



ARIZONA STATE SENATE
Fiftieth Legislature, Second Regular Session

FINAL AMENDED
FACT SHEET FOR S.B. 1193

proposed rules; acceptable data

Purpose

Expands the data required as part of an economic, small business and consumer impact statement and conforms administrative procedures language with current practice.

Background

Pursuant to statute, “rule” is defined as an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency (A.R.S. 41-1001). The Arizona Administrative Code (Code) is where the official rules of the state of Arizona are published. The Code is published by the Secretary of State and is the official compilation of rules that govern state agencies, boards, and commissions. The 10-volume set includes rules divided into 20 Titles and 230 Chapters.

The Governor's Regulatory Review Council (GRRC) was created by Executive Order in May 1981. Composed of seven members, the Council is chaired by the Director of the Department of Administration or designee, who serves ex-officio, GRRC reviews most rules to ensure that they are necessary and to avoid duplication and adverse impact on the public. GRRC assesses whether a rule is clear, concise, and understandable, legal, consistent with legislative intent and within the agency's statutory authority, and whether the benefits of a rule outweigh the cost. If a rule does not meet these criteria, GRRC returns it to the agency for further consideration.

Laws 2009, Chapter 171 reestablished the Administrative Rules Oversight Committee (AROC) which has oversight over any rule except those that are not specifically exempted by statute. AROC consists of the following members:

- a) five members appointed by the Speaker of the House of Representatives, one designated as co-chairperson;
- b) five members appointed by the President of the Senate, one designated as co-chairperson; and
- c) the Governor or the Governor's designee who is not an appointed agency director.

Before a final rule can be filed with the Secretary of State, a detailed statutory process must take place which includes public notice, participation and documentation requirements.

Rulemaking documentation includes requirements for a *preamble* which is a statement that describes statutory authority, contact information, an explanation of a proposed rule and

references to any relevant studies that support the need for the rule and an economic, small business and consumer impact statement.

There is no anticipated impact to the state General Fund associated with this legislation.

Provisions

1. Requires an economic, small business and consumer impact statement to include a description of any data on which a rule was based with a detailed explanation of how the data was obtained and why the data is acceptable.
2. States that an agency advocating that data is acceptable has the burden of providing that the data is acceptable.
3. Defines *acceptable data* as empirical, replicable and testable data.
4. Requires, effective July 1, 2013, an action to review a final administrative decision to be commenced by filing a *notice of appeal* rather than a *complaint* and makes other technical and conforming changes.
5. Requires, effective July 1, 2013, a notice of appeal to identify the final administrative decision sought to be reviewed and include a statement of the issues presented for review.
6. States that, effective July 1, 2013, the statement of an issue presented for review is deemed to include every subsidiary issue fairly comprised in the statement.
7. Allows, effective July 1, 2013, a person who is participating in the rule making process, when providing written comments or testimony, to include comments or testimony concerning information contained in an economic, small business and consumer impact statement.
8. Allows, effective July 1, 2013, a person who is seeking a license from an agency to request in writing clarification of the agency's interpretation or application of a statute, rule, delegation agreement or substantive policy statement before they submit an application for the license.
9. Allows, effective July 1, 2013, an agency to meet with an applicant to discuss the written request and requires the agency to respond within 30 days of the receipt of the written request with a written clarification of its interpretation or application as raised in the written request.
10. Requires, effective July 1, 2013, an agency to provide a requestor with an opportunity to meet and discuss the agency's written clarification.
11. Becomes effective on the general effective date with delayed effective dates as noted.

FACT SHEET - Amended

S.B. 1193

Page 3

Senate Action

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House Action

COM	2/22/12	DP	8-0-0-0
3rd Read	4/23/12		44-6-9-0

Signed by the Governor 5/1/12

Chapter 322

Prepared by Senate Research

May 24, 2012

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