

- A. Any person, in a manner and form prescribed by the agency, may petition an agency to request the making of a final rule or a review of an existing agency practice or substantive policy statement that the petitioner alleges to constitute a rule. The petition shall clearly state the rule, agency practice or substantive policy statement that the person wishes the agency to make or review. Within sixty days after submission of a petition, the agency shall either deny the petition in writing, stating its reasons for denial, initiate rulemaking proceedings in accordance with this chapter or, if otherwise lawful, make a rule.
- B. A person may appeal to the council the agency's final decision within thirty days after the agency gives written notice pursuant to subsection A of this section. The appeal shall be limited to whether an existing agency practice or substantive policy statement constitutes a rule. The council chairperson shall place this appeal on the agenda of the council's next meeting if at least three council members make such a request of the council chairperson within two weeks after the filing of the appeal.
- C. A person may petition the council to request a review of a final rule based on the person's belief that the final rule does not meet the requirements prescribed in section 41-1030.
- D. If the council receives information indicating that an existing agency practice or substantive policy statement may constitute a rule or that a final rule does not meet the requirements prescribed in section 41-1030 and at least four council members request of the chairperson that the matter be heard in a public meeting:
 - 1. Within ninety days of receipt of the fourth council member request, the council shall determine whether the agency practice or substantive policy statement constitutes a rule or whether the final rule meets the requirements prescribed in section 41-1030.
 - 2. Within ten days of receipt of the fourth council member request, the council shall notify the agency that the matter has been or will be placed on an agenda.
 - 3. Within thirty days of receiving notice from the council, the agency shall submit a statement that addresses whether the existing agency practice or substantive policy statement constitutes a rule or whether the final rule meets the requirements prescribed in section 41-1030.
- E. For the purposes of subsection D of this section, the council meeting shall not be held until the expiration of the agency response period prescribed in subsection D, paragraph 3 of this section.
- F. An agency practice, substantive policy statement or final rule considered by the council pursuant to this section shall remain in effect while under consideration of the council. If the council ultimately decides the agency practice or substantive policy statement constitutes a rule or that the final rule does not meet the requirements prescribed in section 41-1030, the practice, policy statement or rule shall be considered void.
- G. A council decision pursuant to this section shall include findings of fact and conclusions of law, separately stated. Conclusions of law shall specifically address the agency's authority to act consistent with section 41-1030.
- H. A decision by the agency pursuant to this section is not subject to judicial review, except that, in addition to the procedure prescribed in this section or in lieu of the procedure prescribed in this section, a person may seek declaratory relief pursuant to section 41-1034.
- I. Each agency and the secretary of state shall post prominently on their website notice of an individual's right to petition the council for review pursuant to this section.