

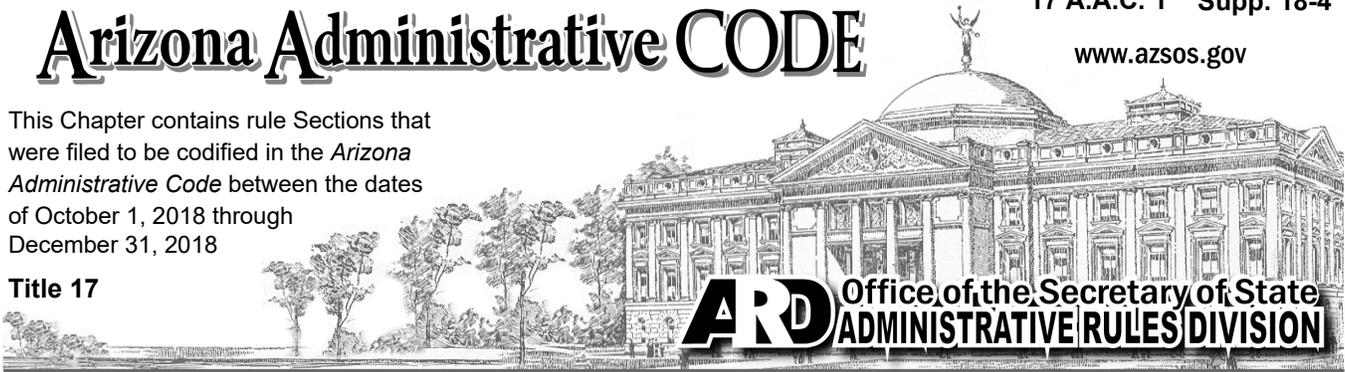
Arizona Administrative CODE

17 A.A.C. 1 Supp. 18-4

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This Chapter contains rule Sections that were filed to be codified in the *Arizona Administrative Code* between the dates of October 1, 2018 through December 31, 2018

Title 17



ARD Office of the Secretary of State
ADMINISTRATIVE RULES DIVISION

TITLE 17. TRANSPORTATION

CHAPTER 1. DEPARTMENT OF TRANSPORTATION - ADMINISTRATION

The table of contents on the first page contains quick links to the referenced page numbers in this Chapter. Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

Sections, Parts, Exhibits, Tables or Appendices codified in this supplement. The list provided contains quick links to the updated rules.

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The release of this Chapter in Supp. 18-4 replaces Supp. 18-1, 26 pages

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the *Administrative Code*. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into titles. Titles are divided into chapters. A chapter includes state agency rules. Rules in chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each chapter.

First Quarter: January 1 - March 31

Second Quarter: April 1 - June 30

Third Quarter: July 1 - September 30

Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2018 is cited as Supp. 18-1.

Please note: The Office publishes by chapter, not by individual rule section. Therefore there might be only a few sections codified in each chapter released in a supplement. Historical notes at the end of a section provide an effective date and information when a rule was last updated.

AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate chapters of the *Administrative Code* in Supp. 18-1 to comply with A.R.S. § 41-1012(B) and A.R.S. § 5302(1), (2)(d) through (e), and (3)(d) through (e).

A certification verifies the authenticity of each *Code* chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the *Arizona Administrative Register* for recent updates to rule Sections.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority

note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in a chapter can be found at the Secretary of State’s website, under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the *Register* online at www.azsos.gov/rules, click on the *Administrative Register* link.

Editor’s notes at the beginning of a chapter provide information about rulemaking sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

EXEMPTIONS AND PAPER COLOR

At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

PERSONAL USE/COMMERCIAL USE

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Rhonda Paschal, managing rules editor, assisted with the editing of this chapter.



Administrative Rules Division
The Arizona Secretary of State electronically publishes each A.A.C. Chapter with a digital certificate. The certificate-based signature displays the date and time the document was signed and can be validated in Adobe Acrobat Reader.

TITLE 17. TRANSPORTATION

CHAPTER 1. DEPARTMENT OF TRANSPORTATION - ADMINISTRATION

Editor's Note: Some Sections in 17 A.A.C. 1 expired on February 28, 2014, but were not removed in Supp. 14-2. This Chapter has since been updated with the removal of the expired Sections as filed by the Governor's Regulatory Review Council on May 7, 2015, file number R14-70. The expired Sections include: R17-1-206, R17-1-306, R17-1-309, R17-1-316, R17-1-317, and R17-1-330 (Supp. 18-4).

ARTICLE 1. GENERAL PROVISIONS

Article 1, consisting of Section R17-1-101 and Table A, recodified from 17 A.A.C 4 at 7 A.A.R. 919, effective January 24, 2001 (Supp. 01-1).

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ARTICLE 1. GENERAL PROVISIONS**R17-1-101. Recodified****Historical Note**

New Section recodified from R17-4-710 at 7 A.A.R. 919, effective January 24, 2001 (Supp. 01-1). Former Section R17-1-101 recodified to R17-1-102 at 7 A.A.R. 3476, effective July 20, 2001 (Supp. 01-3).

Table A. Recodified**Historical Note**

New Table recodified from 17 A.A.C. 4, Article 7 at 7 A.A.R. 919, effective January 24, 2001 (Supp. 01-1). Former Table A recodified to R17-1-102, Table A, at 7 A.A.R. 3476, effective July 20, 2001 (Supp. 01-3).

R17-1-102. Licensing Time-frames

- A.** Time-frames. The time-frames listed in Tables A and B apply to licenses issued by the Department.
1. "Department" means the Arizona Department of Transportation.
 2. "License" has the meaning prescribed in A.R.S. § 41-1001(10).
 3. "Administrative completeness review time-frame" has the meaning prescribed in A.R.S. § 41-1072(1).
 4. "Overall time-frame" has the meaning prescribed in A.R.S. § 41-1072(2).
 5. "Substantive review time-frame" has the meaning prescribed in A.R.S. § 41-1072(3).
- B.** Administrative completeness review – notice of deficiency. Within the time-frame for the administrative completeness review listed in Tables A and B, the Department shall notify the applicant in writing that the application is complete or incomplete. If the application is incomplete, the Department shall issue a notice of deficiency to the applicant specifying the information required to make the application administratively complete.
1. The notice of deficiency shall list all missing information.
 2. A notice of deficiency issued by the Department within the administrative completeness review time-frame suspends the administrative completeness review time-frame and the overall time-frame, from the date the Department issues the notice of deficiency until the date that the Department receives all missing information from the applicant.
- C.** Denial during administrative completeness review.
1. If the applicant does not withdraw the application and does not respond, within 60 days after the date on a notice of deficiency issued under subsection (B), to each item listed in the notice of deficiency, the Department shall treat the application as withdrawn. The Department shall not issue a written notice of denial.
 2. The applicant may withdraw the application during the 60-day response period. If the applicant withdraws the application, the Department shall not issue a written notice of denial. If the applicant wishes to obtain a license after withdrawal of the application, an applicant shall submit a new application.

3. The Department may issue a written notice of denial to an applicant before finding administrative completeness if the information provided by the applicant demonstrates that the applicant is not eligible for a license under the relevant statute or rules.
 4. The notice of denial shall provide a justification for the denial and an explanation of the applicant's right to a hearing or appeal.
- D.** Substantive review – additional information. Within the time-frame for the substantive review listed in Tables A and B, the Department may issue a comprehensive request for additional information, or by mutual agreement with the applicant, issue a supplemental request for additional information.
1. Any request for additional information shall list all items of information required.
 2. Any request for additional information issued by the Department within the substantive review time-frame suspends the substantive review time-frame and overall time-frame, from the date the Department issues the request until the date that the Department receives all the required additional information from the applicant.
- E.** Denial during substantive review. The following provisions apply:
1. If the applicant does not withdraw the application and does not respond, within 60 days after the date on a request for additional information under subsection (D), to each item required by the request, the Department shall treat the application as withdrawn. The Department shall not issue a written notice of denial.
 2. The applicant may withdraw the application during the 60-day response period. If the applicant withdraws the application, the Department shall not issue a written notice of denial. If the applicant wishes to obtain a license after withdrawal of an application, an applicant shall submit a new application.
 3. The notice of denial shall provide a justification for the denial and an explanation of the applicant's right to a hearing or appeal.
- F.** Notification after substantive review. Upon completion of the substantive review, the Department shall notify the applicant in writing that the license is granted or denied within the overall time-frames listed in Tables A and B. The notice of denial shall provide a justification for the denial and an explanation of the applicant's right to a hearing or appeal.
- G.** Applicant response period. In computing the applicant's response periods prescribed in this Section, the last day of a response period is counted. If the last day is a Saturday, Sunday, or legal holiday, the applicant's response period runs until the end of the next day that is not a Saturday, Sunday, or legal holiday.
- H.** Effective date. This Section applies to applications filed with the Department on or after the effective date of this Section.

Historical Note

New Section R17-1-102 recodified from R17-1-101 by final rulemaking at 7 A.A.R. 3476, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 7 A.A.R. 4347, effective September 9, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 923, effective February 11, 2002 (Supp. 02-1).

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Table A. Motor Vehicle Division

LICENSE	STATUTORY AUTHORITY	ADMINISTRATIVE COMPLETENESS REVIEW TIME-FRAME	SUBSTANTIVE REVIEW TIME-FRAME	OVERALL TIME-FRAME
Fleet registration	A.R.S. §§ 28-2201 to 28-2208	60 days	30 days	90 days
International proportional registration	A.R.S. §§ 28-2231 to 28-2239	20 days	10 days	30 days
Alternative proportional registration	A.R.S. § 28-2261 to 28-2269	60 days	30 days	90 days
Personalized special plates	A.R.S. § 28-2406	5 days	30 days	35 days
Traffic survival school or traffic survival school instructor license	A.R.S. §§ 28-3306 to 28-3307	5 days	35 days	40 days
Driver license issued after suspension, revocation or disqualification	A.R.S. § 28-3315	5 days	30 days	35 days
Automotive recycler, broker, motor vehicle dealer or wholesale motor vehicle dealer license	A.R.S. §§ 28-4301 to 28-4366	8 days	117 days	125 days
Manufacturer, distributor, factory branch, or distributor branch license	A.R.S. §§ 28-4301 to 28-4366	6 days	14 days	20 days
Permit to exhibit or display and sell vehicles off dealer's premises	A.R.S. § 28-4401	6 days	9 days	15 days
Permit to exhibit recreational vehicles at public event	A.R.S. § 28-4402	6 days	9 days	15 days
Authorization to use dealer license plates	A.R.S. § 28-4533	7 days	38 days	45 days
Authorization to dispose of junk vehicle	A.R.S. § 28-4882	5 days	45 days	50 days
License to operate as a title service company	A.R.S. § 28-5003	6 days	14 days	20 days
Third-party authorization to perform certain title and registration, motor carrier licensing and tax reporting, dealer licensing, and driver license functions*	A.R.S. §§ 28-5101 to 28-5110	5 days	90 days	95 days
Third-party authorization to issue over-weight and over-dimensional permits*	A.R.S. §§ 28-1145 and 28-5101 to 28-5110	5 days	90 days	95 days
Certification of an authorized third party, or the authorized third party's employee or agent, to perform the authorized functions	A.R.S. §§ 28-5101 to 28-5110	5 days	60 days	65 days
Professional driver training school or professional driver training school instructor license	A.R.S. §§ 32-2351 to 32-2393	5 days	35 days	40 days

* The Division shall have the right to determine when an authorized third party may begin to transact business after a license has been granted.

Historical Note

New Table A recodified from R17-1-101, Table A, by final rulemaking at 7 A.A.R. 3476, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 7 A.A.R. 4347, effective September 9, 2001 (Supp. 01-3).

CHAPTER 1. DEPARTMENT OF TRANSPORTATION - ADMINISTRATION

Table B. Intermodal Transportation Division

LICENSE	STATUTORY AUTHORITY	ADMINISTRATIVE COMPLETENESS REVIEW TIME-FRAME	SUBSTANTIVE REVIEW TIME- FRAME	OVERALL TIME-FRAME
Outdoor advertising permit	A.R.S. §§ 28-7901 to 28-7909	30 days	30 days	60 days
Encroachment permit	A.R.S. §§ 28-7053(A), 7053(D), 7045(2)	30 days	120 days	150 days
Junkyard screening license	A.R.S. §§ 28-7941 to 28-7943	30 days	60 days	90 days

Historical Note

New Table B made by final rulemaking at 7 A.A.R. 4347, effective September 9, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 923, effective February 11, 2002 (Supp. 02-1).

R17-1-103. Petition for Department Rulemaking or Review

- A.** A person may petition the Department under A.R.S. § 41-1033(A) for a:
 - 1. Rulemaking action relating to a Department rule, including making a new rule or amending or repealing an existing rule; or
 - 2. Review of an existing Department practice or substantive policy statement alleged to constitute a rule.
- B.** To act under A.R.S. § 41-1033(A) and this Section, a person shall submit to the Department Director a written petition that includes the following information:
 - 1. Name, address, telephone number, and facsimile number, if any, of the person submitting the petition;
 - 2. If the person submitting the petition is a representative of another person, the name of each person represented;
 - 3. If requesting a rulemaking action:
 - a. A statement of the rulemaking action sought, including the A.A.C. citation for each existing rule involved, and the specific language of each new rule or rule amendment; and
 - b. Reasons for the rulemaking action, including an explanation of why an existing rule is inadequate, unreasonable, unduly burdensome, or unlawful.
 - 4. If requesting a review of an existing practice or substantive policy statement:
 - a. The subject matter of the existing practice or substantive policy statement, and
 - b. Reasons why the existing practice or substantive policy statement constitutes a rule.
 - 5. The dated signature of the person submitting the petition.
- C.** A person may submit supporting information with a petition, including:
 - 1. Statistical data; and
 - 2. A list of other persons likely to be affected by the rulemaking action or the review, with an explanation of the likely effects.
- D.** The Department Director or the director’s authorized representative shall send the person submitting a petition a written response within 60 calendar days of the date the Department receives the petition.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5437, effective November 14, 2001 (Supp. 01-4).

