



**NOTICES OF PROPOSED RULEMAKING**

This section of the *Arizona Administrative Register* contains Notices of Proposed Rulemakings.

A proposed rulemaking is filed by an agency upon completion and submittal of a Notice of Rulemaking Docket Opening. Often these two documents are filed at the same time and published in the same *Register* issue.

When an agency files a Notice of Proposed Rulemaking under the Administrative Procedure Act (APA), the notice is published in the *Register* within three weeks of filing. See the publication schedule in the back of each issue of the *Register* for more information.

Under the APA, 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).

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the proposed rules should be addressed to the agency that promulgated the rules. Refer to item #4 below to contact the person charged with the rulemaking and item #10 for the close of record and information related to public hearings and oral comments.

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

[R17-78]

**PREAMBLE**

<b><u>1. Article, Part, or Section Affected (as applicable)</u></b>	<b><u>Rulemaking Action</u></b>
R1-6-101	Amend
R1-6-102	Amend
R1-6-103	Amend
R1-6-104	Amend
R1-6-201	Amend
R1-6-202	Amend
R1-6-203	Amend
R1-6-204	Amend
R1-6-205	Amend
R1-6-206	Amend
R1-6-207	Repeal
R1-6-301	Amend
R1-6-302	Amend
R1-6-303	Amend
R1-6-304	Repeal
Article 4	Amend
R1-6-401	Amend
R1-6-402	New Section
R1-6-403	New Section
R1-6-404	New Section
Article 5	Repeal
R1-6-501	Repeal
R1-6-502	Repeal
Article 6	Repeal
R1-6-601	Repeal
Article 7	Repeal
R1-6-701	Repeal
Article 8	Repeal
R1-6-801	Repeal
R1-6-802	Repeal

**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, 41-1027, 41-1033, 41-1052, 41-1053, 41-1055, 41-1056, 41-1056.01, 41-1081

**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: 23 A.A.R. 1376, May 19, 2017 (*in this issue*)

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

Name: Chris Kleminich



Address: Governor's Regulatory Review Council
100 N. 15th Ave., Suite 305
Phoenix, AZ 85007
Telephone: (602) 542-2024
E-mail: christopher.kleminich@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, based upon a critical and comprehensive review of its rules. The proposed rules also account for changes to the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) made by SB 1055 and SB 1437, both signed by the Governor in April 2017. The Council believes that the rulemaking will result in rules that are more clear, concise, and effective.

The rulemaking eliminates administrative burdens for members of the public and state agencies by removing all requirements to submit paper copies of documents to the Council. In addition, to encourage greater public participation in the rulemaking and rule review processes, potential limitations on public testimony and written comments are being eliminated from R1-6-203 and R1-6-301. The proposed rules also eliminate redundancy by consolidating many of the Council's separate petition and appeal rules into one general rule, R1-6-402, thereby eliminating Articles 5-8 of the Chapter. The Council believes that the resulting rules are organized in a manner that is more understandable for the stakeholders that refer to them.

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 Council anticipates that the primary economic impact of the rules will be derived from the elimination of requirements for submission of paper copies of documents to the Council. R1-6-203 is being amended to establish procedures for agencies to deliver a Notice of Proposed Expedited Rulemaking in accordance with A.R.S. § 41-1027. 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 100 agencies. The rulemaking will also apply to members of the public making comments or filing petitions and appeals with 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 petition and appeal processes. Simplifying procedures for filing petitions or appeals 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: Chris Kleminich
Address: Governor's Regulatory Review Council
100 N. 15th Ave., Suite 305
Phoenix, AZ 85007
Telephone: (602) 542-2024
E-mail: christopher.kleminich@azdoa.gov
Web site: http://grrc.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: June 26, 2017
Time: 1:00 p.m.
Location: 100 N. 15th Ave., Suite 300
Phoenix, AZ 85007

The close of record date for this rulemaking is June 26, 2017.

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:**

No corresponding federal laws apply. 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 Submission Deadlines~~ Submitting a Petition for Council Rulemaking or Review
- R1-6-104. Appearance by the Agency ~~A.R.S. § 41-1008(E) Extension Requests~~

**ARTICLE 2. RULEMAKING PROCEDURES**

Section

- R1-6-201. Submitting a Regular Rule
- R1-6-202. Submitting an Expedited Rule
- R1-6-203. ~~Testimony and Written Comments~~ Delivering a Notice of Proposed Expedited Rulemaking
- R1-6-204. Submitting an Approved Regular or Expedited Rule with Changes
- R1-6-205. Filing a Regular or Expedited Rule Approved by the Council
- R1-6-206. Returned Rules
- R1-6-207. ~~Petition Regarding an Economic, Small Business and Consumer Impact Statement under A.R.S. § 41-1055(E)~~ Repealed

**ARTICLE 3. FIVE-YEAR REVIEW REPORTS**

Section

- R1-6-301. Submitting a Five-year Review Report
- R1-6-302. Rescheduling a Five-year Review Report
- R1-6-303. Extension of the Due Date for a Five-year Review Report
- 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~~ Repealed

**ARTICLE 4. APPEAL OF A DELEGATION AGREEMENT APPEALS AND PETITIONS**

Section

- R1-6-401. Appeal of a Delegation Agreement ~~Applicability~~
- R1-6-402. Filing of Petitions or Appeals; Agency Response; Council Decision
- R1-6-403. Additional Requirements for an Appeal of a Delegation Agreement
- R1-6-404. Additional Requirements for an Appeal Related to the Economic, Small Business, and Consumer Impact of a Rule

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

Section

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

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

Section

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

**ARTICLE 7. EARLY REVIEW PETITION REPEALED**

Section

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



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

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 Fee Established or Increased by Exempt Rulemaking Repealed~~
- R1-6-802. ~~Petition for an Alternative Expiration Date under A.R.S. § 41-1008(G) Repealed~~

**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. "Five-year Review Report" means a report submitted to the Council according to the procedures in A.R.S. §§ 41-1056 or 41-1095.
  - 5-6. ~~"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.

**R1-6-102. Meetings**

- A. The Chair, in consultation with the Council, shall set monthly meeting dates of the Council and a schedule containing submission deadlines based on those meeting dates for each calendar year by the preceding ~~October 31~~ September 15 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.
- E. For the purpose of responding to questions from the Council, a representative of an agency shall appear at a Council meeting at which the agency's rule or five-year review report is on the agenda for consideration.

**R1-6-103. ~~Schedule and Submission Deadlines Submitting a Petition for Council Rulemaking or Review~~**

~~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.~~
- 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 transmit to the Council office one electronic copy of a petition, in the form of a letter signed by the person submitting the petition, that includes the following information:
  1. Name, mailing address, e-mail address, and telephone number 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:
    - a. 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 not exceed five double-spaced pages and shall be in a clear and legible typeface.
- 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.

**R1-6-104. ~~Appearance by the Agency A.R.S. § 41-1008(E) Extension Requests~~**

- 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.
- A.** Under A.R.S. § 41-1008(E), an agency may file a written request for an extension of the two-year period during which a fee established or increased by exempt rulemaking is effective.
- B.** The agency shall file a request, in the form of a letter signed by the agency head, at least 40 days before expiration of the two-year period so that the request may be considered at a regularly scheduled Council meeting. The agency representative filing a request shall transmit to the Council office one electronic copy of the request. The request shall contain:
1. The name, mailing address, e-mail address, and telephone number of the agency and the agency representative filing the request;
  2. The statutory authority under which the request is allowed;
  3. The length of the extension sought;
  4. The reasons why the two-year period should be 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.
- C.** The request shall not exceed five double-spaced pages and shall be in a clear and legible typeface.
- D.** The Council shall schedule consideration of the request for a Council meeting as soon as practicable after receipt of the agency's request.
- E.** 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 head, including the reasons for and date of the decision.

## 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~~ transmit 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~~ a 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. A 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. An economic, 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~~ transmit 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 text of 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.

**R1-6-202. Submitting an Expedited Rule**

- A. To submit an expedited rule for consideration by the Council, an agency shall ~~deliver~~ transmit 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~~ a 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. A 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~~ transmit 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 text of 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.

**R1-6-203. Testimony and Written Comments Delivering a Notice of Proposed Expedited Rulemaking**

- ~~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.
- A. Under A.R.S. § 41-1027(B), prior to filing a Notice of Proposed Expedited Rulemaking with the Office of the Secretary of State, an agency is required to deliver an electronic copy of the Notice of Proposed Expedited Rulemaking to the Council.
- B. Upon filing a Notice of Proposed Expedited Rulemaking with the Office of the Secretary of State, the agency shall:
  - 1. Post the Notice of Proposed Expedited Rulemaking on its website as soon as practicable; and



2. Notify Council staff of the filing as soon as practicable. Upon receipt of this notice, Council staff shall post the Notice of Proposed Expedited Rulemaking on the Council's website as soon as practicable.

**C.** For the purposes of submitting a final expedited rule for consideration by the Council in accordance with R1-6-202, if the agency and the Council post the Notice of Proposed Expedited Rulemaking on their respective websites on different dates, the Council shall consider the 30-day public comment window established in A.R.S. § 41-1027(C) to have opened on the date of the agency's posting.

**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.

**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.

**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~~ R1-6-102, 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.

