

## NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

### NOTICE OF PROPOSED RULEMAKING

#### TITLE 17. TRANSPORTATION

#### CHAPTER 4. DEPARTMENT OF TRANSPORTATION TITLE, REGISTRATION, AND DRIVER LICENSES

[R07-435]

#### PREAMBLE

- 1. Sections Affected**  
R17-4-309  
Appendix A.
- Rulemaking Action**  
Amend  
Repeal
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rule is implementing (specific):**  
Authorizing statute: A.R.S. § 28-366  
Implementing statute: A.R.S. § 28-101
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**  
Notice of Rulemaking Docket Opening: 13 A.A.R. 4046, November 16, 2007
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Celeste M. Cook, Administrative Rules Analyst  
Address: Administrative Rules Unit  
Department of Transportation, Motor Vehicle Division  
1801 W. Jefferson St., Mail Drop 530M  
Phoenix, AZ 85007  
Telephone: (602) 712-7624  
Fax: (602) 712-3081  
E-mail: ccook@azdot.gov  
Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters at [www.azdot.gov/mvd/MVDRules/rules.asp](http://www.azdot.gov/mvd/MVDRules/rules.asp).
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**  
This rulemaking action arises from a Five-Year-Review Report approved by the Governor's Regulatory Review Council on February 3, 2004. The Arizona Department of Transportation, Motor Vehicle Division, proposes to amend the existing rules to conform to current statute, remove, or update related citations. Changes are also made to ensure conformity with the Arizona Administrative Procedures Act, Secretary of State, and Governor's Regulatory Review Council rulemaking format and style requirements.
- 6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**  
None
- 7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previ-**

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**ous grant of authority of a political subdivision of this state:**

Not applicable

**8. The preliminary summary of the economic, small business, and consumer impact:**

The anticipated economic impact of this rulemaking on the Division is minimal. The costs imposed by this rulemaking are the minimal costs associated with administering the program and the costs of rulemaking activity.

The Division anticipates that the economic impact of this rulemaking on small businesses are moderate to substantial for businesses and members of the public that choose to apply for a Private Fire Emergency Vehicle Permit. Applying for the permit is a voluntary procedure. Businesses that do apply will incur the costs associated with obtaining liability insurance, fire engine maintenance, and training qualified operators.

The Division anticipates that the economic impact of this rulemaking on consumers is nil.

**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

See item 4.

**10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rulemaking:**

An oral proceeding is not scheduled for the proposed rule. To request an oral proceeding or to submit a comment in writing, by fax, or e-mail, please contact the Administrative Rules Analyst listed in item 4 between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, with the exception of legal state holidays. If no request for an oral proceeding is made, the public record will close on January 28, 2008 at 5:00 p.m.

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rules or class of rules:**

None

**12. Incorporations by reference and their location in the rule:**

None

**13. The full text of the rule follows:**

TITLE 17. TRANSPORTATION

CHAPTER 4. DEPARTMENT OF TRANSPORTATION  
TITLE, REGISTRATION, AND DRIVER LICENSES

ARTICLE 3. VEHICLE REGISTRATION

Section

R17-4-309. Private Fire Emergency Vehicle Permit

Appendix A. ~~Private Fire Emergency Vehicle Permit Repealed~~

ARTICLE 3. VEHICLE REGISTRATION

**R17-4-309. Private Fire Emergency Vehicle Permit**

**A. Definitions:**

1. "The Applicant" means person, persons, or entity applying for a permit for a private fire emergency vehicle.
2. "Department" is defined in accordance with A.R.S. § 28-101(16).
3. "Director" is defined in accordance with A.R.S. § 28-101(17).
4. "Emergency Vehicle Permit" means a document issued by the Director of the Motor Vehicle Division authorizing the driver of a permitted motor vehicle to exercise the privileges set forth in A.R.S. § 28-624.
5. "Fire Engine" means a motor vehicle containing fire fighting equipment capable of extinguishing fires.
6. "Private Fire Department" means a fire fighting concern which is neither a public service corporation nor a municipal entity but is equipped to provide emergency fire fighting devices for a private purpose.
7. "Private Fire Emergency Vehicle" means a fire engine operated by a Private Fire Department for which an Emergency Vehicle Permit has been issued.