R17-1-104. Rulemaking Oral Proceeding

- A.** Public request for an oral proceeding. A person may request an oral proceeding as prescribed under A.R.S. § 41-1023(C) by submitting the following information in writing to the agency official identified in a proposed rule’s preamble:

- 1. Identify the specific proposed rule for oral proceeding by Section number and title heading; and
- 2. Provide the following requestor information:
 - a. Name;
 - b. Address;
 - c. Telephone number during regular state business hours as prescribed under A.R.S. § 38-401; and
 - d. Optional information, if applicable:
 - i. The requestor’s occupational title; and
 - ii. The name of the entity the requestor represents.
- B.** Oral proceeding protocol.
 - 1. The Department shall record an oral proceeding electronically or stenographically, and shall make any audio or video cassette, transcript, register, and written comment received part of the Department’s rulemaking record as required under A.R.S. § 41-1029(B)(4) and (5).
 - 2. The Department’s presiding official shall use the following guidelines to conduct an oral proceeding:
 - a. Registration of attendees. Attendee registration is voluntary;
 - b. Registration of persons intending to speak. A person wishing to speak shall provide the person’s name, representative capacity, if applicable, a brief statement of the person’s position regarding the proposed rule, and approximate length of time the person wishes to speak;
 - c. Opening of the record. The Department’s presiding official shall identify:
 - i. The rule to be considered;
 - ii. The location;
 - iii. The date;
 - iv. The time of day;
 - v. The purpose of the proceeding including applicable background information or Department representative’s opening statement on the proposed rule; and
 - vi. Any applicable time limitation of the meeting location’s use or electronic communication linkage.
 - d. A public oral comment period. Any person may speak at an oral proceeding. A person who speaks shall ensure that all comments address the rule being considered. The Department’s presiding official may limit the time allotted to each speaker and preclude undue repetition;
 - e. A recess provision. If an oral proceeding must recess because of a time limitation indicated in subsection (B)(2)(c)(vi), the Department’s presiding official shall ensure that the oral proceeding’s continuation

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- complies with the meeting notice provision prescribed under A.R.S. § 38-431.02(E);
- f. Closing remarks. Before closing an oral proceeding record, the Department's presiding official shall announce:
- i. The location and last day for submitting written comments about the rule; and
 - ii. Any known future rulemaking steps the Department intends to take regarding the rule after the rulemaking public record closes.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 4920, effective January 5, 2003 (Supp. 02-4).

ARTICLE 2. FEES**R17-1-201. Definitions**

In addition to the definitions prescribed under A.R.S. § 44-6851, the following terms apply to this Article:

"Automated clearing house" has the same meaning as provided under A.A.C. R17-8-401.

"Electronic payment" means money which is exchanged electronically, including credit card payments, credit transfer, electronic checks, direct debit, and person-to-person payments.

"Stale-dated" means a check presented at the paying bank six months or more after the issue date of the check. A stale-dated check is not an invalid check, but the paying bank may deem the check an irregular bill of exchange and return it unpaid.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 2963, effective June 27, 2002 (Supp. 02-2). Amended by exempt rulemaking at 13 A.A.R. 3041, effective August 31, 2007 (Supp. 07-3). Amended by final rulemaking at 16 A.A.R. 1994, effective November 13, 2010 (Supp. 10-3). Amended by final expedited rulemaking at 24 A.A.R. 3495, effective December 4, 2018 (Supp. 18-4).

R17-1-202. Repealed**Historical Note**

New Section recodified from R17-4-702 at 7 A.A.R. 3477, effective July 20, 2001 (Supp. 01-3). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 2963, effective June 27, 2002 (Supp. 02-2). Amended by exempt rulemaking at 10 A.A.R. 4845, effective November 18, 2004 (Supp. 04-4). Amended by exempt rulemaking at 11 A.A.R. 3124, effective July 20, 2005 (Supp. 05-3). Amended by exempt rulemaking at 13 A.A.R. 3041, effective August 31, 2007 (Supp. 07-3). R17-1-202 repealed by final expedited rulemaking at 24 A.A.R. 3495, effective December 4, 2018 (Supp. 18-4).

Table 1. Repealed**Historical Note**

Table 1 made by exempt rulemaking at 13 A.A.R. 3041, effective August 31, 2007 (Supp. 07-3). Table 1 repealed by final expedited rulemaking at 24 A.A.R. 3495, effective December 4, 2018; Historical note added to clarify when Table 1 was made (Supp. 18-4).

R17-1-203. Dishonored Payments; Fees and Charges; Penalties

- A. In addition to the original payment amount, the maker or drawer of a check, draft, order, or electronic payment dishonored because of insufficient monies, payments stopped, or closed accounts shall pay to the Department:

1. A service fee of \$25 as provided under A.R.S. §§ 28-372 and 44-6852,
 2. Any actual charges assessed to the Department by a financial institution as a result of the dishonored instrument, and
 3. Any collection costs due to the Department under A.R.S. § 28-372.
- B. For a check, draft, or order dishonored:
1. Insufficient monies include:
 - a. A check written for less than the minimum amount due,
 - b. A check drawn against uncollected funds,
 - c. A check post-dated, or
 - d. A check stale-dated;
 2. Payments stopped include an item marked refer to maker, and
 3. Closed accounts include an item marked unable to locate account.
- C. For an electronic payment dishonored:
1. Insufficient monies include:
 - a. A credit limit exceeded,
 - b. An e-check or other electronic payment failure, or
 - c. An inaccurate automated clearing house transaction,
 2. Payments stopped include a credit card charge back, and
 3. Closed accounts include an item marked unable to locate account.
- D. Payments, fees, and charges due to the Department under subsection (A), shall be made by:
1. Cash, cashier's check, money order, or credit card for a dishonored check, draft, or order; or
 2. Cash, cashier's check, or money order for a dishonored electronic payment.
- E. Penalties.
1. A person who does not make payment under subsection (A) on or before the vehicle's registration expiration date is subject to a late title and registration penalty as prescribed under A.R.S. § 28-2162.
 2. A person who does not make payment under subsection (A) within 45 days after the date of a written Department notice of a dishonored check, draft, order, or electronic payment is subject to the following actions on the person's license, permit, or registration that was insufficiently funded:
 - a. For a driver license or permit, as prescribed under A.R.S. § 28-3301(A);
 - b. For a nonoperating identification license, as prescribed under A.R.S. § 28-3301(F); or
 - c. For a vehicle registration, as prescribed under A.R.S. § 28-2161(A)(2).

Historical Note

New Section recodified from R17-4-707 at 7 A.A.R. 3477, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 9 A.A.R. 3822, effective October 4, 2003 (Supp. 03-3). Section repealed; new Section made by final rulemaking at 16 A.A.R. 1994, effective November 13, 2010 (Supp. 10-3).

R17-1-204. MVD Postage Fund; Registration by Mail Charges

- A. For purposes of A.R.S. § 28-2151, the Division establishes a registration by mail postage fund.
- B. The Division shall charge a registration by mail applicant current applicable U.S. Postal Service postage rates for mailing:
1. A registration by mail renewal notice,
 2. A license plate, or
 3. A registration tab.

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Historical Note

New Section recodified from R17-4-703 at 7 A.A.R. 3477, effective July 20, 2001 (Supp. 01-3).

R17-1-205. Abandoned Vehicle Fees

- A. The Department establishes the following fees under A.R.S. § 28-4802 for the transfer of ownership or disposal of an abandoned vehicle:
1. The fee is \$500 if the vehicle was abandoned as described under A.R.S. § 28-4802(A), and
 2. The fee is \$600 if the vehicle was abandoned as described under A.R.S. § 28-4802(B).
- B. The Department establishes the following fees under A.R.S. § 28-4802 for processing an abandoned vehicle report:
1. The fee is \$8 if the report is submitted electronically, via the Department's authorized third-party electronic service provider; and
 2. The fee is \$10 if the report is submitted for processing by any other means.
- C. The fee for processing the abandoned vehicle report is non-refundable unless provided for under A.R.S. § 28-373.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 3746, effective September 30, 2003 (Supp. 03-3). Amended by exempt rulemaking at 17 A.A.R. 297, effective March 1, 2011 (Supp. 11-1).

R17-1-206. Expired**Historical Note**

New Section made by exempt rulemaking at 14 A.A.R. 4046, effective October 24, 2008 (Supp. 08-4). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 1232, effective February 28, 2014 (Supp. 18-4).

ARTICLE 3. TAXES**R17-1-301. Renumbered****Historical Note**

Renumbered from R17-4-301 (Supp. 92-4).

R17-1-302. Repealed**Historical Note**

Adopted effective August 1, 1988 (Supp. 88-3). Renumbered from R17-4-302 (Supp. 92-4). Section repealed by final rulemaking at 8 A.A.R. 563, effective January 15, 2002 (Supp. 02-1).

R17-1-303. Renumbered**Historical Note**

Renumbered from R17-4-303 (Supp. 92-4).

R17-1-304. Renumbered**Historical Note**

Renumbered from R17-4-304 (Supp. 92-4).

R17-1-305. Renumbered**Historical Note**

Renumbered from R17-4-305 (Supp. 92-4).

R17-1-306. Expired**Historical Note**

Former Rule, General Order 14. Former Section R17-4-05 renumbered without change as Section R17-4-306 (Supp. 87-2). Renumbered from R17-4-306 (Supp. 92-4). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R.

1232, effective February 28, 2014 (Supp. 18-4).

R17-1-307. Repealed**Historical Note**

Former Rule, General Order 5. Former Section R17-4-03 renumbered without change as Section R17-4-307 (Supp. 87-2). Renumbered from R17-4-307 (Supp. 92-4). Section repealed by final rulemaking at 8 A.A.R. 563, effective January 15, 2002 (Supp. 02-1).

R17-1-308. Repealed**Historical Note**

Former Rule, General Order 20. Former Section R17-4-06 renumbered without change as Section R17-4-308 (Supp. 87-2). Renumbered from R17-4-308 (Supp. 92-4). Section repealed by final rulemaking at 14 A.A.R. 316, effective March 8, 2008 (Supp. 08-1).

R17-1-309. Expired**Historical Note**

Former Rule, General Order 31. Former Section R17-4-11 renumbered without change as Section R17-4-309 (Supp. 87-2). Renumbered from R17-4-309 (Supp. 92-4). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 1232, effective February 28, 2014 (Supp. 18-4).

R17-1-310. Repealed**Historical Note**

Former Rule, General Order 25. Former Section R17-4-09 renumbered without change as Section R17-4-310 (Supp. 87-2). Renumbered from R17-4-310 (Supp. 92-4). Section repealed by final rulemaking at 8 A.A.R. 563, effective January 15, 2002 (Supp. 02-1).

R17-1-311. Repealed**Historical Note**

Former Rule, General Order 24. Former Section R17-4-08 renumbered without change as Section R17-4-311 (Supp. 87-2). Renumbered from R17-4-311 (Supp. 92-4). Section repealed by final rulemaking at 8 A.A.R. 563, effective January 15, 2002 (Supp. 02-1).

R17-1-312. Repealed**Historical Note**

Former Rule, General Order 39. Former Section R17-4-13 renumbered without change as Section R17-4-312 (Supp. 87-2). Renumbered from R17-4-312 (Supp. 92-4). Section repealed by final rulemaking at 8 A.A.R. 563, effective January 15, 2002 (Supp. 02-1).

R17-1-313. Repealed**Historical Note**

Former Rule, General Order 27. Former Section R17-4-10 renumbered without change as Section R17-4-313 (Supp. 87-2). Renumbered from R17-4-313 (Supp. 92-4). Section repealed by final rulemaking at 8 A.A.R. 563, effective January 15, 2002 (Supp. 02-1).

R17-1-314. Repealed**Historical Note**

Former Rule, General Order 69. Former Section R17-4-27 renumbered without change as Section R17-4-314 (Supp. 87-2). Renumbered from R17-4-314 (Supp. 92-4). Section repealed by final rulemaking at 8 A.A.R. 563,

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effective January 15, 2002 (Supp. 02-1).

R17-1-315. Repealed**Historical Note**

Former Rule, General Order 61. Former Section R17-4-23 renumbered without change as Section R17-4-315 (Supp. 87-2). Renumbered from R17-4-315 (Supp. 92-4). Section repealed by final rulemaking at 8 A.A.R. 563, effective January 15, 2002 (Supp. 02-1).

R17-1-316. Expired**Historical Note**

Former Rule, General Order 57. Former Section R17-4-20 renumbered without change as Section R17-4-316 (Supp. 87-2). Renumbered from R17-4-316 (Supp. 92-4). Section expired under A.R.S. 41-1056(J) at 20 A.A.R. 1232, effective February 28, 2014 (Supp. 18-4).

R17-1-317. Expired**Historical Note**

Former Rule, General Order 36. Former Section R17-4-12 renumbered without change as Section R17-4-317 (Supp. 87-2). Renumbered from R17-4-317 (Supp. 92-4). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 1232, effective February 28, 2014 (Supp. 18-4).

R17-1-318. Repealed**Historical Note**

Former Rule, General Order 7. Former Section R17-4-04 renumbered without change as Section R17-4-318 (Supp. 87-2). Renumbered from R17-4-318 (Supp. 92-4). Section repealed by final rulemaking at 14 A.A.R. 316, effective March 8, 2008 (Supp. 08-1).

