

NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 11. DEPARTMENT OF ADMINISTRATION PUBLIC BUILDINGS MAINTENANCE

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
| R2-11-309 | Amend |
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the implementing statute (specific):**
Authorizing statutes: A.R.S. § 41-791
Implementing statutes: A.R.S. § 41-791
- 3. The effective date of the rule:**
December 7, 2004
- The Department is requesting an immediate effective date pursuant to § A.R.S. 41-1032(A)(4). Rules for Solicitation in 9 A.A.R. Article 3 were approved by the Governor's Regulatory Review Council and effective August 8, 2003, without clearly articulating that employee associations may apply for a permit to conduct solicitation at a work site. Making clear, concise information about an employee association's eligibility to apply for a permit provides a benefit to state employees and affected employee associations. A penalty is not associated with a violation of the rule.
- 4. A list of all previous notices appearing in the Register addressing the final rule:**
Notice of Rulemaking Docket Opening: 10 A.A.R. 3021, July 30, 2004
Notice of Proposed Rulemaking: 10 A.A.R. 3540, September 3, 2004
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- | | |
|------------|--|
| Name: | Claudia R. Smith, Human Resources Consultant |
| Address: | Arizona Department of Administration
Human Resources Division
100 N. 15th Ave., Suite 261
Phoenix, AZ 85007 |
| Telephone: | (602) 542-4894 |
| Fax: | (602) 542-2796 |
| E-mail: | Claudia.Smith@ad.state.az.us |
- 6. An explanation of the rule, including the agency's reasons for initiating the rulemaking:**
This rulemaking amends the rule to clarify the eligibility of an employee association composed principally employees of state government to apply for a permit to conduct solicitation activities at a work site.
- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
None
- 8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable
- 9. The summary of the economic, small business, and consumer impact:**

Notices of Final Rulemaking

The rulemaking affects state agencies and state service employees and will not have an impact on small businesses and consumers. Any financial impact or administrative expenses will be covered by ordinary operating funds.

10. A description of the changes between the proposed rule, including supplemental notices, and final rule (if applicable):

Non-substantive clarifying and grammatical changes were made to the rule. The term "recognized" was deleted because the agency believes the term to be duplicative. In the view of the agency, the issuance of a permit to conduct a solicitation activity is a valid form of recognition. The agency believes that this change more clearly expresses the agency's intent. The word "comprised" was amended to read "composed" for grammatical correctness.

11. A summary of the comments made regarding the rule and the agency response to them:

The agency received no comments regarding the rule.

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

None

13. Any material incorporated by reference and its location in the rule:

None

14. Was this rule previously made as an emergency rule?

No

15. The full text of the rule follows:

TITLE 2. ADMINISTRATION

CHAPTER 11. DEPARTMENT OF ADMINISTRATION
PUBLIC BUILDINGS MAINTENANCE

ARTICLE 3. SOLICITATION

Section
R2-11-309. Exemptions

ARTICLE 3. SOLICITATION

R2-11-309. Exemptions

A. This Article does not apply to the following state programs:

1. The State Deferred Compensation Program;
2. The State Employees Charitable Campaign;
3. The U.S. Savings Bond Drive;
4. The United Blood Services Blood Drive;
5. The Capitol Rideshare Commuter Club;
6. The Capitol Rideshare Clean Air Campaign;
7. The Employee Wellness Program; and
8. ~~The Employee~~ employee recognition programs of each agency subject to these rules.

B. An employee association composed principally of employees of state government agencies may apply under this Article for a permit to conduct a solicitation at a work site.

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 9. REGISTRAR OF CONTRACTORS

PREAMBLE

1. Sections Affected

R4-9-109
R4-9-110
R4-9-112
R4-9-115
R4-9-116

Rulemaking Action

Amend
Amend
Amend
Amend
Amend

Notices of Final Rulemaking

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: A.R.S. § 32-1104(A)(5) and (6), § 32-1125 and § 32-1152

Implementing statute: A.R.S. § 32-1104(A)(5) and (6), § 32-1125 and § 32-1152

3. The effective date of the rules:

February 5, 2005

4. A list of all previous notices appearing in the Register addressing the final rules:

Notice of Rulemaking Docket Opening: 10 A.A.R. 1894, May 7, 2004

Notice of Proposed Rulemaking: 10 A.A.R. 3050, August 6, 2004

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Alan Felber, Chief of Licensing

Address: Registrar of Contractors
800 W. Washington, 6th Floor
Phoenix, AZ 85007

Telephone: (602) 542-1525

Fax: (602) 542-7852

E-mail alan.felber@azroc.gov

6. An explanation of the rules, including the agency's reasons for initiating the rulemaking:

R4-9-109 Name of Licensee or Applicant: the objective of this rule is to minimize the possible confusion of the public regarding licensees with similar names and to ensure that licensees use the name as it appears on their license.

R4-9-110 Change of Legal Entity and Cancellation of License: There are two objectives for this rule. They are:

1. To notify licensees that a contractor's license is not transferable from one entity to another.

2. To explain the acceptable method of canceling a license and prevent licensees from canceling their licenses in order to avoid responsibility for statutory violations by giving the registrar the discretion to deny the cancellation.

R4-9-112 Bond Limits; Applications; Renewals; Increases and Decreases of Bond Amounts; Effective Date of Bonds and Deposits: the objective of this rule is to provide a graduated dollar amount of bonding required for a contractor's license based on the contractor's anticipated gross volume of work and within the limits set by A.R.S. § 32-1152(B).

R4-9-115 Posting: the objectives of this rule are to establish a process for posting names of applicants and personnel of applicants, a method for waiving part of the posting period, and a process for denying a license if an applicant is not qualified.

R4-9-116 License Renewal: the objectives of this rule are to assign responsibility for timely renewal to the licensees and provide a process for timely license renewal.

The above 5 rules are being amended to make them gender neutral and more clear, concise, and understandable.

7. A reference to any study relevant to the rules that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

8. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact:

The Registrar of Contractors views this as only an editorial change that will not impact the economy, small business, or consumers.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Minor grammatical and formatting changes were made at the request of Governor's Regulatory Review Council staff.

11. A summary of the comments made regarding the rules and the agency response to them.

No comments were received.

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

None

13. Any material incorporated by reference and its location in the rules:

Not applicable

14. Were these rules previously made as emergency rules?

No

15. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 9. REGISTRAR OF CONTRACTORS

ARTICLE 1. GENERAL PROVISIONS

Section

R4-9-109.	Name of Licensee or Applicant
R4-9-110.	Change of Legal Entity and Cancellation of License
R4-9-112.	Bond Limits; Applications; Renewals; Increases and Decreases of Bond Amounts; Effective Date of Bond and Deposits
R4-9-115.	Posting
R4-9-116.	License Renewal

ARTICLE 1. GENERAL PROVISIONS

R4-9-109. Name of Licensee or Applicant

- A. A licensee ~~must~~ shall do business under the name ~~in which his~~ on the license is issued and ensure that the same name must be used ~~appear~~ on the license bond.
- B. If a corporation is doing business in the name of a division or using a trade name, ~~both~~ the corporation shall ensure that all names must be clearly ~~are~~ shown on ~~the~~ any application.
- C. ~~When~~ If applying for a license or a name change, a corporation, ~~if requested,~~ must shall submit written evidence that it is in good standing ~~with~~ or that the new name has been filed with the Arizona Corporation Commission.
- ~~D.~~ A licensee may secure a name change so long as there is no change in the legal entity by submitting a written request for a name change together with the required fee per license and a rider for the bond or cash deposit reflecting the name change.
- D. The Registrar shall grant a request for name change if there is no change in the legal entity, the name is available, and the request is submitted in writing, together with the required license fee and a cash deposit or bond rider that reflects the name change.
- ~~E.~~ The registrar may not accept an application, issue a license, or change the name of an existing license if the proposed name is identical with, or in the opinion of the registrar, so similar it may cause confusion with the name on a pending application or existing license.
- E. The Registrar may elect to reject an application, refuse to issue a license, or deny the name change of an existing license, based on a review of whether the proposed name is identical or so similar to that of an existing licensee or license applicant that it may cause confusion.
- ~~F.~~ No application will be accepted or license issued which contains the name of building trade or craft for which the contractor is not duly qualified.
- F. The Registrar shall not accept an application or issue a license if it contains the name of a building trade or craft for which the contractor is not qualified.