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

- ~~**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 type-face 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. FIVE-YEAR REVIEW REPORTS**

**R1-6-301. Submitting a Five-year Review Report**

- A. To submit a five-year review report for consideration by the Council, an agency shall ~~deliver~~ transmit to the Council office ~~an original one electronic copy of the 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 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~~ Council staff 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).~~

#### **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 or date of Council approval 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 of Council approval of the rules, if applicable, and
      - iv. 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:
      - i. The date of Council approval of the rules, if applicable, and
      - ii. The 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~~ for the rules within an article that 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.

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

- A. An agency may obtain an extension of ~~120 90~~ 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 90~~ days but does not exceed ~~180 days~~ one year 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 90~~ days but does not exceed ~~180 days~~ one year shall be placed on the agenda of a Council meeting scheduled to occur prior to the due date of the report.
  2. The Council shall consider the reason for the requested extension and may grant a request for an extension that is more than ~~120 90~~ days but does not exceed ~~180 days~~ one year.

#### **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~~ Repealed**

- ~~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 type-face 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.~~



ARTICLE 4. APPEAL OF A DELEGATION AGREEMENT APPEALS AND PETITIONS

R1-6-401. Appeal of a Delegation Agreement Applicability

- 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
    - 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.

For purposes of this article, the term “petition or appeal” refers to the following:

1. The A.R.S. § 41-1008(G) Petition for an alternative expiration date for fees established or increased by exempt rulemaking;
2. The A.R.S. § 41-1033(B) Appeal of an agency’s decision on a petition requesting the making of a final rule or a review of an existing agency practice or substantive policy statement that the petitioner alleges to constitute a rule;
3. The A.R.S. § 41-1033(C) Petition to request a review of a final rule based on a person’s belief that a final rule does not meet the requirements prescribed in A.R.S. § 41-1030;
4. Pursuant to A.R.S. § 41-1033(D), the Council’s receipt of information indicating that an existing agency practice or substantive policy statement may constitute a rule or that a final rule does not meet the requirements prescribed in A.R.S. § 41-1030;
5. The A.R.S. § 41-1052(B) Early Review Petition;
6. The A.R.S. § 41-1055(E) Petition for a determination that an agency is not required to file an economic, small business, and consumer impact statement;
7. The A.R.S. § 41-1056(M) Petition to require an agency that has an obsolete rule to consider including the rule in a five-year review report with a recommendation for repeal of the rule;
8. The A.R.S. § 41-1056(N) Petition to require an agency to consider including a recommendation for reducing a licensing time frame in a five-year review report;
9. The A.R.S. § 41-1056.01(D) Appeal related to the economic, small business, and consumer impact of a rule; and
10. The A.R.S. § 41-1081(F) Appeal of a delegation agreement.

R1-6-402. Filing of Petitions or Appeals; Agency Response; Council Decision

- A. A person filing a petition or appeal shall transmit to the Council one electronic copy of the petition or appeal. The petition or appeal shall contain:
  1. The name, mailing address, e-mail address, and telephone number of the person filing the petition or appeal;
  2. The name of the person being represented by the person filing the petition or appeal, if applicable;
  3. The reasons for submitting the petition or appeal, including relevant facts, laws, and statutory authority;
  4. The reasons why the Council should grant the petition or appeal; and
  5. Any supporting documents relevant to the petition or appeal.
- B. The petition or appeal shall not exceed five double-spaced pages and shall be in a clear and legible typeface.
- C. If applicable, the Council shall notify the affected agency head of the petition or appeal by 5:00 p.m. of the business day following receipt of the petition or appeal. The agency may transmit a response to the petition or appeal to the Council.
- D. When required by statute, within 14 calendar days after a petition or appeal is received by the Council, the Chair shall send written notice to the person filing the petition or appeal and the affected agency head stating whether the required number of Council members have requested that a given petition or appeal be considered at a Council meeting.



E. No later than seven calendar days after the Council renders a decision on a petition or appeal, the Chair shall send a letter to the affected agency head and the person filing the petition, advising them of the reasons for, and date of, the decision.

**R1-6-403. Additional Requirements for an Appeal of a Delegation Agreement**

- A. Under A.R.S. § 41-1081(F), a person who has filed a written comment with a delegating agency in objection to all or part of a proposed delegation agreement may, within 30 days of the agency giving written notice of its decision pursuant to A.R.S. § 41-1081(E), appeal an agency's decision to enter into a delegation agreement.
- B. In addition to the information required by R1-6-402(A), an appeal of a delegation agreement shall contain:
1. The name of each agency and each political subdivision entering into the delegation agreement;
  2. The subject matter of the delegation agreement;
  3. Copies of all written comments made by the appellant that object to the delegation agreement and have been filed with the delegating agency; and
  4. The reasons why the appellant is objecting to the delegation agreement and filing the appeal.
- C. 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.
- D. The delegating agency head shall transmit electronic copies of the following information and documentation by 5:00 p.m. on the third business day following notification by the Council of the appeal:
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
    - c. The name, mailing address, e-mail address, and telephone number of the contact persons for each agency and each political subdivision.
  2. A copy of 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.

**R1-6-404. Additional Requirements for an Appeal Related to the Economic, Small Business, and Consumer Impact of a Rule**

- A. Under A.R.S. § 41-1056.01(D), a person who is or may be affected by an agency's final decision on a petition filed pursuant to A.R.S. § 41-1056.01(A) may, within 30 days of publication of the decision, file an appeal.
- B. In addition to the information required by R1-6-402(A), an appeal of an agency's final decision on a petition filed pursuant to A.R.S. § 41-1056.01(A) shall contain a statement indicating how the person filing the appeal is or may be affected by the agency's decision.
- C. The Council shall notify the affected agency head of an appeal of an agency's final decision on a petition filed pursuant to A.R.S. § 41-1056.01(A) by 5:00 p.m. of the business day following receipt of the appeal.
- D. The affected agency head shall transmit electronic copies of the following information and documentation by 5:00 p.m. on the third business day following notification by the Council of the appeal:
1. A memorandum that includes:
    - a. The date of publication of the agency's final decision under A.R.S. § 41-1056.01(C);
    - b. The name, mailing address, e-mail address, and telephone number of the agency's contact person; and
    - 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. A copy of the agency's written summary of comments received, the agency's response to those comments, and the agency's final decision on whether to initiate rulemaking, prepared and published as required by A.R.S. § 41-1056.01(C).

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

**R1-6-501. Petition for Council Rulemaking or Review Repealed**

- 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:
    - 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.

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

- 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.
- 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.

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

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

- 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:
      - 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 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.

#### **ARTICLE 7. EARLY REVIEW PETITION REPEALED**

##### **R1-6-701. Early Review Petition of a Proposed Rule Repealed**

- 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.

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

##### **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 Repealed**

- 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 consid-



ered 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.

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

**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.

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 9. HEALTH SERVICES**

**CHAPTER 16. DEPARTMENT OF HEALTH SERVICES – OCCUPATIONAL LICENSING**

[R17-76]

**PREAMBLE**

<b><u>1. Article, Part, or Section Affected (as applicable)</u></b>	<b><u>Rulemaking Action</u></b>
Article 4	Amend
R9-16-401	Repeal
R9-16-401	New Section
R9-16-402	Repeal
R9-16-402	New Section
R9-16-403	Repeal
R9-16-403	New Section
R9-16-404	Repeal
R9-16-404	New Section
R9-16-405	Repeal
R9-16-405	New Section
R9-16-406	Repeal
R9-16-406	New Section
R9-16-407	Repeal



R9-16-407	New Section
Table 1	Repeal
Table 4.1	New Section
R9-16-408	Repeal
R9-16-408	New Section
R9-16-409	Repeal
R9-16-409	New Section

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

Authorizing statutes: A.R.S. §§ 36-136(F)  
 Implementing statutes: A.R.S. §§ 36-136.01

**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: 22 A.A.R. 2909, October 7, 2016

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

Name: Eric Thomas, Chief  
 Address: Department of Health Services  
 Division of Public Health Services, Public Health Preparedness,  
 Office of Environmental Health  
 150 N. 18th Ave., Suite 140  
 Phoenix, AZ 85007-3248  
 Telephone: (602) 364-0929  
 Fax: (602) 364-3146  
 E-mail: Eric.Thomas@azdhs.gov  
 or  
 Name: Robert Lane, Manager  
 Address: Department of Health Services  
 Office of Administrative Counsel and Rules  
 150 N. 18th Ave., Suite 200  
 Phoenix, AZ 85007  
 Telephone: (602) 542-1020  
 Fax: (602) 364-1150  
 E-mail: Robert.Lane@azdhs.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:**

Arizona Revised Statutes (A.R.S.) § 36-136.01 requires the Arizona Department of Health Services (Department) to establish a sanitarians council and establish rules for the registration of sanitarians. The Department adopted at Arizona Administrative Code (A.A.C.) Title 9, Chapter 16, Article 4 rules to implement A.R.S. § 36-136.01. The rules were originally promulgated in September 1976; substantially amended effective May 16, 2002; and last amended effective September 11, 2004. The rules in 9 A.A.C. 16, Article 4 contain definitions; examination, registration, and renewal registration requirements; continuing education requirements; time-frames; registered sanitarian’s authority; and criteria for the denial, suspension, or revocation of a sanitarian registration.

