



Justification Guidance for Subject Matter Rule Recommendations

During the Arizona rulemaking process, agencies proposing new or changed rules must provide justification for the changes in the preamble of the rule. As established in statute in A.R.S. § 41-1001, the preamble must include, in summary:

- An explanation of the rule, including the agency's reasons for initiating the rulemaking.
- A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes 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.
- The economic, small business and consumer impact summary, or in the case of a proposed rule, a preliminary summary and a solicitation of input on the accuracy of the summary.
- A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state.
- Such other matters as are prescribed by statute and that are applicable to the specific agency or to any specific rule or class of rules.

Because ADEQ anticipates making changes to a program and needs to be aware of any potential new burdens and benefits, we will need to be prepared to adequately address these decisions in the preamble. In addition, this documentation will be captured and stored so that future discussions regarding rule interpretation will have the references and intent of the new rule. At a minimum we will need the title, author, version and publish date for your sources. Also, please include the resource or a link for our files so we can build the library for future reference.

This document is intended to help guide the development of recommendations for rulemaking. ADEQ acknowledges that stakeholders may not be able to answer each of these questions, but should provide as much information as possible.

Questions to be Considered

1. What is the change?
 - a. What is the intent of the change?
 - b. What problem is this change solving?
 - c. How does it do that?
2. What are the positive and negative impacts of the change?
3. Who is impacted by the change?
 - a. How are they impacted?
4. Does the change have an impact on other water quality programs, law, or other entities (e.g., localities, state boards)?
 - a. Does it increase burden, including costs and time investments?
 - b. If so, how is the burden justified? (See (5) & (6).)

5. What are the implementation costs/impacts? (e.g., costs, staffing, forms, etc.)
6. Does the benefit outweigh negative impacts?
 - a. Why/how is the change a net benefit over the current rule?
7. Is the change in alignment with ADEQ authorities, mission, and goals?
 - a. How does this change protect or better protect the environment?
 - b. How does this change protect or better protect human health?
8. Is the change legal and does it align with, in order of priority:
 - a. (1) statutes and case law
 - b. (2) other existing rules
 - c. How is it otherwise legally or persuasively supported?
9. Is there widespread agreement as to what the impacts are (negative and positive) and for the reasoning for the change?
 - a. Are the stated impacts supported/proven by data or literature? (See Section II below.) Explain and cite.
 - b. If the answer is “no” above, how are they reasoned/derived or supported through scientific principles (supported by data or literature), logistics, or law? Explain.

Data and Literature Guidance

The following is guidance on the sources of data/information ADEQ will need to prepare the preamble. Each item also lists the appropriate level of information needed to clearly identify the data source. *Generally, more recent and current (non-retracted or withdrawn) data or literature will carry more weight.*

1. Peer reviewed publications/ journal articles. Factors affecting the value of the publication:
 - a. Publications in a widely respected journal (i.e., impact factor)
 - b. More recent publications
 - c. Highly cited publications
 - d. If there is negative commentary on the publication, this may somewhat undermine the publication’s value
2. Engineering or Scientific textbooks, as well as well-known, discussed, and settled concepts.
3. US EPA or other official upstanding government reports.
4. Reports from university studies, such as theses and dissertations, pilot studies, and national labs if the raw data and data collection methodology is available along with the analysis that supports the analysis and conclusions in the cited report.
5. Engineering standards from ASTM, ANSI, AWWA, ASME, NSF, Ten States Standards, or other similar national standards (as these types of standards are rigorously peer-reviewed).
6. Publications such as reports from WEF or other national and international organizations if raw data and data collection methodology/ modeling information is available along with the analysis and supports the analysis and conclusions
7. Other data collection may be appropriate if the raw data and analysis methodology is included and is scientifically sound.

Note: While it may be useful for brainstorming to refer to other states or counties that have made similar changes in their rules, the actual reasons, legal, logical and/or technical, should be researched, explained, and/or justified, as appropriate.

List of Abbreviations

ASTM	American Society for Testing and Materials
ANSI	American National Standards Institute
A.R.S.	Arizona Revised Statutes
ASME	American Society of Mechanical Engineers
AWWA	American Water Works Association
US EPA	United States Environmental Protection Agency
NSF	National Sanitation Foundation
WEF	Water Environment Federation