R17-1-319. Repealed**Historical Note**

Former Rule, General Order 44. Former Section R17-4-14 renumbered without change as Section R17-4-319 (Supp. 87-2). Renumbered from R17-4-319 (Supp. 92-4). Section repealed by final rulemaking at 14 A.A.R. 316, effective March 8, 2008 (Supp. 08-1).

R17-1-320. Repealed**Historical Note**

Former Rule, General Order 54 (Amended). Former Section R17-4-18 renumbered without change as Section R17-4-320 (Supp. 87-2). Renumbered from R17-4-320 (Supp. 92-4). Section repealed by final rulemaking at 8 A.A.R. 563, effective January 15, 2002 (Supp. 02-1).

R17-1-321. Repealed**Historical Note**

Former Rule, General Order 21. Former Section R17-4-07 renumbered without change as Section R17-4-321 (Supp. 87-2). Renumbered from R17-4-321 (Supp. 92-4). Section repealed by final rulemaking at 8 A.A.R. 563, effective January 15, 2002 (Supp. 02-1).

R17-1-322. Repealed**Historical Note**

Former Rule, General Order 3. Former Section R17-4-02 renumbered without change as Section R17-4-322 (Supp. 87-2). Renumbered from R17-4-322 (Supp. 92-4). Section repealed by final rulemaking at 14 A.A.R. 316, effective March 8, 2008 (Supp. 08-1).

effective March 8, 2008 (Supp. 08-1).

R17-1-323. Repealed**Historical Note**

Former Rule, General Order 2A. Former Section R17-4-01 renumbered without change as Section R17-4-323 (Supp. 87-2). Renumbered from R17-4-323 (Supp. 92-4). Section repealed by final rulemaking at 14 A.A.R. 316, effective March 8, 2008 (Supp. 08-1).

R17-1-324. Renumbered**Historical Note**

Renumbered from R17-4-324 (Supp. 92-4).

R17-1-325. Renumbered**Historical Note**

Renumbered from R17-4-325 (Supp. 92-4).

R17-1-326. Renumbered**Historical Note**

Renumbered from R17-4-326 (Supp. 92-4).

R17-1-327. Renumbered**Historical Note**

Renumbered from R17-4-327 (Supp. 92-4).

R17-1-328. Renumbered**Historical Note**

Renumbered from R17-4-328 (Supp. 92-4).

R17-1-329. Renumbered**Historical Note**

Renumbered from R17-4-329 (Supp. 92-4).

R17-1-330. Expired**Historical Note**

Adopted effective March 1, 1984 (Supp. 84-1). Former Section R17-4-67 renumbered without change as Section R17-4-330 (Supp. 87-2). Renumbered from R17-4-330 (Supp. 92-4). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 1232, effective February 28, 2014 (Supp. 18-4).

R17-1-331. Repealed**Historical Note**

Adopted effective March 1, 1984 (Supp. 84-1). Former Section R17-4-68 renumbered without change as Section R17-4-331 (Supp. 87-2). Renumbered from R17-4-331 (Supp. 92-4). Section repealed by final rulemaking at 8 A.A.R. 563, effective January 15, 2002 (Supp. 02-1).

R17-1-332. Repealed**Historical Note**

Adopted effective March 1, 1984 (Supp. 84-1). Former Section R17-4-69 renumbered without change as Section R17-4-332 (Supp. 87-2). Renumbered from R17-4-332 (Supp. 92-4). Section repealed by final rulemaking at 8 A.A.R. 563, effective January 15, 2002 (Supp. 02-1).

R17-1-333. Repealed**Historical Note**

Adopted effective March 1, 1984 (Supp. 84-1). Former Section R17-4-71 renumbered without change as Section R17-4-333 (Supp. 87-2). Amended effective December 30, 1987 (Supp. 87-4). Renumbered from R17-4-333

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(Supp. 92-4). Section repealed by final rulemaking at 14 A.A.R. 316, effective March 8, 2008 (Supp. 08-1).

R17-1-334. Repealed**Historical Note**

Adopted effective March 1, 1984 (Supp. 84-1). Former Section R17-4-70 renumbered without change as Section R17-4-334 (Supp. 87-2). Renumbered from R17-4-334 (Supp. 92-4). Section repealed by final rulemaking at 8 A.A.R. 563, effective January 15, 2002 (Supp. 02-1).

R17-1-335. Repealed**Historical Note**

Adopted as an emergency effective July 1, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R17-4-401 adopted as an emergency now adopted and amended as a permanent rule effective October 6, 1982 (Supp. 82-5). Amended effective November 13, 1986 (Supp. 86-6). Former Section R17-4-401 renumbered without change as Section R17-4-335 (Supp. 87-2). Renumbered from R17-4-335 (Supp. 92-4). Section repealed by final rulemaking at 8 A.A.R. 563, effective January 15, 2002 (Supp. 02-1).

R17-1-336. Repealed**Historical Note**

Adopted as an emergency effective July 1, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R17-4-402 adopted as an emergency now adopted and amended as a permanent rule effective October 6, 1982 (Supp. 82-5). Amended effective November 13, 1986 (Supp. 86-6). Former Section R17-4-402 renumbered without change as Section R17-4-336 (Supp. 87-2). Renumbered from R17-4-336 (Supp. 92-4). Section repealed by final rulemaking at 8 A.A.R. 563, effective January 15, 2002 (Supp. 02-1).

R17-1-337. Repealed**Historical Note**

Adopted as an emergency effective July 1, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R17-4-403 adopted as an emergency now adopted and amended as a permanent rule effective October 6, 1982 (Supp. 82-5). Amended effective November 13, 1986 (Supp. 86-6). Former Section R17-4-403 renumbered without change as Section R17-4-337 (Supp. 87-2). Renumbered from R17-4-337 (Supp. 92-4). Section repealed by final rulemaking at 8 A.A.R. 563, effective January 15, 2002 (Supp. 02-1).

R17-1-338. Renumbered**Historical Note**

Renumbered from R17-4-338 (Supp. 92-4).

R17-1-339. Renumbered**Historical Note**

Renumbered from R17-4-339 (Supp. 92-4).

R17-1-340. Renumbered**Historical Note**

Renumbered from R17-4-340 (Supp. 92-4).

R17-1-341. Renumbered**Historical Note**

Renumbered from R17-4-341 (Supp. 92-4).

R17-1-342. Renumbered**Historical Note**

Renumbered from R17-4-342 (Supp. 92-4).

R17-1-343. Renumbered**Historical Note**

Renumbered from R17-4-343 (Supp. 92-4).

R17-1-344. Renumbered**Historical Note**

Renumbered from R17-4-344 (Supp. 92-4).

R17-1-345. Renumbered**Historical Note**

Renumbered from R17-4-345 (Supp. 92-4).

R17-1-346. Procedure to estimate use fuel consumption**Definitions:**

1. "Assistant Director" means the Assistant Director of the Department of Transportation for the Motor Vehicle Division.
2. "County highway mile" means one mile of highway maintained by a county for which the county does not receive full reimbursement for such maintenance from any other entity.
3. "Population" means the population as determined pursuant to the provisions of A.R.S. § 28-1598.

Historical Note

Adopted effective October 8, 1987 (Supp. 87-4). Renumbered from R17-4-346 (Supp. 92-4).

R17-1-347. Procedure to estimate percentage of consumption of use fuel in each county

- A. The Motor Vehicle Division shall calculate the estimated percentage of use fuel consumed in a particular county for a particular month as compared to the total amount of use fuel consumed in the entire state during the same month in accordance with the following formula:

$$X = \frac{.7A + .3B + C}{2}$$

1. "X" is the percentage for a particular county of the total amount of use fuel consumed in the entire state for a month.
 2. "A" is the number of county highway miles in the county divided by the total number of county highway miles in all counties within the state.
 3. "B" is the total unincorporated county population in the county divided by the total unincorporated county population in all counties within the state.
 4. "C" is the percent of use fuel consumed in the county that was used to distribute highway user revenue funds in June 1985.
- B. If the formula described in subsection (A) results in a particular county having less than 1% of the use fuel consumed in the state, that county's share shall be raised to 1% and the resulting deficiency shall be prorated among the remaining counties in the same percentage as the amount of use fuel consumed.

Historical Note

Adopted effective October 8, 1987 (Supp. 87-4). Renumbered from R17-4-347 (Supp. 92-4).

R17-1-348. Requirements to provide data pertaining to

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county highway miles

- A. Each year prior to April 1, the county engineer for each county in the state shall certify under oath and deliver to the Motor Vehicle Division a report containing the number of county highway miles located in his county as of the preceding December 31. The report shall contain the designation of each highway included in the number of county highway miles, the location of its termini, and the length of the highway measured on its centerline to the nearest one tenth of a mile.
- B. The Assistant Director shall give notice in writing to any county engineer who fails to deliver the report by March 31. The notice shall state that the report has not been received and demand that it be delivered to the Motor Vehicle Division within ten days of the mailing of the notice.
- C. If a county engineer fails to deliver the report required by subsection (A) after being given the ten-day notice provided in subsection (B), the Assistant Director shall continue to perform the calculations required by A.R.S. § 28-1598 using the county road miles reported by the delinquent county for the prior year. However, commencing with distributions made in the month following the expiration of the ten-day notice, the funds due the delinquent county pursuant to the provisions of A.R.S. § 28-1598 shall not be distributed to the delinquent county until the County Engineer has provided the report to the Motor Vehicle Division required by subsection (A).
- D. The report required by subsection (A) shall be available for inspection by all of the counties. A county may challenge the report made by any other county by filing a challenge in writing with the Assistant Director not later than April 30 of each year. In the case of reports received after April 1 of each year, the challenge must be received by the Assistant Director not later than 30 days after receipt of the report by the Assistant Director. The challenge shall specify the highways and the number of disputed miles being contested.
- E. If the Assistant Director receives a challenge to a report, the Assistant Director of the Department of Transportation for Transportation Planning Division shall hold a hearing within 60 days upon receipt to resolve the challenge. The burden of proof at the hearing shall be on the county bringing the challenge. The decision of the Assistant Director of the Department of Transportation for Transportation Planning Division concerning the outcome of the challenge shall be final.

Historical Note

Adopted effective October 8, 1987 (Supp. 87-4). Renumbered from R17-4-348 (Supp. 92-4).

R17-1-349. Period of applicability

The estimated percentage of use fuel consumed in each county that is calculated annually pursuant to the provisions of this Article shall be used to calculate the distribution pursuant to A.R.S. § 28-1598 commencing with distributions made after June 30 of that year and shall continue to be used until the next succeeding June 30 or until a new estimated percentage of use fuel consumed in each county is calculated in accordance with the provisions of this Article, whichever is later.

Historical Note

Adopted effective October 8, 1987 (Supp. 87-4). Renumbered from R17-4-349 (Supp. 92-4).

ARTICLE 4. REPEALED**R17-1-401. Repealed****Historical Note**

New Section made by final rulemaking at 8 A.A.R. 3236, effective July 10, 2002 (Supp. 02-3). Section repealed by final rulemaking at 15 A.A.R. 182, effective March 7,

2009 (Supp. 09-1).

R17-1-402. Repealed**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 3236, effective July 10, 2002 (Supp. 02-3). Section repealed by final rulemaking at 15 A.A.R. 182, effective March 7, 2009 (Supp. 09-1).

R17-1-403. Repealed**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 3236, effective July 10, 2002 (Supp. 02-3). Section repealed by final rulemaking at 15 A.A.R. 182, effective March 7, 2009 (Supp. 09-1).

R17-1-404. Repealed**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 3236, effective July 10, 2002 (Supp. 02-3). Section repealed by final rulemaking at 15 A.A.R. 182, effective March 7, 2009 (Supp. 09-1).

R17-1-405. Repealed**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 3236, effective July 10, 2002 (Supp. 02-3). Section repealed by final rulemaking at 15 A.A.R. 182, effective March 7, 2009 (Supp. 09-1).

R17-1-406. Repealed**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 3236, effective July 10, 2002 (Supp. 02-3). Section repealed by final rulemaking at 15 A.A.R. 182, effective March 7, 2009 (Supp. 09-1).

R17-1-407. Repealed**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 3236, effective July 10, 2002 (Supp. 02-3). Section repealed by final rulemaking at 15 A.A.R. 182, effective March 7, 2009 (Supp. 09-1).

ARTICLE 5. ADMINISTRATIVE HEARINGS**R17-1-501. Definitions**

The following definitions apply to this Article unless otherwise required:

1. "Administrative hearing" means a scheduled Executive Hearing Office proceeding for deciding a dispute based on the evidence presented to an administrative law judge. An administrative hearing includes:
 - a. Advance notice to participants of record,
 - b. An opportunity for witnesses to testify under oath, and
 - c. Presentation of documentary evidence.
2. "Administrative law judge" means a person who conducts a summary review or presides at an administrative hearing, with the powers listed under these rules.
3. "Affidavit" means a declaration or statement of facts made:
 - a. In writing, and
 - b. Under oath or affirmation.
4. "Agency action" means an action affecting a license, permit, certificate, approval, registration, or other permission

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issued by the Arizona Department of Transportation or the Division.

