

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

PREAMBLE

<u>1. Article, Part, or Section Affected (as applicable)</u>	<u>Rulemaking Action</u>
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. The effective date for the rules:

a. If the agency selected a date earlier than the 60-day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):

August 9, 2017. The Council has selected this early effective date to prevent the rules from being inconsistent with state law, namely the amendments to A.R.S. § 41-1027 and A.R.S. § 41-1033 that become effective on this date, in accordance with A.R.S. § 41-1032(A)(2). The need for this effective date was not created due to the Council’s delay or inaction.

b. If the agency selected a date later than the 60-day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):

Not applicable.

4. 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

Notice of Proposed Rulemaking: 23 A.A.R. 1347, May 19, 2017

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

Name: Chris Kleminich
Address: 100 North 15th Avenue, Suite 305
Phoenix, AZ 85007
Telephone: (602) 542-2024
E-mail: christopher.kleminich@azdoa.gov
Web site: <http://grrc.az.gov>

6. 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.

7. 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.

8. 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.

9. A 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. 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.

10. A description of any changes between the proposed rulemaking, including supplemental notices, and the final rulemaking:

Only clarifying and technical changes, none of which are substantial under the standards set forth in A.R.S. § 41-1025, have been made between the proposed rulemaking and the final rulemaking.

11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to comments:

The Council received three written stakeholder comments about the rulemaking.

Comment #1 – Mr. Paul Swietek of the Arizona Department of Public Safety:

First, I would like to thank the GRRRC for streamlining government by switching from paper documents to electronic submission and for the other changes throughout the NPRM.

Response: The Council appreciates the support.

Secondly, when I would file paper documents with the GRRRC, I would utilize the Secretary of State's Agency Receipt format and have GRRRC staff physically stamp the document. GRRRC has no paper receipt format. The stamped receipt was my proof for the rulemaking record that a Final Notice of Rulemaking (FNR) was filed with GRRRC within 120 days of the close of the record pursuant to R1-1-601(A) or that a Five-Year Report was filed on time in accordance with ARS 41-1056. When filing electronically, the opportunity to get that stamped receipt no longer exists. The proposed rules make no mention on how GRRRC will inform or confirm to an agency that submitted electronically that the transmission was officially received.

Electronic submission, which will essentially be e-mail, poses a problem with the date. The proposed rules do not specifically state what date will be used to comply with R1-1-601(A) or other requirements; such as ARS 41-1056. Will it be the date the agency sent the e-mail or will it be the date GRRRC staff opened and looked at their email? The latter option of those two could put the

rulemaking package out of compliance with the 120 day rule or submission requirements for Five-year Review reports, Expedited Rulemaking and so forth.

I recommend that the rules in Articles 1 through 4 allowing for electronic submission be specified to include that GRRC shall provide the agency with an electronic receipt stating that the rule package/report/petition/appeal was received on the day the agency transmitted it to GRRC so that proof of receipt of submission can be retained in the historical rulemaking record.

Additionally, it would benefit the agencies and GRRC if a generic e-mail was created for agencies to submit to. This generic e-mail does not have to be published in the rules; just created as part of in-house procedure. That way, any GRRC staff member can have access to open and process incoming rule packages and reports. Without a generic e-mail address, agencies will play a guessing game on which GRRC staff member to submit to and if that staff member is away on vacation, sick or gone on other leave, the agency would be left wondering for days or weeks until the staff member returned if their rule package was received okay.

Response: Under A.R.S. § 41-1024(B)(1), an agency “shall...*[s]*submit the rule to the council” [emphasis added] within 120 days of the close of record. In addition, A.R.S. § 41-1056(J) provides that, in the context of the five-year-review process, rules expire if “an agency fails to *submit* its report” [emphasis added] by the report’s due date. Accordingly, time limits for submission to the Council are satisfied at the time of submission, whether in electronic or paper form, rather than receipt.

Therefore, in the Council’s view, an agency’s rulemaking record only needs to include proof that the agency made timely submission to the Council. When e-mail is used as a method of submission, Council staff recommends that agencies use the date and time stamp generated on the e-mail(s) sent to the Council as proof of submission. If any agencies would like to maintain their practice of having the Council stamp a paper receipt, Council staff will oblige such requests.

The Council will consider the potential benefits and costs of creating a generic e-mail address for submissions. The Council has not experienced any problems with its current practice of allowing e-mail submissions to be made to any and/or all individuals on the Council’s staff.

Comment #2 – Ms. Jane McVay of the Arizona Department of Transportation:

R1-6-103 - The title of the rule and Subsection (A)(1) refer to Council Rulemaking and Council rule, respectively. Since the Administrative Procedure Act defines “agency” to refer to various state departments and administrative units involved in rule making, it seems more appropriate to use the

term “agency” in these references rather than “Council”, and to change the reference from “Council” practice to an “agency” practice” in Subsection (A)(2). Use of “agency” is also consistent with A.R.S. § 41-1033, which provides that any person may petition an agency to review or make a final rule.