A statewide shortage of registered sanitarians limits county health departments (CHD) from conducting the functions and duties, including enforcement actions to remediate public nuisances, required by Delegation Agreements between the Department and the CHDs. To address the shortage in registered sanitarians and eliminate the threat to public health and safety, the Department is amending the rules in A.A.C. Title 9, Chapter 16, Article 4 to: expand the eligibility criteria for qualified individuals to take the sanitarian examination; increase the number of applicants approved for registration; simplify the application process; and adjust the sanitarian examination fee to cover the actual cost of the examination and remove the tax burden from taxpayers who are currently subsidizing the cost of sanitarian examinations administered by the Department. The proposed amendments will address these concerns, will remove obsolete requirements, and improve the effectiveness of the rules. The new rules will conform to rulemaking format and style requirements of the Governor’s Regulatory Review Council and the Office of the Secretary of State.

**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:**

The Department did not review or rely on any study for this rulemaking.

**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 Department anticipates cost bearers and beneficiaries may include the Department, CDHs, registered sanitarians, applicants seeking registration as a sanitarian, individuals seeking information about the sanitarian profession, individuals employed as a sanitarian aide, and the general public. Annual cost and revenue changes are designated as minimal when more than \$0 and



\$1,000 or less, moderate when between \$1,000 and \$10,000, and substantial when \$10,000 or greater in additional costs or revenues. A cost is listed as significant when meaningful or important, but not readily subject to quantification. Under the rules in 9 A.A.C. 16, Article 4, the Department and the Sanitarians Council approve applicants for sanitarian examination; administer the sanitarian examination; approve applicants for registration as a sanitarian, including applicants by reciprocity; approve registered sanitarian's requests to defer continuing education; and approve registered sanitarians' registration renewals.

The Department anticipates that the new rules may cause the Department to incur a moderate cost for technical resources assigned to amend and promulgate new Registration of Sanitarians rules through the regular rulemaking process. The Department anticipates a significant benefit for more individuals being interested in the environmental health sanitarian profession and more applicants being eligible and approved for registration as an environmental health sanitarian through the new rules. Rule changes such as amending the current "registered sanitarian" classification to "registered environmental health sanitarian"; allowing an additional six months to take/retake a sanitarian examination; and adding sanitarian aide requirements that identify the specific skills and knowledge a sanitarian aide must have to ensure eligibility to take a sanitarian examination and registration as an environmental health sanitarian. The Department expects that the benefit to the Department for having effective rules for registration of sanitarians is greater than the cost to amend the rules.

Arizona CHDs in 2016 conducted over 108,000 inspections at approximately 49,300 regulated facilities. The Department anticipates that the CHDs will benefit from having more registered sanitarians available for hire due to the new rules that simplify the application processes and reduce sanitarian examination and registration approval time-frames. The Department expects a moderate decrease in cost for CHDs through newly registered sanitarians being available for employment sooner, which may allow CHDs to reduce over-time paid to employed registered sanitarians working to ensure that all required inspections are completed. The Department anticipates that the CHDs may incur greater benefits from the new rules than possible costs that the CHDs might incur, if any.

The Department approved 557 applicants for registration as a sanitarian and renewal as a registered sanitarian in 2016. The Department anticipates that registered sanitarians will most likely not incur any costs as a result of the new rules. The Department does anticipate that registered sanitarians will benefit by having a simplified renewal application process that reduces time spent completing and submitting an application. Other benefits include new term "immediate family member's illness" that adds an additional reason a registered sanitarian may request to defer continuing education and new rule that adds an automatic extension for a registered sanitarian called to active military duty.

Last year, the Department received 65 sanitarian registration applications and approved 69 applicants to take a sanitarian examination. In the current rules, applicants may only take a sanitarian examination administered by the Department and is required to pay a \$110 sanitarian examination fee. The new rule increases the sanitarian examination fee to \$140 and allows applicants to take a sanitarian examination administered by the Department or by another Department-approved testing center. The Department, in comparing the Department's increased sanitarian examination fee to another testing center, determined that the other testing center charged applicants a \$125 application fee and \$325 for a sanitarian examination. Knowing this, the Department anticipates that most applicants will choose to pay the minimal \$30 increase to take a sanitarian examination administered by the Department rather than a \$500 fee charged by another testing center.

The Department anticipates that an applicant seeking registration as a sanitarian may receive a decrease in costs due to the significant benefits provided by the new rules. For example, the new rules simplify the application processes and reduce the application approval time-frames for both the sanitarian examination and the registration as a sanitarian. The Department expects that these rules will decrease the time an applicant spends on completing an application and time waiting for approval, and rather, an applicant may receive a moderate or more benefit by spending less time being unemployed. The Department also anticipates a decrease in cost from the new rule that increases the time allowed for an applicant to take and retake a sanitarian examination. Furthermore, with the Department deleting old rule that required an applicant to complete and submit another application and application fee before retaking a sanitarian examination, the Department expects additional decrease in cost for an applicant retaking a sanitarian examination. The Department anticipates that the benefits provided by the new rules are greater than the \$30 increase in the cost to take a sanitarian examination administered by the Department.

The Department expects that the current rules for individuals seeking information about the sanitarian profession or are employed as a sanitarian aide do not receive any benefit and most likely, unknowingly incur costs for a lack of knowing what the state's requirements and responsibilities are for the practice of a registered sanitarian or a sanitarian aide. The Department anticipates that under the new rules individuals seeking and finding information about qualifying for a sanitarian profession through employment as a sanitarian aide are more likely to pursue employment as a sanitarian aide, more likely to complete five years of employment in a position related to environmental health, and more likely to become a registered sanitarian. For individuals who are employed as a sanitarian aide, the new rules provide requirements that identify the environmental services skills, knowledge, experience, and applications that an individual needs to acquire while employed as a sanitarian aide. The Department anticipates that the increase in a sanitarian aide's proficiencies may result in more sanitarian aides taking and passing a sanitarian examination. The Department expects the new rules to significantly benefit individuals seeking information or employed as a sanitarian aide.

In 2016, registered sanitarians conducted thousands of inspections at over 49,000 regulated facilities on behalf of the general public. Under the new rules, the Department anticipates that the benefit to the general public may increase as the number of employed registered sanitarians increase, the number of inspections increase, and the number of public nuisances decrease. The Department anticipates that public nuisances increase costs, and as more inspections are performed, more public nuisances are avoided causing a significant decrease in costs and eliminating the threat to public health and safety to the public. The Department also anticipates a moderate decrease in cost for taxpayers who subsidize a portion of the cost that the Department pays (\$140) to purchase a sanitarian examination. With current rule requiring the Department to collect a \$110 fee for administering a sanitarian examination, taxpayers are required to pay the \$30 difference. The new rule amends the sanitarian examination fee to \$140 and decreases taxpayers' burden. The Department expects that the new rules will significantly increase benefits for the public.





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

Name: Eric Thomas, Chief  
 Address: Department of Health Services  
 Division of Public Health Services, Public Health Preparedness,  
 Office of Environmental Health  
 150 N. 18th Ave., Suite 140  
 Phoenix, AZ 85007-3248  
 Telephone: (602) 364-0929  
 Fax: (602) 364-3146  
 E-mail: Eric.Thomas@azdhs.gov  
 or  
 Name: Robert Lane, Manager  
 Address: Department of Health Services  
 Office of Administrative Counsel and Rules  
 150 N. 18th Ave., Suite 200  
 Phoenix, AZ 85007  
 Telephone: (602) 542-1020  
 Fax: (602) 364-1150  
 E-mail: Robert.Lane@azdhs.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:**

The Department has scheduled the following oral proceeding:  
 Date and time: Thursday, June 22, 2017, 1:00 p.m.  
 Location: 150 N. 18th Ave., ALS Training Room  
 Phoenix, AZ 85007  
 Close of record: Thursday, June 22, 2017, 2:00 p.m.

A person may submit written comments on the proposed rules no later than the close of record to either of the individuals listed in items 4 and 9.

A person with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting Robert Lane at Robert.Lane@azdhs.gov or (602) 542-1020. Requests should be made as early as possible to allow time to arrange the accommodation.

**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:**

- 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 rule requires a permit as specified in A.R.S. § 36-136.01. However, A.R.S. § 36-136.01 requires a registration application be for a specific individual, so a general permit is not used.
- 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:**  
 Not applicable
- 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:**  
 No business competitiveness analysis was received by the Department.

