

Arizona Department of Insurance and Financial Institutions

Financial Institutions Division

Your Right to Petition

Petition to the Department

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

- 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(21))

A petition to the Department must comply with **A.A.C. R20-4-1220** which requires:

C. A person who files a petition pursuant to A.R.S. § 41-1033(A), shall include the following information in the petition:

1. The Petitioner's name and contact information;
2. The name and address of any organization the Petitioner represents;
3. Whether the Petitioner is petitioning the Department to:
 - a. Make, amend, or repeal a final Rule; or
 - b. Review an existing agency practice or Substantive Policy Statement that the Petitioner alleges to constitute a Rule;
4. A detailed explanation of Petitioner's basis for submitting the petition;
5. If the Petitioner is petitioning the Department to make a Rule, the language of the proposed new Section and the specific authority for the requested Rulemaking action;
6. If the Petitioner is petitioning the Department to amend an existing Rule, a citation to the existing Section to be amended, the language of the proposed Rule amendment, and the specific authority for the requested Rulemaking action;
7. If the Petitioner is petitioning the Department to repeal an existing Rule, a citation to the existing Section or subsection to be repealed, and an explanation of why the Rule should be repealed including, if applicable, how the Rule does not meet the requirements of A.R.S. § 41-1030;
8. If the Petitioner is petitioning the Department to review an existing agency practice that the Petitioner alleges to constitute a Rule, a description of the Department's practice, an explanation of how the Department's practice constitutes a Rule being enforced by the Department, the language of the proposed new Rule, and the specific authority for the requested Rulemaking action;

9. If the Petitioner is petitioning the Department to review a Substantive Policy Statement that the Petitioner alleges to constitute a Rule, a citation to the Substantive Policy Statement, an explanation of how the Substantive Policy Statement is being enforced by the Department as a Rule, the language of the proposed new Rule, and the specific authority for the requested Rulemaking action; and
10. 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 reject the Petition or initiate the requested rulemaking action. The Department must give its reasons for the decision. A.R.S. § 41-1033(C). A rejection may be appealed to the Governor's Regulatory Review Council. A.R.S. § 41-1033(E).

Appeal to the Governor's Regulatory Review Council (the "Council")

If the Department rejects 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 Council's 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 ("Agenda") at the request of at least three members. A.R.S. § 41-1033(H).

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 limited to five double-spaced pages. A.R.S. § 41-1033(H)(3).

The Council may schedule a hearing only after the expiration of the agency response period. A.R.S. § 41-1033(J).

The Council has **90 days** to make a determination on an appeal. (A.R.S. §§ 41-1033(H)(1) and (K).)

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 ((A) was not promulgated properly or (D) 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) exceeds the agency's statutory authority, is unduly burdensome or is not demonstrated to be necessary to specifically fulfill a public health, safety or welfare concern.

These petitions must be filed with the Council in compliance with **A.A.C. R1-6-402** and may not exceed five double-spaced pages.

The Council Chair will place these petitions on the Council Agenda ("Agenda") at the request of at least three 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 may schedule a hearing only after the expiration of the agency response period. A.R.S. § 41-1033(J).

The Council has **90 days** to make a determination on a petition. (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.