**B. A separate written application shall be made to the Director for each fire engine for which an emergency vehicle permit is requested:**

1. The application shall be made to the Department's Transportation Safety Office, Motor Vehicle Division.
2. The applicant shall certify that the fire engine shall be operated by a Private Fire Department.
3. The applicant shall certify that the driver of the fire engine meets the operator requirements of this rule.

4. The applicant shall demonstrate acceptable financial responsibility to protect any liability that may arise from the use of the permit. Acceptable financial responsibility shall be demonstrated by a comprehensive motor vehicle liability insurance policy:
    - a. The policy shall be written for a combined single limit coverage of at least \$5 million.
    - b. The policy shall be issued by an insurance company licensed to do business in Arizona by the Arizona Department of Insurance.
    - c. The policy shall provide that the state of Arizona shall be notified at least 30 days prior to any policy cancellation, nonrenewal, or change in provisions. Additionally, the policy shall provide that the state of Arizona shall be notified if the insurance company becomes insolvent.
    - d. The policy, together with all endorsements, shall be provided to the Division at time of initial application.
  5. No permit shall be issued until the insurance policy is approved by the Director.
- C. Operational Requirements.**
1. Private fire emergency vehicles may be operated with the privileges set forth in A.R.S. § 28-624 but shall be subject to all other applicable provisions set forth in A.R.S. Title 28, A.A.C. Title 17, and applicable local laws.
  2. Private fire emergency vehicles shall only be driven by operators who meet the requirements of Chapter 2, Basic Driver/Operator Requirements, of the National Fire Protection Association Standard for Fire Apparatus Driver/Operator Professional Qualifications (NFPA 1002), 1988 edition which is incorporated by reference herein and on file in the Office of the Secretary of State.
  3. The emergency vehicle permit shall be carried at all times in the vehicle for which it is issued.
  4. The emergency vehicle permit shall remain the property of the Division, shall not be transferable, and shall be surrendered to the Division upon revocation or suspension.
  5. The emergency vehicle permit shall be valid for 12 months and may be renewed upon application.
- D. Denial and Revocation; Appeal**
1. The emergency vehicle permit shall be revoked upon a determination by the Director that:
    - a. The permitted vehicle or the permittee no longer meets the requirements for the permit, or
    - b. The vehicle was operated in violation of the provisions of this rule or any other applicable rule or statute.
  2. The order of revocation shall be preceded by a notice of intent to revoke. The notice of intent to revoke shall be sent by first class mail, postage prepaid, to the address of the permittee as shown on the permit application.
  3. The notice of intent to revoke shall inform the permittee of the right to a hearing and the procedure for requesting a hearing.
  4. Permittee may request a hearing within 15 days after receipt of notice of intent to revoke by mailing or delivering a written request to: Executive Hearing Office, Motor Vehicle Division, 1801 West Jefferson, Phoenix, Arizona 85007.
  5. The order of revocation shall become effective 25 days after the mailing date of the notice of intent to revoke unless a timely request for hearing is submitted.
  6. Hearings, rehearings, and appeals shall be noticed and conducted in accordance with A.R.S. § 41-1061 et seq. and A.A.C. R17-1-502 et seq.
  7. The permittee shall be allowed to reapply for a permit following revocation.
  8. If the application for a permit is denied, the denial shall be sent by first class mail, postage prepaid, to the address of the permittee as shown on the permit application. The notice of denial shall inform the applicant of the right to a hearing and the procedure for requesting a hearing.
- E. Permit Format.** The attached permit format, Appendix A, is adopted and prescribed for use.
- A. Private Fire Emergency Vehicle Permit.** The Division shall issue a Private Fire Emergency Vehicle Permit to a private fire department upon approval by the Director.
1. The Private Fire Emergency Vehicle Permit is valid until revoked or a renewal application is denied.
  2. The Private Fire Emergency Vehicle Permit shall be carried at all times in the fire engine for which it is issued.
  3. The Private Fire Emergency Vehicle Permit is not transferable.
  4. The Private Fire Emergency Vehicle Permit shall remain the property of the Division and shall be surrendered to the Division, upon revocation or denial of a renewal application.
- B. Initial Private Fire Emergency Vehicle Permit application.** A person applying for a Private Fire Emergency Vehicle Permit shall submit the required documentation to the Division's Enforcement Services Program, P.O. Box 2100, Mail Drop 513M, Phoenix, AZ 85007. The following documentation is required at the time of initial application:
1. Private Fire Emergency Vehicle Permit Application. Multiple fire engines may be listed on one application. The Private Fire Emergency Vehicle Permit Application is furnished by the Division and is available upon request from the Division's Enforcement Services Program at (602) 712-7615.
  2. Private Fire Emergency Vehicle Operator Application. An application is required for each driver operating a fire engine with the authorization granted by the Division under this Section. The Private Fire Emergency Vehicle Operator Application is furnished by the Division and is available upon request from the Division's Enforcement Services Program at (602) 712-7615.
  3. Proof of acceptable financial responsibility to protect any liability that may arise from the use of the Private Fire

