.

**~~R1-6-112~~ R1-6-203. Oral Testimony and Written Comments**

- A.** Under Consistent with A.R.S. §§ ~~41-1052(H)~~ 41-1027(G) and 41-1052(I) a person may submit written comments about an agency rulemaking to the Council about an agency rulemaking within ~~60~~ 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 Council receipt of the rule shall be posted on the Council's web site. Council staff shall notify the agency of any written comments received by the Council. An agency may submit a written response to the Council within 15 days of being notified by Council staff of the comment 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 ~~make oral comments~~ provide testimony about an agency 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 ~~comments~~ testimony.
- D.** A person who provides testimony or makes submits written ~~or oral~~ comments to the Council shall:
1. Ensure that the testimony or comments relate to a final rulemaking filed with submitted to the Council;
  2. Cite Address the particular provision of A.R.S. §§ 41-1027 or 41-1052(D) through (FG) that is the basis for the Council's authority to consider each issue addressed;
  3. State specifically how each issue relates to the particular provision ~~cited~~ addressed;
  4. Tell what other Explain the efforts the person made to communicate with the rulemaking agency about each issue; and
  5. If making oral comments, submit one of the following by at least 5:00 p.m. Arizona time six business days before a scheduled Council meeting: one electronic copy of, a computer disk or CD, or 10 paper copies of any visual aids or written materials supplementing the oral comments to the Council analyst assigned. The Council analyst shall forward a copy to each member of the Council, the Council's Assistant Attorney General, and the person identified as responsible for the agency's rulemaking; or 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. If not making oral comments, submit one of the following by at least 5:00 p.m. Arizona time six business days before a scheduled Council meeting: one electronic copy, of a computer disk or CD, or 10 paper copies of any written comments to the Council analyst assigned. The Council analyst shall forward a copy to each member of the Council, the Council's Assistant Attorney General, and the person identified as responsible for the agency's rulemaking At the

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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 materials are submitted under subsection (C)(5) or (6) fewer than six business days before the Council meeting the requirements of this Section,~~ the Chair, in the Chair's discretion, shall consider the reason for the ~~untimely submittal 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.

**~~R1-6-107~~ R1-6-204. Submitting an Approved Regular or Expedited Rules Rule with Changes**

- A. ~~For If a final regular or expedited rule placed on the Council's agenda under R1-6-104(C)(2) and approved by the Council or placed on the Council's agenda under R1-6-104(C)(1) and is approved by the Council with changes or a final summary rule approved by the Council with changes,~~ an agency shall deliver to the Council office within 14 calendar days after Council approval, unless a later date is arranged under subsection (B), ~~the following items~~ 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. If no changes were directed, no letter is required; and~~
  2. ~~One original and three paper copies of the~~ The following items ~~rulemaking documents assembled in the following order:~~
    - a. ~~Agency certificate~~ Notice of Final Rulemaking or Notice of Final Expedited Rulemaking, as applicable; and
    - b. ~~Notice of Final Rulemaking or Notice of Final Summary Rulemaking and the economic~~ Economic, small business, and consumer impact statement, if applicable.
  3. ~~Two copies of the receipt required by A.A.C. R1-1-106; and~~
  4. ~~One computer disk or CD that contains the item listed in R1-6-104(A)(2) or (B)(2).~~
- B. If an agency is unable to deliver an approved regular rule or ~~summary~~ 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.