Response: R1-6-103 relates only to the Council’s rules, substantive policy statements, and practices. The rule does not apply to agencies generally. The term “Council rule” in R1-6-103(A) has been changed in this Notice of Final Rulemaking to read “rule promulgated by the Council” to make that distinction clearer.

R1-6-201(B)(4) – Prior to the changes made in the proposed rules, this language required an agency to submit a copy of the existing rule only if any subsections in the existing rule that was amended were designated as “no change.” The proposed changes require an agency to always submit the text of the existing rule in all rule makings. The previous rule text will be displayed in the proposed and final rules with this requirement. This is an extra requirement for rule writers that increases the size of rulemaking documents that agencies send to GRRC. In the past, rule writers have also typed an unofficial version of the existing rules if the official Administrative Code version was not available on-line when needed for a rulemaking. The workload of GRRC staff is increased to download larger documents on GRRC’s website.

Response: The Council understands the commenter’s concerns. The language requiring an agency to submit a copy of the existing rule only if any subsections in the existing rule that was amended were designated as “no change” has been restored in this Notice of Final Rulemaking.

R1-6-203(A), (D)(6) – Language in Subsections (A) and Subsection (D)(6) was struck that removes the notification to an agency that a written comment was received on an agency rule and allows the agency to submit a written response. Frequently, an agency does not receive notification from an interested party that they are submitting written comments to a rule after the final rule filing. In the past, an agency was notified of the comment and received a copy of the comment from GRRC in advance of the GRRC meeting, if possible. In some cases, GRRC has received a written comment minutes before a meeting, and because there was no time for the agency to respond and in order to be fair to the agency, as referenced in language struck in Subsection (E), GRRC did not require the agency to respond to the issue. In the proposed rules there is no guidance to agencies on how receipt of comments received by GRRC will be handled and if agencies will be notified.

Response: The Council seeks encourage greater public participation in the rulemaking and rule review processes, and seeks to remove language in R1-6-203, including subsection (D)(6), that could impose potential limitations on public testimony and written comments. The Council does understand the commenter's concerns related to R1-6-203(A). As such, language from R1-6-203(A) requiring Council staff to notify an agency of any written comments received by the Council has been restored in this Notice of Final Rulemaking as R1-6-201(E).

Comment #3 – Ms. Jeanne Hann of Arizona Rules, LLC

Thanks so much for the change to R1-6-201! All electronic submission has been a long time coming-- heck, I remember the days when an agency placed a rulemaking on GRRC's agenda by submitting 11 hard copies!! And thanks so much for the changes to R1-6-302(A)(2) and (B). Those provisions just got more reasonable.

Response: The Council appreciates the support.

R1-6-301(A)(2): I believe this exceeds GRRC's statutory authority. ARS 41-1056(A)(1) refers to a rule's objective. There is no reference to the rule's purpose. I believe you understand there is a very finite number of reasons any rule exists--to comply with a statutory requirement, to protect public health and safety, to create efficiency in licensing and regulatory procedures, etc. Indeed, a reading of ARS 41-1093.01 might lead to the conclusion that many rules submitted to GRRC can have only one reason for existence! While I am willing to repeat these "reasons" throughout a 5YRR, I fail to understand what good is being accomplished by this requirement. Copying and pasting a "reason" from one Section to another is easy to do but the requirement is a bit burdensome.

Response: The Council does not believe that R1-6-301(A)(2) exceeds its statutory authority, nor does it impose an unnecessary burden. The term “purpose” in this context is used to provide clarity regarding one aspect of a rule’s objective that agencies should focus their attention on.

R1-6-303: Why is the time for an automatic extension for a 5YRR being shortened? Has there been a problem this change is addressing? I understand that ultimately, more time may be obtained but that requires the burden of going before GRRC. Why has this additional burden been added to the 5YRR requirements? I encourage you not to make this change.

Response: The Council understands the commenter’s concerns. The 120-day period for an automatic five-year-review report extension has been restored in this Notice of Final Rulemaking.

No comments were made at the oral proceeding held on June 26, 2017.

12. 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.

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

None.

14. Whether the rule was previously made, amended, or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:

The rule was not previously made as an emergency rule.

