

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 FINAL EXEMPT RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

Editor's Note: The following Notice of Final Exempt Rulemaking was exempt from Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 2815.)

[R14-159]

PREAMBLE

- | | |
|---|---------------------------------|
| <u>1. Article, Part or Sections Affected (as applicable)</u> | <u>Rulemaking Action</u> |
| 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. §§ 16-941; 16-956; 16-958.
- 3. The effective date of the rule and the agency's reason it selected the effective date:**
September 11, 2014, which was selected to give the rule amendment emergency effect.
- 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
Notice of Proposed Exempt Rulemaking: 20 A.A.R. 879, April 11, 2014
Notice of Final Exempt Rulemaking: 20 A.A.R. 1329, June 13, 2014
- 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@azcleanelections.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 An agency's justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:**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:
Amends Subsection (F) of R2-20-109 to clarify language related to the Commission's enforcement of reporting requirements and exceptions under the Clean Elections Act and Rules and related penalties. The amendment is based on the Commission's review of the rules and was adopted in an open meeting on September 11, 2014.
The Commission's rulemakings are exempt from Title 41, Ch. 6, Article 3, pursuant to A.R.S. § 16-956.
The Commission's rulemaking was made on an emergency basis 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

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- 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. 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 the final rulemaking package, (if applicable):**
The proposed rule amendment amends Subsection (F) of R2-20-109 related to reporting requirements and exemptions 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 Rulemakings related to this Section, and no other changes are being made to the subsections preceding R2-20-109(F).
- 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, including public testimony at in the Commission's open meetings.
- 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

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- b. No change
- c. No change
- d. No change
- 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. Independent Expenditure Reporting Requirements
 - 1. Unless an exemption is obtained pursuant to this subsection, Any any person making independent expenditures cumulatively exceeding the amount prescribed in A.R.S. § 16-941(D) in an election cycle shall file campaign finance reports in accordance with A.R.S. § 16-958 and Commission rules.
 - 2. No change
 - 3. No change
 - a. No change
 - b. No change
 - c. The penalties in (a) and (b) shall be doubled if the amount not reported for a particular election cycle exceeds ten (10%) percent of the applicable one of the adjusted primary 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.
 - 4. Any corporation, limited liability company, or labor organization that is both (a) not registered as a political committee and (b) in compliance with or intends to comply with A.R.S. § 16-920(A)(6) and A.R.S. § 16-914.02(A)(2) may seek an exemption from the reporting requirements of A.R.S. § 16-941(D) and A.R.S. § 16-958(A) and (B) for an election cycle by applying to the Commission for certification an exemption using a form specified by the Commission's Executive Director.
 - 5. No change
 - a. ~~Was not organized primarily for the purpose of influencing an election;~~
 - b. ~~Does not accept, and does not intend during the election cycle to accept, any donations or contributions for the purpose of influencing elections~~
 - ea. Is in compliance with, and intends to remain in compliance with, the reporting requirements of A.R.S. § 16-914.02(A)-(J), other than subsection (K); and
 - eb. Has or intends to spend more than the applicable threshold prescribed by A.R.S. § 16-914.02(A)(1) and (A)(2).
 - 6. A corporation, limited liability company, or labor organization that does not receive an exemption from the Commission must comply with file the Clean Elections Act independent expenditure reports specified by A.R.S. § 16-941(D) and A.R.S. § 16-958.
 - 7. No change
 - a. No change
 - b. No change
 - i. No change

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ii. No change

iii. No change

8. A corporation, limited liability company, or labor organization that has received an exemption is exempt from the filing requirements of A.R.S. § 16-941(D) and A.R.S. § 16-958 and the civil penalties outlined in A.R.S. § 16-942, provided that the exempt entity, during the election cycle ~~(i) does not accept any donations or contributions for the purpose of influencing any election,~~ (ii) (a) remains in compliance with the reporting requirements of A.R.S. § 16-914.02(A)-(J), ~~other than subsection (K),~~ and (iii) (b) remains in compliance with subsection (2) of this subsection ~~(F)~~. All Commission rules and statutes related to enforcement apply to exempt entities. The Commission may audit any exempt entity pursuant to Article 4 of these rules.
9. Any person may file a complaint with the Commission alleging that ~~(i) (a)~~ any corporation, limited liability company, or labor organization that has applied for or received an exemption under this subsection has provided false information in an application or violated the terms of the exemption stated in subsection (8) of this subsection ~~(F)~~; or ~~(ii) (b)~~ any person that has not applied for or received an exemption has violated A.R.S. § 16-941(D), § 16-958, or subsections (1), (2), or (6) ~~or (8)~~ of this subsection ~~(F)~~. Complaints shall be processed as prescribed in Article 2 of these rules. If the Commission finds that a complaint is valid, the person complained of shall be liable as outlined in A.R.S. § 16-942(B) and subsection (3) of this subsection ~~(F)~~, in addition to any other penalties applicable pursuant to rule or statute.
10. Neither a form filed seeking an exemption pursuant to this subsection nor a Clean Elections Act independent expenditure report filed as specified by A.R.S. § 16-958 constitutes an admission that the filer is or should be considered a political committee. The grant of an exemption pursuant to this subsection does not constitute a finding or determination that the filer is or should be considered a political committee.
11. Any entity that has been granted an exemption as of September 11, 2014, is deemed compliant with the requirements of subsection (F)(5) for the election cycle ending in 2014.

G. No Change

1. No Change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
2. No change
3. No change