

Rhode Island Department of Corrections
CONCISE EXPLANATORY STATEMENT

In accordance with the Administrative Procedures Act, R.I. Gen. Laws § 42-35-2.6, the following is a concise explanatory statement:

AGENCY: Rhode Island Department of Corrections (RIDOC)

DIVISION:

RULE IDENTIFIER: 240-RICR-60-00-1

RULE TITLE: Petition for Promulgation of Rules

REASON FOR RULEMAKING:

This regulation codifies the process by which individuals or entities may submit Petitions for Declaratory Orders to the Rhode Island Department of Corrections (RIDOC) under R.I. Gen. Laws § 42-35-8.

ANY FINDING REQUIRED BY LAW AS A PREREQUISITE TO THE EFFECTIVENESS OF THE RULE:

TESTIMONY AND COMMENTS:

Public comments were received from the American Civil Liberties Union (ACLU) of Rhode Island. The Department considered all comments and adopted revisions to improve accessibility and consistency across related regulations.

CHANGE TO TEXT OF THE RULE:

The final rule was revised to remove the requirement that petitions submitted by mail must also be submitted electronically. The updated rule allows submission by mail, hand delivery, or email independently.

Additional clarifying language was included to encourage use of delivery methods that confirm receipt.

These changes were made in response to public comment and are consistent with the original intent of the proposed rule.

Additionally, the definitions section was revised to explicitly incorporate definitions as set forth in Rhode Island General Law, rather than referencing them, in order to improve clarity and reduce ambiguity in response to stakeholder feedback regarding statutory definitions.

REGULATORY ANALYSIS:

Overview of Proposed Rule

This regulation outlines the formal procedure for submitting a petition to the Rhode Island Department of Corrections' (RIDOC) requesting the promulgation, amendment, or repeal of a rule. It includes:

- A structured format for petitions,
- Submission and delivery procedures,
- Internal processing steps, including options for hearings or requests for more information,
- References to statutory timelines (30-day window) under R.I. Gen. Laws § 42-35-6.

The requirements outlined in Section 1.4 were developed to provide a consistent, transparent, and administratively sound framework for members of the public or other entities seeking to request the promulgation, amendment, or repeal of Department rules.

Each required item under subsection (A) serves a specific and necessary purpose:

1. **Petitioner Identification (A)(1)** – Collecting the name and address of the petitioner establishes accountability and ensures the Department has accurate contact information for correspondence, notices, or follow-up clarification, reducing the potential for miscommunication or delays.
2. **Plain Statement Identifying the Rule or Proposed Rule (A)(2)** – This allows Department staff to quickly determine whether the request pertains to an existing rule or a new regulatory area, ensuring that the proper internal subject matter experts and legal reviewers are engaged early in the process.
3. **Detailed Statement of Facts (A)(3)** – Requiring supporting facts encourages petitioners to present requests that allow staff to work efficiently evaluate the necessity and potential impact of the proposal without extensive back-and-forth communication.
4. **Plain Statement Requesting Promulgation, Amendment, or Repeal (A)(4)** – This clarifies the petitioner's intent and reduces ambiguity in processing. The

formatting requirements for amendments or repeals (use of underline and strikethrough) standardize submissions, making review more efficient and ensuring that proposed changes are clearly visible to reviewers and stakeholders.

Subsection (B) outlines submission requirements that ensure accessibility, efficiency, and proper recordkeeping. Multiple submission methods—including mail, hand delivery, and email—were included to ensure receipt of requests and to accommodate diverse petitioners, ranging from members of the public to professional organizations. The inclusion of an email option modernizes the process, enabling faster receipt, date stamping, and distribution to relevant staff while maintaining a physical record for compliance purposes.

Collectively, these requirements minimize administrative burden, reduce response time, and ensure that requests are received, complete and immediately reviewable.

Analysis of Benefits and Costs of the Proposed Rule

A. Agency Rationale for Requirements under 1.4(A) and (B)

1. The process outlined in Section 1.4 was modeled after best practices identified in comparable administrative agencies and aligned with state-level procedural standards to ensure consistency with Rhode Island state agencies.
2. This design ensures that all requests are evaluated in a uniform manner, that the Department maintains a clear administrative record of each request, and that the rulemaking process remains open, accessible, and procedurally fair.

B. Benefits

1. Transparency and Accessibility
 - Provides a clear, standardized pathway for public participation in rulemaking.
 - Aligns with principles of open government, giving individuals and organizations a voice in the regulatory process.
2. Enhanced Rule Quality
 - Invites external feedback that may identify regulatory gaps, outdated practices, or necessary reforms.
 - Promotes rules that better reflect real-world needs, operational conditions, and stakeholder concerns.

3. Operational Efficiency and Recordkeeping

- Provides clear expectations for petition content (e.g., required documents, citation formats, specific language changes).
- Reduces time spent clarifying or rejecting incomplete or informal submissions.
- Centralizes submission through the Policy & Auditing Unit, improving tracking and consistency.

4. Flexibility and Responsiveness

- Includes discretion for the Department to hold hearings or request additional materials, allowing robust review without unnecessary delay.

B. Costs

1. Staff Time and Administrative Workload

- Processing petitions, potentially holding hearings, and coordinating cross-unit responses require staff time.
- The Policy & Auditing Unit may need to collaborate with legal, operational, and program units for thorough review.

2. Training and Communication

- Minimal one-time training may be required for Policy and Legal staff to ensure uniform interpretation of the regulation and procedures.
- Public-facing education or FAQs may be needed to guide petitioners on formatting and expectations.

Alternatives

Alternative 1: Accept Petitions via General Correspondence or Informal Requests

The Department considered allowing rulemaking requests to be made informally (e.g., through letters or general inquiries without prescribed content). This approach was rejected because it would likely result in inconsistent information, incomplete records, and a lack of transparency regarding how and when requests are evaluated.

- Rejected Because:

- Increases administrative confusion and undermines predictability.

- Makes it difficult to verify compliance, track progress, or maintain fairness across petitioners.
- Slows down review and may lead to missed statutory deadlines.

Alternative 2: Online Submission Portal

A fully electronic submission and tracking portal was evaluated as a potential modernization initiative. While beneficial for accessibility and automation, the cost of developing, maintaining, and securing such a system was not justified by the relatively low volume of requests received by RIDOC. Instead, the inclusion of direct email submission in Section 1.4(B) provides a cost-effective alternative that meets the same goal of accessibility and timely receipt.