**12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**  
 Not applicable

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

**TITLE 9. HEALTH SERVICES**

**CHAPTER 16. DEPARTMENT OF HEALTH SERVICES – OCCUPATIONAL LICENSING**

**ARTICLE 4. ~~REGISTRATION OF SANITARIANS~~ REGISTRATION OF ENVIRONMENTAL HEALTH SANITARIANS**

Section	
R9-16-401.	Definitions
R9-16-402.	<del>Sanitarian Examination</del> Eligibility and Responsibilities for a Registered Environmental Health Sanitarian
R9-16-403.	<del>Sanitarian Registration</del> Requirements for an Environmental Health Sanitarian Aide
R9-16-404.	<del>Annual Registration Renewal</del> Continuing Education Requirements; Continuing Education Deferral; and Renewal Extension
R9-16-405.	<del>Continuing Education</del> Application for Sanitarian Examination and Registration
R9-16-406.	<del>Change of Name and Address</del> Application for Renewal Registration



- R9-16-407. Time-frames
- Table 1 ~~Time-frames (in days)~~ Repealed
- Table 4.1 ~~Time-frames (in calendar days)~~
- R9-16-408. Authority of a Registered Sanitarian Requesting for a Change
- R9-16-409. Denial, Suspension, or Revocation

**ARTICLE 4. REGISTRATION OF SANITARIANS REGISTRATION OF ENVIRONMENTAL HEALTH SANITARIANS**

**R9-16-401. Definitions**

In this Article, unless otherwise specified:

- 1. ~~“Applicant” means an individual requesting from the Council:~~
  - a. ~~Approval to take the sanitarian examination;~~
  - b. ~~Registration as a sanitarian; or~~
  - e. ~~Renewal of registration as a sanitarian.~~
- 2. ~~“Application packet” means a Council approved application form and the documentation necessary to establish an individual’s qualifications for registration as a sanitarian.~~
- 3. ~~“Billet” means an individual’s military job position and job description.~~
- 4. ~~“Council” means the Sanitarians’ Council established under A.R.S. § 36-136.01(A).~~
- 5. ~~“Course” means a program of instruction for which credit toward graduation or certification is given.~~
- 6. ~~“Continuing education” means a course, seminar, lecture, conference, workshop, or programmed learning activity related to employment as a registered sanitarian.~~
- 7. ~~“Day” means calendar day.~~
- 8. ~~“Environmental health” means the well-being of a human as affected or influenced by external conditions such as: bacteria and viruses; transmitted diseases; hygiene; housing; and contamination of food, air, water, or soil.~~
- 9. ~~“Full time military duty” means active duty in any branch of the United States military service.~~
- 10. ~~“Natural science” means anatomy, bacteriology, biochemistry, biology, botany, biophysics, biostatistics, cell physiology, chemical engineering, chemistry, ecology, embryology, endocrinology, entomology, environmental health, epidemiology, food bacteriology, dairy sciences, genetics, geophysics, geology, herpetology, histology, hydro geology, hydrology, ichthyology, limnology, microbiology, molecular biology, ornithology, parasitology, pathology, pharmacy, physics, physiology, plant taxonomy, radiological health, sanitary engineering, sewage sanitation, soil science, toxicology, vector control, veterinary science, virology, or zoology or the study of air pollution, community health, environmental diseases, hazardous waste, industrial hygiene, infectious diseases, occupational safety, or public health.~~
- 11. ~~“Person” has the same meaning as in A.R.S. § 1-215.~~
- 12. ~~“Practice of a registered sanitarian” means acting under the authority of R9-16-408(A).~~
- 13. ~~“Registration” means the approval issued by the Council to an applicant who meets the requirements in A.R.S. § 36-136.01 and this Article.~~
- 14. ~~“Regulatory authority” has the same meaning as in R9-8-107(B)(11).~~
- 15. ~~“Supervise” means to oversee and provide guidance for the accomplishment of a function or activity.~~

The following definitions apply in this Article, unless otherwise specified:

- 1. “Accredited” means that an educational institution is recognized by the U.S. Department of Education as providing standards necessary to meet acceptable levels of quality for its graduates to gain admission to other reputable institutions of higher learning or to achieve credentials for professional practice.
- 2. “Administrative completeness review time-frame” has the same meaning as in A.R.S. § 41-1072.
- 3. “Applicant” means an individual who submits an application packet or renewal application packet for registration as an environmental health sanitarian.
- 4. “Application packet” means the information, documents, and fees required by the Department to apply for approval to:
  - a. Take a sanitarian examination, and
  - b. Be registered as an environmental health sanitarian.
- 5. “Calendar day” means each day, not including the day of the act, event, or default from which a designated period of time begins to run and including the last day of the period unless it is a Saturday, Sunday, statewide furlough day, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, statewide furlough day, or legal holiday.
- 6. “Continuing education” means a course that provides instruction and training that is designed to develop or improve a registered environmental health sanitarian’s professional competence in disciplines directly related to the practice of a registered environmental health sanitarian.
- 7. “Continuing education hour” means 50 to 60 minutes of continuous course work.
- 8. “Course” means a workshop, seminar, lecture, conference, or other learning program activities as approved by the Department.
- 9. “Department” means the Arizona Department of Health Services, established in A.R.S. § 36-104, and the Sanitarians Council, established in A.R.S. § 36-136.01.
- 10. “Environmental health” means the science and practice of preventing human injury and illness and promoting well-being by identifying sources that produce potential hazardous physical, chemical, or biological agents in air, water, soil, food, or other conditions; and eliminating or minimizing exposure to sources that adversely affect or may adversely affect human health.
- 11. “Environmental health sanitarian aide” means an individual, under the supervision of another individual, who performs or assists with environmental health services as described in R9-16-403 and is supervised as in R9-16-402(E).
- 12. “Hazardous environmental agent” means a material, whether liquid, solid, gas, or sludge, that contains properties that may the material potentially harmful to public health or the environment.
- 13. “Immediate family member” means an individual related by birth, marriage, or adoption.



14. “License or licensed” means a permit, certificate, or similar form of approval issued by a state agency according to state law that an individual may practice in the profession indicated by the approval.
15. “Natural science” means a branch of science that deals with the physical world, including life, physical, and health sciences.
16. “Overall time-frame” has the same meaning as in A.R.S. § 41-1072.
17. “Practice of a registered environmental health sanitarian” means acting within the scope established in R9-16-402.
18. “Registered environmental health sanitarian” means the same as a “registered sanitarian” in A.R.S. § 36-130.01.
19. “Renewal application packet” means the information, documents, and fees required by the Department to apply to continue registration as an environmental health sanitarian.
20. “Sanitarian examination” means a test that consists of questions related to environmental health, including natural sciences, facility and system inspections, investigations, compliance, responding to emergencies, and promoting environmental public health awareness.
21. “Semester credit” means one earned academic unit of study or equivalent, with a grade of “C” or better, at an accredited college or university by:
  - a. Attending a 50 to 60 minute class session each calendar week for at least 16 weeks, or
  - b. Completing practical work for a class as determined by the accredited college or university.
22. “Substantive review time-frame” has the same meaning as in A.R.S. § 41-1072.
23. “Supervision” means being responsible for and providing direction to an individual who:
  - a. Performs or assists a registered environmental health sanitarian with environmental health services as described in R9-16-403, and
  - b. Is employed as an environmental health sanitarian aide in a position directly related to environmental health.

**R9-16-402. Sanitarian Examination Eligibility and Responsibilities for a Registered Environmental Health Sanitarian**

- ~~A. The Council shall provide the sanitarian examination at least four times per calendar year.~~
- ~~B. An applicant meeting any one of the requirements in A.R.S. § 36-136.01(I) may sit for the sanitarian examination.~~
- ~~C. At least seven days before a Council meeting, an applicant for the sanitarian examination shall:~~
- ~~i. Submit an application form to the Council that contains:
 
    - a. The applicant's full name and all former names;
    - b. The applicant's current address and telephone number;
    - c. The applicant's social security number;
    - d. If applying under A.R.S. § 36-136.01(I)(1) on the basis of the applicant's employment by a public health agency or private industry in a position directly related to environmental health:
      - i. The name of each of the applicant's employers;
      - ii. The applicant's position for each employer;
      - iii. The months and years of employment in each position, and
      - iv. The name and telephone number of each individual who supervised the applicant during five years of employment in environmental health;
    - e. If applying under A.R.S. § 36-136.01(I)(2) on the basis of military duty:
      - i. Each of the applicant's billets in environmental health;
      - ii. The months and years in each billet, and
      - iii. The name and telephone number of each individual who supervised the applicant during five years of full-time military duty in environmental health;
    - f. If applying under A.R.S. § 36-136.01(I)(3) on the basis of education in natural science:
      - i. The name and address of each college or university attended;
      - ii. The months and years of attendance;
      - iii. Any degree obtained, and
      - iv. A listing of courses in natural science completed with a grade of C or better;
    - g. Whether the applicant has had an application for a registration, license, or certificate related to the practice of a registered sanitarian denied or rejected by any state or jurisdiction and if so, the:
      - i. Reason for denial or rejection;
      - ii. Date of the denial or rejection, and
      - iii. Name and address of the state or jurisdiction that denied or rejected the application;
    - h. Whether the applicant has had a registration, license, or certificate related to the practice of a registered sanitarian suspended or revoked by any state or jurisdiction or entered into a consent agreement with a state or jurisdiction and if so, the:
      - i. Reason for the suspension, revocation, or consent agreement;
      - ii. Date of the suspension, revocation, or consent agreement; and
      - iii. Name and address of the state or jurisdiction that suspended or revoked the registration, license, or certificate or issued the consent agreement;
    - i. Whether the applicant has pled guilty to, been convicted of, or entered a plea of no-contest to a misdemeanor related to the applicant's employment as a sanitarian or a felony and if so, the:
      - i. Felony or misdemeanor charged;
      - ii. Date of conviction or plea; and
      - iii. Court having jurisdiction over the felony or misdemeanor;
    - j. Whether the applicant has been named as a defendant in a malpractice case resulting from the applicant's employment as a sanitarian and if so, an explanation of the circumstances of the malpractice case;
    - k. The applicant's current employer, including address, job position, and dates of employment, if applicable; and
    - l. A signed statement by the applicant verifying the truthfulness of the information provided;~~