**~~R1-6-108~~ R1-6-205. Filing a Regular or Expedited Rules Rule Approved by the Council**

- A. ~~If the Council approves a Notice of Final Rulemaking or Notice of Final Summary Rulemaking 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 the agency submits the items required by R1-6-107, the Council shall file the original and two copies of the agency's items; two copies of the agency receipt; and the computer disk or CD, with the Office of the Secretary of State the final regular or expedited rule according to the rules of the Office of the Secretary of State. The Council shall include file with the Office of the Secretary of State an the original and two copies of a written notice 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 ~~preamble, table of contents for the rulemaking, rule, or economic, small business, and consumer impact statement~~ final regular or expedited rule subject to the agency making changes as directed by the Council, and the agency submits the ~~items~~ documents required by ~~R1-6-107~~ R1-6-204:
1. ~~Council staff shall verify that whether each change required by the Council was made, and file the items~~
  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 with the Office of the Secretary of State as prescribed in subsection (A). 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.~~
  - 2-3. If an agency submits a revised preamble, table of contents ~~for the rulemaking,~~ rule, or economic, small business, and consumer impact statement that does not contain the exact words approved by the Council, Council staff shall notify the agency and require that the items be submitted as approved or schedule the matter for reconsideration by the Council.
- C. Except as specified in subsection (B), an agency shall not make any change to a preamble, table of contents ~~for the rulemaking,~~ rule, economic, small business, and consumer impact statement, or materials incorporated by reference after Council approval.

**~~R1-6-109~~ R1-6-206. Returned Rules and Five-year Review Reports**

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

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1. The Council may schedule a date for resubmission in consultation with the agency representative.
  2. An agency ~~resubmitting a preamble, table of contents for the rulemaking, rule,~~ 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, ~~shall and attach to the each resubmitted rule-package item document~~ a letter that:
    - a. Identifies all changes made in response to the Council's explanation for ~~its return of the rule-package item~~ the returned portion.
    - b. Explains how the changes ensure that the ~~rule-package item document~~ meets the standards at A.R.S. § 41-1052(D) through (FG), and
    - c. ~~Shows 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 ~~R1-6-110 R1-6-104~~, an agency representative shall appear at the Council meeting at which the resubmitted notice, with a revised preamble, table of contents for the rulemaking, or rule, or economic, small business, and consumer impact statement is to be considered for legal action.
- B.** The Council may vote to return a five-year review report after identifying the manner in which the five-year review report does not meet the standards in A.R.S. § 41-1056(A)(1) through (9):
1. The Council, in consultation with the agency, shall schedule submission of a revised report.
  2. An agency submitting a revised five-year review report shall attach to the revised report a letter that:
    - a. Identifies all changes made in response to the Council's explanation for return of the five-year review report, and
    - b. Explains how the changes ensure that the five-year review report meets the standards in A.R.S. § 41-1056(A)(1) through (9).

**R1-6-207. 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; and
  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.

**ARTICLE 3. AGENCY PRACTICE OR SUBSTANTIVE POLICY STATEMENTS  
FIVE-YEAR REVIEW REPORTS**

**R1-6-111 R1-6-301.Five-year Review Report**

- A.** To ~~place submit~~ a five-year review report ~~on the for consideration by the Council agenda,~~ an agency shall deliver to the Council office ~~two copies~~ 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. ~~Except as indicated in~~ 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

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problems with enforcement;

- 6. ~~Agency view regarding current wisdom of the rule;~~
  - ~~7-6.~~ Clarity, conciseness, and understandability of the rule;
  - ~~8-7.~~ 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 made in litigation or administrative proceedings in which the agency was a party that the rule is discriminatory, unfair, unclear, inconsistent with statute, or beyond the authority of the agency to enact, and the result of the litigation or administrative proceedings;
  - ~~9-8.~~ A comparison of the ~~current 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;
  - ~~10-9.~~ Any analysis submitted to the agency by another person ~~that compares~~ regarding the rule's impact on this state's business competitiveness ~~to the impact on~~ as compared to the competitiveness of businesses in other states;
  - ~~11-10.~~ If applicable, whether how the agency completed the course of action indicated in the agency's previous five-year review report;
  - ~~12-11.~~ 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; ~~and~~
  - 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
  - ~~13-14.~~ 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 information analysis for a category regarding any of the items listed in subsection (A) is identical for any group all of the rules in a report, the agency shall discuss that information in its five-year review report only once for the group of rules 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 attach the following to each copy of a submit one paper copy and one electronic copy of the five-year review report cover letter. The cover letter shall provide the following information:
- ~~1. Cover letter, signed by the agency head, that identifies:~~
    - ~~a-1.~~ A person to contact for information regarding the report,
    - ~~b-2.~~ Any rule that is not reviewed with the intention that the rule will expire under A.R.S. § 41-1056(E), ~~and~~
    - ~~e-3.~~ Any rule that is not reviewed because the Council rescheduled the review of ~~the rule~~ an article under A.R.S. § 41-1056(EH), and
    - ~~2-4. Copy of the rules being reviewed. 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, an agency shall attach one copy of the economic, small business, and consumer impact statement for the rule to the five-year review report.
- E.** After a five-year review report is placed on the 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. After If the agency revises any document in response to a question making any or suggested change, the agency shall submit one paper copy and one electronic copy of the revised document to the Council office one paper copy of the five-year review report and one electronic copy of or a computer disk or CD that contains the five-year review report as specified in subsection (A), the cover letter and rules specified in subsection (C)(2), and the general and specific statutes authorizing