5. "Attorney" means:
 - a. An individual who is an active member in good standing with the State Bar of Arizona,
 - b. An individual approved to appear pro hac vice before the Executive Hearing Office pursuant to Rule 38(A) of the Arizona Supreme Court, or
 - c. An individual authorized by Rule 31 of the Arizona Supreme Court to appear on behalf of another person or legal entity at a hearing before the Executive Hearing Office.
6. "Business day" means a day other than a Saturday, Sunday, or state holiday.
7. "Deposition" means a witness' testimony:
 - a. Given under oath or affirmation,
 - b. Brought out by another person's oral or written questions, and
 - c. Reduced to writing for a proceeding.
8. "Director" means the Arizona Department of Transportation, Motor Vehicle Division Director.
9. "Division" means the Arizona Department of Transportation, Motor Vehicle Division.
10. "Executive Hearing Office" means the branch of the Director's office that conducts an administrative hearing or a summary review.
11. "In writing" means:
 - a. An original document,
 - b. A photocopy,
 - c. A facsimile, or
 - d. An electronic mail message.
12. "Motion" means a written or oral proposal for consideration and action filed by a person with the Executive Hearing Office.
13. "Participant of record" means:
 - a. A petitioner or a respondent;
 - b. An attorney representing a petitioner or respondent; or
 - c. A person or entity with an interest in the subject matter of an administrative hearing as determined from Division records or from Arizona Department of Transportation records.
14. "Petitioner" means a person or entity that requests an administrative hearing or a summary review from the Executive Hearing Office.
15. "Respondent" means a person against whom relief is sought in an Executive Hearing Office proceeding.
16. "Summary review" means an Executive Hearing Office proceeding conducted under A.R.S. § 28-1385(L).
17. "Under oath or affirmation" means a witness' sworn statement made to a person with the power to administer an oath or affirmation.

Historical Note

New Section recodified from R17-4-901 at 7 A.A.R. 3477, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 7 A.A.R. 4133, effective September 13, 2001 (Supp. 01-3). Amended by final rulemaking at 13 A.A.R. 4598, effective February 3, 2008 (Supp. 07-4).

R17-1-502. Request for Hearing

- A. A petitioner or petitioner's attorney shall file a request for a hearing:
 1. By mail or hand delivery to the Executive Hearing Office's street address:

Executive Hearing Office, Arizona Department of Transportation, Motor Vehicle Division, 3737 N. 7th St., Suite 160, Phoenix, AZ 85014-5017;

2. By fax to (602) 241-1624; or
 3. By e-mail to the Executive Hearing Office's electronic mail address: hearingoffice@azdot.gov; and
 4. Timeliness of filing is determined as of the date the Executive Hearing Office receives a request for hearing.
- B. A request for hearing shall be submitted to the Executive Hearing Office within 15 days of the date of an agency action notice.
 - C. A request for a hearing shall include the petitioner's name, mailing address, and telephone number.

Historical Note

New Section recodified from R17-4-902 at 7 A.A.R. 3477, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 7 A.A.R. 4133, effective September 13, 2001 (Supp. 01-3). Amended by final rulemaking at 13 A.A.R. 4598, effective February 3, 2008 (Supp. 07-4).

R17-1-503. Notice of Hearing

- A. If a petitioner timely files a request for a hearing as provided under R17-1-502, the Executive Hearing Office shall send a notice of hearing to the petitioner's mailing address in the request for hearing and to any other participant of record.
- B. The notice of hearing shall state the:
 1. Time, date, and place of the administrative hearing;
 2. Type of administrative hearing; and
 3. Statutory authority for the administrative hearing.

Historical Note

New Section recodified from R17-4-903 at 7 A.A.R. 3477, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 7 A.A.R. 4133, effective September 13, 2001 (Supp. 01-3). Amended by final rulemaking at 13 A.A.R. 4598, effective February 3, 2008 (Supp. 07-4).

R17-1-504. Representation

- A. Prior to any appearance, a petitioner's or respondent's attorney licensed in a state other than Arizona, shall file with, and obtain approval from, the Executive Hearing Office the following documentation:
 1. An original motion to appear pro hac vice,
 2. The Notice of Receipt of Complete Application from the State Bar of Arizona, and
 3. The original certificate of good standing from the licensing State Bar.
- B. Documentation under subsection (A) shall be filed with the Executive Hearing Office at least five business days before date of appearance.
- C. Non-compliance with this Section shall result in the exclusion of a petitioner's or respondent's attorney licensed in a state other than Arizona from participation in an administrative hearing.

Historical Note

New Section recodified from R17-4-904 at 7 A.A.R. 3477, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 7 A.A.R. 4133, effective September 13, 2001 (Supp. 01-3). Former R17-1-504 renumbered to R17-1-505; new R17-1-504 made by final rulemaking at 13 A.A.R. 4598, effective February 3, 2008 (Supp. 07-4).

R17-1-505. Administrative Hearing Procedure

- A. An administrative law judge shall preside at an administrative hearing and shall:
 1. Administer oaths or affirmations;
 2. Conduct fair and impartial hearings;

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3. Have the parties state orally at the hearing their positions on the issues;
 4. Rule on motions filed under R17-1-508;
 5. Maintain an administrative hearing record;
 6. Issue a written decision, including findings of fact and conclusions of law, based on the record, and
 7. Sustain an agency action supported by the record, state and administrative law.
- B.** In addition to the requirements of subsection (A), an administrative law judge may:
1. Issue a subpoena for the attendance of a relevant witness or for the production of relevant documents or things, and
 2. Question a witness.
- C.** An administrative law judge may order summary suspension of a license according to A.R.S. § 41-1064(C).
- D.** A.R.S. § 41-1063 applies to the contents and service of an administrative hearing decision.
- E.** A participant of record shall not communicate, either directly or indirectly, with the administrative law judge about any substantive issue in a pending matter unless:
1. All participants of record are present;
 2. Communication is during a scheduled proceeding, where an absent participant of record fails to appear after proper notice; or
 3. Communication is by written motion with copies to all participants of record.
- F.** At the request of a participant of record or at the judge's discretion, an administrative law judge may order a witness excluded from the hearing room except:
1. A participant of record, or
 2. A person whose presence is shown to be essential to the presentation of a participant of record's case.

Historical Note

New Section recodified from R17-4-905 at 7 A.A.R. 3477, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 7 A.A.R. 4133, effective September 13, 2001 (Supp. 01-3). Former R17-1-505 renumbered to R17-1-506; new R17-1-505 renumbered from R17-1-504 and amended by final rulemaking at 13 A.A.R. 4598, effective February 3, 2008 (Supp. 07-4).

R17-1-506. Administrative Hearing Evidence

- A.** A.R.S. §§ 41-1062(A) applies to evidence offered in an administrative hearing.
- B.** The administrative law judge may admit a witness' deposition or affidavit and determine its evidentiary weight. The party taking a witness' deposition or affidavit shall bear all deposition-related or affidavit-related costs.

Historical Note

New Section recodified from R17-4-906 at 7 A.A.R. 3477, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 7 A.A.R. 4133, effective September 13, 2001 (Supp. 01-3). Former R17-1-506 renumbered to R17-1-507; new R17-1-506 renumbered from R17-1-505 and amended by final rulemaking at 13 A.A.R. 4598, effective February 3, 2008 (Supp. 07-4).

R17-1-507. Time Computation

In computing a time period under this Article, the Executive Hearing Office shall:

1. Exclude the day of the act triggering the period;
2. If the last day is a Saturday, Sunday, or legal holiday, extend the period to the end of the next business day;
3. If the period is 10 days or less, count only the business days; and
4. If service is by mail, extend the period by five days.

Historical Note

New Section recodified from R17-4-907 at 7 A.A.R. 3477, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 7 A.A.R. 4133, effective September 13, 2001 (Supp. 01-3). Former R17-1-507 renumbered to R17-1-508; new R17-1-507 renumbered from R17-1-506 and amended by final rulemaking at 13 A.A.R. 4598, effective February 3, 2008 (Supp. 07-4).

R17-1-508. Motion Practice

- A.** A party or a party's attorney making a motion shall state in the motion the relief sought, the factual basis, and the legal authority for the requested relief.
1. For a pre-hearing motion, a party or a party's attorney shall:
 - a. Make the motion in writing, and
 - b. File the motion with the Executive Hearing Office at least five business days before the administrative hearing.
 2. For a motion made at an administrative hearing:
 - a. A party or a party's attorney may make the motion orally, and
 - b. The administrative law judge may require the party or the party's attorney to file the motion in writing.
- B.** An administrative law judge may include a ruling on a motion in an administrative hearing decision.

Historical Note

New Section recodified from R17-4-908 at 7 A.A.R. 3477, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 7 A.A.R. 4133, effective September 13, 2001 (Supp. 01-3). Former R17-1-508 renumbered to R17-1-509; new R17-1-508 renumbered from R17-1-507 and amended by final rulemaking at 13 A.A.R. 4598, effective February 3, 2008 (Supp. 07-4).

R17-1-509. Subpoena Issuance

- A.** In connection with an administrative hearing, an administrative law judge may issue a subpoena to compel the attendance of a witness or the production of documents or things.
1. A party or a party's attorney requesting a subpoena shall file a written subpoena request, briefly stating the substance of the evidence sought and why the evidence is necessary for the hearing.
 2. An administrative law judge has discretion to issue or deny a subpoena based on the:
 - a. Relevance of the evidence sought,
 - b. Reasonable need for the evidence sought, and
 - c. Timeliness of the request.
- B.** A party or a party's attorney requesting a subpoena shall:
1. Draft the subpoena in the correct format, including:
 - a. The caption and docket number of the matter;
 - b. A list of documents or things to be produced;
 - c. The full name and address of:
 - i. The custodian of the documents or things listed, or
 - ii. The person ordered to appear;
 - d. The time, date, and place to appear or to produce documents or things; and
 - e. The name, address, and telephone number of the party or the party's attorney requesting the subpoena;
 2. Obtain an administrative law judge's signature on the subpoena,
 3. Ensure service of the subpoena on the person named in the subpoena under subsection (C), and
 4. Bear all subpoena-related costs.

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- C. Unless otherwise provided by statute or administrative rule, a party or a party's attorney requesting a subpoena shall have the subpoena served by a person who:
1. Is at least age 18 and is not a party to the administrative hearing;
 2. Delivers, within Arizona, a copy of the subpoena to the person named in the subpoena;
 3. If the subpoena requires the named person's attendance at an administrative hearing, hands the named person the amount prescribed in A.R.S. § 12-303 as the witness fee for one day's attendance and allowed mileage; and
 4. Files with the Executive Hearing Office a proof of service, signed by the person who served the subpoena, certifying:
 - a. The date of service,
 - b. The manner of service, and
 - c. The name of the person served.
- D. A party or a person served with a subpoena who objects to the subpoena or a portion of the subpoena, may file an objection in writing with the Executive Hearing Office. The party or person served with the subpoena shall:
1. State in the objection the reasons for objecting; and
 2. File the objection:
 - a. Within five days after service of the subpoena; or
 - b. If the subpoena is served less than five days before an administrative hearing, at the start of the hearing.
- E. An administrative law judge may quash or modify a subpoena if:
1. The subpoena is unreasonable or imposes an undue burden, or
 2. The evidence sought may be obtained by another method.
- F. Unless otherwise provided by statute or administrative rule, a party or a party's attorney requesting a subpoena or the Arizona Department of Transportation shall enforce the subpoena in the Superior Court of Arizona, in the county where the administrative hearing is held.

Historical Note

New Section recodified from R17-4-909 at 7 A.A.R. 3477, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 7 A.A.R. 4133, effective September 13, 2001 (Supp. 01-3). Former R17-1-509 renumbered to R17-1-510; new R17-1-509 renumbered from R17-1-508 and amended by final rulemaking at 13 A.A.R. 4598, effective February 3, 2008 (Supp. 07-4).

R17-1-510. Document Filing

- A. A document filed in an Executive Hearing Office proceeding shall state:
1. The description and title of the proceeding,
 2. The name of the party filing the document,
 3. The date the document is signed,
 4. The title and address of the document's signer, and
 5. If applicable, the attorney's name, state bar number, law firm, address, and telephone number.
- B. A party or a party's attorney shall sign a document filed with the Executive Hearing Office. By signing, the signer certifies that:
1. The signer read the document;
 2. The document is supported by the facts and the law or by a good faith argument to extend, modify, or reverse the law; and
 3. The document is not filed to harass, delay, or needlessly increase the cost of the Executive Hearing Office proceeding.
- C. A document is filed as of the date the Executive Hearing Office receives the document.

Historical Note

New Section recodified from R17-4-913 at 7 A.A.R. 3477, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 7 A.A.R. 4133, effective September 13, 2001 (Supp. 01-3). Former R17-1-510 renumbered to R17-1-511; new R17-1-510 renumbered from R17-1-509 and amended by final rulemaking at 13 A.A.R. 4598, effective February 3, 2008 (Supp. 07-4).

R17-1-511. Continuing an Administrative Hearing

- A. An administrative hearing participant of record requesting a continuance shall file the request with the Executive Hearing Office at least seven business days before the hearing. The continuance request shall state a reason for continuing the administrative hearing.
- B. An administrative law judge shall not grant a continuance unless the participant of record establishes good cause for the continuance.
- C. An administrative law judge shall not grant a request for continuance which is untimely unless the participant of record establishes good cause for the delay in filing the request.

Historical Note

New Section recodified from R17-4-911 at 7 A.A.R. 3477, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 7 A.A.R. 4133, effective September 13, 2001 (Supp. 01-3). Former R17-1-511 renumbered to R17-1-512; new R17-1-511 renumbered from R17-1-510 and amended by final rulemaking at 13 A.A.R. 4598, effective February 3, 2008 (Supp. 07-4).