R4-9-110. Change of Legal Entity and Cancellation of License

- ~~A.~~ Any change in the legal entity of a licensee to include any change in the ownership of a sole proprietorship or change of a partner in a partnership or creation of a new corporate entity requires a new application and license.
- A. A licensee shall submit an application for a new license if there is any change in the legal entity. For example: a change in ownership of a sole proprietorship, a change of partner in a partnership, or the creation of a new corporate entity.
- B. A license may be cancelled upon the written request of the owner of a sole proprietorship, a partner of a partnership, or in the case of a corporation or a limited liability company any person with written evidence of ~~his~~ authority to ~~request such~~ cancel the license.
- ~~C.~~ The registrar may at his discretion refuse to accept voluntary cancellation of a contractor's license when in his opinion good cause may exist for a hearing for disciplinary purposes.

R4-9-112. Bond Limits; Applications; Renewals; Increases and Decreases of Bond Amounts; Effective Date of Bond and Deposits

- A. Bond limits. In accordance with the provisions of A.R.S. §32-1152, ~~contractor's~~ license bonds are established in the following amounts, based upon the estimated gross annual volume of work ~~contemplated~~ anticipated by the licensee contractor within the State of Arizona for the ensuing fiscal year:

Notices of Final Rulemaking

<i>License Category</i>	<i>Contemplated Gross Annual Volume (Per License Category)</i>	<i>Bond Amount</i>
1. General Commercial Contracting and Engineering Contracting	Less than \$150,000 or less	\$5,000
	In excess of \$150,000 or more , but not more less than \$500,000	\$10,000
	In excess of \$500,000 or more , but not more less than \$1,000,000	\$15,000
	In excess of \$1,000,000 or more , but not more less than \$5,000,000	\$40,000
	In excess of \$5,000,000 or more , but not more less than \$10,000,000	\$65,000
2. Specialty Commercial Contracting	More than \$10,000,000 or more	\$90,000
	Less than \$150,000 or less	\$2,500
	In excess of \$150,000 or more , but not more less than \$500,000	\$5,000
	In excess of \$500,000 or more , but not more less than \$1,000,000	\$10,000
	In excess of \$1,000,000 or more , but not more less than \$5,000,000	\$20,000
3. General Residential Contracting	In excess of \$5,000,000 or more , but not more less than \$10,000,000	\$32,500
	More than \$10,000,000 or more	\$45,000
	Less than \$150,000 or less	\$5,000
4. Specialty Residential Contracting	In excess of \$150,000 or more , but not more less than \$750,000	\$9,000
	More than \$750,000 or more	\$15,000
	Less than \$100,000 or less	\$1,000
5. General Dual License Contracting.	In excess of \$100,000 or more , but not more less than \$375,000	\$4,250
	More than \$375,000 or more	\$7,500
	Less than \$100,000 or less	\$1,000

5. General Dual License Contracting. The amount of a General Dual Licensed License Contracting bond shall be is determined under subsection (A)(3), based on the contractor's estimated volume of general residential contracting, and subsection (A)(1), based on the contractor's estimated volume of general commercial contracting. The contractor shall assure ensure that the bond issuer specify separately specifies on the bond the amount bond amounts applicable to general residential contracting and the bond amount applicable to general commercial contracting.

6. Specialty Dual License Contracting. A the amount of a Specialty Dual Licensed license Contractors Contracting bond shall be is determined under subsection (A)(4), based on the contractor's estimated volume of specialty residential contracting, and subsection (A)(2), based on the contractor's estimated volume of specialty commercial contracting. The contractor shall assure ensure that the bond issuer specify separately specifies on the bond the amount bond amounts applicable to specialty residential contracting and the bond amount applicable to specialty commercial contracting.

B. New applications licenses. On all new applications an application for a new license for any category of license category listed above, the an applicant shall estimate anticipated gross the applicant's annual volume of work within the state of Arizona for the remainder of the present fiscal year and shall be governed by comply with the bond requirements of this Section as they apply to the applicant's particular for the relevant category of license. The filing of a bond or deposit in a specified amount shall be deemed to be the equivalent of submitting a volume estimate within the dollar limitations applicable for such bond amount. The Registrar considers the filing of a bond or deposit in a specified amount to be the equivalent of submitting a volume estimate within the dollar limitations applicable for the bond amount.

C. Renewal. All estimates made for renewal of licenses shall be made on To renew a license an applicant shall complete a form acceptable provided by to the Registrar of Contractors. The contractor's filing If the contractor files a new bond or continuation of continues a bond or deposit in a specified amount, shall be the Registrar considers these actions to be the equivalent of submitting a volume estimate within the dollar limitations applicable for such the bond amount. The Regis-

Notices of Final Rulemaking

trar of Contractors is not responsible for over or under estimates of volume of work made by the licensee or for the sufficiency of any bond or deposit. ~~A~~ The Registrar considers a gross underestimate knowingly made by a licensee shall be construed as to be a material misrepresentation, and could which can subject the licensee to suspension or revocation of license.

- ~~D.~~ Increases and decreases of bond amounts. The Based on the actual amount of the contractor's license bond may be increased gross volume of work, a contractor may increase the bond amount at any time, during the fiscal year. However, a A surety bond or cash deposit in lieu of a bond cannot be decreased except at the time of license renewal. for the ensuing fiscal year.
- ~~E.~~ Effective date of bonds and deposits. Surety bonds A license bond or cash deposits shall deposit is not become operative until filed with the registrar's not effective until the licensee files it at a Registrar of Contractors office. If a surety license bond is filed before the effective date of indicated on the bond, the bond becomes operative effective on the effective indicated date.

R4-9-115. Posting

- ~~A.~~ Except as hereinafter provided, no licenses shall be issued The Registrar shall not issue a license until the expiration of said the posting period in A.R.S. § 32-1104(C).
- ~~B.~~ Applicants who have previously undergone the 20-day posting period may apply to the registrar in writing for a waiver of part of the posting period.
- ~~B.~~ Persons that have previously undergone the 20-day posting period may appeal to the Registrar in writing for a reduction of the 20-day posting period.
- ~~C.~~ If, prior to the issuance of the license, information brought to the attention of the registrar concerning the qualifications of the applicant is such that in the registrar's discretion it might be proper to deny the license, the registrar may forthwith notify the applicant that his license is denied and that he may request a hearing if he so desires to be conducted in accordance with the provisions of Title 41, Chapter 6 of the Arizona Revised Statutes.
- ~~C.~~ If the Registrar determines that an applicant is not qualified for a license, based on information available to the Registrar before the license is issued, the Registrar shall deny or reject the license application. If the application is denied, the Registrar shall notify the applicant about the denial and the applicant may request a hearing in accordance with the provisions of A.R.S. Title 41, Chapter 6, Article 10.

R4-9-116. License Renewal

~~It is the sole duty and responsibility of the licensee to timely renew his license on fully and accurately completed forms as prescribed by the registrar. Incompleted and inaccurately completed renewal forms shall be rejected. Neither the need for additional time to accurately complete renewal forms as prescribed by the registrar nor failure to receive renewal forms in the mail will be a justifiable excuse for the late renewal of a license without payment of a late fee.~~

- ~~A.~~ To renew a license, a licensee shall submit the following information to the Registrar and advise the Registrar of any change in the information within 30 days of the change:
 - ~~1.~~ If the licensee is a corporation or a limited liability company, evidence that the entity is in good standing with the Arizona Corporation Commission.
 - ~~2.~~ The licensee's current privilege license number, issued under A.R.S. § 42-5005.
- ~~B.~~ A licensee shall renew each license on or before the renewal date. Failure to comply results in suspension of the license on the day following the renewal date by operation of law. The Registrar shall collect a \$50.00 late fee if renewal is completed after the renewal date. Based on the severity of the violation, the Registrar may refuse to renew a license after determining that a licensee has committed or been found guilty of any act listed in A.R.S. § 32-1154(A).
- ~~C.~~ To renew a contracting license, a licensee shall submit an application for renewal to the Registrar, accompanied by the required renewal fee. Timely submission of an application is evidenced by the date stamped on the documents by the Registrar or the date on "postage prepaid" documents if the submission is deposited in the United States mail, postage prepaid, on or before the renewal date. Timely submission authorizes the licensee to operate as a contractor until actual issuance of the renewal license.
- ~~D.~~ If a license has been suspended by operation of law for failure to renew, a licensee may still renew the license within one year of its suspension by submitting an application for renewal and paying the applicable renewal fee and a \$50.00 late fee. If a license has been suspended for one or more years for failure to renew, the former licensee shall submit an application for a new license.