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~~the rules reviewed for review, according to the schedule established by R1-6-103.~~

- F. After a five-year review report is ~~filed~~ placed on a Council agenda, an agency may ~~make one request that have~~ the report be moved to the agenda of a later meeting scheduled for no later than 60 days after the request by having the agency head send a written request notice to the Chair that includes the date of the later meeting. ~~After~~ If the agency makes a subsequent request to have a five-year review report moved, ~~an agency shall address any subsequent requests to the Chair. The~~ the Chair may grant or deny a subsequent 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).

~~R1-6-113~~ **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(~~CH~~), an agency head shall submit a letter to the Chair before the report is due ~~but not more than 90 days before the report is due~~ that includes the following information:
1. The ~~Title~~ title, ~~Chapter~~ chapter, and ~~Article~~ article of the rules for which rescheduling is sought;
  2. Whether the rules were initially made or substantially revised with an effective date that is within the two years before the due date of the report; and
    - a. If substantially revised:
      - i. A description of the revisions,
      - ii. Why the revisions are believed to be substantial, and
      - iii. The date on which the rules were published in the *Register* by the Office of the Secretary of State and the effective date of the rules; or
    - b. If initially made, the date on which the rules were published in the *Register* by the Office of the Secretary of State and the effective date of the rules.
- B. ~~The Chair or the Chair's designee~~, in the Chair's ~~or Chair's designee's~~ discretion, may grant the rescheduling of a five-year review report if all rules within an ~~Article~~ article meet the requirements of this Section.
- 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.

~~R1-6-114~~ **R1-6-303. Extension to File of the Due Date for a Five-year Review Report**

- A. An agency may obtain an extension of 120 days to ~~file~~ 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 ~~one~~ a longer extension that is of more than 120 days but ~~less than 181~~ does not exceed 180 days ~~to file the report~~ by sending a written request to the Chair at least 40 days prior to the due date of the report. The agency shall specify the length of the requested extension and the reason for the requested extension.
1. A request for an extension ~~of that is~~ more than 120 days but ~~less than 181~~ 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 request and may grant a request for an extension that is greater more than 120 days but ~~shall not grant an extension request that exceeds~~ does not exceed 180 days.

~~R1-6-115~~ **R1-6-304. Petition under A.R.S. § 41-1056(~~FM~~) 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(~~FM~~) at least 60 days before the original due date of the five-year review report in which the rule is scheduled to be reviewed. The person filing the petition shall deliver to the Council office ~~one both of the following: an original and one electronic copy, a computer disk or CD, or one paper copy of a petition in the form of a letter.~~ 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 ~~shall~~ be in Arial a clear and legible typeface of no less than 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 ~~Council~~ receipt of the petition. Within 14 days of the date the petition is filed the agency shall file an original and a response one electronic copy, ~~a computer disk or CD, or one paper copy of a response, in the form of a letter, signed by the agency head, to the petition~~ that either:
1. Indicates the agency will consider including the ~~obsolete~~ rule in the five-year review report with a recommendation for repeal, or
  2. Includes a statement of why the rule is not obsolete and should not be repealed.
- D. The Council shall schedule the petition for the next Council meeting as soon as practicable after receipt of the agency's response under subsection (C) if the agency's response states that the rule is not obsolete and should not be repealed.

