

As required by A.R.S. § 41-1001.01(C), the Arizona Department of Water Resources has created the following small business bill of rights by selecting the applicable rights prescribed in A.R.S. §§ 41-1001.01(A) and 41-1009 and the Department's rules.

SMALL BUSINESS BILL OF RIGHTS

To ensure fair and open regulation by state agencies, a person, including a small business:

1. Is eligible for reimbursement of fees and other expenses if the person prevails by adjudication on the merits against an agency in a court proceeding regarding an agency decision as provided in A.R.S. § 12-348.
2. Is eligible for reimbursement of the person's costs and fees if the person prevails against any agency in an administrative hearing as provided in A.R.S. § 41-1007.
3. Is entitled to have an agency not charge the person a fee unless the fee for the specific activity is expressly authorized as provided in A.R.S. § 41-1008.
4. May review the full text or summary of all rulemaking activity, the summary of substantive policy statements and the full text of executive orders in the register as provided in Title 41, Chapter 6, Article 2, Arizona Revised Statutes.
5. May participate in the rulemaking process as provided in Title 41, Chapter 6, Articles 3, 4, 4.1 and 5, Arizona Revised Statutes, including:
 - (a) Providing written comments or testimony on proposed rules to an agency as provided in A.R.S. § 41-1023 and having the agency adequately address those comments as provided in A.R.S. § 41-1052(D), including comments or testimony concerning the information contained in the economic, small business and consumer impact statement.
 - (b) Filing an early review petition with the governor's regulatory review council as provided in Title 41, Chapter 6, Article 5, Arizona Revised Statutes.
 - (c) Providing written comments or testimony on rules to the governor's regulatory review council during the mandatory comment period as provided in Title 41, Chapter 6, Article 5, Arizona Revised Statutes.
6. Is entitled to have an agency not base a licensing decision in whole or in part on licensing conditions or requirements that are not specifically authorized by statute, rule or state tribal gaming compact as provided in A.R.S. § 41-1030(B).
7. Is entitled to have an agency not make a rule under a specific grant of rulemaking authority that exceeds the subject matter areas listed in the specific statute or not make a rule under a general grant of rulemaking authority to supplement a more specific grant of rulemaking authority as provided in A.R.S. 41-1030(C).
8. May allege that an existing agency practice or substantive policy statement constitutes a rule and have that agency practice or substantive policy statement declared void because the practice or substantive policy statement constitutes a rule as provided in A.R.S. § 41-1033.
9. May file a complaint with the administrative rules oversight committee concerning:
 - (a) A rule's, practice's or substantive policy statement's lack of conformity with statute or legislative intent as provided in A.R.S. § 41-1047.
 - (b) An existing statute, rule, practice alleged to constitute a rule or substantive policy statement that is alleged to be duplicative or onerous as provided in A.R.S. § 41-1048.
10. May have the person's administrative hearing on contested cases and appealable agency actions heard by an independent administrative law judge as provided in Title 41, Chapter 6, Articles 6 and 10, Arizona Revised Statutes.

11. May have administrative hearings governed by uniform administrative appeal procedures as provided in Title 41, Chapter 6, Articles 6 and 10, Arizona Revised Statutes, and may appeal a final administrative decision by filing a notice of appeal pursuant to Title 12, Chapter 7, Article 6, Arizona Revised Statutes.

12. May have an agency approve or deny the person's license application within a predetermined period of time as provided in Title 41, Chapter 6, Article 7.1, Arizona Revised Statutes.

13. Is entitled to receive written notice from an agency on denial of a license application:
(a) That justifies the denial with references to the statutes or rules on which the denial is based as provided in A.R.S. § 41-1076.

(b) That explains the applicant's right to appeal the denial as provided in A.R.S. § 41-1076.

14. Is entitled to receive information regarding the license application process before or at the time the person obtains an application for a license as provided in A.R.S. §§ 41-1001.02 and 41-1079.

15. May receive public notice and participate in the adoption or amendment of agreements to delegate agency functions, powers or duties to political subdivisions as provided in A.R.S. § 41-1026.01 and Title 41, Chapter 6, Article 8, Arizona Revised Statutes.

16. May inspect all rules and substantive policy statements of an agency, including a directory of documents, in the office of the agency director as provided in A.R.S. § 41-1091.

17. May file a complaint with the office of the ombudsman-citizens aide to investigate administrative acts of agencies as provided in Title 41, Chapter 8, Article 5, Arizona Revised Statutes.

