

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-60-00-2

RULE TITLE: Declaratory Order Petitions

REASON FOR RULEMAKING:

The purpose of this Regulation is to state the requirements for submitting a request for Declaratory Order under R.I. Gen. Laws § 42-35-8(b), and the procedure for its consideration and prompt disposition.

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 carefully reviewed and considered the comments and made revisions to improve accessibility and consistency.

CHANGE TO TEXT OF THE RULE:

The final rule was modified to remove the dual-submission requirement for mailed petitions. Submission methods were revised to allow independent use of mail, hand delivery, or email.

Additional non-mandatory guidance was added to encourage use of delivery methods that confirm receipt.

These changes were made in response to public comment and remain consistent with the proposed rule's purpose and structure.

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 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. Declaratory Orders are formal statements issued by the Department to clarify:

- The application of statutes administered by RIDOC,
- Whether a rule, guidance, or order applies to a Petitioner,
- How such rules, guidance, or orders apply.

The rule defines:

- Submission requirements and process,
- Department roles,
- Timeframe and expectations for resolution.

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

The requirements outlined in Section 1.4 (A) and (B) were developed to ensure the Rhode Island Department of Corrections (RIDOC) maintains a consistent, transparent, and administratively efficient process for receiving, reviewing, and responding to requests for Declaratory Orders.

Each of the information elements required in 1.4(A) serves a distinct operational and legal purpose:

1. **Petitioner identification (A)(1)** – Ensures accountability and provides the Department with a verifiable means to contact the requesting party, thereby reducing delays and administrative confusion.
2. **Plain statement identifying the statute, rule, guidance document, or order (A)(2)** – Enables staff to properly classify the request and assign it to the appropriate subject-matter expert, improving accuracy and timeliness.
3. **Detailed factual statement and supporting documents (A)(3)–(4)** – Provides sufficient context to evaluate the issue presented without requiring repeated clarification requests, conserving staff time and reducing the overall cost of review.

4. **Statement of requested clarification or interpretation (A)(5)** – Ensures the Department clearly understands the request and aids in the ability to provide a response.

The submission requirements in **1.4(B)** (mailing address, delivery options, and email copy) were established to provide multiple secure and verifiable channels for submission. This supports record integrity, ensures date-stamping consistency, and accommodates both traditional and electronic communication preferences while maintaining the confidentiality and traceability required for official requests. Collectively, these provisions enhance administrative efficiency.

Analysis of Benefits and Costs of the Proposed Rule

A. Benefits

1. Transparency and Public Accountability
 - Provides a formal, codified method for individuals/entities to seek interpretation or clarification of RIDOC rules, orders, or guidance.
 - Promotes good governance and compliance with the Administrative Procedures Act.
2. Improved Consistency in Department Interpretation
 - Reduces conflicting interpretations by providing written, binding clarifications that can guide future actions.
 - Helps ensure uniformity across departments and institutions under RIDOC.
3. Administrative Efficiency
 - Encourages individuals/entities to use a structured process rather than informal inquiries, which can create ambiguity or inconsistent responses.
 - Centralizes responsibility within the Office of Legal Counsel, allowing for efficient review, recordkeeping, and response.
4. Legal Safeguard for Petitioners
 - Declaratory Orders provide legal protection by documenting the Department's official position.

B. Costs

1. Staff Time and Resources

- Requires the Office of Legal Counsel to formally review and respond to petitions in a timely manner.
2. Volume of Requests
 - If the process becomes widely used, it may increase workload on various units in the Department.
 3. Potential Delays in Response
 - To avoid any delay of the Department's ability to respond, as prompt disposition is required under law.

Alternatives

In developing Section 1.4, RIDOC considered several regulatory alternatives:

1. **Alternative 1 – Minimal Submission Requirements:**
The Department considered allowing informal or less-structured requests for Declaratory Orders (e.g., email inquiries without supporting documentation). While this approach would reduce the initial administrative burden on petitioners, it would significantly increase processing time and result in inconsistent responses, incomplete records, and potential procedural challenges.
2. **Alternative 2 – Fully Electronic Submission Portal:**
A digital portal was considered as a future modernization option to streamline submissions and tracking. However, given current resource constraints and the limited volume of such requests, this option was determined not to be cost-effective at this stage. The inclusion of email submission under 1.4(B) represents a balanced approach, offering an electronic method without requiring additional infrastructure investment.

Justification of the Proposed Approach

- The regulation ensures a standardized, repeatable, and documented process.
- Clear instructions and submission pathways (physical and electronic) make the process accessible while maintaining formality.
- Ensures Department positions are articulated clearly and only after full review, preserving policy consistency.

Summary and Determination

- The rule enhances legal clarity, accountability, and operational transparency with minimal administrative burden.
- Establishing a formal regulation is the most effective and compliant method to respond to public petitions.
- Proposed rule aligns with the statute's purpose, improves administrative function, and provides legal safeguards for the Department and stakeholders.
- This rule enhances procedural fairness and predictability while maintaining flexibility for both petitioners and RIDOC staff, representing the most cost-effective and operationally sound regulatory approach among the alternatives considered.