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- E. Within seven calendar days after the Council's decision on the petition, the Chair ~~or the Chair's designee~~, shall send a letter to the affected agency head and the person filing the petition advising them of the Council's decision, including the reasons for and date of the decision.

**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).

**ARTICLE 4. APPEALS OF ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENTS**  
**APPEAL OF A DELEGATION AGREEMENT**

**~~R1-6-201~~ R1-6-401. Appeal of a Delegation Agreement**

- A. Under A.R.S. § 41-1081(F), a person ~~who appeals an agency~~ appealing an agency's decision to enter into a delegation agreement shall ~~deliver to file in~~ file in the Council office ~~one an original and one electronic copy written request of an appeal.~~ an original and one electronic copy ~~The appeal shall contain consist of: an original letter, signed by the person submitting filing the appeal, and eight paper copies or one electronic copy of, or a computer disk that contains, the request. The person submitting the appeal shall that include includes~~ the following ~~in the request~~:
1. All written objections to the delegation agreement submitted to the delegating agency by the person filing the appeal;
  2. The name, 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, and fax and telephone numbers of the person filing the appeal;
  4. The name of the person being represented by the person filing the appeal, 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 ~~deliver to file in~~ file in the Council office ~~one an original and one electronic copy and eight paper copies or one electronic copy of a response. The response shall contain an original transmittal letter, signed by the agency head and, or a computer disk that contains~~ the following:
1. A memorandum that ~~lists~~ includes:
    - a. ~~the~~ The date the delegating agency gave written notice of the decision to enter into the delegation agreement ~~and the~~;
    - b. The dates of all public proceedings regarding the delegation agreement; and
    - ~~2-c.~~ The name, mailing address, e-mail address, and fax and telephone numbers of each agency and each political subdivision contact person;
    - ~~3-2.~~ The delegation agreement; and
    - ~~4-3.~~ The agency's written summary, prepared by the agency 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.
- ~~E-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 ~~Council~~ receipt of the appeal letter. The agency head shall ~~deliver to file in~~ 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 ~~of the appeal~~ by the Council of the appeal.
- ~~D-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.
- ~~E-F.~~ Within seven calendar days After after the Council approves or disapproves a delegation agreement that has been appealed, the Chair shall send a ~~written~~ letter to the delegating agency head and person filing the appeal that specifies the reasons for the approval or disapproval and the date of ~~the Council action~~ decision.

**ARTICLE 5. ~~EARLY REVIEW PETITION~~ PETITION FOR REVIEW OR APPEAL OF AN AGENCY PRACTICE OR SUBSTANTIVE POLICY STATEMENT**

**~~R1-6-301~~ 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 ~~written~~ petition, in the form of a letter, signed by the person submitting the petition, including 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 ~~requesting a the petition is for~~ rulemaking action:
    - a. Statement of the rulemaking action sought, including the ~~A.A.C.~~ 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 ~~requesting 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; ~~and~~
  5. ~~Dated signature of the person submitting the petition.~~
- ~~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.
- ~~D.E.~~** The Council shall send a letter in response to the person submitting a petition ~~a written response~~ within 60 calendar days of the date the Council receives the petition.

