

-Preface-

Arizona Department of Economic Security

Five – Year Review Reports

A.R.S. § 41-1056 requires that at least once every five years, each agency shall review its administrative rules and produce reports that assess the rules with respect to considerations including the rule's effectiveness, clarity, conciseness and understandability. The reports also describe the agency's proposed action to respond to any concerns identified during the review. The reports are submitted in compliance with the schedule provided by the Governor's Regulatory Review Council (GRRC). A.R.S. § 18-305, enacted in 2016, requires that statutorily required reports be posted on the agency's website.

Department of Economic Security

Title 6, Chapter 1

Five-Year Review Report

1. Authorization of the rule by existing statutes:

General Statutory Authority: A.R.S. §§ 41-1954(A)(3) and 46-134(A)(10)

Specific Statutory Authority: A.R.S. §§ 5-575, 41-1003, and 42-1122

2. Analysis of rules:

Rule

Analysis

R6-1-101

Title: Rulemaking Docket and Record

Objective: The objectives of this rule are to describe how and where the Department maintains an official rulemaking docket and records, and the procedures a person shall follow to review a rulemaking docket or records.

- Is this rule effective in meeting the objective? **Yes X** **No**
 - Is this rule consistent with other rules and statutes? **Yes X** **No**
 - Is this rule enforced as written? **Yes X** **No**
 - Is this rule clear, concise, and understandable? **Yes X** **No**
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Rule

Analysis

R6-1-102

Title: Manner of Submission

Objective: The objectives of this rule are to describe how the Department accepts petitions, requests, submissions, criticisms, and other material related to the rulemaking process.

- Is this rule effective in meeting the objective? **Yes X** **No**
 - Is this rule consistent with other rules and statutes? **Yes X** **No**
 - Is this rule enforced as written? **Yes X** **No**
 - Is this rule clear, concise, and understandable? **Yes X** **No**
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Rule

Analysis

R6-1-103

Title: Petition to Make, Amend, or Repeal a Rule

Objective: The objective of this rule is to describe how a person may

petition the Department to make, amend, or repeal a rule and the required information that shall be included in a petition.

- Is this rule effective in meeting the objective? **Yes** **No**
 - Is this rule consistent with other rules and statutes? **Yes** **No**
 - Is this rule enforced as written? **Yes** **No**
 - Is this rule clear, concise, and understandable? **Yes** **No**
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Rule **Analysis**

R6-1-104 Title: Request for Rulemaking Notices

Objective: The objectives of this rule are to describe how a person may request to be notified by the Department of a rulemaking docket and how the Department maintains the distribution list for such requests.

- Is this rule effective in meeting the objective? **Yes** **No**
 - Is this rule consistent with other rules and statutes? **Yes** **No**
 - Is this rule enforced as written? **Yes** **No**
 - Is this rule clear, concise, and understandable? **Yes** **No**
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Rule **Analysis**

R6-1-105 Title: Oral Proceedings; Request for; Nature of

Objective: The objectives of this rule are to describe how a person may request an oral proceeding be held by the Department for a Notice of Proposed Rulemaking that has been filed with the Secretary of State and the manner in which the Department shall conduct an oral proceeding.

- Is this rule effective in meeting the objective? **Yes** **No**
 - Is this rule consistent with other rules and statutes? **Yes** **No**
 - Is this rule enforced as written? **Yes** **No**
 - Is this rule clear, concise, and understandable? **Yes** **No**
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Rule **Analysis**

R6-1-106 Title: Petition for Delayed Effective Date

Objective: The objectives of this rule are to describe how a person may

petition the Department for a delayed effective date of a rule and the obligation of the Department in response to such a petition.

- Is this rule effective in meeting the objective? **Yes** X **No**
- Is this rule consistent with other rules and statutes? **Yes** X **No**
- Is this rule enforced as written? **Yes** X **No**
- Is this rule clear, concise, and understandable? **Yes** X **No**

Rule

Analysis

R6-1-107

Title: Written Criticisms of Existing Rules

Objective: The objective of this rule is to describe the Department's requirement to retain written criticisms of existing rules for consideration when compiling a Five-Year Review Report of such rules.

- Is this rule effective in meeting the objective? **Yes** X **No**
- Is this rule consistent with other rules and statutes? **Yes** X **No**
- Is this rule enforced as written? **Yes** X **No**
- Is this rule clear, concise, and understandable? **Yes** X **No**

Rule

Analysis

R6-1-201

Title: Definitions

Objective: The objective of this rule is to define the terms in this Article and promote a uniform understanding of terms used by the Department.

- Is this rule effective in meeting the objective? **Yes** X **No**
- Is this rule consistent with other rules and statutes? **Yes** X **No**
- Is this rule enforced as written? **Yes** X **No**
- Is this rule clear, concise, and understandable? **Yes** X **No**

Rule

Analysis

R6-1-202

Title: Request for Review of Debt Setoff

Objective: The objective of this rule is to describe how a person may request the Department to review the propriety of a debt setoff.