NOTICE OF FINAL RULEMAKING

TITLE 13. PUBLIC SAFETY

CHAPTER 2. DEPARTMENT OF PUBLIC SAFETY
PRIVATE INVESTIGATORS

PREAMBLE

1. Sections Affected

Rulemaking Action

R13-2-01	Repeal
R13-2-02	Repeal
R13-2-03	Repeal
R13-2-04	Repeal
R13-2-05	Repeal
R13-2-06	Repeal
R13-2-07	Repeal
R13-2-08	Repeal
R13-2-09	Repeal
R13-2-10	Repeal
R13-2-11	Repeal
R13-2-12	Repeal
R13-2-101	New Section
R13-2-102	New Section
R13-2-103	New Section
R13-2-104	New Section
R13-2-105	New Section
Article 2	New Article
R13-2-201	New Section
R13-2-202	New Section
R13-2-203	New Section
R13-2-204	New Section
R13-2-205	New Section
R13-2-206	New Section
R13-2-207	New Section
R13-2-208	New Section
Article 3	New Article
R13-2-301	New Section
R13-2-302	New Section
R13-2-303	New Section
R13-2-304	New Section
R13-2-305	New Section
R13-2-306	New Section
Article 4	New Article
R13-2-401	New Section
R13-2-402	New Section
R13-2-403	New Section
R13-2-404	New Section

2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 32-2402(D)

Implementing statute: A.R.S. § § 32-2401, 32-2407, 32-2411 and 41-1072

3. The effective date of the rules:

February 5, 2005

4. A list of all previous notices appearing in the Arizona Administrative Register, addressing the proposed rule:

Notice of Rulemaking Docket Opening: 10 A.A.R. 322, January 23, 2004

Notice of Proposed Rulemaking: 10 A.A.R. 2292, June 11, 2004

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Lieutenant Laurence Burns, Licensing and Regulatory Bureau Commander

Address: P.O. Box 6638

Notices of Final Rulemaking

Mail Drop 1160
Phoenix, AZ 85005-6638

Telephone: (602) 223-2387

Fax: (602) 223-2928

E-mail: lburns@dps.state.az.us

6. An explanation of the rule, including the agency's reasons for initiating the rule:

This rulemaking is authorized by A.R.S. § 32-2402(D). During the 45th legislative session, Chapter 24 of Title 32 of the Arizona Revised Statutes was amended. The rules provide detailed regulatory information and procedural instructions that implement and clarify statutory requirements for the private investigator industry. They are for use by Department of Public Safety personnel and applicants for and holders of private investigator agency licenses and employee registration certificates.

7. A reference to any study to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material.

None

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

The rules do not diminish a previous grant of authority of a political subdivision of this state.

9. The summary of the economic, small business, and consumer impact:

A. Economic impact: The fees for the licensing function were previously specified in A.R.S. § 32-2407. During the 45th legislative session, this was changed to allow the Director of the Department of Public Safety to charge reasonable fees to cover the operational and equipment costs of the Licensing Unit. These administrative rules represent a substantial increase in fees to all applicants. It is anticipated that these increased fees will assist the unit to perform the regulatory functions mandated by statute.

B. Small business impact: The rules apply equally to all private investigator agencies doing business in the state of Arizona. No detrimental impact by these rules on small business is anticipated. Removing the contradictions with and duplications of language in the statutes or other rules and correcting citation errors will make the rules easier for all to understand.

C. Consumer impact: Neither the administrative rules nor the statutes have a direct impact on the private investigator industry clientele who make up the consumer community. A minimal impact to the consumers will occur when the fee increase is passed on to the consumer by the private investigator industry. An indirect, but at this point not assessable impact should be realized in assisting the members of the private investigator industry in their quest for professional excellence through enforcement of clear, concise, and well-organized rules.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Non-substantive technical and grammatical changes were made. Although the proposed rules made clear that an associate or employee registrant must have a separate certificate for each employer, the final rules clarify the procedure for obtaining additional certificates.

11. A summary of the comments made regarding the rule and the agency response to them:

On July 15, 2004, the Arizona Department of Public Safety held a public meeting for the proposed Private Investigator Rules. Mr. Richard Robertson, legislative chairman for the Arizona Association of Licensed Private Investigators (AALPI) came forward to ask questions concerning (1) the agencies not receiving notice of the meeting in a timely manner; and (2) the proposed increased fees.

Lt. Burns responded to question number (1) that in the future the agencies would be notified by publishing the current status of the rulemaking process in the Department of Public Safety's Private Investigator/Security Guard Newsletter. Notification of the final rulemaking process will be sent to Mr. Richard Robertson, so that he can notify the AALPI membership. In response to question number (2) concerning the fee increases, Lieutenant Burns explained the legislative requirements for licensing to assess fees sufficient to cover the costs of regulating the private investigator industry.

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

Not applicable

13. Incorporations by reference and their location in the rules:

"Classifiable fingerprints," Form FD-258 (rev. 5-11-99) U.S. Government Printing Office: 2004-304-373/80029, is incorporated by reference and located in R13-2-101.

14. Was this rule previously made as an emergency rule?

No

15. The full text of the rules follows:

TITLE 13. PUBLIC SAFETY

**CHAPTER 2. DEPARTMENT OF PUBLIC SAFETY
PRIVATE INVESTIGATORS**

ARTICLE 1. GENERAL PROVISIONS

Section

- R13-2-01. ~~Filing applications~~ Repealed
R13-2-02. ~~License~~ Repealed
R13-2-03. ~~Branch office certificate~~ Repealed
R13-2-04. ~~Identification card~~ Repealed
R13-2-05. ~~Issuance of license, branch office certificate, identification—original or renewal~~ Repealed
R13-2-06. ~~Denial of license~~ Repealed
R13-2-07. ~~Renewal of license, branch officer certificate, identification card~~ Repealed
R13-2-08. ~~Revocation of license~~ Repealed
R13-2-09. ~~Suspension of license~~ Repealed
R13-2-10. ~~Employee records—business records~~ Repealed
R13-2-11. ~~Complaints~~ Repealed
R13-2-12. ~~Business and employee names~~ Repealed
R13-2-101. Definitions
R13-2-102. Application and Processing fees
R13-2-103. Application Forms
R13-2-104. Identification Cards
R13-2-105. Time-frames for Making Licensing and Registration Determinations

ARTICLE 2. AGENCY LICENSES

Section

- R13-2-201. Agency License Eligibility
R13-2-202. Submission of Application for an Agency License
R13-2-203. Issuance of Agency License
R13-2-204. Agency License Renewal
R13-2-205. Branch Office Certificate
R13-2-206. Change of Qualifying Party
R13-2-207. Restructure of an Agency
R13-2-208. Business and Employee Names

ARTICLE 3. REGISTRATION CERTIFICATES

Section

- R13-2-301. Employee and Associate Registration Certificate Eligibility
R13-2-302. Application for Registration Certificate
R13-2-303. Renewal of Registration Certificate
R13-2-304. Lost or Stolen Registration Certificate or Identification Card
R13-2-305. Change of Address
R13-2-306. Change in Name of Registrant

ARTICLE 4. REGULATION

Section

- R13-2-401. Denial of Agency License or Registration Certificate
R13-2-402. Probation of Agency License or Registration Certificate
R13-2-403. Employee and Business Records
R13-2-404. Complaints

ARTICLE 1. GENERAL PROVISIONS

R13-2-01. ~~Filing applications~~ Repealed

- ~~A.~~ All applications for a license or identification card must be presented in person by the applicant at the Arizona department of public safety office in Phoenix, Tucson or Flagstaff. Each application must be complete, correct and notarized before

Notices of Final Rulemaking

acceptance. Each application shall be accompanied by the following documents where applicable:

1. Birth certificate.
2. Discharge papers. (DD214)
3. Incorporation papers.
4. Surety bond.
5. Application fee.

- ~~B.~~ Two photographs and two sets of fingerprints will be taken of the applicants at the department of public safety at the time of application.
- ~~C.~~ A separate application must be filed by each partner of a partnership, each corporate officer of a corporation who is residing in Arizona, and each director, associate, manager, or employee of a business.
- ~~D.~~ If an application is withdrawn, the application fee, if any, shall not be refunded.

