

NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. §§ 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

NOTICE OF PROPOSED EXEMPT RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

Editor's Note: The following three Notices of Proposed Exempt Rulemaking were exempt from Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 896.)

[R14-48]

PREAMBLE

- 1. Article, Part or Sections Affected (as applicable) Rulemaking Action**
R2-20-109 Amend
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific) and the statute or session law authorizing the exemption:**
Authorizing statute: A.R.S. § 16-940, *et seq.*
Implementing statute and statute authorizing the exemption: A.R.S. § 16-956(C).
- 3. The effective date of the rule and the agency's reason it selected the effective date:**
If given final unanimous approval by the Commission, the earliest effective date is May 22, 2014.
- 4. A list of all notices published in the Register as specified in R9-1-409(A) that pertain to the record of the exempt rulemaking:**
Notice of Final Exempt Rulemaking: 19 A.A.R. 2923, September 27, 2013
Notice of Final Exempt Rulemaking: 19 A.A.R. 3519, November 8, 2013
- 5. The agency's contact person who can answer questions about the rulemaking:**
Name: Thomas M. Collins, Executive Director
Address: Citizens Clean Elections Commission
1616 W. Adams St., Suite 110
Phoenix, AZ 85007
Telephone: (602) 364-3477
Fax: (602) 364-3487
E-mail: thomas.collins @azcleelections.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 An agency's justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:**
R2-20-109. Reporting Requirements:
If finalized, the Commission would be amending Subsection (G) of R2-20-109 to remove language related to the Commission's enforcement of contribution limits and reporting requirements against non-participating candidates under the Clean Elections Act and Rules, and related penalties. The proposed amendment was triggered by a petition filed by Sen. Steve Pierce and the Elect Pierce Committees.
The Commission's rulemakings are exempt from Title 41, Ch. 6, Article 3, pursuant to A.R.S. § 16-956.
- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not 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:**
Not applicable
- 8. A showing of good cause why the rule is necessary to promote a statewide interest if the rulemaking will diminish a**

Notices of Exempt Rulemaking

previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact, if applicable:

Not applicable

10. A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and final rulemaking package, (if applicable):

The proposed rule amendment strikes subsection (G) of R2-20-109 to remove language related to Commission's enforcement of contribution limits and reporting requirements against non-participating candidates under the Clean Elections Act and Rules, and related penalties. The proposed amendment was triggered by a petition filed by Sen. Steve Pierce and the Elect Pierce Committees. There were no Notices of Supplemental Proposed Rulemaking related to this Section, and no other changes are being made to the subsections preceding R2-20-109(G).

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

The Commission solicits public comment throughout the rulemaking process.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:

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:

Not applicable

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

Not applicable

13. A list of any incorporated by reference material and its location in the rules:

Not applicable

14. Whether this rule previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:

The rule was not previously made, amended, repealed, or renumbered as an emergency rule.

15. The full text of the rules follows:

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

ARTICLE 1. GENERAL PROVISIONS

Section

R2-20-109. Reporting Requirements

ARTICLE 1. GENERAL PROVISIONS

R2-20-109. Reporting Requirements

A. No change

B. No change

1. No change

2. No change

3. No change

a. No change

b. No change

c. No change

4. No change

a. No change

b. No change

c. No change

d. No change

Notices of Exempt Rulemaking

- 5. No change
- C. No change
 - 1. No change
 - 2. No change
 - a. No change
 - b. No change
 - c. No change
- D. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - a. No change
 - b. No change
 - 4. No change
- E. No change
 - 1. No change
 - a. No change
 - b. No change
 - i. No change
 - ii. No change
 - 2. No change
 - a. No change
 - b. No change
 - 3. No change
- F. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - a. No change
 - b. No change
 - c. No change
 - 4. No change
 - 5. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - 6. No change
 - 7. No change
 - a. No change
 - b. No change
 - i. No change
 - ii. No change
 - iii. No change
 - 8. No change
 - 9. No change
- G. ~~Non-participating Candidate Reporting Requirements. Any person may file a complaint with the Commission alleging that any person has failed to comply with or violated A.R.S. § 16-941(B). Complaints shall be processed as prescribed in Article 2 of these rules. In addition to those penalties outlined in R2-20-222, a candidate or candidate's committee violating §16-941(B) shall be subject to penalties prescribed in A.R.S. § 16-905 and A.R.S. § 16-942(B) and (C) as follows:~~
 - 1. ~~Penalties under A.R.S. § 16-942(B):~~
 - a. ~~For an election involving a candidate for statewide office, the civil penalty shall be \$300 per day.~~
 - b. ~~For an election involving a legislative candidate, the civil penalty shall be \$100 per day.~~
 - e. ~~The penalties shall be doubled if the amount not reported for a particular election cycle exceeds the applicable primary or general spending limit.~~
 - 2. ~~Penalties under A.R.S. § 16-942(C): Any campaign finance report filed indicating a violation of A.R.S. § 16-941(B) that involves an amount in excess of the sum of adjusted primary and general spending limits applicable to participating candidates shall result in disqualification of a candidate or forfeiture of office.~~
 - 3. ~~Penalties under A.R.S. § 16-905: A person who violates A.R.S. § 16-941(B) is subject to a civil penalty imposed of~~

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three times the amount of money that has been received, expended, or promised in violation of A.R.S. § 16-941(B) or three times the value in money for an equivalent of money or other things of value that have been received, expended, or promised in violation of A.R.S. § 16-941(B).

