



0000098422

Transcript Exhibit(s)

Docket #(s): RS-00000A-00-0752

Exhibit #: Securities - 1

Arizona Corporation Commission, Securities Division
Chapter 4, Corporation Commission—Securities
Article 3. Rules of Procedure for Investigations, Examinations,
and Administrative Proceedings

Economic, Small Business, and Consumer Impact Statement

A. Economic, small business, and consumer impact summary.

1. Proposed rulemaking.

The Arizona Corporation Commission (the "Commission") repeals Sections R14-4-301 through R14-4-308 ("repealed Article 3") and makes Sections R14-4-301 through R14-4-308 ("Article 3").

2. Summary of information included in this report.

The economic, small business, and consumer impact statement for Article 3 analyzes the costs and benefits that accrue to the Commission, the office of the attorney general, the regulated public, and the general public.

The benefits provided by Article 3 are nonquantifiable. Article 3 should benefit the Commission's relations with the regulated public because of increased clarity regarding administrative processes and procedures. The public will benefit from the cost and time savings inherent in clear, concise, and consistent practices. Article 3 will not materially increase monitoring, record keeping, or reporting burdens on businesses or persons. The making of Article 3 does not materially increase the costs of implementation or enforcement.



3. Name and address of agency employees who may be contacted to submit or request additional data on the information included in this statement.

Cheryl T. Farson
General Counsel
Securities Division
Arizona Corporation Commission
1300 W. Washington, Third Floor
Phoenix, AZ 85007

B. Economic, small business, and consumer impact statement

The Arizona Corporation Commission (the "Commission") has not conducted any study and is not aware of any study that measures the cost of implementation or compliance with Article 3. The time and dollar expenditures necessary to obtain such data are prohibitive. Adequate data, therefore, is not reasonably available to provide quantitative responses to the items required under A.R.S. § 41-155(B).

1. Proposed rulemaking.

The Arizona Corporation Commission (the "Commission") repeals Sections R14-4-301 through R14-4-308 ("repealed Article 3") and makes Sections R14-4-301 through R14-4-308 ("Article 3") in order to: (i) delete repetitive provisions that are contained in the Arizona Securities Act or the Investment Management Act (the "Acts"); (ii) clarify and simplify provisions; (iii) include a provision governing answers by respondents; and (iv) change the provisions governing temporary cease-and-desist orders to better reflect the interests of all parties. A brief description of Article 3 follows:

A.A.C. R14-4-301 describes the scope of Article 3. When not in conflict with Article 3, the provisions of A.A.C. R14-3-101 through R14-3-113 also apply to administrative processes under the Acts.

A.A.C. R14-4-302 contains definitions relevant to Article 3.

A.A.C. R14-4-303 prescribes methods of service, including service by publication under specified conditions.

A.A.C. R14-4-304 enumerates the rights of witnesses and the procedures for formal interviews.

A.A.C. R14-4-305 requires that a respondent who has requested a hearing file an answer within 30 calendar days after the date of service of a notice of opportunity.

A.A.C. R14-4-306 contains the process regarding a notice of opportunity for a hearing and a notice of hearing. The time frame for setting a hearing is within 60 days, but not earlier than 20 days, after the written request for hearing has been made.

A.A.C. R14-4-307 provides the process regarding a temporary cease-and-desist order. The effective term of a temporary cease-and-desist is 180 days. The time frame for setting a hearing is within 30 but no earlier than 10 days after a written request for a hearing is filed.

A.A.C. R14-4-308 contains the requirements that must be met when a rescission or restitution is ordered by the Commission, unless otherwise ordered.

2. Persons who will be directly affected by, bear the costs of, or directly benefit from the proposed rulemaking.

Those affected by Article 3 are persons who are subject to the jurisdiction of the Commission under the Acts and who participate in examinations, investigations, or administrative procedures.

Cost bearers.

The costs of compliance with Article 3 will be borne directly by the regulated persons, the Commission, and the office of the attorney general. The costs of

enforcement of Article 3 will be borne by the Commission and the office of the attorney general. The costs of implementation of Article 3 will be borne by the Commission.