R13-2-02. License Repealed

- ~~A.~~ Each license shall contain the name and address of the licensee, name and address of the licensed business, and the number of the license. The license shall be effective for a twelve-month period from the date of issuance, and these effective dates shall be noted on the license.
- ~~B.~~ Once a license has been assigned to a licensee, this license shall be neither assignable nor transferable. The license number, once assigned, shall not be reassigned to any other licensee.
- ~~C.~~ If a licensee wishes to surrender his license before the expiration date, the license fee or any part thereof shall not be refunded.
- ~~D.~~ The license shall be posted in a conspicuous place in the principal office.

R13-2-03. Branch office certificate Repealed

- ~~A.~~ Issuance of a branch office certificate shall be mandatory, and each certificate shall be posted in a conspicuous place in the branch office. The license number under which a branch office certificate is issued shall be noted on the certificate along with the name and address of the licensee, name of the business and address of the branch office, and the effective dates of the branch office certificate (these dates shall run concurrently with the effective date of the license).
- ~~B.~~ All records of all business transacted at a branch office, and employee records of each branch office, shall be maintained by the licensee at his principal place of business. Such records shall be available for inspection by any officer of the department of public safety.

R13-2-04. Identification card Repealed

- ~~A.~~ Under each license issued, a standard identification card as prescribed by the Director, shall be issued to the licensee, managers, officers, partners, directors, associates, and employees (except those engaged exclusively in clerical work) after these individuals have filed an application with the department of public safety and have met the qualifications where applicable. These identification cards shall contain the following information: name, photograph, name and address of licensee, fingerprint, physical description, number of license, number of card, effective dates of the license, and the Arizona State Seal. These identification cards are as follows:
 1. The licensee shall receive a white standard identification card, designated as a licensee card.
 2. Each associate, officer, or partner shall receive a green standard identification card.
 3. Each employee, associate, officer, or partner who will conduct investigations shall receive a blue standard identification card.
- ~~B.~~ Identification cards are neither assignable nor transferable and are valid only during the effective dates of the license under which the card has been issued, and valid only as long as the card holder is employed by, connected or associated with the licensee.
- ~~C.~~ All part-time employees shall obtain a standard identification card. All part-time employees employed by more than one licensee shall obtain an identification card under each license he is employed.
- ~~D.~~ If an identification card is lost or stolen, the department of public safety shall be notified immediately and arrangements shall be made for issuance of a duplicate identification card.
- ~~E.~~ No badge whatsoever shall be utilized in conjunction with the license, branch office certificate or identification card.

R13-2-05. Issuance of license, branch office certificate, identification card original or renewal Repealed

The applicant for an original license, branch office certificate or identification card, or renewal of same, will be notified by mail when the license, branch office certificate or identification card is ready for issuance. The applicant will appear in person at the department of public safety (the issuance of an identification card will necessitate applicant's presence to facilitate the fingerprinting and signing of the card). Upon payment of applicable fee, the license, branch office certificate or identification card will be issued.

R13-2-06. Denial of license Repealed

- ~~A.~~ If the Director or his designate determines that an applicant for a license does not possess the qualifications as prescribed by A.R.S. § 32-2412, or grounds have been established as set forth under A.R.S. § 32-2414, the applicant will be notified by registered mail of the facts involved.

Notices of Final Rulemaking

- ~~B. The applicant will be notified of the date and time of the hearing which will be not less than twenty days after the applicant's receipt of hearing notification. Hearings will be held in compliance with A.R.S. §§ 41-1009, 41-1010, and 41-1011 before a hearing board or officer comprised of such person or persons as may be designated by the Director. If the applicant does not appear at the hearing, the applicant will be notified by registered mail of the hearing findings. In all cases assigned to the hearing board or officer for hearing, they shall prepare proposed findings of fact and conclusions of law in such form that they may be adopted as the Director's findings and conclusions in the case. Upon the filing of the proposed findings and conclusions with the Director, he may adopt them in their entirety, modify them, or may himself decide the case upon the record.~~

R13-2-07. Renewal of license, branch office certificate, identification card Repealed

- ~~A. The license shall be subject to renewal at the end of the twelve month period of effectiveness from the date of issuance. This twelve month period, or effective dates of the license shall also pertain to the branch office certificate and identification cards issued under each license. At this time it will be necessary for the licensee to fill out a License Renewal Form and return same by mail to the department of public safety. Included in the Renewal Form shall be a statement to be signed by the licensee that no changes have been made in location of principal office, branch office, associates, directors, partners, managers, or employees holding identification cards, and that none of the aforementioned have been changed without the Director being notified in writing prior to the renewal date.~~
- ~~B. If the license, branch office certificate, or identification card have not been renewed before this renewal date, they shall expire. The licensee or identification card holder shall be notified of the expiration by registered mail, at which time the license and all branch office certificates and identification cards issued under that license shall be returned to the department of public safety for cancellation. The license and all branch office certificates and identification cards issued under that license shall be subject to seizure by any officer of the department of public safety upon expiration.~~
- ~~C. Once a license or identification card has expired, and the former licensee or identification card holder wishes to obtain a license or identification card, it will be necessary for this individual to file an application with the department of public safety and the original application fee and license fee or identification card fee shall apply, where applicable.~~

R13-2-08. Revocation of license Repealed

- ~~A. If the Director or his designate determine grounds for revocation of a license as set forth under A.R.S. § 32-2427, the licensee will be notified by registered mail of the facts involved.~~
- ~~B. The licensee will be notified of the date and time of the hearing on the revocation of the license, which will be not less than twenty days after the applicant's receipt of hearing notification. Hearings will be held in compliance with A.R.S. §§ 41-1009, 41-1010, and 41-1011 before a hearing board or officer comprised of such person or persons as may be designated by the Director. If the licensee does not appear at the hearing, the licensee will be notified by registered mail of the hearing findings.~~
- ~~C. If a license is revoked by the Director, the former licensee cannot apply for reinstatement for a period of twelve months from the date of revocation. In all cases of revocation, it will be necessary to apply for reinstatement by filing an application form as prescribed by the Director, and all applicants for reinstatement are then subject to the original application fee and cost of license upon issuance.~~
- ~~D. Upon revocation of a license, the license and all branch office certificates and identification cards issued under that license shall be returned to the department of public safety immediately for cancellation and are subject to seizure by any officer of the department of public safety.~~

R13-2-09. Suspension of license Repealed

- ~~A. If the Director or his designate determine grounds for suspension of a license as set forth under A.R.S. § 32-2427, the licensee will be notified by registered mail of the facts involved.~~
- ~~B. The licensee will be notified of the date and time of the hearing on the suspension of the license, which will be not less than twenty days after the licensee's receipt of hearing notification. Hearings will be held in compliance with A.R.S. §§ 41-1009, 41-1010, and 41-1011 before a hearing board or officer comprised of such person or persons as may be designated by the Director. If the licensee does not appear at the hearing, the licensee will be notified by registered mail of the hearing findings.~~
- ~~C. If a license is suspended by the Director, for a period designated by the Director, the license and all branch officer certificates and identification cards issued under that license shall immediately be returned to the department of public safety, and are subject to seizure by an officer of the department of public safety. The license, branch office certificates, and identification cards will be held by the department of public safety until the end of the suspension period, at which time these documents will be returned to the licensee.~~

R13-2-10. Employee records – business records Repealed

~~Each licensee shall maintain at his principal place of business a file or record of the name, address, title, commencing date and date of termination on each partner, director, business associate, officer, manager, or employee of the principal office and branch office. Each licensee shall maintain at his principal place of business a file of all business transacted at each branch office. The aforementioned files and records shall be available for inspection by the Director or any officer of the department~~

Notices of Final Rulemaking

of public safety, and copies and information pertaining thereto or contained therein shall be submitted to the department of public safety upon request.