**~~R1-6-302~~ R1-6-502. Appeal of an Existing Agency Practice or Substantive Policy Statement**

- A.** Under A.R.S. § 41-1033(B), A a person appealing may appeal an agency's final decision regarding a petition for review of an existing agency practice or substantive policy statement, filed under A.R.S. § 41-1033(B). The person shall deliver to file with the Council office one an original and eight paper copies or one electronic copy of, or a computer disk that contains, the an appeal within 30 days after the agency gives written notice of its decision. The appeal shall contain following:
1. A ~~request letter,~~ signed by the person submitting filing the appeal, that which includes the following:
    - 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;
    - 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 Council receipt of the appeal. The agency shall ~~deliver to file in~~ 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 ~~deliver to file in~~ file in the Council office ~~one an original and eight paper copies or one electronic copy of, or a computer disk that contains,~~ a response. The response shall contain an original transmittal letter, signed by the agency head, and the following:
1. A memorandum that includes the following:
    - a. Date the agency gave written notice of its decision under A.R.S. § 41-1033(A);
    - b. Name, 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

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3. If a petition other than that of the appellant was ~~filed with~~ 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.

**D.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.

**E.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.

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

**R1-6-401 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 ~~deliver to file in~~ file in the Council office ~~one of the following: one electronic copy, a computer disk or CD, or one an original and one electronic copy and eight paper copies~~ of an appeal. The appeal shall contain:

1. ~~A request~~ An original letter, signed by the person ~~submitting~~ 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:
    - 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 ~~economic impact of a rule~~ 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 ~~Council~~ receipt of the appeal. The affected agency head shall ~~deliver to file in~~ 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 ~~deliver to file in~~ file in the Council office ~~one of the following: an original and one electronic copy, a computer disk or CD, or one original and eight paper copies~~ of a response. The response shall contain an original transmittal letter, signed by the agency head, and the following:

1. A memorandum that includes ~~the following:~~
  - a. Date of publication of the agency's final decision under A.R.S. § 41-1056.01(C);
  - b. Name, mailing address, e-mail address, telephone number, and fax number, if any, of each agency contact person;
  - c. Reasons why the agency believes that:
    - i. The actual economic, small business, and consumer impact did not significantly exceed the estimated economic, small business, and consumer impact; ~~or~~
    - ii. The actual economic, small business, and consumer impact was estimated on approval of the rule and the impact does not impose a significant burden on persons subject to the rule; or
    - iii. ~~Under A.R.S. § 41-1056.01(A)(3), the~~ The agency selected the alternative that imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective; ~~and~~

~~2.~~ A copy of final judgments, if any, issued by a court of competent jurisdiction that are based on whether the contents

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of the rule's economic, small business, and consumer impact statement were insufficient or inaccurate;

~~2-3.~~ A copy of the rule being appealed; and

~~3-4.~~ 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 on a written explanation by the person or agency of why a different format is necessary.

**~~D-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.

**~~E-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.

**ARTICLE 7. EARLY REVIEW PETITION**

**~~R1-6-501~~ 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 ~~R1-6-104 R1-6-201~~ or ~~R1-6-106 R1-6-202~~.

**B.** The person filing the a petition shall deliver to the Council office ~~one both of the following: an original and one electronic copy of the petition, a computer disk or CD, or one paper copy.~~ The petition shall contain:

1. The name, mailing address, e-mail address, and fax and telephone numbers of the person filing the petition;
2. The name of the person being represented by the person filing the petition, if applicable;
3. An explanation of how the proposed rule violates any of the criteria in A.R.S. § 41-1052(D);
4. An explanation of why the Council should consider the petition at the proposed rulemaking stage; and
5. An explanation of how the person would be adversely affected by the proposed rule.

**C.** The petition shall ~~be printed on one side,~~ not exceed five double-spaced or space-and-a-half pages and ~~shall be in Arial a clear and legible typeface of not less than 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 Council 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 to the petition and deliver to the Council one of the following: one electronic copy, a computer disk or CD, or one paper copy. The agency shall deliver by mail or in person a copy of the response to the Petitioner. 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.~~** A reply brief is not permitted. Documents and exhibits supporting the petition or response shall only be allowed by a majority vote of the quorum present and upon written request that demonstrates good cause.

**~~F-E.~~** An early review petition filed under this Section does not stay the rulemaking process.

**~~G-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).

**~~H-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.

**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:

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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.

**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.