- 2. If applying under A.R.S. § 36-136.01(I)(1), arrange to have a letter provided directly to the Council from each individual who supervised the applicant identifying the dates the individual supervised the applicant, totaling at least five years of employment directly related to environmental health;
  - 3. If applying under A.R.S. § 36-136.01(I)(2), arrange to have a letter provided directly to the Council from each individual who supervised the applicant identifying the dates the individual supervised the applicant, totaling at least five years of full-time military duty in environmental health;
  - 4. If applying under A.R.S. § 36-136.01(I)(3), arrange to have an official college or university transcript provided directly to the Council from each college or university; and
  - 5. Submit the application fee in A.R.S. § 36-136.01(F).
- D.** After receiving the written notice of approval in R9-16-407(C)(1)(b), an applicant shall submit to the Council, at least 30 days before the scheduled date of a sanitarian examination, a nonrefundable examination fee of \$110 payable to the Treasurer of the state of Arizona.
- E.** An applicant who does not take a sanitarian examination on the scheduled date shall comply with subsection (D) before taking a subsequent sanitarian examination.
- F.** An applicant who scores:
- 1. Seventy percent or more on the sanitarian examination is issued a certificate of registration; or
  - 2. Less than 70%:
    - a. Fails the sanitarian examination; and
    - b. Shall meet the requirements in subsections (B), (C) and (D) to sit for the sanitarian examination again.
- A.** An individual is eligible to be a registered environmental health sanitarian if the individual meets at least one of the following:
- 1. Has completed at least 30 semester credits at an accredited college or university in the natural sciences or the equivalent credits from a college or university from outside the United States or its territories verified by a Department-approved third party evaluation service;
  - 2. Has completed at least five years of employment as a sanitarian aide in a position directly related to environmental health;
  - 3. Has completed at least five years of active military service in the field of environmental health;
  - 4. Is currently licensed as a sanitarian in another jurisdiction, has passed a sanitarian examination that is equivalent to this state's examination with a score of 70% or more, and has completed at least one of the requirements identified in subsections (A)(1), (2), or (3); or
  - 5. Has received an official notice from a testing organization approved by the Department that contains the individual's sanitarian examination test results with a score of 70% or more and has completed at least one of the requirements identified in subsections (A)(1), (2), or (3).
- B.** An individual who is eligible to be a registered environmental health sanitarian according to subsection (A)(1) through (3) shall pass a sanitarian examination administered by the Department or administered by a testing organization approved by the Department.
- C.** The practice of a registered environmental health sanitarian may include:
- 1. Investigating, sampling, measuring, and assessing hazardous environmental agents;
  - 2. Recommending and applying protective interventions that control hazards to health;
  - 3. Developing, promoting, and enforcing guidelines, policies, rules, statutes, and regulations;
  - 4. Performing system analysis;
  - 5. Interpreting research utilizing science and evidence to understand the relationship between health and environment; or
  - 6. Interpreting data and preparing technical summaries and reports.
- D.** A registered environmental health sanitarian shall:
- 1. Comply with A.R.S. § 41-1009;
  - 2. Comply with A.A.C. Title 9, Chapter 8; and
  - 3. Review and, as appropriate, sign reports prepared by a sanitarian aide.
- E.** An individual who provides supervision to an environmental health sanitarian aide shall:
- 1. Ensure that the number of hours and type of supervision in providing environmental health services is consistent with:
    - a. The sanitarian aide's skills and experience;
    - b. The setting where the environmental health services are provided; and
    - c. The tasks assigned;
  - 2. Establish a record for the environmental health sanitarian aide who receives supervision that includes:
    - a. The sanitarian aide's name, address, e-mail address, and telephone number;
    - b. A plan indicating the types of skills and the number of hours allocated to the development of each skill that the environmental health sanitarian aide is expected to complete;
    - c. Documentation of evaluations provided to the environmental health sanitarian aide during the time supervision was provided; and
    - d. Documentation of when supervision began and ended; and
  - 3. Maintain a sanitarian aide's record throughout the period that the environmental health sanitarian aide received supervision.

**R9-16-403. Sanitarian Registration Requirements for an Environmental Health Sanitarian Aide**

An applicant for registration as a sanitarian shall submit to the Council the application form, information, and application fee in R9-16-402 and:

- 1. If the applicant is registered, certified, or licensed as a sanitarian in another jurisdiction submit to the Council:
  - a. A copy of the applicant's sanitarian registration, certification, or licensure from the other jurisdiction;
  - b. A copy of the examination requirements for registration, certification, or licensure in the other jurisdiction;
  - c. The name of the testing company that provided the sanitarian examination the applicant passed to be registered, certified, or licensed in the other jurisdiction; and
  - d. Documentation of a score of 70% or more by the applicant on the other jurisdiction's sanitarian examination; or



2. If the applicant is not registered, certified, or licensed as a sanitarian in another jurisdiction:
  - a. Be approved to take the sanitarian examination;
  - b. Take and pass the sanitarian examination in R9-16-402 with a score of 70% or more; and
  - e. Submit to the Council the examination fee in R9-16-402(D).
- A. An environmental health sanitarian aide may perform or assist in any of the following environmental health services:
  1. Inspections related to food establishments, food processing, food distribution, sewage and refuse disposal, water supplies, hotels, motels, campground, swimming pools, and other related facilities or locations regulated under A.A.C. Title 9, Chapter 8;
  2. Investigations of complaints to ensure compliance with environmental regulations;
  3. Routine samplings of water, sewage, food, and other samples for analysis; or
  4. Application of ordinances, codes, rules, and regulations governing public health.
- B. An environmental health sanitarian aide shall:
  1. Have reports reviewed by a registered environmental health sanitarian;
  2. Not approve or disapprove the operation of an establishment under A.A.C. Title 9, Chapter 8; and
  3. Not sign on behalf of a registered environmental health sanitarian.
- C. A sanitarian aide, who has completed at least five years of employment as an environmental health sanitarian aide in a position directly related to environmental health, may apply for registration as an environmental health sanitarian according to R9-16-405.

**R9-16-404. ~~Annual Registration Renewal~~ Continuing Education Requirements; Continuing Education Deferral; and Renewal Extension**

- A. Except as provided in subsection (B), a registered sanitarian shall submit an application packet for registration renewal on or before December 31 of each year that includes:
  1. The applicant's name and current address;
  2. Whether the applicant, since the applicant last submitted a registration or registration renewal application in this state:
    - a. Has had a registration, license, or certificate related to the practice of a registered sanitarian suspended or revoked by any state or jurisdiction or entered into a consent agreement with a state or jurisdiction and if so, the:
      - i. Reason for the suspension, revocation, or consent agreement;
      - ii. Date of the suspension, revocation, or consent agreement; and
      - iii. Name and address of the state or jurisdiction that suspended or revoked the registration, license, or certificate or issued the consent agreement;
    - b. Has pled guilty to, been convicted of, or entered into a plea of no contest to a misdemeanor that is related to the applicant's employment as a sanitarian or a felony and if so, the:
      - i. Felony or misdemeanor;
      - ii. Date of conviction; and
      - iii. Court having jurisdiction over the felony or misdemeanor; or
    - e. Has been named as a defendant in a malpractice case resulting from the applicant's employment as a sanitarian and if so, an explanation of the circumstances of the malpractice case;
  3. Documentation of:
    - a. The continuing education required in R9-16-405(A) or (E) including for each continuing education:
      - i. A description of the continuing education's content;
      - ii. The name of the person providing the continuing education;
      - iii. The number of hours the sanitarian participated in the continuing education; and
      - iv. The date the continuing education was completed; or
    - b. A request for deferring continuing education and applicable documentation required in R9-16-405(C);
  4. The fee required in A.R.S. § 36-136.01(F); and
  5. A signed statement by the applicant verifying the truthfulness of the information provided.
- B. A registered sanitarian who does not submit an application packet for renewal registration by December 31 has a grace period until February 15 to submit the application packet. If the registered sanitarian does not submit the application packet for renewal registration in subsection (A) during the grace period:
  1. The sanitarian's registration expires; and
  2. The sanitarian shall, before practicing as a registered sanitarian:
    - a. Submit for Council approval a new application to take the sanitarian examination and the application fee required in R9-16-402(C)(5);
    - b. Receive Council approval to take the sanitarian examination;
    - e. Submit the nonrefundable examination fee required in R-16-402(D), and
    - d. Pass the sanitarian examination as required in R9-16-402(F)(1).
- A. A registered environmental health sanitarian shall complete 12 continuing education hours during the 12 months prior to December 31 of each calendar year, unless the registered environmental health sanitarian:
  1. Has been a registered environmental health sanitarian for less than 12 months as indicated on the renewal application;
  2. Was prevented from completing continuing education, according to subsection (A), due to a personal or an immediate family member's illness during at least six continuous months of the preceding 12 months; or
  3. Was called to active military service.
- B. Except for a registered environmental health sanitarian in subsection (A)(1) or (3), by November 1st of each calendar year, a registered environmental health sanitarian may request to defer continuing education by submitting:
  1. A request in a Department-provided format that contains:
    - a. The registered environmental health sanitarian's name, address, e-mail address, and telephone number;
    - b. The registered environmental health sanitarian's registration number;
    - c. A statement regarding the registered environmental health sanitarian's personal or immediate family member's illness;