R13-2-11. Complaints Repealed

Complaints shall be in writing on such forms as the Director may prescribe and shall be filed with the department of public safety. A copy may be forwarded to the licensee against whom the complaint has been lodged at the discretion of the Director. If a complaint involves alleged violation of Arizona Revised Statutes, the department of public safety shall institute an investigation to ascertain if a violation has in fact occurred. When an investigation indicates that there has in fact been a violation of the Arizona Revised Statutes or Rules and Regulations contained herein, and the Director or his designate determine grounds for suspension or revocation of the license, procedure as outlined in R13-2-08 and R13-2-09 will be followed.

R13-2-12. Business and employee names Repealed

- A.** The name of the licensed business shall not include "United States", "U.S.", "Federal", "State of Arizona", or any name to associate the business with any other governmental agency or law enforcement agency. The use of the words "corporation", "corp.", "incorporated", or "inc." will not be approved for an individual or partnership license unless corporate papers have been filed with the Corporation Commission. Similar business names of licensed firms will not be approved.
- B.** The licensee, business associates, and employees will do business and present themselves under the name used on their application and identification card. No fictitious names will be approved for use on identification cards.
- C.** The licensed business shall do all business under the name and address which is on file with the Director and which is noted on the license. This business is to include: name on letterhead and all stationery, all advertising, formal contracts entered into with clients, payroll and reports to clients.

R13-2-101. Definitions

In addition to the definitions in A.R.S. § 32-2401, the following definitions apply to this Chapter:

1. "Branch office certificate" means a document issued by the Department to the qualifying party, authorizing the qualifying party to conduct the business of private investigations in this state at a location other than the principal place of business shown on the agency license.
2. "Classifiable fingerprints" means fingerprint impressions that meet the criteria of the Federal Bureau of Investigations (FBI) as contained in Form FD-258 (5-11-99): U.S. Government Printing Office: 2004-304-373/80029, incorporated by reference, available from the Department and the FBI (Attn: Logistical Support Unit (LSU), CJIS Division, 1000 Custer Hollow Road, Clarksburg, WV 26306). This incorporation contains no future editions or amendments.
3. "Corporation" or "domestic corporation" has the same meaning as in A.R.S. § 10-140.
4. "Delinquent" means an application is submitted after the license expiration date but before the expiration of the 90-day grace period as described in R13-2-204(C).
5. "Foreign corporation" means a corporation for profit that is incorporated under a law other than the law of Arizona.
6. "Limited liability corporation" has the same meaning as corporation.
7. "Partnership" is an association of two or more persons who are co-owners of a business for profit organized in accordance with A.R.S. Title 29, Partnerships.
8. "Probation" means a period during which an agency or individual that has violated A.R.S. Title 32 Chapter 24 is allowed to demonstrate the ability to meet licensure requirements before the Department takes another administrative action, such as suspension or revocation.
9. "Sole proprietor" means the only owner of a business operated for profit.

R13-2-102. Application and Processing Fees

- A.** The application and processing fees are:
 1. Original agency license application, \$250;
 2. Agency license, \$400;
 3. Application for renewal of an agency license, \$250;
 4. Agency restructure, \$100;
 5. Agency delinquent renewal application, \$100;
 6. Reinstatement of agency license, \$250;
 7. Associate or employee registration certificate application, \$50;
 8. Associate or employee registration certificate renewal, \$50;
 9. Associate or employee registration delinquency, \$10;
 10. Associate or employee registration reinstatement, \$25;
 11. Replacement identification card, \$10;
 12. Additional employer form, \$10, and
 13. Fingerprint and digital photo fee (optional), \$15.
- B.** In addition to any fees in subsections (A)(1), (A)(3), (A)(7), (A)(8), and (A)(12) the Department shall collect a fee in an amount necessary to cover the cost of noncriminal justice fingerprint processing for criminal history record checks under

Notices of Final Rulemaking

A.R.S. § 41-1750(J).

- C.** A person shall pay a fee by cash, cashier's check, certified check, or money order made payable to the Arizona Department of Public Safety. All fees are non-refundable except if A.R.S. § 41-1077 applies.

R13-2-103. Application Forms

- A.** The Department shall provide and an applicant shall use application forms for:

1. Agency license application;
2. Agency license renewal;
3. Employee or associate registration certificate application; and
4. Employee or associate registration renewal application.

- B.** Application forms may be obtained in person at the Phoenix Licensing Unit office, by mail request to Arizona DPS Licensing Unit, or by telephone. An applicant may duplicate application forms.

R13-2-104. Identification Cards

- A.** The Department shall provide a qualified applicant with an identification card for an:

1. Agency license,
2. Associate registration certificate, or
3. Employee registration certificate.

- B.** The Department shall include on the identification card the applicant's:

1. Name,
2. Photograph,
3. Physical description,
4. Date of birth;
5. Registration certificate number.
6. Employer's agency name and license number, and
7. Card's expiration date.

- C.** A licensee or certificate holder shall not assign or transfer an identification card. An identification card is valid only during the effective dates of the license or certificate under which the card has been issued, and for only as long as the card holder is employed by or associated with the agency licensee.

- D.** A licensee or certificate holder shall not display a badge or shield in conjunction with performing the duties of a private investigator.

- E.** An employee employed by more than one licensee shall obtain an identification card for each license under which the employee is employed.

- F.** Upon termination of employment with an agency licensee, the employee shall surrender the employee's identification card to the agency's qualifying party or designee. The agency's qualifying party shall send the identification card to the Department within five business days of the employee surrendering the license. If the employee fails to surrender the card to the qualifying party, the qualifying party shall notify the Department, in writing, within five business days of the employee's termination of employment.

- G.** If an identification card is lost or stolen, the holder of the card shall notify the Department immediately in writing. The Department shall issue a duplicate identification card upon submission of the required fee.

- H.** The Department shall not approve a fictitious name for use on an identification card.

R13-2-105. Time-frames for Making Licensing and Registration Determinations

- A.** The Department shall make a determination on the issuance, renewal, reinstatement, or restructure of an agency license, associate or employee registration certificate, or branch office certificate within 15 business days of the submission of an application, as follows:

1. Five days for administrative completeness review, and
2. Ten days for substantive review.

- B.** The administrative completeness review time-frame, as described in A.R.S. § 41-1072(1) and listed in subsection (A)(1), begins on the date the Department receives an application.

1. If the application is not administratively complete when received, the Department shall send a notice of deficiency to the applicant. The deficiency notice shall state the documents and information needed to complete the application.
2. Within 45 days from the date of the deficiency notice, the applicant shall submit to the Department the missing documents and information. The time-frame for the Department to finish the administrative completeness review is suspended from the date of the deficiency notice until the date the Department receives the missing documents and information.
3. If the applicant fails to provide the missing documents and information within the time provided, the Department shall close the applicant's file, and the Department considers the application suspended. The Department shall not take further action until the required documentation or information and, if applicable, reinstatement fees are received.

- C.** The substantive review time-frame, as described in A.R.S. § 41-1072(3) and listed in subsection (A)(2), begins on the date the Department determines an application is administratively complete.