15. 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

- 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

- 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

- 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

- 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~~**

~~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~~**

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

~~ARTICLE 7. EARLY REVIEW PETITION Repealed~~

~~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~~**

**~~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 has been notified that its 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 rule promulgated by the Council, 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 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; and

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 no later than 60 calendar days after 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 submit 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~~ submit 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~~ submit one electronic ~~or paper~~ copy of each reference document that follows:
1. Material incorporated by reference, if any;
 2. The general and specific statutes authorizing the rule, including relevant statutory definitions;
 3. If a term is defined in the rule by referring to another rule or a statute other than the general and specific statutes authorizing the rule, the statute or other rule referred to in the definition; and
 4. The existing rule if any subsections within the existing rule are designated as "no change" in the revised text of a rule the agency is amending.
- C.** After a rule is placed on a Council agenda, Council staff shall review the rule for compliance with the requirements of A.R.S. §§ 41-1021 through 41-1024 and 41-1052 and this Chapter and may ask questions or suggest changes to the agency. If the agency revises any rulemaking document in

response to a question or suggested change, the agency shall submit ~~one paper copy and~~ one electronic copy of the revised rulemaking document to the Council for review, ~~according to the schedule established by R1-6-103.~~

- D. After a rule is placed on a Council agenda, an agency may have the rule moved to the agenda of a later meeting by having the agency head send a written notice to the Chair that includes the date of the later meeting. If the agency makes a subsequent request that the rule be moved, the Chair may grant or deny the request at the Chair's discretion.
- E. Council staff shall notify the agency of any written comments received by the Council related to an agency's rulemaking.
- ~~F.~~ 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~~ submit 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~~ submit one electronic ~~or paper~~ copy of each reference document that follows:
1. Material incorporated by reference, if any;
 2. For a statute declared unconstitutional, the court’s decision;
 3. The general and specific statutes authorizing the rule, including relevant statutory definitions;
 4. If a term is defined in the rule by referring to another rule or a statute other than the general and specific statutes authorizing the rule, the statute or other rule referred to in the definition; and
 5. The 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), before filing a Notice of Proposed Expedited Rulemaking with the Office of the Secretary of State, an agency is required to submit 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~~ submit 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 rulemaking 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. ~~A notice~~ Notice of Final Rulemaking or Notice of Final Expedited Rulemaking, as applicable; and
 - b. An economic ~~Economic~~, small business, and consumer impact statement, if applicable.
- B.** If an agency is unable to ~~deliver~~ submit 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, submitted 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 submit 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 rulemaking 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, submitted 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 submit 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 typeface from 9 to 12 point. The Chair may allow for a different format, based on a written explanation by the agency of why a different format is necessary.~~
- ~~**C.** The Council shall place the petition on the agenda of its next meeting if at least four Council members request that the matter be considered within 14 days after the filing of the petition. The Chair or the Chair's designee shall provide written notification to the agency that the Council is considering the petition.~~
- ~~**D.** Within seven calendar days after the Council's decision on the petition, the Chair shall send a letter to notify the affected agency head of the Council's decision, including the reasons for and date of the decision.~~

ARTICLE 3. 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~~ submit 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~~ submit 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 days to submit a five-year review report by filing a written notice of extension with the Council before the due date of the report. The agency shall specify in the notice the reason for the extension.
- B. An agency may, as an alternative, request a longer extension that is more than 120 days but does not exceed ~~180 days~~ 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 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 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 typeface from 9 to 12 point.~~
- ~~C. The Council shall notify the agency head of the petition by 5:00 p.m. of the business day following receipt of the petition. Within 14 days of the date the petition is filed the agency shall file an original and one electronic copy of a response, in the form of a letter, signed by the agency head, that either:~~
- ~~1. Indicates the agency will consider including the rule in the five-year review report with a recommendation for repeal, or~~
 - ~~2. Includes a statement of why the rule is not obsolete and should not be repealed.~~
- ~~D. The Council shall schedule the petition for the next Council meeting as soon as practicable after receipt of the agency's response under subsection (C) if the agency's response states that the rule is not obsolete and should not be repealed.~~
- ~~E. Within seven calendar days after the Council's decision on the petition, the Chair shall send a letter to the affected agency head and the person filing the petition advising them of the Council's decision, including the reasons for and date of the decision.~~

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 submittal 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 submit 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 submit a response to the petition or appeal to the Council.**
- D. When required by statutes, 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 thirty days after the agency gives 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 submit 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 involved in the agreement.
 - 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 thirty 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 submit 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 submittal 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 submittal 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 considered at a regularly scheduled Council meeting. The agency representative filing the request shall deliver to the Council office both an original and one electronic copy of the request. The request shall contain:~~

- ~~1. The name, mailing address, e-mail address, telephone number, and fax number, if any, of the agency and the agency representative filing the request;~~
- ~~2. The statutory authority under which the request is allowed;~~
- ~~3. The extended time period sought;~~
- ~~4. The reasons why the request should be considered and the two year time period extended; and~~
- ~~5. Other supporting information, such as statistical data or a description of persons likely to be adversely affected if the request is denied, if applicable.~~

~~B. The request shall be printed on one side, not exceed five double spaced or space and a half pages, and be in a clear and legible typeface from 9 to 12 point. The Chair may allow for a different format, based on a written explanation by the agency of why a different format is necessary.~~

~~C. The Council shall schedule consideration of the request for a Council meeting as soon as practicable after receipt of the agency's request.~~

~~D. Within seven calendar days after the Council's decision on the request, the Chair shall provide written notification of the Council's decision to the affected agency, including the reasons for and date of the decision.~~

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.~~