- d. The number of continuing education hours requesting to defer;
  - e. An attestation that:
    - i. The registered environmental health sanitarian is authorizing the Department to verify all information provided in the continuing education deferral request; and
    - ii. The registered environmental health sanitarian's signature, including date of signature; and
  - f. Documentation that verifies the duration of the registered environmental health sanitarian's personal or immediate family member's illness from the physician treating or who treated the registered environmental health sanitarian's personal or immediate family member's illness; and
2. If a registered environmental health sanitarian completed any continuing education hours, provide the information required for completed continuing education hours in R9-16-406(D)(1)(h).
- C.** A registered environmental health sanitarian who deferred continuing education in subsection (B) shall obtain both:
- 1. The deferred continuing education by the end of the subsequent renewal year, and
  - 2. The continuing education required in subsection (A) for the current renewal year.
- D.** A registered environmental health sanitarian called to active military service:
- 1. Shall submit a written notice for renewal extension to the Department that includes:
    - a. The registered environmental health sanitarian's name, address, e-mail address, and telephone number;
    - b. The registered environmental health sanitarian's registration number;
    - c. A statement stating the reason for the notice of renewal extension;
    - d. The registered environmental health sanitarian's signature, including date of signature; and
    - e. A copy of the registered environmental health sanitarian's deployment documentation;
  - 2. Retains registration as an environmental health sanitarian for the term of service or deployment plus 180 calendar days;
  - 3. Defers the requirement for completing the continuing education required in R9-16-404(A) for the term of service or deployment plus 180 calendar days; and
  - 4. Shall submit a renewal application packet according to R9-16-406 after the term of service or deployment plus 180 calendar days.
- E.** The Department shall review the request to defer continuing education submitted in subsection (B) for approval according to R9-16-407 and Table 4.1.
- F.** If the Department denies a registered environmental health sanitarian's request to defer continuing education, the registered environmental health sanitarian shall submit the information for the required continuing education hours in subsection (A) according to R9-16-406(D)(1)(h).

**R9-16-405. Continuing Education Application for Sanitarian Examination and Registration**

- A.** ~~Except as provided in subsections (B) and (C), a registered sanitarian shall obtain 12 hours of continuing education in each calendar year for renewal of registration.~~
- B.** ~~A registered sanitarian who has been registered for less than 12 months is not required to obtain continuing education for renewal of registration.~~
- C.** ~~A registered sanitarian may submit, with a renewal application, a request to defer the 12 hours of continuing education for renewal of registration that includes written documentation of the registered sanitarian's illness or active military duty for at least six months of the preceding 12 months that prevented the registered sanitarian from completing the continuing education requirement.~~
- D.** ~~The Council shall approve a registered sanitarian's request for a deferral of the continuing education requirement if the request includes the documentation required in subsection (C).~~
- E.** ~~A registered sanitarian who has had the continuing education requirement deferred in a calendar year shall obtain:~~
- 1. ~~The 12 deferred hours of continuing education by the end of the subsequent calendar year, and~~
  - 2. ~~The 12 hours of continuing education required in subsection (A) for the calendar year.~~
- A.** An individual may apply to take the sanitarian examination for registration as an environmental health sanitarian if the individual meets one of the eligibility requirements in R9-16-402(A).
- B.** At least seven calendar days before a Sanitarians Council meeting, an applicant for environmental health sanitarian registration shall submit an application packet to the Department containing:
- 1. The following information in a Department-provided format:
    - a. The applicant's name, address, e-mail address, and telephone number;
    - b. If applicable, the applicant's former names;
    - c. The applicant's social security number, required under A.R.S. §§ 25-320 and 25-502;
    - d. If applicable, the following information about the applicant's current employment:
      - i. The employer's name, address, e-mail address, and telephone number;
      - ii. The applicant's position title; and
      - iii. The applicant's employment starts date;
    - e. If an applicant is eligible based on R9-16-402(A)(1), the following for each college or university where the applicant completed semester credits or the equivalent credits from a college or university from outside the United States or its territories verified according to R9-16-402(A)(1):
      - i. The college or university's name, address, e-mail address, and telephone number;
      - ii. The number of natural science semester credits completed; and
      - iii. If applicable, the degree obtained;
    - f. If an applicant is eligible based on R9-16-402(A)(2), the following for each of the applicant's employers during the five years the applicant was employed as a sanitarian aide:
      - i. The employer's name, address, e-mail address, and telephone number;
      - ii. The name, title, e-mail address, and telephone number of a contact individual for the employer;
      - iii. The applicant's position and description of responsibilities; and





- D. The Department shall review an application packet for an applicant to take a sanitarian examination according to R9-16-407 and Table 4.1.
- E. The Department shall review a sanitarian examination for an applicant licensed by another state or jurisdiction for approval for the applicant to practice as a registered environmental health sanitarian according to R9-16-407 and Table 4.1.
- F. The Department shall:
  - 1. Administer the sanitarian examination at least four times each calendar year;
  - 2. By January 1 of each calendar year, provide the annual sanitarian examination schedule;
  - 3. If a scheduled sanitarian examination requires rescheduling, provide a notice at least 14 calendar days before a scheduled sanitarian examination date in subsection (2) occurs that includes information about the revised sanitarian examination; and
  - 4. By January 1 of each calendar year, provide a list of Department-approved testing organizations.
- G. An applicant approved to take a sanitarian examination shall:
  - 1. Determine whether the applicant will take a sanitarian examination administered by the Department or administered by a testing organization approved by the Department and
    - a. If the applicant determines to take a sanitarian examination administered by the Department, the applicant shall:
      - i. Submit a nonrefundable \$140 sanitarian examination fee to the Department at least 30 calendar days before taking a scheduled sanitarian examination;
      - ii. Take a scheduled sanitarian examination administered by the Department, and
      - iii. Submit the completed sanitarian examination to the Department; or
    - b. If the applicant determines to take a sanitarian examination administered by a testing organization approved by the Department, the applicant shall:
      - i. Select a testing organization from the Department-approved list;
      - ii. Take a scheduled sanitarian examination administered by the testing organization, and
      - iii. Submit a copy of the official notice from the testing organization that contains the sanitarian examination test results to the Department;
  - 2. Take the sanitarian examination within 6 months after the date the applicant received the notice of approval to take the sanitarian examination; and
  - 3. Obtain a score of 70% or more on the sanitarian examination to pass the sanitarian examination.
- H. The Department shall review a sanitarian examination for approval for an applicant to practice as a registered environmental health sanitarian according to R9-16-407 and Table 4.1.
- I. An applicant, who does not submit a sanitarian examination or a copy of an official notice from a testing organization in subsection (G) within 6 months after the date that the applicant received the notice of approval to take the sanitarian examination, shall submit a new application packet according to R9-16-405(B).
- J. An applicant, who submits a sanitarian examination or a copy of an official notice from a testing organization in subsection (G) within 6 months after the date that the applicant received the notice of approval to take the sanitarian examination and does not score 70% or more, shall:
  - 1. Have 12 months from the date of the approval letter the applicant received from the Department to resubmit a sanitarian examination or a copy of an official notice from a testing organization in subsection (G); and
  - 2. Comply with subsections (G)(1)(a) or (b) to retake the sanitarian examination.

**R9-16-406. Change of Name or Address Application for Renewal Registration**

- A. A registered sanitarian shall send written notice of a change in the registered sanitarian's name to the Council within 30 days from the date of the change.
- B. A registered sanitarian shall send written notice of a change in the registered sanitarian's mailing address to the Council within 30 days from the date of the change.
- A. Except as provided in R9-16-404(D), a registered environmental health sanitarian shall submit an application packet for registration renewal on or before December 31 of each calendar year.
- B. A registered environmental health sanitarian who does not submit a renewal application packet by December 31 of the subsequent year has a grace period until February 15 to submit a renewal application packet.
- C. A registered environmental health sanitarian, who does not submit a renewal application packet by February 15, shall not practice as a registered environmental health sanitarian.
- D. By December 31 of each calendar year, an applicant shall submit to the Department a renewal application packet containing:
  - 1. The following information in a Department-provided format:
    - a. The applicant's name, address, e-mail address, and telephone number;
    - b. The applicant's environmental health sanitarian registration number;
    - c. Whether the applicant, since the applicant last submitted an application packet or renewal application packet, has had a license as a sanitarian suspended or revoked by a state or jurisdiction or entered into a consent agreement with another jurisdiction;
    - d. If the applicant has had a license as a sanitarian suspended or revoked or entered into a consent agreement with another jurisdiction, the:
      - i. Reason for the suspension, revocation, or consent agreement;
      - ii. Date of the suspension, revocation, or consent agreement; and
      - iii. Name, address, and telephone number of the licensing agency that suspended, revoked, or entered into a consent agreement;
    - e. Whether the applicant, since the applicant last submitted a renewal application packet, has been convicted of a felony or a misdemeanor related to the applicant's employment or occupation as a sanitarian in this state or another jurisdiction;
    - f. If the applicant has been convicted of a felony or a misdemeanor as stated according to subsection (e):
      - i. The date of the conviction.