Notices of Final Rulemaking

1. During the substantive review time-frame, the Department may make one comprehensive written request for additional information. The Department and applicant may mutually agree in writing to allow the Department to submit supplemental requests for additional information.
2. The applicant shall submit to the Department the additional information to complete the application within 45 days from the date of the Department's request. The time-frame for the Department to complete the substantive review of the application is suspended from the date of the request for additional information until the Department receives the additional information.
3. Unless the Department and applicant by mutual written agreement extend the 45-day period, the Department shall close the file of an applicant who fails to submit the additional information within 45 days. An applicant whose file is closed and who wants to be licensed or certified shall apply again under R13-2-202 or R13-2-302.
4. When the substantive review is complete, the Department shall inform the applicant in writing of its decision whether to license or register the applicant.
 - a. The Department shall deny a license or registration if it determines that the applicant does not meet all substantive criteria required by statute and rule. An applicant who is denied certification may appeal the Department's decision under A.R.S. § 41-1092 et seq.
 - b. The Department shall grant a license or registration if it determines that the applicant meets all substantive criteria for licensure or certification required by statute and rule.

ARTICLE 2. AGENCY LICENSES

R13-2-201. Agency License Eligibility

The qualifying party for an agency license shall meet all requirements under A.R.S. § 32-2422. All other partners or corporate officers of the agency shall register as associates and meet the requirements under A.R.S. § 32-2441.

R13-2-202. Submission of Application for an Agency License

- A.** Applications for an agency license may be presented in person at the Arizona Department of Public Safety Licensing office in Phoenix or by mail to Arizona DPS Licensing Unit. A qualifying party submitting an application shall ensure that the application consists of:
1. A complete application form with the information required under A.R.S. § 32-2423 and the qualifying party's notarized signature;
 2. Properly completed fingerprint card with classifiable fingerprints of the qualifying party;
 3. Fees prescribed in R13-2-102;
 4. Legible, notarized copy of a government-issued photo identification document for the qualifying party, such as a state identification card or motor vehicle driver license;
 5. Two color photographs of the qualifying party suitable for use in making a identification card, such as passport photos or 1" x 1 1/4" facial photos;
 6. Exact details as to the character and nature of the qualifying party's required experience under A.R.S. § 32-2422.
 7. If other than a sole proprietorship:
 - a. Partnership agreement, articles of organization, or articles of incorporation;
 - b. Applications for associate registration certificates under R13-2-302 completed by all officers, members, managers, and directors of the agency accompanied by classifiable fingerprints and two color photographs suitable for use in making a identification card such as passport photos or 1" x 1 1/4" facial photos;
 8. If a foreign corporation, evidence of Arizona Corporation Commission approval to transact business in Arizona;
 9. The name under which the agency will do business. The Department shall not issue a license to a corporation or limited liability corporation using a DBA unless registered with the Arizona Secretary of State's Office for approval of the trade name and the agency submits a copy of the registration to the Department; and
- B.** Sole proprietorships and partnerships may, but are not required to, register trade names.
- C.** If applicable equipment and personnel are available, and if the applicant makes a request, the Department personnel shall take an applicant's photographs and fingerprints upon submission of the application and payment of appropriate fees as listed in R13-2-102.

R13-2-203. Issuance of Agency License

- A.** The Department shall notify an applicant when an agency license is ready for issuance. The applicant has 90 days from the date of notification to:
1. Pay applicable license fees;
 2. Provide a complete and accurate two-year surety bond; and
 3. For those agencies that will have employees, provide a certificate of worker's compensation insurance.
- B.** If the applicant does not provide the required information within 90 days, the Department shall deny the application and all fees shall be forfeited.
- C.** An applicant for an agency license or renewal may request to pick up the license at the Department's office in Phoenix. If no request is made, the Department shall send the license to the mailing address of the applicant.

Notices of Final Rulemaking

- D. Each agency license shall contain the name and physical address of the licensed business and the number of the license. The issue date on the license is the date the two-year surety bond starts, which is not be earlier than the date of notification under subsection (A). The license expires two years after issuance.
- E. The licensee shall post the license in a conspicuous place in the principal business office.
- F. A licensee shall not assign or transfer the license.
- G. A licensee shall notify the Department in writing within 15 business days of any change of address of the principal office.
- H. If a licensee wishes to surrender the license before the expiration date, the Department shall not refund the license fee or any part of the license fee.

R13-2-204. Agency License Renewal

- A. A qualifying party may submit a renewal application to the Department up to 60 days before the expiration date on the agency license.
- B. The qualifying party shall provide, with the renewal application, the information required under R13-2-202 for the renewal of registration certificates for all associates or employees of the agency.
- C. If an agency license is not renewed before the expiration date, the qualifying party and all partners, members, officers, associates and employees shall cease performing investigative activities subject to regulation under A.R.S. Title 32, Chapter 24, until the date the license is renewed. The qualifying party shall ensure that all identification cards with the elapsed agency license number are returned to the Department within five business days of the date the license expires.
- D. The Department shall not renew an agency license if the application is filed more than 90 days after the expiration date. If more than 90 days have elapsed, the qualifying party who wishes to resume investigative work as a licensee shall reapply under R13-2-202.

R13-2-205. Branch Office Certificate

- A. An agency licensee shall obtain a branch office certificate for any place of business other than the principal place of business by request to the Department in writing.
- B. The branch office certificate contains the name, agency license number, license expiration date, and address of the branch office.
- C. A branch office certificate expires on the date the agency license expires and is renewed when the agency license is renewed.
- D. A licensee shall post a branch office certificate in a conspicuous place in the branch office.
- E. An agency shall notify the Department in writing within 15 business days of any address change for the branch office.

R13-2-206. Change of Qualifying Party

- A. If a qualifying party leaves an agency, the agency shall cease operations.
- B. If the agency desires to resume operations, a qualifying party shall submit an application for a new agency license under R13-2-202 and meet the requirements under R13-2-201. The Department shall grant the license if the qualifying party meets the requirements of R13-2-201.

R13-2-207. Restructure of an Agency

- A. A restructure of an agency occurs when there is a change in business legal status.
- B. If the restructure occurs at the time of renewal, the Department shall waive the restructure fee.
- C. If the restructure occurs at any time other than time of renewal, the agency shall pay the restructure fee. An application for restructure shall be submitted for the qualifying party and any new associates. Any new associates shall register and meet the requirements under A.R.S. § 32-2441.
- D. To change a sole proprietorship to a partnership, the applicant shall provide a partnership agreement with notarized signatures of the partners.
- E. To change a corporation to a partnership, the applicant shall provide documentation of the dissolving of the corporation and a partnership agreement with notarized signatures of the partners.
- F. To change a sole proprietorship or partnership to a corporation the applicant shall provide the Articles of Incorporation bearing the approval stamp of the Arizona Corporation Commission. If the change is to a foreign corporation, the applicant shall submit documentation of Arizona Corporation Commission approval for the foreign corporation to transact business in Arizona.
- G. To change a partnership to a sole proprietorship, the applicant shall provide documentation of the dissolving of the partnership.

R13-2-208. Business and Employee Names

- A. The Department shall not grant a license to an agency with a name that includes "United States," "U.S.," "Federal," or "State of Arizona," or a name that associates the business with any governmental or law enforcement agency. The Department shall not grant a license to an individual or partnership that has a name with the word "corporation," "corp.," "incorporated," "Inc.," or "L.L.C." unless corporate or limited liability corporation papers have been filed with the Corporation Commission. The Department shall not approve a new business name that is similar to a business name of a currently licensed firm.

Notices of Final Rulemaking

- B. An agency licensee and the licensee's associates and employees shall do business and present themselves under the name used on the licensee's application and the associate's or employee's identification card.
- C. An agency licensee shall do all business under the name and address that is on file with the Department and noted on the license. The licensee shall include its name and license number on all letterhead and business cards, advertising, contracts entered into with clients, and agency correspondence.

ARTICLE 3. REGISTRATION CERTIFICATES

R13-2-301. Employee and Associate Registration Certificate Eligibility

An applicant for an associate or employee registration shall meet the requirements of A.R.S. § 32-2441.

