

## PUBLIC PARTICIPATION IN THE RULEMAKING PROCESS

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### WHAT IS 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.

Generally, the Legislature passes laws establishing broad guidelines and general standards for the operation of an agency's program. It is then up to the impacted state agency to create rules for the specific processes and procedures needed to effectively implement the law.

State agencies are required to make, amend, and repeal rules in compliance with A.R.S. Title 41, Chapter 6; the Administrative Procedure Act.

The Department's general rulemaking authority is prescribed under A.R.S. § 41-1713(A)(4).

The Department's specific rulemaking authority is prescribed under various statutes relating to the specific rule.

### THE RULEMAKING PROCESS:

**Notice of Rulemaking Docket Opening:** SOS publishes the Department's Notice in the Arizona Administrative Register (AAR) to notify the public that the Department is considering amending its rules.

**Notice of Proposed Rulemaking:** SOS publishes the Department's Notice of Proposed Rulemaking in the AAR to provide the public with the actual proposed additions, deletions, or changes to the Department's rules.

**Comment periods:** The public has three opportunities in which to submit comments to the Department: 1). Any time. Comments received by the Department are placed in the rule record and will be considered by the next review or Rulemaking team. 2). During the thirty (30) day public comment period immediately following the publication of the proposed rules in the AAR. Once a proposed rule is published, the public has at least thirty (30) days to submit comments to the Department concerning the rule. 3). At a Department Meeting.

**Note:** Comments are statements, suggested rule language, data, views, or other observations submitted to the Department in regards to an existing or proposed rule. Comments submitted during the official 30-day public comment period for a particular rulemaking will become part of the official record for that proposed rulemaking.

**Notice of Final Rulemaking:** The Department drafts a Notice of Final Rulemaking after considering comments and other information received during the comment period. The Department must determine whether the suggestions received meet the Department's mission and objectives, do not place an undue burden on the regulated community, are not discriminatory, and are permitted under statute.

**Submission to Governor's Regulatory Review Council:** The Department submits the final rulemaking to GRRC. GRRC reviews the rulemaking to ensure that the rules are necessary, consistent with legislative intent, within the agency's statutory authority, do not create an adverse impact on the public, and whether the benefits of the rule outweigh the costs.

**Approval by GRRC:** When GRRC determines that the rulemaking meets the statutory criteria identified above, GRRC will approve and file the final rulemaking with SOS.

**Effective date:** Typically, the effective date of the rule is sixty (60) days from the date of filing. However, the Department may request an immediate or specific effective date when authorized by statute, specified in the rulemaking preamble, and approved by GRRC.

**Codification:** SOS publishes final rulemakings in the Arizona Administrative Code (Code). The Code is the official compilation of rules that govern state agencies, boards, and commissions; the paper copy of the Code serves as the official version. SOS is required to publish updates to the Code four times a year. As a result, the Code may not contain the most recent rules.

The above rulemaking description is not comprehensive. It is meant only to provide a brief overview of the rulemaking process and is not binding on the Department. Furthermore, different types of rulemakings, such as emergency, exempt, and expedited rulemakings require different procedures for completion.

To obtain specific rule information or to submit a comment on a particular rule or rulemaking, please contact the Research and Planning Unit:

#### **PUBLIC PARTICIPATION IN RULEMAKING:**

The public is encouraged to participate in the rulemaking process by which the Department's administrative rules are made, amended, or repealed. Listed are some of the ways in which you can participate:

- By inspecting a copy of the Notice of Proposed Rulemaking filed with the Secretary of State's office (SOS) for publication in the *Arizona Administrative Register*. See A.R.S. § 41-1022.
- By submitting written comments to the Department. Comments may be submitted at any time. However, in order for the Department to consider your comment for a particular rulemaking, the Department must receive the comment before the 30-day comment period ends. The 30-day comment period begins when the Notice of Proposed Rulemaking is published in the *Arizona Administrative Register*. Send your comments to the Department representative whose contact information is provided in the Notice of Proposed Rulemaking. See A.R.S. § 41-1022 and A.A.C. R12-4-601, R12-4-602, R12-4-603.
- By submitting your comments to the Governor's Regulatory Review Council (GRRC); written comments must be relevant to the Council's power to review a given rule. The Council reviews the rulemaking package at the end of the rulemaking process, before the rules are filed with the Secretary of State's office. See A.R.S. § 41-1052.

Governor's Regulatory Review Council  
100 N. 15th Ave., Ste. 402  
Phoenix, AZ 85007  
Phone: (602) 5422058  
Fax: (602) 5421486

- By petitioning the Department to adopt, amend, or repeal a rule. See A.R.S. § 41-1033.