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Emergency Vehicle Permit. No Private Fire Emergency Vehicle Permit will be issued until the Director approves the insurance policy. Acceptable proof of financial responsibility is an insurance policy that:

- a. Is issued by an insurance company licensed to conduct business in Arizona by the Arizona Department of Insurance.
- b. Is written for a combined single-limit coverage of at least \$5 million.
- c. Contains a provision stating that the state of Arizona shall be notified at least 30 days prior to any policy cancellation, nonrenewal, or change in provisions.
- d. Contains a provision stating that the state of Arizona shall be notified if the insurance company becomes insolvent.

**C.** Renewal of a Private Fire Emergency Vehicle Permit. A person requesting the renewal of a Private Fire Emergency Vehicle Permit shall submit, by certified mail, acceptable proof of financial responsibility as prescribed under R17-4-309(A)(2), a copy of the National Fire Protection Association's annual inspection, and a copy of the Department of Defense's annual inspection for each fire engine for which a Private Fire Emergency Vehicle Permit was issued. A person shall submit the Private Fire Emergency Vehicle Permit renewal request not later than 12 months from the issue date of the initial Private Fire Emergency Vehicle Permit or the certified letter receipt date for the most recent request for renewal.

**D.** Operational requirements.

1. A fire engine may be operated with the privileges prescribed under A.R.S. § 28-624, but shall be subject to all other applicable provisions prescribed under A.R.S. Title 28, A.A.C. Title 17, and applicable local laws.
2. A fire engine shall only be driven by an operator who meets the Operator Requirements as defined under R17-4-301.
3. A fire engine, for which a Private Fire Emergency Vehicle Permit is issued, shall meet the National Fire Protection Association's (NFPA) fire engine and fire apparatus standards in effect for the manufacture date of the emergency vehicle.

**E.** The private fire department is responsible for ensuring that the fire engine is not operated using the privileges prescribed under A.R.S. § 28-624 with an invalid Private Fire Emergency Vehicle Permit.

**F.** Denial. If the Division denies the application for a Private Fire Emergency Vehicle Permit, a notice of the denial shall be sent to the address of the applicant. An applicant shall be allowed to reapply for a permit following denial, provided all requirements listed under this Section are met.

**G.** Revocation. If the Division denies the application for a Private Fire Emergency Vehicle Permit, a notice of the denial shall be sent to the address of the applicant. An applicant shall be allowed to reapply for a permit following revocation, provided all requirements listed under this Section are met.

1. The emergency vehicle permit shall be revoked upon a determination by the Director that:

- a. The person failed to submit a timely request for renewal of the Private Fire Emergency Vehicle Permit,
- b. The permitted vehicle or the private fire department no longer meets the requirements for the permit, or
- c. The vehicle was operated in violation of the provisions of this rule, any other applicable rule, or statute.

2. The order of revocation shall be preceded by a notice of intent to revoke.

- a. The Division shall send the notice of intent to revoke by first-class mail to the address of the applicant as shown on the permit application.
- b. The notice of intent to revoke shall inform the applicant of the right to an administrative hearing and the procedure for requesting a hearing.

3. The order of revocation shall become effective 25 days after the mailing date of the notice of intent to revoke unless a timely request for hearing is submitted.

**H.** Administrative hearing. An applicant whose application for a Private Fire Emergency Vehicle Permit is denied may request an administrative hearing according to the procedure prescribed under 17 A.A.C. 1, Article 5. The administrative hearing is held in accordance with the procedures prescribed under 17 A.A.C. 1, Article 5.

**Appendix A. ~~Private Fire Emergency Vehicle Permit~~ Repealed**