R13-2-302. Application for Registration Certificate

- A. Applications for associate and employee registration certificates may be presented in person at the Department's licensing office in Phoenix or by mail to the Phoenix office.
- B. The applicant's employer shall verify all information provided by the applicant and verify proof of U.S citizenship or legal resident status with authorization to seek employment by examining either one document from List A of U.S. DOJ Form I-9 or one document from List B and one document from List C. After verification, the employer or the applicant may submit an application.
- C. In addition to providing documentation of the requirements of A.R.S. § 32-2442, the employer shall ensure that each application includes:
 1. A properly completed application form.
 2. Two color photographs suitable for use in making an identification card such as passport photos or 1" x 1 1/4" facial photos, and
 3. One properly completed fingerprint card with classifiable fingerprints.
- D. If applicable equipment and personnel are available, and if the applicant makes a request, the Department personnel shall take an applicant's photographs and fingerprints upon submission of the application and payment of appropriate fees as listed in R13-2-102.
- E. An associate or employee registrant shall conduct business and be identified under the name used on the application and the registration certificate. The Department shall not approve a fictitious name for use on an associate or employer registration certificate.
- F. If an applicant is employed by more than one agency, the applicant shall submit an application with the words "Additional Employer" written across the top of the application, submit the fee under R13-2-102, and meet the requirements of this Section. If the applicant has submitted a fingerprint card to the Department within less than 365 days, no fingerprint card is required for the Additional Employer application. If the applicant has not submitted a fingerprint card within less than 365 days, the applicant shall submit a new fingerprint card with the application. A licensee or registrant shall provide a new fingerprint card at least every two years.

R13-2-303. Renewal of Registration Certificate

- A. An associate or employee registration certificate expires on the date specified on the registration certificate. The agency licensee shall submit an associate or employee registration renewal application to the Department licensing unit up to 60 days before the expiration date.
- B. The Department shall not renew a certificate unless the application is complete and contains the information required under R13-2-302.
- C. When applicable equipment and personnel are available, the applicant's photographs and fingerprints may be taken at the Department of Public Safety upon submission of the application and payment of appropriate fees.
- D. The Department shall not renew an associate or employee registration unless it is part of an agency license renewal application.

R13-2-304. Lost or Stolen Registration Certificate or Identification Card

If a registration certificate or identification card is lost or stolen, the registrant shall notify the Department immediately and request a new registration certificate or identification card, provide a 1" x 1 1/4" inch photo for the identification card photos and pay the fee under R13-2-102 for a replacement card.

R13-2-305. Change of Address

A registrant who changes address shall notify the Department in writing within 30 days of the change of address.

R13-2-306. Change in Name of Registrant

A registrant whose name has changed shall notify the Department in writing within 30 days of the name change and may request a new identification card. If the registrant comes to the Department in person, the registrant shall present to the Department a government-issued photo identification card with the new name or court documents recording the name change and the fees under R13-2-102. If the registrant sends a request by mail, a registrant shall mail to the Department certified, notarized copies of any court documents with a 1" x 1 1/4" inch photo for the identification card photo and the applicable fee under R13-2-102.

Notices of Final Rulemaking

ARTICLE 4. REGULATION

R13-2-401. Denial of Agency License or Registration Certificate

- A.** The Department shall deny an applicant for an agency license or registration certificate if the Department determines that the applicant does not meet the requirements of A.R.S. §§ 32-2422 or 32-2441, or there are grounds for denial under A.R.S. § 32-2459. The Department shall notify the applicant of the reason for the denial by mail to the address listed on file at the Department. The Department shall include in the notification a statement advising the applicant that if the applicant contests denial, the applicant may do so by requesting a hearing in writing within 30 days of receiving the notification letter.
- B.** When the Department receives a request for a hearing:
1. The applicant will be notified of the date and the time of the hearing;
 2. The Department shall set the date for hearing at least 30 days after the date of the notification letter;
 3. The applicant may request an informal settlement conference under A.R.S. § 41-1092.06 by submitting the request in writing within 20 days of the scheduled hearing date;
 4. The hearing will be held before the Private Investigator and Security Guard Hearing Board;
 5. If the applicant does not appear at the hearing, the hearing may be held in the applicant's absence, and the applicant shall be notified by certified mail of the hearing findings; and
 6. The hearing board shall prepare recommendations for the Director. The Director may adopt the recommendations in their entirety, modify them, or may decide the case upon the record.
- C.** A denied applicant may reapply no earlier than six months from the date of denial.

R13-2-402. Probation of Agency License or Registration Certificate

Upon recommendation of the Private Investigator and Security Guard Hearing Board, the Director may fix a period and terms of probation to protect the public health and safety and to rehabilitate or educate the licensee or registrant. A licensee may continue to operate and a registrant may continue to perform the duties of a private investigator during the period of probation, subject to the terms established by the Director.

R13-2-403. Employee and Business Records

Each licensee shall maintain, at the licensee's principal place of business, a file or record of the name, physical address, title, employment date, and date of termination of each partner, director, business associate, officer, manager, member, and employee for at least five years from the date of termination. The licensee shall make these files and records available for inspection by any peace officer, licensing personnel of the Department's licensing section, or other designated representative of the Department. The licensee shall submit copies of these records and any information pertaining to the records to the Department's licensing section upon request of the Department.

R13-2-404. Complaints

- A.** A person may make a written complaint against an entity or person regulated under this Chapter by filing the complaint with the Department. If the complaint involves an alleged violation of Arizona Revised Statutes, the Department shall investigate to ascertain whether a violation of the statute has occurred. The Department may forward a copy of the complaint to the entity or person against whom the complaint has been lodged and request the person to respond to the complaint as part of the investigation.
- B.** At the conclusion of the investigation, the Department shall forward a copy of the complaint, upon request, to the entity or person against whom the complaint has been lodged.
- C.** When an investigation is concluded, the Director may take an action listed in A.R.S. § 32-2457.

NOTICE OF FINAL RULEMAKING

TITLE 15. REVENUE

**CHAPTER 5. DEPARTMENT OF REVENUE
TRANSACTION PRIVILEGE AND USE TAX SECTION**

PREAMBLE

- | | |
|--|---|
| <p>1. <u>Sections Affected</u>
R15-5-617</p> | <p><u>Rulemaking Action</u>
Repeal</p> |
| <p>2. <u>The specific statutory authority for the rulemaking, including both the authorizing statute (general) and the implementing statute (specific):</u>
Authorizing statute: A.R.S. § 42-1005
Implementing statutes: A.R.S. § 42-5075</p> | |

Notices of Final Rulemaking

3. The effective date of the rule:

February 5, 2005

4. A list of all previous notices appearing in the Register addressing the final rule:

Notice of Rulemaking Docket Opening: 10 A.A.R. 1166, March 26, 2004
Notice of Proposed Rulemaking: 10 A.A.R. 1082, March 26, 2004

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Hsin Pai, Tax Analyst
Address: Tax Policy and Research Division
Department of Revenue
1600 W. Monroe, Room 810
Phoenix, AZ 85007
Telephone: (602) 716-6851
Fax: (602) 716-7995
E-mail: hpai@azdor.gov

Please visit the ADOR Web site to track the progress of these rules and other agency rulemaking matters at www.azdor.gov/tra/draftdoc.htm.

6. An explanation of the rule, including the agency's reasons for initiating the rulemaking:

Presently, A.A.C. R15-5-617: (a) discusses the two ways that contractors must report ("progressive billing" or "cash receipts"), (b) states that unused portions of allowable deductions may be carried forward to succeeding months, and (c) provides that homebuilders must report the total selling price as income "at the time of closing of escrow or transfer of title." A contractor cannot take a deduction related to income from the selling price before the contractor reports the income.