The costs of compliance and enforcement are not materially impacted by the repeal and remaking of Article 3. The Commission anticipates that the procedural requirements contained in Article 3 will reduce overall expenditure of resources because the requirements are designed to define the issues and facilitate the administrative process. The Commission anticipates that the proposed rulemaking will not increase, monitoring, record keeping, or reporting burdens on businesses or persons. The costs of implementation are minimal because the material provisions of Article 3 are substantially the same as repealed Article 3.

Beneficiaries.

Article 3 should benefit the Commission's relations with regulated persons because of increased clarity regarding administrative processes and procedures. The public will benefit from the cost and time savings inherent in clear, concise, and consistent practices.

3. Cost/benefit analysis.

a. Cost/benefit analysis of the probable costs and benefits to the implementing agency and other agencies directly affected by the implementation and enforcement of the proposed rulemaking.

The benefits of Article 3 outweigh the probable costs. The implementation costs to the Commission are minimal because the systems, forms, etc., implemented in connection with Article 3 will not vary materially from those in connection with repealed Article 3. The costs to the Commission and the office of the attorney general to enforce

Article 3 remain substantially the same as the costs incurred to enforce repealed Article 3. The public, the Commission, and the office of the attorney general will benefit from the changes in Article 3, which (i) delete repetitive provisions that are contained in the Acts; (ii) clarify and simplify provisions; (iii) include a provision governing answers by respondents; and (iv) change the provisions governing temporary cease-and-desist orders to better reflect the interests of all parties.

b. Cost/benefit analysis of the probable costs and benefits to a political subdivision of this state directly affected by the implementation and enforcement of the proposed rulemaking.

None.

c. Cost/benefit analysis of the probable costs and benefits to businesses directly affected by the proposed rulemaking, including any anticipated effect on the revenues or payroll expenditures of employers who are subject to the proposed rulemaking.

The benefits of Article 3 outweigh the probable costs. The Commission anticipates that the costs of compliance by regulated persons either will be substantially the same as those incurred in connection with compliance with repealed Article 3 or will be reduced by the efficiencies reflected in the procedural requirements. The Commission does not anticipate any effect on the revenues or payroll expenditures of regulated persons.

Regulated persons should benefit from the changes to Article 3, which (i) delete repetitive provisions that are contained in the Arizona Securities Act or the Investment Management Act (the "Acts"); (ii) clarify and simplify provisions; (iii) include a provision

governing answers by respondents; and (iv) change the provisions governing temporary cease-and-desist orders to better reflect the interests of all parties.

4. General description of the probable impact on private and public employment in businesses, agencies, and political subdivisions of this state directly affected by the proposed rulemaking.

The Commission anticipates that the impact of Article 3 on public and private employment will be minimal because Article 3 incorporates in large part benefits and requirements contained in repealed Article 3.

5. Statement of the probable impact of the proposed rulemaking on small businesses.

a. An identification of the small businesses subject to the proposed rulemaking.

Regulated persons are subject to Article 3. Small businesses that engage in the offer or sale of securities or investment advisory services are subject to Article 3.

b. The administrative and other costs required for compliance with the proposed rulemaking.

Article 3 describes the rights and obligations of persons participating in examination, investigation, and administrative procedures under the Acts. The Commission anticipates that the administrative and other costs required for compliance with Article 3 will be lower than those that may be incurred without the benefit of clear, concise, and consistent rules of procedure.

c. A description of the methods that the agency may use to reduce the impact on small businesses.

Rules of procedure generally, and Article 3 specifically, are designed to improve time and cost efficiency throughout examination, investigation, and administrative procedures. Article 3 only imposes on regulated persons, which may include small businesses, that regulation deemed necessary and appropriate to effectively administer the Acts.

d. The probable cost and benefit to private persons and consumers who are directly affected by the proposed rulemaking.

Nonregulated persons and consumers will bear no direct cost as a result of Article 3. Taxpayers and persons who conduct or have conducted business with regulated persons may benefit, directly or indirectly, from effective and efficient administration of examination, investigation, and administrative proceedings.

6. Statement of the probable effect on state revenues.

Article 3 has a beneficial effect on state revenues because clear, concise, and consistent procedures improve time and cost efficiency.

7. Description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed rulemaking.

The goal of Article 3 is to effectuate the least intrusive and costly method of regulation under the Acts to achieve the statutorily mandated level of public protection.