- ii. The state or jurisdiction of the conviction.
      - iii. An explanation of the crime of which the applicant was convicted, and
      - iv. The disposition of the case;
    - g. Whether the applicant requested to defer continuing education due to a personal or immediate family member's illness according to R9-16-404(B);
    - h. Except for a registered environmental health sanitarian in R9-16-404(A), for each continuing education course completed during the previous 12 months, the following:
      - i. The course title.
      - ii. A course description.
      - iii. The name of the individual providing the continuing education course.
      - iv. The date the continuing education course was completed, and
      - v. The total number of continuing education hours attended;
    - i. Whether the applicant has been a registered environmental health sanitarian for less than 12 months according to R9-16-404(A)(1);
    - j. An attestation that:
      - i. The applicant affirms that the continuing education courses specified according to subsection (h) are applicable and consistent with the Department's approved continuing education courses or with the practice of a registered environmental sanitarian described in R9-16-402(C);
      - ii. The applicant authorizes the Department to verify all information provided in the renewal application packet; and
      - iii. The information submitted as part of the renewal application packet is true and accurate; and
    - k. The applicant's signature and date of signature; and
  - 2. If applicable, a copy of the approved request to defer continuing education, and
  - 3. The \$10 renewal application fee.
- E. If a registered environmental health sanitarian does not submit a renewal application packet in subsection (D) by February 15:
  - 1. The registered environmental health sanitarian's registration expires on February 16; and
  - 2. Before practicing as a registered environmental health sanitarian, a registered environmental health sanitarian whose environmental health sanitarian registration expired February 16 shall submit a new application packet according to R9-16-405.
- F. The Department shall review the renewal application packet for approval of registration as an environmental health sanitarian according to R9-16-407 and Table 4.1.

#### **R9-16-407. Time-frames**

- A. ~~The overall time frame described in A.R.S. § 41-1072(2) for each type of approval granted by the Council is set forth in Table 1. The applicant and the Department may agree in writing to extend the substantive review time frame and the overall time frame. The substantive review time frame and the overall time frame may not be extended by more than 25% of the overall time frame.~~
- B. ~~The administrative completeness review time frame described in A.R.S. § 41-1072(1) for each type of approval granted by the Council is specified in Table 1.~~
  - 1. ~~The administrative completeness review time frame begins:~~
    - a. ~~For an applicant applying to take the sanitarian examination, when the Council receives the application packet required in R9-16-402;~~
    - b. ~~For an applicant who is approved to take the sanitarian examination, when the applicant takes the sanitarian examination; or~~
    - e. ~~For an applicant who is registered, certified, or licensed as a sanitarian in another jurisdiction, when the Council receives the application packet required in R9-16-403; or~~
    - d. ~~For an applicant applying to renew the applicant's registration as a sanitarian, when the Council receives the application packet required in R9-16-404.~~
  - 2. ~~If an application packet in subsection (B)(1)(a), (B)(1)(c), or (B)(1)(d) is:~~
    - a. ~~Incomplete, the Council shall provide a deficiency notice to the applicant describing the missing documentation or incomplete information. The administrative completeness review time frame and the overall time frame are suspended from the date of the notice until the date the Council receives the documentation or information listed in the deficiency notice. An applicant shall submit to the Council the documentation or information listed in the deficiency notice within the time period specified in Table 1 for responding to a deficiency notice.~~
      - i. ~~If the applicant submits the documentation or information listed in the deficiency notice within the time period specified in Table 1, the Council shall provide a written notice of administrative completeness to the applicant.~~
      - ii. ~~If the applicant does not submit the documentation or information listed in the deficiency notice within the time period in Table 1, the Council considers the application withdrawn and shall return the application packet to the applicant; or~~
    - b. ~~Complete, the Council shall provide a notice of administrative completeness to the applicant.~~
  - 3. ~~If an applicant takes and submits the sanitarian examination in subsection (B)(1)(b) and the examination is:~~
    - a. ~~Incomplete, the Council shall provide a deficiency notice to the applicant stating that the applicant's sanitarian examination is incomplete and identifying the date of the next scheduled sanitarian examination. The administrative completeness review time frame and the overall time frame are suspended from the date of the notice until the Council receives a completed sanitarian examination; or~~
    - b. ~~Complete, the Council shall provide a written notice of administrative completeness to the applicant.~~
- C. ~~The substantive review time frame described in A.R.S. § 41-1072(3) is specified in Table 1 and begins to run on the date of the notice of administrative completeness.~~
  - 1. ~~If an application for approval to take the sanitarian examination in subsection (B)(1)(a):~~
    - a. ~~Does not comply with the requirements in this Article, the Council shall provide a comprehensive request for additional information to the applicant.~~



- i. If the applicant does not submit the additional information within the time specified in Table 1 or the additional information submitted by the applicant does not demonstrate compliance with this Article and A.R.S. § 36-136.01, the Council shall deny approval to take the sanitarian examination and provide the applicant a written notice of denial that complies with A.R.S. § 41-1092.03(A); or
  - ii. If the applicant submits the additional information within the time specified in Table 1 and the additional information submitted by the applicant demonstrates compliance with this Article and A.R.S. § 36-136.01, the Council shall provide a written notice of approval to take the sanitarian examination to the applicant; or
  - b. Complies with the requirements in this Article and A.R.S. § 36-136.01, the Council shall provide a written notice of approval to take the sanitarian examination to the applicant.
2. If the Council determines that an applicant:
- a. Failed to sit for the sanitarian examination within the time frame in subsection (F), the Council shall provide a written notice to the applicant requiring the applicant to submit a new application for approval to take the sanitarian examination if the applicant requests registration;
  - b. Failed the sanitarian examination, the Council shall deny registration and provide a written notice of appealable agency action that complies with A.R.S. § 41-1092.03(A) to the applicant; or
  - e. Passed the sanitarian examination, the Council shall issue a certificate of registration as a sanitarian to the applicant.
3. If an application for registration as a sanitarian in subsection (B)(1)(c):
- a. Does not comply with the requirements in this Article, the Council shall provide a comprehensive request for additional information to the applicant and take action as follows:
    - i. If the applicant does not submit the additional information within the time specified in Table 1 or the additional information submitted by the applicant does not demonstrate compliance with this Article and A.R.S. § 36-136.01, the Council shall deny registration and provide the applicant a written notice of appealable agency action that complies with A.R.S. § 41-1092.03(A); or
    - ii. If the applicant submits the additional information within the time specified in Table 1 and the additional information submitted by the applicant demonstrates compliance with this Article and A.R.S. § 36-136.01, the Council shall issue a certificate of registration as a sanitarian to the applicant; or
  - b. Complies with the requirements in this Article and A.R.S. § 36-136.01, the Council shall issue a certificate of registration as a sanitarian to the applicant.
4. If an application for renewal of registration as a sanitarian in subsection (B)(1)(d):
- a. Does not comply with the requirements in this Article, the Council shall provide a comprehensive request for additional information to the applicant;
    - i. If the applicant does not submit the additional information within the time specified in Table 1 or the additional information submitted does not demonstrate compliance with the requirements in this Article and A.R.S. § 36-136.01, the Council shall deny renewal and provide a written notice of appealable agency action that complies with A.R.S. § 41-1092.03(A) to the applicant; or
    - ii. If the applicant submits the additional information within the time specified in Table 1 and the additional information submitted demonstrates compliance with the requirements in this Article and A.R.S. § 36-136.01, the Council shall issue a renewal certificate of registration as a sanitarian to the applicant; or
  - b. Complies with the requirements in this Article and A.R.S. § 36-136.01, the Council shall issue a renewal certificate of registration as a sanitarian to the applicant.
- D.** If an applicant receives a written notice of appealable agency action in subsections (C)(1)(a)(i), (C)(2)(b), (C)(3)(a)(i), or (C)(4)(a)(i), the applicant may file a notice of appeal with the Department within 30 days after receiving the notice of appealable agency action. The appeal shall be conducted according to A.R.S. Title 41, Chapter 6, Article 10.
- E.** If the Council grants approval to take the sanitarian examination or issues or renews a certificate of registration as a sanitarian during the administrative completeness review time frame, the Council shall not issue a separate written notice of administrative completeness.
- F.** If an applicant does not sit for the sanitarian examination within 12 months of the Council's approval to take the sanitarian examination, the applicant shall, before taking the sanitarian examination:
1. Submit a new application for Council approval and the application fee required in R9-16-402(C);
  2. Receive Council approval to take the sanitarian examination; and
  3. Submit the nonrefundable examination fee required in R9-16-402(D).
- G.** If a time frame's last day falls on a Saturday, Sunday, or a legal holiday, the Council considers the next business day as the time frame's last day.