R17-1-512. Rehearing and Judicial Review

- A. A party may file a written motion for rehearing with the executive hearing office, stating in detail the reasons a rehearing should be granted.
- B. Unless otherwise provided by statute, a motion for rehearing is timely if received by the Executive Hearing Office within the later of:
1. Fifteen days after the date of in-person service of the administrative hearing decision, or
 2. Fifteen days after the mailing date of the administrative hearing decision.
- C. A timely motion for rehearing stays an agency action, other than:
1. A summary suspension under A.R.S. § 41-1064(C), or
 2. An agency action sustained under subsection (J).
- D. An administrative law judge may grant a rehearing for any of the following reasons materially affecting a party's rights:
1. Irregularity in the proceedings of the Arizona Department of Transportation or the Division, or any order or abuse of discretion, that deprived the moving party of a fair hearing;
 2. Misconduct of the Arizona Department of Transportation or the Division, its staff, an administrative law judge, or the prevailing party;
 3. Accident or surprise that could not have been prevented by ordinary prudence;
 4. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the hearing;
 5. Excessive penalty;
 6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing or during the progress of the proceedings;
 7. That the administrative hearing decision is a result of passion or prejudice; or
 8. That the findings of fact or decision is not justified by the evidence or is contrary to law.

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- E. An administrative law judge may affirm or modify an administrative hearing decision or grant a rehearing to all or any of the parties on all or part of the issues for any of the reasons in subsection (D). An order modifying an administrative hearing decision or granting a rehearing shall specify the grounds for the order.
- F. An administrative law judge may order a rehearing for a reason in subsection (D).
- G. An administrative law judge may require the filing of written briefs on the issues raised in a motion for rehearing.
- H. When a motion for rehearing is based upon affidavits, they shall be served with the motion. An opposing party may, within 15 days after service, serve opposing affidavits. An administrative law judge may extend this period for a maximum of 20 days for good cause as described in subsection (I) or by written stipulation of the parties. Reply affidavits may be permitted at the discretion of the administrative law judge.
- I. An administrative law judge may extend the time limits in subsections (A) and (H) upon a showing of good cause. A party demonstrates good cause by showing that the grounds for the party's motion or other action could not have known in time, using reasonable diligence, and a ruling on the motion will:
1. Further administrative convenience, expedition, or economy; or
 2. Avoid undue prejudice to any party.
- J. An administrative law judge shall issue an administrative hearing decision as a final decision without an opportunity for a rehearing if the administrative law judge makes specific findings that:
1. The public health, safety, and welfare require immediate effectiveness of the administrative hearing decision; and
 2. A rehearing of the decision is impractical, unnecessary, or contrary to the public interest.
- K. A party may appeal or request judicial review of a final administrative hearing decision in the Superior Court of Arizona as provided by statute.

Historical Note

New Section recodified from R17-4-912 at 7 A.A.R. 3477, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 7 A.A.R. 4133, effective September 13, 2001 (Supp. 01-3). Former R17-1-512 renumbered to R17-1-513; new R17-1-512 renumbered from R17-1-511 and amended by final rulemaking at 13 A.A.R. 4598, effective February 3, 2008 (Supp. 07-4).

R17-1-513. Summary Review of an Administrative Suspension Order Under A.R.S. § 28-1385

- A. A petitioner issued a driving privilege suspension order under A.R.S. § 28-1385, may request summary review instead of a hearing.
1. The requirements of R17-1-502 apply to a summary review request.
 2. The petitioner or the petitioner's attorney may include with the summary review request a written statement of:
 - a. The reasons why the Division should not suspend the petitioner's driving privilege, and
 - b. Reasons to find that at least one issue in subsections (C)(1) through (C)(3) is not met by the affidavit filed by a law enforcement officer with the Department.
- B. An administrative law judge conducting summary review of a suspension order under A.R.S. § 28-1385 shall:
1. Conduct the summary review without the petitioner's presence,
 2. Examine the documents in the Executive Hearing Office case file, and

3. Issue a written summary review decision sustaining or voiding the suspension order.

- C. An administrative law judge conducting summary review of a suspension order under A.R.S. § 28-1385 shall consider the following factors:

1. Whether the law enforcement officer's certified report reflects the officer had reasonable grounds to believe the petitioner was driving or in actual physical control of a motor vehicle while under the influence of intoxicating liquor;
2. Whether the law enforcement officer's certified report reflects the officer placed the petitioner under arrest for a violation of A.R.S. §§ 4-244(33), 28-1381, 28-1382, or 28-1383, and the petitioner complied with A.R.S. § 28-1321;
3. Whether the law enforcement officer's certified report reflects petitioner's test results indicating at least the applicable alcohol concentration stated in A.R.S. § 28-1385; and
4. Whether the petitioner's written statement of the reasons why the Division should not suspend the petitioner's driving privilege provides convincing evidence that at least one issue in subsections (C)(1) through (C)(3) was not met.

Historical Note

New Section recodified from R17-4-910 at 7 A.A.R. 3477, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 7 A.A.R. 4133, effective September 13, 2001 (Supp. 01-3). Former R17-1-513 renumbered to R17-1-514; new R17-1-513 renumbered from R17-1-512 and amended by final rulemaking at 13 A.A.R. 4598, effective February 3, 2008 (Supp. 07-4).

R17-1-514. Maintaining Administrative Hearing Decorum

- A. All hearings are open to the public, however a person shall not interfere with access to or from a hearing room, or interfere, or threaten interference with a hearing.
- B. If a person interferes, threatens interference, or disrupts a hearing, the administrative law judge may order the disruptive person to leave or be removed.

Historical Note

Section R17-1-514 renumbered from R17-1-513 and amended by final rulemaking at 13 A.A.R. 4598, effective February 3, 2008 (Supp. 07-4).

ARTICLE 6. SOLICITATION**R17-1-601. Definitions**

The following terms and phrases apply to this Article, unless otherwise specified:

"Animal guide or service animal" means an animal that:

Completes a formal training program,

Assists its owner in one or more daily living tasks associated with a productive lifestyle, and

Is trained to not pose a danger to the health and safety of the general public.

"Application" means a solicitation request form that is completed and submitted to the Department by a person seeking to conduct a solicitation on Department property.

"Department" means the Arizona Department of Transportation.

"Department property" means real property and buildings under the jurisdiction of the Director, excluding a highway, highway right-of-way, excess right-of-way, property leased by

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the Department to a third party, and any sidewalk or paved area along the street frontage of the property that is not physically distinguishable from an adjacent municipal or other public sidewalk.

“Director” means the Director of the Arizona Department of Transportation or the Director’s designee.

“Excess right-of-way” means real property under the jurisdiction of the Director that is:

Determined by the Director to be no longer needed or used for transportation purposes, and

Held by the Department for disposition under the provisions of A.R.S. § 28-7095.

“Permit” means an original application form signed by the Director as authorization for a solicitor to conduct a specified solicitation.

“Person” has the meaning prescribed under A.R.S. § 1-215.

“Solicitation” means any activity, except an activity prohibited under R17-1-607(B)(3) or (4), that can be reasonably interpreted as being for the distribution of information or the promotion of causes or memberships.

“Solicitation area” means a location outside a building on Department property, which may be designated by an office supervisor or the office supervisor’s designee for solicitation activities without interfering with business operations, blocking entry or exit doors, or inhibiting pathways necessary for building access or egress.

“Solicitation material” means advertising circulars, flyers, handbills, leaflets, petitions, or other printed information.

“Solicitor” means a person conducting a solicitation or the person’s agent.

“Work site” means a location within a building on Department property where public employees or officers conduct the daily business of the Department. An office supervisor may designate a cafeteria or break room as a work site if appropriate.

Historical Note

New Section made by final rulemaking at 17 A.A.R. 1995, effective September 13, 2011 (Supp. 11-3).

R17-1-602. Applicability; Exemptions

- A. This Article does not apply to any state-authorized or state-sponsored employee programs expressly exempted by the Arizona Department of Administration under A.A.C. R2-11-309(A).
- B. Employee associations composed principally of employees of state government agencies may apply under this Article for a permit to conduct a solicitation or collect membership fees at a Department work site. Employee associations composed principally of employees of state government agencies are exempt from the requirements of R17-1-607 and R17-1-608, as applicable.

Historical Note

New Section made by final rulemaking at 17 A.A.R. 1995, effective September 13, 2011 (Supp. 11-3).

R17-1-603. Application for Permit

- A. A person seeking to conduct a solicitation on Department property shall first apply to the Department for a permit by completing a solicitation request form provided by the Department.

- B. The person shall submit the completed solicitation request form by mail, fax, or e-mail as provided on the form at least 15 days before the desired effective date of the solicitation.

- C. A completed application is one that is legible and contains, at a minimum, all of the following information:

1. The name, address, and telephone number of the applicant. If a permit is requested on behalf of an organization, the application shall also include the name, address, and telephone number of the organization, as well as its primary representative or contact person deemed in charge of and responsible for the proposed solicitation;
2. The proposed effective date and approximate starting and concluding times of the proposed solicitation;
3. The names of all persons who will take part in conducting solicitation activities on behalf of the applicant;
4. The specific office location requested for the proposed solicitation;
5. The general purpose of the proposed solicitation;
6. Copies of all solicitation materials to be used so the Department can verify that the purpose of the solicitation does not violate R17-1-607(B)(3) or (4);
7. Certification by the applicant that the applicant, and any person acting on behalf of the applicant, has not been convicted of a felony or misdemeanor offense involving dishonesty, fraud, theft, assault, battery, or other crime involving physical violence within five years of the date of the application; and
8. The signature of the applicant acknowledging that he or she agrees to:
 - a. Comply with all requirements under this Article; and
 - b. Indemnify and reimburse the Department for claims and expenses arising out of the solicitor’s use of Department property, including any cleanup or damage repair costs associated with the solicitation incurred by the Department.

- D. The Department, to the extent necessary and as appropriate to the time, place, and manner of each proposed solicitation and the safety issues it may pose, may require an applicant to provide at the applicant’s own expense:

1. Adequate liability insurance coverage in the form of a certificate of insurance listing the state of Arizona and the Arizona Department of Transportation as additional insured entities, and
2. Adequate security services during solicitation activities.

- E. The Department shall consider the following criteria in determining whether one or more of the actions in subsection (D) is necessary and in the best interest of the state. The listed factors also apply in determining the amount of liability insurance coverage an applicant shall provide:

1. Previous experience with similar solicitation activities,
2. Data regarding the risk of the proposed solicitation activities,
3. Security services required for similar solicitation activities in Arizona and the cost of those services, and
4. The applicant’s ability to pay an insurance premium or security service provider.

Historical Note

New Section made by final rulemaking at 17 A.A.R. 1995, effective September 13, 2011 (Supp. 11-3).

R17-1-604. Application Processing; Time-frames

- A. The Department shall provide notice to the applicant that the application is either complete or incomplete within five business days of receiving the application:

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1. If the application is complete, the notice to the applicant shall indicate the date the Department stamped the complete application as received; or
 2. If the application is incomplete, the notice to the applicant shall indicate the current date and include an itemized list of all missing information the Department requires of the applicant before the application can be processed.
- B.** An applicant with an incomplete application shall respond to the notice provided by the Department under subsection (A)(2) within 10 days after the date indicated on the notice.
1. The Department may deny the permit if the applicant fails to provide all required information within 10 days after the date of the notice.
 2. On receipt of all required information, the Department shall provide to the applicant the notice prescribed under subsection (A)(1).
- C.** The Director shall render a permit decision within 10 business days after the date an application is determined to be complete. The date of receipt is the date on the notice provided by the Department to the applicant under subsection (A)(1) acknowledging receipt of the complete application.
- D.** For the purpose of A.R.S. § 41-1073, the Department establishes the following permit time-frames:
1. Administrative completeness review time-frame: Five business days.
 2. Substantive review time-frame: 10 business days.
 3. Overall time-frame: 15 business days.

Historical Note

New Section made by final rulemaking at 17 A.A.R. 1995, effective September 13, 2011 (Supp. 11-3).

R17-1-605. Permit Limitations

- A.** The Director may accept an application and issue a solicitation permit under this Article on a first-come, first-served basis no earlier than 60 days before the proposed solicitation.
- B.** A permit holder may conduct a solicitation only as authorized by the Director under this Article, and only:
1. At the approved location designated on the permit,
 2. Between the hours of 9:00 a.m. and 4:00 p.m., and
 3. On a day the approved location is open for regular business.
- C.** A maximum of three solicitations may be conducted at any one approved location on a particular day.
- D.** A maximum of two solicitor representatives named on the permit may conduct solicitation activities on behalf of the permit holder at any one approved location, unless extenuating circumstances exist and advance written permission to exceed this limitation is granted by the Director on receipt of a written request by the solicitor.

Historical Note

New Section made by final rulemaking at 17 A.A.R. 1995, effective September 13, 2011 (Supp. 11-3).

R17-1-606. Permit Issuance; Denial; Appeal; Hearing

- A.** If the Director approves an application for a solicitation permit, the permit:
1. Shall expire after the approved solicitation time period specified on the permit, unless previously revoked;
 2. Shall not be valid for more than 90 days from the effective date approved by the Director;
 3. Shall not be transferred or assigned, in whole or in part, to any person other than the person or organization to whom the permit is issued; and
 4. May be renewed only upon submission of a new application.

- B.** The Director shall deny an application for a permit for one or more of the following reasons:
1. The solicitation is likely to:
 - a. Interfere with the work of an employee or daily business of the Department;
 - b. Create an unreasonable risk of injury to a person or risk of damage to property; or
 - c. Conflict with the time, place, manner, or duration of another solicitation for which a permit is already issued or pending;
 2. The applicant or the solicitation activity fails to comply with the requirements of this Article or any other applicable rule or statute;
 3. The applicant, or the person or organization on whose behalf the application was made, has:
 - a. Within 12 months of the date of application, had a previous solicitation permit revoked by the Department for non-compliance with a provision of this Article or any other applicable rule or statute; or
 - b. Within five years of the date of application, on three separate occasions, had a previous solicitation permit revoked by the Department for non-compliance with a provision of this Article or any other applicable rule or statute.
- C.** If the Director denies an application for a solicitation permit, the Department shall send written notification of the Director's decision to the mailing address listed on the applicant's permit application, within three business days of denying the permit. The written notification shall state:
1. The Department's reason for the denial, citing all applicable supporting statutes or rules;
 2. The applicant's right to request a hearing to appeal the Department's action under A.R.S. Title 41, Chapter 6, Article 6, and Article 5 of this Chapter; and
 3. The time-frame for requesting a hearing with the Department's Executive Hearing Office as prescribed under Article 5 of this Chapter.
- D.** The scope of the hearing shall be limited to a determination of whether the Department possessed grounds to deny the solicitor's permit under subsection (B).