NOTICE OF PROPOSED EXEMPT RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

[R14-49]

PREAMBLE

- 1. Article, Part or Sections Affected (as applicable) Rulemaking Action**
R2-20-109 Amend
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific) and the statute or session law authorizing the exemption:**
Authorizing statute: A.R.S. § 16-940, *et seq.*
Implementing statute and statute authorizing the exemption: A.R.S. § 16-956(C).
- 3. The effective date of the rule and the agency's reason it selected the effective date:**
If given final unanimous approval by the Commission, the earliest effective date is May 22, 2014.
- 4. A list of all notices published in the Register as specified in R9-1-409(A) that pertain to the record of the exempt rulemaking:**
Notice of Final Exempt Rulemaking: 19 A.A.R. 2923, September 27, 2013
Notice of Final Exempt Rulemaking: 19 A.A.R. 3519, November 8, 2013
- 5. The agency's contact person who can answer questions about the rulemaking:**
Name: Thomas M. Collins, Executive Director
Address: Citizens Clean Elections Commission
 1616 W. Adams St., Suite 110
 Phoenix, AZ 85007
Telephone: (602) 364-3477
Fax: (602) 364-3487
E-mail: thomas.collins@azcleelections.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:**
R2-20-109. Reporting Requirements:
The Commission proposes to amend Subsection (G) of R2-20-109 to clarify language related to the Commission's enforcement of contribution limits and reporting requirements against non-participating candidates under the Citizens Clean Elections Act and Rules, and related penalties. The proposed amendment is based on the Commission's review of the rules and was proposed in an open meeting on March 20, 2014.
The Commission's rulemakings are exempt from Title 41, Ch. 6, Article 3, pursuant to A.R.S. § 16-956.
- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not 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:**
Not applicable
- 8. A showing of good cause why the rule 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. The summary of the economic, small business, and consumer impact, if applicable:**
Not applicable
- 10. A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and final rulemaking package, (if applicable):**

Notices of Exempt Rulemaking

The proposed rule amendment amends Subsection (G) of R2-20-109 related to the Commission’s enforcement of contribution limits and reporting requirements against non-participating candidates under the Clean Elections Act and Rules, and related penalties. The proposed amendment was based on the Commission’s review of the rules. There were no Notices of Supplemental Proposed Rulemaking related to this Section, and no other changes are being made to the subsections preceding R2-20-109(G).

11. An agency’s summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:

The Commission solicits public comment throughout the rulemaking process.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:

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:

Not applicable

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

Not applicable

13. A list of any incorporated by reference material and its location in the rules:

Not applicable

14. Whether this rule previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:

The rule was not previously made, amended, repealed, or renumbered as an emergency rule.

15. The full text of the rules follows:

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

ARTICLE 1. GENERAL PROVISIONS

Section

R2-20-109. Reporting Requirements

ARTICLE 1. GENERAL PROVISIONS

R2-20-109. Reporting Requirements

- A. No change
- B. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - a. No change
 - b. No change
 - c. No change
 - 4. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - 5. No change
- C. No change
 - 1. No change
 - 2. No change
 - a. No change

Notices of Exempt Rulemaking

- b. No change
- c. No change
- D. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - a. No change
 - b. No change
 - 4. No change
- E. No change
 - 1. No change
 - a. No change
 - b. No change
 - i. No change
 - ii. No change
 - 2. No change
 - a. No change
 - b. No change
 - 3. No change
- F. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - a. No change
 - b. No change
 - c. No change
 - 4. No change
 - 5. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - 6. No change
 - 7. No change
 - a. No change
 - b. No change
 - i. No change
 - ii. No change
 - iii. No change
 - 8. No change
 - 9. No change
- G. Non-participating Candidate Reporting Requirements and Contribution Limits. Any person may file a complaint with the Commission alleging that any ~~person~~ non-participating candidate or that candidate's campaign committee has failed to comply with or violated A.R.S. § 16-941(B). Complaints shall be processed as prescribed in Article 2 of these rules. In addition to those penalties outlined in R2-20-222(B), a non-participating candidate or candidate's campaign committee violating A.R.S. § 16-941(B) shall be subject to penalties prescribed in A.R.S. § ~~16-905~~ 16-941(B) and A.R.S. § 16-942(B) and (C) as ~~follows~~ applicable:
 - 1. Penalties under A.R.S. § 16-942(B): for a violation by or on behalf of any non-participating candidate or that candidate's campaign committee of any reporting requirement imposed by Chapter 6 of Title 16, Arizona Revised Statutes, in association with any violation of A.R.S. § 16-941(B):
 - a. For an election involving a candidate for statewide office, the civil penalty shall be \$300 per day.
 - b. For an election involving a legislative candidate, the civil penalty shall be \$100 per day.
 - c. The penalties in (a) and (b) shall be doubled if the amount not reported for a particular election cycle exceeds ten percent (10%) of the applicable one of the adjusted primary or general election spending limit or adjusted general election spending limit.
 - d. The dollar amounts in items (a) and (b), and the spending limits in item (c) are subject to adjustment of A.R.S. § 16-959.
 - 2. Penalties under A.R.S. § 16-942(C): Any Where a campaign finance report filed by a non-participating candidate or that candidate's campaign committee indicating indicates a violation of A.R.S. § 16-941(B) that involves an amount