Table 1. ~~Time frames (in days)~~ **Repealed**

Type of Approval	Statutory Authority	Overall Time-frame	Administrative Completeness Review Time-frame	Time to Respond to Deficiency Notice	Substantive Review Time-frame	Time to Respond to Comprehensive Written Request
Sanitarian Examination (R9-16-402)	A.R.S. § 36-136.01(B)	290	30	60	200	60
Registration after completing the sanitarian examination (R9-16-403)	A.R.S. § 36-136.01(B)	90	30	N/A	60	N/A

Registration of an individual registered, certified, or licensed as a sanitarian in another jurisdiction (R9-16-403)	A.R.S. § 36-136.01(C)	180	90	15	90	15
Annual Registration-Renewal (R9-16-404)	A.R.S. § 36-136.01(D)	180	90	15	90	15

- A.** The overall time-frame begins, for:
  1. A sanitarian examination approval, on the date the Department receives an application packet in R9-16-405(B);
  2. An environmental health sanitarian registration approval, on the date the Department receives an official notice for an applicant's sanitarian examination test result administered by:
    - a. A testing organization described in R9-16-405(B)(1)(i) or (G) or
    - b. A testing organization or jurisdiction that administered the sanitarian examination required by another state or jurisdiction described in R9-16-405(B)(1)(h);
  3. A continuing education deferral approval, on the date the Department receives the continuing education deferral request in R9-16-404(B); and
  4. A renewal registration approval, on the date the Department receives a renewal application packet in R9-16-406(D).
- B.** The applicant and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame. The substantive review time-frame and the overall time-frame may not extended by more than 25% of the overall time-frame.
- C.** Within the administrative completeness review time-frame in Table 4.1, the Department shall:
  1. Provide a notice of administrative completeness to an applicant; or
  2. Provide a notice of deficiencies to an applicant, including a list of the missing information or documents.
- D.** If the Department provides a notice of deficiencies to an applicant:
  1. The administrative completeness review time-frame and the overall time-frame are suspended from the date of the notice of deficiencies until the date the Department receives the missing information or documents from the applicant;
  2. If the applicant submits the missing information or documents to the Department within the time-frame in Table 4.1, the substantive review time-frame resumes on the date the Department receives the missing information or documents; and
  3. If the applicant does not submit the missing information or documents to the Department within the time-frame in Table 4.1, the Department shall consider the application or request withdrawn.
- E.** If the Department issues a registration or notice of approval during the administrative completeness review time-frame, the Department may not issue a separate written notice of administrative completeness.
- F.** Within the substantive review time-frame specified in Table 4.1, the Department:
  1. Shall approve an:
    - i. Applicant's request for registration as an environmental health sanitarian or
    - ii. Applicant, who did not score 70% or more on the sanitarian examination, to resubmit a sanitarian examination according to R9-16-405(J);
  2. Shall deny an applicant's request for registration as an environmental health sanitarian;
  3. May make a written comprehensive request for additional information or documentation; and
  4. May make supplemental requests for additional information and documentation if agreed to by the applicant.
- G.** If the Department provides a written comprehensive request for additional information or documentation or a supplemental request to the applicant:
  1. The substantive review time-frame and overall time-frame are suspended from the date of the written comprehensive request or supplemental request until the date the Department receives the information and documents requested; and
  2. The applicant shall submit to the Department the information and documents listed in the written comprehensive request within 15 calendar days after the date of the written comprehensive request or supplemental request.
- H.** The Department shall issue:
  1. An approval to an applicant who submits:
    - a. An application packet to take a sanitarian examination that complies with the requirements in R9-16-405;
    - b. An application packet and a sanitarian examination, with a score of 70% or more from a testing organization approved by the Department, that complies with the requirements in R9-16-405;
    - c. A sanitarian examination test result from the testing organization or jurisdiction that administered the sanitarian examination that complies with the applicable requirements in R9-16-405;
    - d. A continuing education deferral request that complies with the applicable requirements in R9-16-404; and
    - e. An application for renewal registration that complies with the applicable requirements R9-16-406; or
  2. A denial to an applicant, including the reason for the denial and the appeal process in A.R.S. Title 41, Chapter 6, Article 10, if:
    - a. The applicant does not submit all of the information and documentation listed in a written comprehensive request or supplemental request for additional information or documentation; or
    - b. The applicant does not comply with A.R.S. § 36-136.01 and this Article.



Table 4.1 Time-frames (in calendar days)

Type of Approval	Statutory Authority	Overall Time-frame	Administrative Completeness Review Time-frame	Time to Respond to Deficiency Notice	Substantive Review Time-frame	Time to Respond to Written Comprehensive Request
Sanitarian Examination (R9-16-405)	A.R.S. § 36-136.01(B)	150	30	30	120	15
Registration (R9-16-405)	A.R.S. § 36-136.01(B)	35	5	15	30	15
Registration by Reciprocity (R9-16-405)	A.R.S. § 36-136.01(C)	150	30	30	120	15
Deferred Continuing Education (R9-16-404)	A.R.S. § 36-136.01(E)	45	30	15	15	15
Renewal Registration (R9-16-406)	A.R.S. § 36-136.01(D)	75	60	15	15	15

**R9-16-408. Authority of a Registered Sanitarian Requesting a Change**

- A:** A registered sanitarian may:
    1. Act as an authorized representative of a regulatory authority under 9 A.A.C. 8; and
    2. Sign inspection reports under 9 A.A.C. 8 and 9 A.A.C. 17.
  - B:** An individual who is not a registered sanitarian shall not approve or disapprove operation of a food establishment under 9 A.A.C. 8.
  - C:** An individual who is not a registered sanitarian and who prepares an inspection report under 9 A.A.C. 8 and 9 A.A.C. 17 shall submit the report to a registered sanitarian.
- A registered environmental health sanitarian requesting a change to personal information shall submit, in a Department-provided format:
1. A written notice stating the information to be changed and indicating the new information, within 30 calendar days after the effective date of the change; and
  2. If the change is in the registered environmental health sanitarian's legal name, a copy of one of the following with the registered environmental health sanitarian's new name:
    - a. Marriage certificate,
    - b. Divorce decree,
    - c. Professional license, or
    - d. Other legal document establishing the registered environmental health sanitarian's legal name.

**R9-16-409. Denial, Suspension, or Revocation**

- A:** The Council may deny, suspend, or revoke a sanitarian's registration if the Council determines that the applicant or registered sanitarian:
  1. Intentionally provided false information on an application or cheated during the sanitarian examination;
  2. Had an application for a registration, license, or certificate related to the practice of a registered sanitarian denied or rejected by any state or jurisdiction;
  3. Had a registration, license, or certificate related to the practice of a registered sanitarian suspended or revoked by any state or jurisdiction or entered into a consent agreement with any state or jurisdiction;
  4. Pled guilty to, was convicted of, or entered into a plea of no contest to a misdemeanor resulting from employment as a registered sanitarian or a felony;
  5. Assisted an individual who is not a registered sanitarian to circumvent the requirements in this Article;
  6. Allowed an individual who is not a registered sanitarian to use the registered sanitarian's registration; or
  7. Failed to comply with any of the requirements in A.R.S. § 36-136.01 or this Article.
- B:** In determining whether to deny an applicant's registration or suspend or revoke a sanitarian's registration, the Council shall consider the threat to public health based on:
  1. Whether there is repeated non-compliance with statutes or rules;
  2. Whether there is a pattern of violations or non-compliance;
  3. Type of violation;
  4. Severity of violation; and
  5. Number of violations.
- C:** The Council's notice of denial, suspension, or revocation to the applicant or registered sanitarian, notice of hearing, and all hearing procedures shall comply with A.R.S. Title 41, Chapter 6, Article 10.
- D:** The Council shall provide written notice of a registered sanitarian's denial, suspension, or revocation containing a description of the sanitarian's noncompliance with applicable statutes and rules, by certified mail, to each local health department and each public health service district.
- A:** The Department may deny an application packet for approval for registration or renewal of registration if the Department determines that an applicant:
  1. Intentionally provided false information or documents in an application packet or renewal application packet;
  2. Had an application for a license related to the practice of a registered environmental health sanitarian denied by a state or jurisdiction;



3. Had a license related to the practice of a registered environmental health sanitarian suspended or revoked by a state or jurisdiction or entered into a consent agreement with a state or jurisdiction; or
  4. Was convicted of or entered into a plea of no contest to a misdemeanor resulting from employment as a registered environmental health sanitarian or a felony.
- B.** The Department may suspend or revoke a registered environmental health sanitarian's registration if the Department determines that a registered environmental health sanitarian:
1. Assisted an individual who is not a registered environmental health sanitarian to circumvent the requirements in this Article;
  2. Allowed an individual who is not a registered environmental health sanitarian to use the registered environmental health sanitarian's registration;
  3. Falsified records to interfere with or obstruct an investigation or regulatory process; or
  4. Failed to comply with any of the requirements in A.R.S. § 36-136.01 or this Article.
- C.** In determining whether to suspend or revoke a registered environmental health sanitarian's registration, the Department shall consider the threat to public health based on:
1. Whether there is repeated non-compliance with statutes or rules,
  2. Type of non-compliance,
  3. Severity of non-compliance, and
  4. Number of non-compliance actions.
- D.** The Department's notice of suspension or revocation to the applicant or registered environmental health sanitarian shall comply with A.R.S. Title 41, Chapter 6, Article 10.