Historical Note

New Section made by final rulemaking at 17 A.A.R. 1995, effective September 13, 2011 (Supp. 11-3).

R17-1-607. Solicitor Responsibilities; Prohibited Activities

- A.** After receiving express written permission from the Director for a solicitation on Department property, an approved solicitor shall:
1. Provide a table to be used for all authorized solicitation activity;
 2. Present the original solicitation permit without any modifications or alterations, to an office supervisor at the approved location for inspection and sign-in prior to setting up a table or distributing materials;
 3. Provide at least one form of photo identification to an office supervisor for each person participating in or conducting solicitation activities on behalf of the permit holder;
 4. Maintain a copy of the approved solicitation permit at each authorized location at all times;
 5. Set up a table only in the solicitation area;
 6. Remain at the table in the solicitation area while performing any solicitation activity;
 7. Ensure that no entry or exit doors are blocked at any time;
 8. Ensure that no solicitation activity interferes with building access or egress;

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9. Ensure that no solicitation activity interferes with Department operations; and
 10. Ensure that all solicitors employed by, or acting on behalf of, the permit holder display a name badge that is at least three inches in height and four inches in width. The name badge shall contain:
 - a. The name of the organization conducting the solicitation, if applicable;
 - b. The organization's address;
 - c. The name of the individual solicitor in bold letters; and
 - d. The words "Authorized Representative."
- B.** A solicitor shall not:
1. Conduct any type of solicitation on Department property without the express written permission of the Director as provided under this Article;
 2. Perform any activity not specifically authorized by the permit;
 3. Collect monetary contributions of any kind, including credit or debit card numbers, whether for charitable purposes or not;
 4. Offer goods or services for sale, or engage in any other activity involving the exchange of money for a product or service, including collecting credit or debit card numbers;
 5. Engage in any solicitation activity outside of the solicitation area;
 6. Engage in behavior that interferes with the business activities of the Department and its customers, including but not limited to:
 - a. Following or continuing to solicit a person after that person has given a negative response to the solicitation;
 - b. Intimidating, verbally harassing, or shouting at a customer or employee of the Department; or
 - c. Preventing or interrupting the flow of customer traffic to or from a building located on Department property.
 7. Use any audio amplification device to attract the public, unless the device is assistive technology relating to a disability;
 8. Use any Department materials, supplies, equipment, or other resources to conduct a solicitation;
 9. Bring an animal, other than an animal guide or service animal, into the solicitation area;
 10. Leave garbage, litter, trash, human or animal waste, or any other kind of waste on Department property unless the waste is deposited in a container the Department maintains for that kind of waste; or
 11. Conduct a solicitation on Department property in violation of a permit limitation provided under R17-1-605.

Historical Note

New Section made by final rulemaking at 17 A.A.R. 1995, effective September 13, 2011 (Supp. 11-3).

R17-1-608. Signage Requirements

- A.** A solicitor approved for conducting a solicitation at any Department location shall provide, and prominently display beside each solicitation table, a sign that is clearly visible to the public.
1. The sign shall:
 - a. Be at least 22" wide and 28" high;
 - b. Be printed in black ink on plain white poster board; and
 - c. Include the following language using a minimum of one inch letters in Times New Roman font: "(Name of company or organization represented) is a private

organization. Its representatives are not affiliated with, nor are they employees of, the state of Arizona or the Arizona Department of Transportation. By approval of this solicitation, the state of Arizona does not endorse any product or petition promoted by solicitors/representatives."

2. The sign for a solicitor providing voter registration services shall include the following additional language using a minimum of one inch letters in Times New Roman font: "ADOT provides voter registration services inside all Motor Vehicle Division Customer Service offices and on the internet at www.ServiceArizona.com."
- B.** The sign required by the Department under subsection (A) shall contain no additions or modifications.

Historical Note

New Section made by final rulemaking at 17 A.A.R. 1995, effective September 13, 2011 (Supp. 11-3).

R17-1-609. Removal; Revocation; Appeal; Hearing

- A.** The Department may immediately remove, or cause to be removed, items of a solicitation that may damage state property, inhibit building access or egress, or pose safety issues. The Department also may remove, or cause to be removed, any and all solicitors who are found to be damaging state property, inhibiting building access or egress, or posing safety issues.
- B.** The Director may revoke a permit and ask a solicitor to leave the premises if the Director determines that:
1. The solicitor's permit application contained a false or misleading statement or a material omission, or
 2. The solicitor or solicitation failed to comply with a provision of this Article or any other applicable rule or statute.
- C.** If the Director revokes a solicitation permit, the Department shall send written notification of the Director's decision to the mailing address listed on the solicitor's permit application, within three business days of revoking the permit. The written notification shall state:
1. The Department's reason for the revocation, citing all applicable supporting statutes or rules;
 2. The applicant's right to request a hearing to appeal the Department's action under A.R.S. Title 41, Chapter 6, Article 6, and Article 5 of this Chapter; and
 3. The time-frame for requesting a hearing with the Department's Executive Hearing Office as prescribed under Article 5 of this Chapter.
- D.** The scope of a hearing shall be limited to a determination of whether the Department possessed grounds to revoke the solicitor's permit under subsection (B).

Historical Note

New Section made by final rulemaking at 17 A.A.R. 1995, effective September 13, 2011 (Supp. 11-3).

ARTICLE 7. ADVERTISING AND SPONSORSHIP PROGRAM**R17-1-701. Definitions**

In addition to the definitions provided under A.R.S. §§ 28-601, 28-7316, and 28-7901, the following terms apply to this Article:

"Acknowledgment plaque" means a sign panel intended only to inform the traveling public that a highway-related service, product, or monetary contribution was provided by the sponsor portrayed on the sign panel.

"Acknowledgment sign" means a sign intended only to inform the traveling public that a highway-related service, product, or monetary contribution was provided by the sponsor portrayed on the sign. Acknowledgment signs are a way of recognizing a

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company, business, or volunteer group that provides a highway-related service.

“Advertise” means to display or promote commercial brands, products, or services on authorized non-highway assets and facilities of the Department. Advertising may contain descriptive words or phrases providing information relating to promotional offers, location directions, amenity listings, telephone numbers, internet addresses (including domain names), slogans, or any other message essential in identifying the advertiser or sponsor, and informing the public of where the promoted products or services can be obtained.

“Advertiser” means a person, firm, or entity authorized to enter into a lease agreement with the Department or its contractor for providing a motor vehicle-, motorist-, or highway-related service or product to the Department, or a monetary contribution to the state highway fund as provided under A.R.S. § 28-7316, in exchange for the ability to advertise on non-highway assets or facilities authorized by the Department.

“Advertising agreement” means a written lease agreement between an advertiser and the Department or its contractor allowing the advertiser to advertise on authorized non-highway assets and facilities of the Department.

“Contract” means a written agreement between a contractor and the Department, which describes the obligations and rights of both parties relative to the administration, operation, and maintenance of the advertising and sponsorship program, or an element thereof, when conducted on behalf of the Department.

“Contractor” means a person, firm, or entity that enters into a contract with the Department to administer, operate, and maintain on behalf of the Department the advertising and sponsorship program, or an element thereof, and that is responsible for conducting all aspects of the advertising and sponsorship program as outlined in the contract and this Article.

“Clear zone” means the unobstructed relatively flat area beyond the edge of a roadway that allows a driver to stop safely or regain control of a vehicle that leaves the main traveled way.

“Department” means the Arizona Department of Transportation as the owner of the highway on which signs are placed and the organization that directly receives the highway-related service, product, or monetary contribution from a sponsor, and to which the sponsorship policy and agreement applies.

“Driver distraction” means a driver’s inattention to the driving task at hand, resulting from internal or external events or actions.

“FHWA” means the Federal Highway Administration of the U.S. Department of Transportation.

“Highway” has the same meaning as prescribed in A.R.S. § 28-101, under “street or highway.”

“Highway-related service” means any activity customarily administered or delivered by the Department in the process of designing, building, operating, or maintaining key highway facilities, including, but not limited to, highway construction and maintenance activities, traffic management programs, rest area operation and maintenance, emergency response and service patrols, travel information services, parkway and interchange landscape maintenance, snow removal and ice control, dust abatement, or adopt-a-highway litter removal and other highway beautification programs.

“Highway right-of-way” means a strip of property, owned by the Department, within which a highway exists or is planned to be built. The highway right-of-way consists of all lands within the defined highway right-of-way limits, including the airspace above and below. This area typically includes: roadways; shoulders; sidewalks; rest areas; clear zones; and areas for drainage, utilities, landscaping, berms, and fencing.

“Interstate highway” or “Interstate highway system” has the meaning prescribed in A.R.S. § 28-7901, under “Interstate system.”

“Lease” or “Lease agreement” means a written agreement between the Department, or its contractor, and an advertiser or sponsor, which authorizes the advertiser or sponsor to advertise in, or otherwise sponsor, certain assets or facilities of the Department subject to the terms and conditions outlined in the agreement and this Article.

“MUTCD” means the most recent edition of the federal Manual on Uniform Traffic Control Devices for Streets and Highways, as published by the FHWA at www.mutcd.fhwa.dot.gov and amended by the Department in the Arizona Supplement to the Manual on Uniform Traffic Control Devices for Streets and Highways available on the Department’s web site at www.azdot.gov. The federal Manual on Uniform Traffic Control Devices for Streets and Highways is used by road managers nationwide for uniform installation and maintenance of traffic control devices.

“Primary highway” has the meaning prescribed in A.R.S. § 28-7901, under “Primary system.”

“Rest area” means an area or site established and maintained within, or adjacent to, the right-of-way of an interstate or primary highway under the supervision and control of the Department for the safety, recreation, and convenience of the traveling public.

“Serviceable” means an acknowledgment sign or plaque that is usable, in working order, and adequately fulfills its function.

“Sponsor” means a person, firm, or entity authorized to enter into a lease agreement with the Department or its contractor for sponsorship of a certain element of the Department’s operation of an asset or facility by providing a motor vehicle-, motorist-, or highway-related service or product to the Department, or a monetary contribution to the state highway fund as provided under A.R.S. § 28-7316, in exchange for placement of an acknowledgment sign or plaque to inform the public that a monetary contribution or a motor vehicle-, motorist-, or highway-related service or product was provided by the sponsor.

“Sponsorship agreement” means a written lease agreement between a sponsor and the Department or its contractor, which authorizes sponsorship of a certain element of the Department’s operation of an asset or facility.

Historical Note:

New Section R17-1-701 made by final rulemaking at 24 A.A.R. 673, effective May 7, 2018 (Supp. 18-1).

R17-1-702. Program Administration

- A. The Department may operate an advertising and sponsorship program, or may select a contractor to administer its advertising and sponsorship program, to generate additional revenue for the state highway fund as provided under A.R.S. § 28-7316.
- B. If the Department utilizes a contractor to administer its advertising and sponsorship program, the Department shall solicit

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offers to select a contractor as provided under A.R.S. Title 41, Chapter 23, Arizona Procurement Code.

- C. Use of highway right-of-way for advertising purposes is prohibited, except as provided in 23 U.S.C. 111(b), Rest Areas.
- D. The Department or its contractor may provide opportunities for:
 1. Advertisers to buy or lease advertising space or media on authorized non-highway assets and facilities of the Department;
 2. Advertisers to buy or lease advertising space or media for conducting limited commercial activities at rest areas as permitted under 23 U.S.C. 111; and
 3. Sponsors to provide monetary sponsorship of any element of the Department's operation of highway or non-highway assets and facilities by providing highway-related services or products to the Department, or monetary contributions to the state highway fund as provided under A.R.S. § 28-7316.

Historical Note:

New Section R17-1-702 made by final rulemaking at 24 A.A.R. 673, effective May 7, 2018 (Supp. 18-1).

R17-1-703. Request for Advertising or Sponsorship; Approval or Denial; Time-frames

- A. An advertiser or sponsor seeking to participate in the Department's advertising and sponsorship program by leasing or buying advertising on non-highway assets of the Department, or providing monetary sponsorship of highway-related facilities and assets of the Department, may complete and submit electronically to the Department or its contractor an online request form provided by the Department at www.azdot.gov.
- B. The Department shall, within 10 calendar days of receiving a request under subsection (A) or (C), provide written notice to the advertiser or sponsor acknowledging receipt of the request:
 1. If the request is complete, the notice shall acknowledge receipt of a complete request and indicate the date the Department received the complete request; or
 2. If the request is incomplete, the notice shall indicate the current date and include an itemized list of all additional information the advertiser or sponsor must provide to the Department before the request can be considered complete and subsequently processed.
- C. An advertiser or sponsor with an incomplete request shall respond to the notice provided by the Department under subsection (B)(2) within 15 calendar days after the date indicated on the notice or the Department may deny the request for advertising or sponsorship.
- D. The Department shall render a decision on the request within 20 calendar days after the date on the notice the Department provided to the advertiser or sponsor under subsection (B)(1) acknowledging receipt of a complete request.
- E. For the purpose of A.R.S. § 41-1073, the Department establishes the following time-frames:
 1. Administrative completeness review time-frame: 10 calendar days.
 2. Substantive review time-frame: 20 calendar days.
 3. Overall time-frame: 30 calendar days.
- F. Advertisers and sponsors authorized by the Department or its contractor to participate in the Department's advertising and sponsorship program may lease or buy advertising on authorized assets or facilities of the Department, conduct limited commercial activities at rest areas, or provide monetary sponsorship of authorized facilities and assets of the Department if the advertiser or sponsor:
 1. Is a provider of motor vehicle- or motorist-related goods or services, as provided under A.R.S. § 28-7316;

2. Is authorized to enter into a lease agreement with the Department or its contractor for:
 - a. Advertising on, or sponsorship of, non-highway assets or facilities of the Department;
 - b. Advertising on, or sponsorship of, rest area facilities as permitted under 23 U.S.C. 111; or
 - c. Sponsorship of highway-related assets or facilities of the Department; and
3. Is otherwise eligible under this Article to participate in the Department's advertising and sponsorship program.