Notices of Exempt Rulemaking

in excess of ten percent (10%) of the sum of the adjusted primary election spending limit and the adjusted general election spending limits limit applicable to participating candidates specified by A.R.S. § 16-961(G) and (H) as adjusted pursuant to A.R.S. § 16-959, that violation shall result in disqualification of a candidate or forfeiture of office.

3. Penalties under A.R.S. § ~~16-905~~ 16-941(B): Regardless of whether or not there is a violation of a reporting requirement, A a person who violates A.R.S. § 16-941(B) is subject to a civil penalty of three times the amount of money that has been received, expended, or promised in violation of A.R.S. § 16-941(B) or three times the value in money for an equivalent of money or other things of value that have been received, expended, or promised in violation of A.R.S. § 16-941(B).

NOTICE OF PROPOSED EXEMPT RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

[R14-50]

PREAMBLE

- 1. Article, Part or Sections Affected (as applicable) Rulemaking Action**
R2-20-206 Amend
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific) and the statute or session law authorizing the exemption:**
Authorizing statute: A.R.S. § 16-940, *et seq.*
Implementing statute and statute authorizing the exemption: A.R.S. § 16-956(C).
- 3. The effective date of the rule and the agency's reason it selected the effective date:**
If given final unanimous approval by the Commission, the earliest effective date is May 22, 2014.
- 4. A list of all notices published in the Register as specified in R9-1-409(A) that pertain to the record of the exempt rulemaking:**
Not Applicable
- 5. The agency's contact person who can answer questions about the rulemaking:**
Name: Thomas M. Collins, Executive Director
Address: Citizens Clean Elections Commission
1616 W. Adams St., Suite 110
Phoenix, AZ 85007
Telephone: (602) 364-3477
Fax: (602) 364-3487
E-mail: thomas.collins@azcleelections.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:**
R2-20-206. Executive Director's Recommendation on Complaint-Generated Matters:
The Commission proposes an amendment to R2-20-206 that would address procedural steps that would be taken before the Commission authorizes the Executive Director to proceed with an inquiry into allegations that a non-participating candidate has violated a provision of the Citizens Clean Elections Act. The proposed amendment stems from a Commission review of the rules and was proposed in an open meeting on March 20, 2014.
The Commission's rulemakings are exempt from Title 41, Ch. 6, Article 3, pursuant to A.R.S. § 16-956.
- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not 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:**
Not applicable
- 8. A showing of good cause why the rule 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. The summary of the economic, small business, and consumer impact, if applicable:**

Notices of Exempt Rulemaking

Not applicable

10. A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and final rulemaking package, (if applicable):

The proposed rule amendment explains the procedure by which the Commission will authorize the Executive Director to proceed with an inquiry into allegations that a non-participating candidate has violated a provision of the Citizens Clean Elections Act. The proposed amendment was developed by the Commission during a review of its rules and was proposed in an open meeting on March 20, 2014. There were no Notices of Supplemental Proposed Rulemaking related to this Section, and no other changes are being made to the subsections preceding R2-20-206(B).

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

The Commission solicits public comment throughout the rulemaking process.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:

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:

Not applicable

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

Not applicable

13. A list of any incorporated by reference material and its location in the rules:

Not applicable

14. Whether this rule previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:

The rule was not previously made, amended, repealed, or renumbered as an emergency rule.

15. The full text of the rules follows:

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

ARTICLE 1. GENERAL PROVISIONS

Section

R2-20-206. Executive Director's Recommendation on Complaint-Generated Matters

ARTICLE 1. GENERAL PROVISIONS

R2-20-206. Executive Director's Recommendation on Complaint-Generated Matters

A. No change

B. Neither the complainant nor the respondent has the right to appeal the Executive Director's recommendation made pursuant to subsection (A) because the recommendation is not ~~a final administrative~~ an appealable agency action.

C. If the complaint relates to a violation of A.R.S. § 16-941(B) by a non-participating candidate or that candidate's campaign committee, the Executive Director shall not proceed pursuant to R2-20-206 (A) or R2-20-207(A), without first receiving Commission approval to initiate an inquiry.

D. The respondent shall not have the right to appeal the Commission's decision to authorize an inquiry pursuant to subsection (C) because the Commission's decision whether or not to authorize an inquiry is not an appealable agency action.