

## Your Right to Petition

### Petition to the Department

Pursuant to A.R.S. § 41-1033(A), a person may petition the Department to:

- Make, amend or repeal a final rule, or
- Review a Department practice or Substantive Policy Statement (Bulletin) that the person alleges constitutes a rule. (A "rule" is "an agency statement of general applicability that implements, interprets or prescribes law or policy, or describes the procedure or practice requirements of an agency. Rule includes prescribing fees or the amendment or repeal of a prior rule but does not include intra-agency memoranda that are not delegation agreements." A.R.S. § 41-1001(19))

A petition to the Department must comply with **A.A.C. R20-6-160** which requires:

- C. A person who seeks rulemaking action shall file, with the Director, a petition with the following information:
  1. The petitioner's name, address, and telephone number;
  2. The name and address of any organization the petitioner represents;
  3. A statement of the rulemaking action the petitioner seeks, including:
    - a. A citation to any existing rule, substantive policy statement, or Department practice to be amended or repealed; and
    - b. **The specific language of a proposed new rule or rule amendment;**
  4. The reasons for the rulemaking action, including an explanation of why an existing rule, substantive policy statement, or Department practice is inadequate, unreasonable, unduly burdensome, or unlawful; and
  5. The petitioner's dated signature.
- D. The petitioner may submit additional supporting information, including:
  1. Statistical data; and
  2. A list of other persons and entities likely to be affected by the proposed rulemaking action, with an explanation of the likely effects.

After the Department receives a Petition, it has **60 days** to either deny the Petition or initiate the requested rulemaking action. The Department must give its reasons for the decision. The Department's decision is not subject to judicial review (A.R.S. § 41-1033(L)) but may be appealed to the Governor's Regulatory Review Council (A.R.S. § 41-1033(E)).

### Appeal to the Governor's Regulatory Review Council (GRRC)

If the Department denies a Petition made to it under A.R.S. § 41-1033(A), a person may file an appeal with the Council pursuant to A.R.S. § 41-1033(E). The appeal to the Council must be filed within **30 days** of the date of the Department's decision. Further information may be found at the GRRC website: <https://grrc.az.gov>.

A petition to the Council must comply with **A.A.C. R1-6-402** which requires:

- A. A person filing a petition or appeal shall submit to the Council one electronic copy of the petition or appeal. The petition or appeal shall contain:
  1. The name, mailing address, e-mail address, and telephone number of the person filing the petition or appeal;
  2. The name of the person being represented by the person filing the petition or appeal, if applicable;
  3. The reasons for submitting the petition or appeal, including relevant facts, laws, and statutory authority;
  4. The reasons why the Council should grant the petition or appeal; and
  5. Any supporting documents relevant to the petition or appeal.
- B. The petition or appeal shall not exceed **five double-spaced pages** and shall be in clear and legible typeface

The Council Chair will place the appeal on the Council agenda at the request of at least 3 members which must be made within 2 weeks of the filing of the appeal. A.R.S. § 41-1033(E).

If the Council decides to hear the appeal, the Department will have **30 days** to file a response with the Council. The Department's response is not page limited.

### **Direct Petitions to the Council**

A person may file the following types of petitions directly with the Council without first filing a petition with the Department under A.R.S. §§ 41-1033(F) and (G) respectively:

- A petition that alleges that a final rule of the Department does not meet the requirements of A.R.S. § 41-1030 (was not promulgated properly or was not authorized to be promulgated by the Department); or
- A petition that alleges that an existing Department practice, substantive policy statement (bulletin), final rule or regulatory licensing requirement (not specifically authorized by statute pursuant to Title 32) is unduly burdensome or is not demonstrated to be necessary to specifically fulfill a public health, safety or welfare concern.

A person may also file a petition directly with the Council that alleges that an existing Department practice or substantive policy statement may constitute a rule but may not file a petition with the Council to make, amend or repeal a final rule. A.R.S. § 20-1033(H).

These petitions must be filed with the Council in compliance with **A.A.C. R1-6-402**. The Council Chair will place these petitions on the Council agenda at the request of at least 4 members. A.R.S. § 41-1033(H).

If the Council decides to place the petition on the agenda, the Department will have **30 days** to file a response with the Council after it receives notice from the Council that a petition has been filed. A.R.S. § 41-1033(H)(3).

The Council has **90 days** to make a determination on a petition which must contain findings of fact and conclusions of law. (A.R.S. §§ 41-1033(H)(1) and (K))

### **Petitions to Superior Court**

A person has the right to file their petition directly to Superior Court to seek declaratory relief. See, A.R.S. § 41-1034.