Historical Note:

New Section R17-1-703 made by final rulemaking at 24 A.A.R. 673, effective May 7, 2018 (Supp. 18-1).

R17-1-704. Advertising or Sponsorship Approval; Agreement; Lease Request for Advertising or Sponsorship; Approval or Denial; Time-frames

- A. An advertiser or sponsor seeking to participate in the Department's advertising and sponsorship program shall first negotiate and enter into a written advertising or sponsorship agreement with the Department or its contractor.
- B. An advertising or sponsorship agreement made between the Department, or its contractor, and the advertiser or sponsor may be of any duration up to five years and shall:
 1. Provide economic viability and a net benefit to the public, in the discretion of the Department;
 2. Include provisions for maintenance and removal of physical elements of the advertising or sponsorship acknowledgment after the agreement expires or the advertiser or sponsor withdraws;
 3. Identify any specific highway sites, corridors, or operations supported by any monetary contribution provided by a sponsor, if the sponsor is making a monetary contribution;
 4. Be approved by the FHWA Division Administrator before it becomes effective, if the agreement involves the Interstate highway system;
 5. Require that the authorized advertiser or sponsor comply with all state laws prohibiting discrimination based on race, religion, color, age, sex, national origin, and other applicable laws;
 6. Include a termination clause, where applicable, based on:
 - a. Safety concerns, as determined by the Department in its sole discretion;
 - b. Interference with the free and safe flow of traffic, as determined by the Department in its sole discretion;
 - c. Construction activities approved or initiated by the Department in the area, which may pose conflicts with advertising or sponsorship activities, including construction and maintenance projects, road widening, detour, diversion, rebuilding, re-routing, temporary or permanent closure because of weather or other damage, land-use changes, changes in applicable federal or state laws, or any similar reason for termination of the agreement;
 - d. Payment default by the advertiser or sponsor;
 - e. Noncompliance with contractual terms or provisions of the agreement; or
 - f. A determination, made by the Department in its sole discretion, concluding that the agreement is not in the public interest;
 7. Include only the types of advertisers and sponsors deemed acceptable under applicable state and federal laws;
 8. Recommend that for assets and facilities on which federal-aid funds were not used, the advertising or sponsor-

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ship revenue or monetary contributions received as part of the agreement be used for highway purposes as permitted under state law;

9. Require that for assets and facilities on which federal-aid funds were used, the advertising or sponsorship revenue or monetary contributions received as part of the agreement be used only for highway purposes;
 10. Require that for rest areas authorized for limited commercial activities under 23 U.S.C. 111, the advertising or sponsorship revenue or monetary contributions received as part of the agreement be used to cover the costs of acquiring, constructing, operating, and maintaining rest areas;
 11. Require the advertiser or sponsor to certify that the advertiser or sponsor will comply with all applicable federal, state, and local laws, ordinances, rules, regulations, and contractual requirements of the Department's advertising and sponsorship program and maintain content- and viewpoint-neutral standards as provided under this Article; and
 12. Require the advertiser or sponsor to acknowledge that it is the Department's intent to preserve the assets and facilities of the Department as a non-public forum, notwithstanding the placement in those locations of the advertising or sponsorship content referenced in the agreement.
- C. The Department or its contractor shall provide a copy of any signed advertising or sponsorship agreement to the advertiser or sponsor if approved.
- D. All advertising or sponsorship agreements under this Article are public records under A.R.S. Title 39, Chapter 1, Article 2, and A.R.S. Title 41, Chapter 1, Article 2.1. The Department or its contractor shall not agree with any advertiser or sponsor to keep confidential, or not to disclose upon receipt of a public record request, either the content of any written agreement under this Article, or the negotiations leading up to any agreement, nor the advertiser's proprietary or trade information disclosed to the Department or its contractor in the course of negotiating or executing such written agreement, without regard to whether such information, including a logo, slogan, or other commercial message is claimed to be confidential, proprietary, trademarked, copyrighted, or otherwise registered by the advertiser, sponsor, or agent with rights reserved.

Historical Note

New Section R17-1-704 made by final rulemaking at 24 A.A.R. 673, effective May 7, 2018 (Supp. 18-1).

R17-1-705. Advertising or Sponsorship Acknowledgment; Content Approval

- A. An advertiser or sponsor authorized by the Department or its contractor to participate in the Department's advertising and sponsorship program shall obtain Department approval of all advertising or sponsorship content, in accordance with the standards provided under this Article and any other applicable law, before the advertising or sponsorship content appears on any asset or facility the Department designates for advertising or sponsorship opportunities under this Article or any other advertising or sponsorship agreement.
- B. An advertiser or sponsor shall deliver to the Department or its contractor for installation, advertising content, images, or copy that meets all of the Department's content standards and technical specifications provided under this Article for the appropriate creation and display of advertising or sponsorship acknowledgment.

- C. For advertising on, or sponsorship of, authorized assets and facilities of the Department, the Department or its contractor shall:
1. Review all advertising or sponsorship acknowledgment content for compliance with the standards provided under this Article and any other applicable law; and
 2. Ensure that advertising or sponsorship acknowledgment content does not interfere with the business activities of the Department and its customers.
- D. For monetary sponsorship of an element of the Department's operation of any highway-related assets and facilities, the Department or its contractor shall additionally:
1. Ensure that the most current FHWA policy directives are followed when using signs to acknowledge the provision of highway-related services under both corporate and volunteer sponsorship programs;
 2. Ensure that all signs are of reasonable size, as determined by the Department, and as specified in the provisions of the MUTCD and FHWA policy directives; and
 3. Ensure that all sign message content is simple, brief, and minimizes driver distraction.

Historical Note

New Section R17-1-705 made by final rulemaking at 24 A.A.R. 673, effective May 7, 2018 (Supp. 18-1).

R17-1-706. Advertising or Sponsorship Acknowledgment; Prohibited Content

- A. The Department shall deny a request for placement of advertising or sponsorship content if the content is not for a motor vehicle-, motorist-, or highway-related service, message, or product, unless otherwise authorized by law. The Department shall also deny a request for placement of advertising or sponsorship content if the content is likely to:
1. Conflict with other advertising or sponsored content for which the Department has an existing or pending agreement;
 2. Conflict with the reasonable standards established by the Department under this Section;
 3. Conflict with the time, place, manner, or duration of the Department's office or highway operations or security;
 4. Create an unreasonable risk of injury to a person or risk of damage to property;
 5. Interfere with the work of a Department employee or the business or mission of the Department; or
 6. Result in non-compliance with other applicable statutes or rules.
- B. The Department, in its sole discretion, may reject types of advertising or sponsorship content that the Department deems unacceptable for its advertising and sponsorship program. Content deemed unacceptable by the Department for its advertising and sponsorship program shall include any advertising or sponsorship content that:
1. Contains obscene, pornographic, indecent or explicit messages, or contains an offensive level of sexual overtones, innuendo, or double entendre, as determined by the Department in accordance with community standards in the vicinity of where the content would be displayed;
 2. Contains profanity or vulgar language;
 3. Creates non-compliance with federal and state nondiscrimination laws, regulations, and policies;
 4. Denigrates a person, organization, or group based on gender, sexual orientation, religion, race, ethnic or political affiliations, or national origin;
 5. Includes the name of a person, organization, or group that has historically advocated the denigration of other persons or groups based on gender, sexual orientation, reli-

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- gion, race, ethnic or political affiliations, or national origin;
6. Includes or concerns political or election campaign messaging, imagery, or symbolism;
 7. Promotes, identifies, highlights, criticizes or endorses a political candidate, political party or movement, or any ballot measure circulated, submitted, or scheduled for consideration by the electorate of any jurisdiction, past, present, or future;
 8. Promotes, identifies, highlights, suggests, or expresses an opinion for or against contraceptive products or services, or any services related to abortion, euthanasia, or counseling with regard to any of these products, services, procedures, or issues;
 9. Promotes, identifies, highlights, suggests, or expresses an opinion for or against the use of alcohol, tobacco, marijuana or firearms;
 10. Promotes, identifies, highlights, or suggests the use of a drug or other substance in violation of either federal or state law or regulations; or
 11. Promotes, identifies, highlights, or suggests the use of products or services with sexual overtones such as massage parlors, escort services, or establishments for show or sale of X-rated, adult-only, or pornographic movies, products or services, or for establishments primarily featuring nude or semi-nude images or performances.

Historical Note

New Section R17-1-706 made by final rulemaking at 24 A.A.R. 673, effective May 7, 2018 (Supp. 18-1).

R17-1-707. Denial of a Request for Advertising or Sponsorship; Administrative Hearing; Time-frames

- A. An advertiser or sponsor whose request for placement of advertising or sponsorship content is denied by the Department may request an administrative hearing in connection with the denial, or any other action taken by the Department in connection with the rules prescribed in this Article, as provided under A.R.S. Title 41, Chapter 6, Article 6, and Article 5 of this Chapter, as applicable.
- B. If the Department denies a request for placement of advertising or sponsorship content, the Department or its contractor shall send written notification of the denial to the advertiser or sponsor within five calendar days of denying a request for placement of advertising or sponsorship content. Written notification of the denial shall state:
 1. The Department's reason for the denial, citing all applicable supporting statutes or rules;
 2. The advertiser's or sponsor's right to request a hearing under A.R.S. § 41-1065 to contest the Department's decision; and
 3. The time-frame for requesting a hearing with the Department's Executive Hearing Office as prescribed under A.R.S. § 41-1065 and Article 5 of this Chapter.
- C. If an advertiser or sponsor requests a hearing, the Department shall hold the hearing according to the procedures provided under A.R.S. Title 41, Chapter 6, Article 6, this Article, and 17 A.A.C. 1, Article 5, as applicable. The Department shall:
 1. Schedule a hearing within 30 calendar days after receiving a written request for a hearing from an advertiser or sponsor;
 2. Provide to the advertiser or sponsor who requested a hearing, a notice of the scheduled date and time of the hearing at least 20 calendar days before the date set for the hearing, as prescribed under A.R.S. § 41-1061;
 3. Ensure that the presiding officer makes a written determination of the presiding officer's decision or order, includ-

- ing findings of fact and conclusions of law, within 10 calendar days after concluding the hearing; and
4. Mail a copy of the written determination to the advertiser or sponsor who requested the hearing.

- D. The scope of the hearing shall be limited to a determination of whether the Department possessed grounds to take the action indicated in the notice of action provided by the Department in connection with the rules prescribed in this Article.

Historical Note

New Section R17-1-707 made by final rulemaking at 24 A.A.R. 673, effective May 7, 2018 (Supp. 18-1).

R17-1-708. Program Administration; Pricing and Lease Procedures; Priority; Renewal

- A. For administration of the Department's advertising and sponsorship program, the Department or its contractor may use:
 1. Rate schedules that are established and periodically adjusted by the Department; or
 2. Competitive pricing established by one or more offers from potential or current advertisers or sponsors.
- B. The Department or its contractor may use competitive pricing or rate schedules to determine the ranking order of potential or current advertisers or sponsors who may be awarded advertising and sponsorship opportunities at specific locations authorized by the Department for such activities.
- C. In determining competitive pricing and rate schedules, the Department may consider the amount of space available for advertising and sponsorship activities, and one or more of the following additional factors:
 1. The average annual daily traffic at, or adjacent to, the location of the Department's available asset or facility;
 2. The population mix and relative distribution between all other advertisers or sponsors that meet all of the Department's advertising and sponsorship program requirements;
 3. The ranking order determined by the Department or its contractor based on existing rate schedules or competitive pricing proposed or offered by potential or current advertisers or sponsors for each Department authorized location; or
 4. The competitive market conditions, as well as economic, regulatory, logistical, and other related factors as determined by the Department or its contractor.
- D. If any of the factors provided under subsection (C) are used in determining competitive pricing or rate schedules, the Department or its contractor shall make the information relevant to these factors available to advertisers and sponsors on the Department's or its contractor's website.
- E. If a clear ranking order of preference for awarding a specific location cannot be determined using the factors provided under subsection (C), the Department or its contractor shall prioritize the remaining requests for advertising or sponsorship opportunities based on the following additional factors, in order:
 1. The advertiser or sponsor having the closest business location to the Department facility or asset location requested;
 2. The advertiser or sponsor providing the most business days and hours of service to the public; and
 3. The advertiser or sponsor first requesting authorization to place advertising or sponsorship content on the Department authorized facility or asset at that location.
- F. If a potential advertiser or sponsor requests placement of advertising or sponsorship content on a specific Department facility or asset where there are no available placements, a competitive bidding process may be used to determine which

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potential advertiser will participate, assuming the Department determines in its sole discretion that the location may be made available for advertising or sponsorship.