- Is this rule effective in meeting the objective? **Yes** X **No**
- Is this rule consistent with other rules and statutes? **Yes** X **No**

- Is this rule enforced as written? Yes No
 - Is this rule clear, concise, and understandable? Yes No
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Rule

Analysis

R6-1-203

Title: Departmental Review of Debt Setoff

Objective: The objective of this rule is to describe how the Department conducts a review of debt setoff.

- Is this rule effective in meeting the objective? Yes No
 - Is this rule consistent with other rules and statutes? Yes No
 - Is this rule enforced as written? Yes No
 - Is this rule clear, concise, and understandable? Yes No
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Rule

Analysis

R6-1-501

Title: Civil Rights

Objective: The objective of this rule is to describe the Department's compliance with the federal Civil Rights Act of 1964 and the Department's policies and procedures for avoiding discrimination.

- Is this rule effective in meeting the objective? Yes No
- Is this rule consistent with other rules and statutes? Yes No
- Is this rule enforced as written? Yes No
- Is this rule clear, concise, and understandable? Yes No

Explanation: This rule does not specify age, disability, and genetic information in the list of biases that prohibit discrimination, making this rule inconsistent with the standards of the federal Age Discrimination in Employment Act of 1967, as amended; Age Discrimination Act of 1975; Titles I, II, and V of the Americans with Disabilities Act (ADA) of 1990; sections 501, 503, and 504 of the Rehabilitation Act of 1973, as amended; and Genetic Information Nondiscrimination Act of 2008. The Department proposes to amend this rule to be more concise and include language regarding adherence to applicable federal and state non-discrimination laws, regulations, and rules under specific Chapters in Title 6 of the Arizona Administrative Code. The Department also proposes to update the rule to be consistent with current Department procedures.

3. Has the Department received written criticisms of the rules within the last five years?

Yes No

4. Economic, small business, and consumer impact comparison:

Article 1

The Economic, Small Business, and Consumer Impact Statement (EIS) for Article 1 submitted to the Governor's Regulatory Review Council (GRRC) in 2017 when Article 1 was last amended identified savings for individuals, businesses, and political subdivisions because the rules added electronic public comment filing that removed postal cost. Based on the information provided by subject matter experts, the prior EIS projection was correct and there were no additional costs imposed on businesses or members of the public.

Article 2

The EIS for Article 2 submitted to the GRRC in 2018 when Article 2 was last amended projected a minimal economic impact on businesses, individuals, or political subdivisions. The changes made to Article 2 benefitted debtors by eliminating confusion from overly complex language. Based on the information provided by subject matter experts, there were no additional costs imposed on any business or members of the public.

Article 5

The Department has no previously approved EIS for Article 5. The Department anticipates that changes to Article 5 proposed in this report will have no economic impact because the Department already complies with federal and state non-discrimination laws, regulations, and rules. There are no fees or costs to small businesses or consumers associated with these rules.

5. Has the agency received any business competitiveness analyses of the rules?

Yes No

6. Has the agency completed the course of action indicated in the agency's previous five-year-review report?

Yes No

In the previous Five-Year Review Report, the Department stated a plan to request a moratorium exception from the Governor's Office to amend Article 5 by September 2018 and to submit a Notice of Final Rulemaking to GRRC by December 2019. The Department received approval from the Governor's Office to proceed with rulemaking on September 24, 2018, and provided a copy of a Notice of Proposed Rulemaking to the Governor's Office on March 8, 2021. The Department did not receive approval to advance the Notice of Proposed Rulemaking from the previous administration. The Department will request approval to engage in rulemaking from the current administration.

7. A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to regulated persons by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective:

These rules govern public participation in rulemaking, how a debtor can obtain a debt setoff, and civil rights. The rules are designed to assist and inform the public, which is a greater benefit than any costs associated with these rules. There are no fees or costs imposed on small businesses or consumers associated with these rules.

8. Are the rules more stringent than corresponding federal laws? Yes No

9. For rules adopted after July 29, 2010, that require the issuance of a regulatory permit, license, or agency authorization, whether the rules are in compliance with the general permit requirements of A.R.S. § 41-1037 or explain why the agency believes an exception applies:

The Department has determined that A.R.S. § 41-1037 does not apply to these rules because they do not require a regulatory permit, license, or agency authorization.

10. Proposed course of action:

The Department proposes to update the rules in Chapter 1, Article 5 to address issues identified in Item 2 of this report. The Department anticipates filing a Notice of Proposed Rulemaking (NPR) in March 2024 and submitting a Notice of Final Rulemaking (NFR) to GRRC by July 2024.