18. Unless specifically authorized by statute, may expect state agencies to avoid duplication of other laws that do not enhance regulatory clarity and to avoid dual permitting to the extent practicable as prescribed in A.R.S. § 41-1002.

19. Is entitled to receive the following information and notice from an agency inspector or regulator who enters the person's premises for the purpose of conducting an inspection as provided in A.R.S. § 41-1009:

(a) The agency inspector or regulator must provide photo identification on entry of the premises.

(b) On initiation of the inspection, the agency inspector or regulator must state the purpose of the inspection and the legal authority for conducting the inspection.

(c) The agency inspector or regulator must disclose any applicable inspection fees.

(d) The agency inspector or regulator must afford an opportunity to have an authorized on-site representative of the regulated person accompany the agency inspector or regulator on the premises, except during confidential interviews.

(e) The agency inspector or regulator must provide notice of the right to have on request: (1) copies of any original documents taken by the agency during the inspection if the agency is permitted by law to take original documents; (2) a split of any samples taken during the inspection if the split of any samples would not prohibit an analysis from being conducted or render an analysis inconclusive; (3) copies of any analysis performed on samples taken during the inspection; and (4) copies of any documents to be relied on to determine compliance with licensure or regulatory requirements if the agency is otherwise permitted by law to do so.

(f) The agency inspector or regulator must inform each person whose conversation with the agency inspector or regulator during the inspection is tape recorded that the conversation is being tape recorded.

(g) The agency inspector or regulator must inform each person interviewed during the inspection that statements made by the person may be included in the inspection report.

(h) On initiation of the inspection, the agency inspector or regulator must provide the following in writing: (1) the rights described in subparagraphs (a) through (g) of this paragraph; (2) the name and telephone number of a contact person available to answer questions regarding the inspection; (3) the due process rights relating to an appeal of a final decision of the agency based on the results of the inspection, including the name and telephone number of a person to contact within the agency and any appropriate state government ombudsman.

(i) The agency must give a copy of the inspection report to the regulated person or on-site representative of the regulated person either at the time of the inspection or within thirty working days after the inspection. The inspection report must contain the date of the inspection, a short summary of the findings and any deficiencies identified during the inspection. If the agency allows the regulated person an opportunity to correct any deficiencies, the regulated person must notify the agency when the deficiencies have been corrected. Within thirty days of receipt of notification from the regulated person that the deficiencies have been corrected, the agency must determine if the regulated person is in substantial compliance and notify the regulated person whether or not the regulated person is in substantial compliance. If the regulated person fails to correct the deficiencies or the agency determines the deficiencies have not been corrected within a reasonable period of time, the agency may take any enforcement action authorized by law for the deficiencies.

(j) At least once every month after the commencement of the inspection, the agency must provide the regulated person with an update on the status of any agency action resulting from an inspection of the regulated person. The agency is not required to provide an update after the regulated person is notified that no agency action will result from the inspection or after the completion of agency action resulting from the inspection.

20. Is entitled to have the Department mail written notice of an inspection by first class mail to the owner, manager or occupant of the property at least seven days prior to the inspection as provided in A.A.C. R12-15-1101, unless the Director reasonably believes that notice would frustrate the enforcement of Title 45, Arizona Revised Statutes, or where entry is sought for the sole purpose of inspecting water measuring devices required pursuant to A.R.S. § 45-604.

Process for Filing a Complaint with the Arizona Department of Water Resources

A small business may file a complaint with the Department by contacting the following Department employee who has been designated to assist members of the public or regulated community in seeking information or assistance from the agency pursuant to A.R.S. § 41-1006:

Doug Dunham
Legislative Liaison, Ombudsman, and Special Assistant to the Director
Arizona Department of Water Resources
3550 N. Central Avenue

Phoenix, Arizona 85012
Telephone: 602-771-8590
Email: dwdunham@azwater.gov

If a regulated person has already made a reasonable effort with the Department to resolve a problem and still has not been successful, the person may contact the Office of Arizona Ombudsman-Citizens' Aide. The following is the contact information for that office:

Arizona Ombudsman-Citizens' Aide
3737 N. 7th Street, Suite 209
Phoenix AZ 85014
Telephone: 602- 277-7292
1-800-872-2879 (Arizona outside Phoenix metro area)
Fax: 602-277-7312
Email: ombuds@azoca.gov