- G. The Department or its contractor may choose not to renew an existing advertising or sponsorship agreement, or an advertising or sponsorship agreement expiring within the next 60 calendar days, if another eligible advertiser or sponsor with a higher priority ranking requests placement of advertising or sponsorship content at that same location.
- H. The Department or its contractor may collect all applicable taxes due from an advertiser or sponsor under the advertising or sponsorship agreement.
- I. An advertiser or sponsor may request reimbursement of any pre-paid lease payments if, for a reason solely caused by the Department or its contractor, the Department or its contractor does not install the advertiser's or sponsor's content or copy within 90 calendar days after receiving the pre-paid lease payments.
- J. The Department or its contractor shall refund any pre-paid lease payments to an advertiser or sponsor within 30 calendar days after the advertiser or sponsor requests reimbursement under subsection (I).
- K. The Department may require an advertiser or sponsor who requests reimbursement of pre-paid lease payments to provide additional information if required by the State of Arizona for processing a refund.

Historical Note

New Section R17-1-708 made by final rulemaking at 24 A.A.R. 673, effective May 7, 2018 (Supp. 18-1).

R17-1-709. Acknowledgment Signs and Plaques; Design and Placement

- A. The Department may acknowledge sponsors with acknowledgment signs or plaques. Acknowledgment signs and plaques shall meet all of the general principles and specific design and placement criteria prescribed in the MUTCD, Part 2, Signs, as supplemented by the most recent edition of the FHWA Standard Highway Signs and Markings Book:
 1. An acknowledgment sign is installed only as an independent sign assembly unless the acknowledgment sign is part of the Department's Adopt-a-Highway Volunteer Program; and
 2. An acknowledgment plaque is installed only in the same sign assembly below a primary sign that provides the road user specific information on accessing the service being sponsored. A plaque legend is displayed on a separate substrate from that of the sign below which it is mounted.
- B. Acknowledgment signs and plaques shall:
 1. Be appropriately sized for the legibility needs of a bike-way or path user when located on a bikeway or shared-use path;
 2. Be placed near the site being sponsored, consistent with the purpose and principles of traffic control devices in the MUTCD, Part 1, General and Part 2, Signs;
 3. Be placed approximately one mile away from other acknowledgment signs or plaques associated with the same element of the Department's highway operation, such as Adopt-a-Highway, when facing the same direction, as consistent with the purpose and principles of traffic control devices in the MUTCD, Part 1, General and Part 2, Signs;
 4. Display no directional information or indicators;
 5. Display no telephone numbers, internet addresses, or other legends prohibited by the MUTCD for the purpose of contacting the sponsor or to obtain information on the

sponsorship program, such as how to become a sponsor at an available site, unless such information is part of the sponsor's official name; and

- 6. Remain in place only for the duration of the sponsorship agreement.
- C. The Department or its contractor shall not place acknowledgment signs or plaques at key decision points where a driver's attention is more appropriately focused on traffic control devices, roadway geometry, or traffic conditions.

Historical Note

New Section R17-1-709 made by final rulemaking at 24 A.A.R. 673, effective May 7, 2018 (Supp. 18-1).

R17-1-710. Criteria for Highway-related Acknowledgment Signs and Plaques

- A. For highway-related sponsorship opportunities, the Department or its contractor shall:
 1. Ensure that acknowledgment signs and plaques take only the form of static, non-changeable, non-electronic legends to maintain the recognition value of official devices used for traffic control;
 2. Ensure that messages on acknowledgment signs and plaques are not interspersed, combined, or alternated with other official traffic control messages, either in the same display space, by adjacency in the same assembly, or by adjacency of multiple assemblies whose longitudinal separation does not meet the placement criteria contained in the MUTCD, including when placed on opposite sides of the roadway facing the same direction of travel, except as provided for acknowledgment plaques under R17-1-711(B);
 3. Ensure that the focus remains on the service provided rather than on the sponsor, and that the sponsor logo area on an acknowledgment sign or plaque is a horizontally oriented rectangle, consistent with the provisions on business logos in the MUTCD, Chapter 2J, Specific Service Signs. The width of the rectangle shall be at least approximately 1.67 times its height, the total area of which shall not exceed the maximum referenced or specified in this Article or the MUTCD. The word legend describing the activity, such as "SPONSORED BY," shall be composed of upper-case lettering of the FHWA standard alphabets at least three inches high on conventional roads and at least four inches high on expressways and freeways;
 4. Ensure that any slogan displayed on an acknowledgment sign is a brief jurisdiction-wide slogan or that of a program name, such as "ADOPT-A-HIGHWAY." Slogans for companion, supplementary, or other programs unrelated to the service being sponsored shall not be displayed on any acknowledgment sign or plaque, in accordance with the MUTCD, Section 2H.08, Acknowledgment Signs.
 5. Ensure that if a graphic business logo is used to represent a sponsor, instead of a word legend using the FHWA Standard Alphabets, the logo is the principal trademarked official logo that represents the business name of the sponsor. Secondary logos or representations, even if trademarked, copyrighted, or otherwise protected, are classified as promotional advertising and are not allowed as provided under the MUTCD, Section 1A.01, Purpose of Traffic Control Devices;
 6. Ensure compliance with the following design guidelines if a graphic business logo is used to represent a sponsor:
 - a. Logos shall be as simple as possible and provide good readability during both daylight and nighttime hours;

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- b. Logos may consist of a symbol, trademark, or a legend message identifying the name or abbreviation of a specific business;
 - c. Logos shall not contain a telephone or fax number, street name, e-mail or web address, or a direction indicator as part of the business logo unless such information is part of the sponsor's official name;
 - d. Logos shall not resemble an official traffic control device; and
 - e. Symbols or trademarks used alone for acknowledgment shall be simple and dignified and reproduced in the colors and general shape consistent with customary use, and any integral legend shall be in proportionate size.
7. Obtain an encroachment permit if applicable under 17 A.A.C. 3, Article 5, before installing, maintaining, or removing sponsorship content or copy from a highway-related facility or asset of the Department located along a state highway; and
8. Determine the best placement of sponsorship content or copy and cooperate with the sponsor to provide all appropriate information to the public as outlined in both the contract and the sponsorship agreement, while remaining in full compliance with any encroachment permit requirements, if the contractor requests an encroachment permit under 17 A.A.C. 3, Article 5.
- B.** For highway-related sponsorship opportunities, the Department or its contractor shall not:
- 1. Install acknowledgment signs or plaques overhead due to maximum overall size limitations and related safety considerations. Only roadside, post-mounted installations of acknowledgment signs and plaques are allowed;
 - 2. Allow promotional advertising on any traffic control device or its supports, as provided under the MUTCD, Section 1A.01, Purpose of Traffic Control Devices;
 - 3. Allow acknowledgment signs and plaques to contain an alternative business name that appears to have the sole or primary purpose of circumventing the MUTCD provisions. Such content or copy is considered promotional advertising rather than acknowledgment of a sponsor providing a highway-related service; and
 - 4. Allow sponsorship acknowledgment signs or plaques that include displays that mimic, or in the Department's sole discretion, attempt to mimic, imitate, or resemble advertising. The determination of whether a sign mimics or constitutes advertising lies solely with the Department, applying in good faith the relevant standards set forth by the FHWA.
- Historical Note**
- New Section R17-1-710 made by final rulemaking at 24 A.A.R. 673, effective May 7, 2018 (Supp. 18-1).
- R17-1-711. Highway-related Sponsorship Restrictions and Allowances; Existing Leases or Agreements**
- A.** For sponsorship of rest areas, the Department or its contractor:
- 1. May install one acknowledgment sign for each direction of travel on the highway mainline;
 - 2. May place additional acknowledgment signs within a rest area, provided that the sign legends are not visible to the highway mainline traffic and do not pose safety risks to rest area users;
 - 3. Shall not append acknowledgment signs to any other sign, sign assembly, or other traffic control device; and
 - 4. Shall not place acknowledgment signs within 500 feet of other traffic control devices located on the highway mainline.
- B.** For sponsorship of travel service programs that are not site specific, such as 511 traveler information, radio-weather, radio-traffic, and emergency service patrol, the Department or its contractor may mount an acknowledgment plaque below a general service sign for that program in the same sign assembly. The acknowledgment plaque shall:
- 1. Be a horizontally oriented rectangle, with the horizontal dimension longer than the vertical dimension;
 - 2. Be of a size not to exceed approximately one-third of the area of the general service sign below which it is mounted or 24 square feet, whichever is less;
 - 3. Be of a size not to exceed approximately one-third of the area of the largest size prescribed in the MUTCD for the specific standard sign below which the acknowledgment plaque is mounted, even if the standard sign was enlarged under the MUTCD, Sections 2A.11, Dimensions and 2I.01, Sizes of General Service Signs, or was designated in the MUTCD as being oversized for its application; and
 - 4. Be of a size that is equivalent to the unmodified national standard for the sign, as provided in the MUTCD, even if the size of the standard sign is modified based on the Arizona supplement to the MUTCD, or other equivalent, and would result in a sign size larger than that of the standard sign prescribed in the MUTCD.
- C.** For sponsorship by way of providing highway-related services, products, or monetary contributions that result in a naming sponsorship granted by the Department, where the sponsor is allowed naming rights to an officially mapped, named or numbered highway, the Department or its contractor:
- 1. May use only acknowledgment signs to place an unofficial overlay or secondary designation in the name of the sponsor on the official highway name or number through proclamation, contract, agreement, or other means for acknowledgment within the highway right-of-way; and
 - 2. Shall not display on an acknowledgment sign a legend that states, either explicitly or by implication, that the highway is named for the sponsor.
- D.** For the purpose of protecting life or property, the Department may install on any highway or non-highway asset or facility under its jurisdiction a changeable message sign, traffic control device, or other official sign provided by a sponsor. The name of the sponsor who made placement of the item possible may be affixed to the official sign or device in a conspicuous location visible from the main traveled roadway, unless specifically prohibited by federal law, including on the sign base, apron, supports, or other structural member. No more than one sponsor's name may appear on any one official sign or device at any given time.
- E.** The Department or its contractor shall solely determine the placement of any new advertising or sponsorship content as new opportunities arise, whether a previously leased location is vacated, a waiting list exists, another advertiser or sponsor seeks to lease or sponsor a specific asset or facility, or a new location is identified and made available for advertising or sponsorship opportunities.
- F.** The provisions of this Article apply to new and modified acknowledgment sign installations in support of national uniformity and consistency. Acknowledgment signs installed prior to the effective date of this Section are subject only to the terms and conditions provided in any existing lease or other agreement already in effect between the Department and an advertiser or sponsor. Replacement of an existing acknowledgment sign for compliance with this Article is not required unless the currently installed acknowledgment sign is no longer serviceable or the advertiser or sponsor requests a modification.

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cation of the sponsor name or logo that is consistent with this Article.

Historical Note

New Section R17-1-711 made by final rulemaking at 24 A.A.R. 673, effective May 7, 2018 (Supp. 18-1).

R17-1-712. Program Eligibility and Compliance

- A. An advertiser or sponsor participating in the Department's advertising and sponsorship program shall ensure compliance with A.R.S. § 28-7316 and all criteria established under this Article.
- B. The Department or its contractor may choose not to enter into, or renew, an advertising or sponsorship agreement if the eligibility criteria provided under this Article is not met.
- C. An advertiser or sponsor is ineligible to place advertising or sponsorship content on any asset or facility of the Department if:
 1. Thirty calendar days have elapsed since the Department or its contractor issued a notice of default to the advertiser or sponsor and the default remains uncured, or
 2. The advertiser or sponsor has defaulted on an advertising or sponsorship agreement made with the Department or its contractor.

Historical Note

New Section R17-1-712 made by final rulemaking at 24 A.A.R. 673, effective May 7, 2018 (Supp. 18-1).

R17-1-713. Advertising or Sponsorship Agreement or Lease Termination

- A. If an advertiser or sponsor becomes ineligible to participate in the Department's advertising and sponsorship program, the Department or its contractor shall remove any existing content or copy from the Department asset or facility after notifying the ineligible advertiser or sponsor as provided in the advertising or sponsorship agreement.
- B. An advertiser or sponsor who becomes ineligible to participate in the Department's advertising and sponsorship program may be held responsible for the costs involved with removal or reinstallation of advertising or sponsorship acknowledgment signs in accordance with the terms and conditions provided in

the advertiser's or sponsor's written lease or other agreement with the Department or its contractor.

Historical Note

New Section R17-1-713 made by final rulemaking at 24 A.A.R. 673, effective May 7, 2018 (Supp. 18-1).

R17-1-714. Removal of Advertising or Sponsorship Content; Program Termination

- A. If the Department temporarily requires removal of an acknowledgment sign or advertising or sponsorship content or copy from any Department facility or asset for construction activities in the area that may pose conflicts with the sponsorship, as provided under R17-1-704(B) (i.e. sign needs to be removed due to a road widening project), the Department or its contractor, in its sole discretion, may:
 1. Relocate the acknowledgment sign or advertising or sponsorship content or copy to a comparable site for the duration of the advertising or sponsorship agreement, if requested by the advertiser or sponsor and the acknowledgment sign or advertising or sponsorship content or copy is for a program that is not site-specific; or
 2. Re-erect the acknowledgment sign or advertising or sponsorship content or copy at its original location once the construction activities are completed, if possible, and revise the original advertising or sponsorship agreement to remain in place until the minimum lease obligations are fulfilled.
- B. If the Department's advertising and sponsorship program is terminated, the Department or its contractor shall:
 1. Notify an advertiser or sponsor by mail, or a mutually agreed upon electronic communication method, of the program termination and the location where an advertiser or sponsor may claim its materials, if any;
 2. Remove all advertising or sponsorship content or copy from any Department facilities or assets; and
 3. Refund unused lease payments to each advertiser or sponsor on a prorated basis.

Historical Note

New Section R17-1-714 made by final rulemaking at 24 A.A.R. 673, effective May 7, 2018 (Supp. 18-1).