The current rule contains redundant, erroneous, and misleading information that warrants repeal, as explained below:

a. A.A.C. R15-5-617(A)'s statement that contractors must report on a progressive billing (work-in-progress, which is subsumed by the accrual method) or cash receipts basis is already apparent from A.A.C. R15-5-2211, which applies to administration of all transaction privilege tax classifications. The statement as it exists in R15-5-617(A) is thus redundant and even confusing due to the lack of definitions for "progressive billing" and "cash receipts."

b. In allowing a taxpayer to carry forward unused portions of allowable deductions to succeeding months, A.A.C. R15-5-617(B) is incorrect because a deduction arises from and operates on the gross proceeds or gross income of an individual transaction. It is thus illogical to allow a deduction to be applied or "carried forward" to a different transaction that occurs at a different point in time.

c. Finally, A.A.C. R15-5-617(C)'s statement that homebuilders "shall report as income the total selling price at the time of closing of escrow or transfer of title" is misleading because it assumes that the taxpayer is a party to the close of escrow or transfer of title. If the taxpayer receives its income from the selling price before the close of escrow, it is due and payable at that earlier date. The rule is misleading because it allows all taxpayers to delay reporting of transaction privilege tax until the time of a project's completion.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. A summary of the economic, small business, and consumer impact:

There should not be any significant economic impact from repealing the rule. Because the repeal eliminates provisions that are misleading or incorrect, a minimal impact may occur for certain contractors due to increased compliance measures. The agency expects that the benefits of the repeal to the public and the agency from achieving a better understanding of reporting obligations will be greater than the costs.

10. A description of the changes between the proposed rule, including supplemental notices, and final rule:

Not applicable

11. A summary of the comments made regarding the rule and the agency response to them:

The Department received no public comment on the proposed repeal of this rule.

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

None

13. Any material incorporated by reference and its location in the rule:

None

14. Was this rule previously made as an emergency rule?

No

15. The full text of the rule follows:

TITLE 15. REVENUE

CHAPTER 5. DEPARTMENT OF REVENUE

TRANSACTION PRIVILEGE AND USE TAX SECTION

ARTICLE 6. PRIME CONTRACTING CLASSIFICATION

Section

R15-5-617. ~~Basis of reporting~~ Repealed

ARTICLE 6. PRIME CONTRACTING CLASSIFICATION

R15-5-617. Basis of reporting Repealed

- ~~A.~~ Contractors shall report on a progressive billing basis or cash receipts basis.
- ~~B.~~ Unused portions of allowable deductions may be carried forward to succeeding months.
- ~~C.~~ Home builders, speculative or otherwise, shall report as income the total selling price at the time of closing of escrow or transfer of title. Deductions pertaining to this income may not be taken prior to the time the gross income is reported.

NOTICE OF FINAL RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 3. DEPARTMENT OF TRANSPORTATION – HIGHWAYS

PREAMBLE

1. Sections Affected:

Article 5
R17-3-501
R17-3-502
R17-3-503
R17-3-504
R17-3-505
R17-3-506
R17-3-507
R17-3-508
R17-3-509
R17-3-702

Rulemaking Action:

New Article
New Section
Repeal

2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. §§ 28-366

Implementing statute: A.R.S. §§ 28-7045; 28-7053, 28-7054

3. The effective date of the rules:

February 5, 2005

4. A list of all previous notices appearing in the Register addressing the final rules:

Notice of Rulemaking Docket Opening: 10 A.A.R. 1547, April 16, 2004

Notice of Proposed Rulemaking: 10 A.A.R. 1431, April 16, 2004

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Wendy S. LeStarge, Manager

Address: Department of Transportation

Notices of Final Rulemaking

206 S. 17th Ave., MD 004R
Phoenix, AZ 85007

Telephone: (602) 712-4142
Fax: (602) 712-3380
E-mail: wlestarge@dot.state.az.us

Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters at www.dot.state.az.us/about/rules/index.htm.

6. An explanation of the rules, including the agency's reasons for initiating the rulemaking:

Arizona Revised Statutes §§ 28-7045, 28-7053, and 28-7054 grant authority to the Arizona Department of Transportation ("ADOT") to control and protect the state highways and state highway rights-of-way. This rulemaking explains and implements the procedure of how a person or entity requests permission to access or use a state highway right-of-way in the form of an encroachment permit. This rulemaking concerns the requirements, procedures, and conditions to obtain an encroachment permit to conduct any type of activity within the state highway right-of-way. This rulemaking arises from proposed agency action in the 5-year review report approved by the Governor's Regulatory Review Council on May 2, 2000 (F-00-0402). The rulemaking amends the language so that it is clear, concise, and understandable, and complies with the Secretary of State's rulemaking standards.

7. A reference to any study relevant to the rules that the agency reviewed and either relied on in its justification for the rules or did not rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

8. A showing of good cause why the rules are necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact:

The economic impact of having an encroachment permit program is substantial. ADOT incurs substantial costs for administering the program, but the alternative would be to limit access or change to a state highway or ADOT right-of-way. ADOT's nine Engineering Districts issue encroachment permits for the jurisdictions they oversee. ADOT issued approximately 2,633 permits in FY 2003. The Districts employ 23 employees to review, administer, and issue encroachment permits. However, numerous other ADOT employees can be involved in the review process, depending on the type of encroachment.

Encroachment permits vary from a banner for a local parade encroaching in the ADOT right-of-way airspace to a multi-million dollar construction project installing a major commercial complex next to a state highway, including additional turning lanes and utility installation. Various entities can request encroachment permits, including individuals, contractors, political subdivisions, and federal agencies.

ADOT's rules will create restrictions on the permittee obtaining a permit. However the benefit is to obtain some type of access or perform some type of activity in the ADOT right-of-way without endangering the permittee or the traveling public, and without damaging state property.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Grammatical and organizational changes were made at the suggestion of the Governor's Regulatory Review Council's staff.

11. A summary of the comments made regarding the rules and the agency response to them:

ADOT did not receive any comments.

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

None

13. Incorporations by reference and their location in the rules:

None

14. Were these rules previously adopted as emergency rules?

No

15. The full text of the rules follows:

TITLE 17. TRANSPORTATION

CHAPTER 3. DEPARTMENT OF TRANSPORTATION – HIGHWAYS

ARTICLE 5. ~~RESERVED~~ HIGHWAY ENCROACHMENTS AND PERMITS

Section

<u>R17-3-501.</u>	<u>Definitions</u>
<u>R17-3-502.</u>	<u>Applicability</u>
<u>R17-3-503.</u>	<u>Who Can Apply for an Encroachment Permit</u>
<u>R17-3-504.</u>	<u>General Application Procedures</u>
<u>R17-3-505.</u>	<u>Supporting Documentation</u>
<u>R17-3-506.</u>	<u>Encroachment Permit Requirements</u>
<u>R17-3-507.</u>	<u>Review Procedures</u>
<u>R17-3-508.</u>	<u>Unauthorized Encroachments; Enforcement Actions</u>
<u>R17-3-509.</u>	<u>Hearings</u>

ARTICLE 7. HIGHWAY ENCROACHMENTS AND PERMITS

Section

<u>R17-3-702.</u>	<u>Encroachments in highway rights-of-way Repealed</u>
-------------------	--

ARTICLE 5. ~~RESERVED~~ HIGHWAY ENCROACHMENTS AND PERMITS

R17-3-501. Definitions

In this Article, unless otherwise defined, these terms have the following meanings:

- “Abutting property” means real property or interest in real property bordering a state highway right-of-way.
- “Adopt-a-highway” means a Department program that allows a group of persons access to a state highway right-of-way to conduct litter pickup on a designated portion of the state highway.
- “Airspace” means the space above real property.
- “Applicant” means a person or entity seeking to obtain an encroachment permit.
- “Department” means the Arizona Department of Transportation.
- “District Office” means one of the Department’s Engineering and Maintenance district offices.
- “Encroachment” means any use of, intrusion upon, or construction of improvement within a state highway right-of-way by any person or entity other than the Department for any purpose, temporary or fixed, other than public travel authorized by state statute.
- “Encroachment owner” means the person or entity responsible for creating or maintaining an encroachment on a state highway right-of-way.
- “Encroachment permit” means a written approval granted by the Department for construction of a fixed or temporary improvement within a state highway right-of-way, or for any activity requiring the temporary use of or intrusion upon a state highway right-of-way.
- “Engineering stationing” means the Department identification system to identify the location of a state highway feature.
- “Improvement” means any constructed facility or object, or alteration to any existing physical facility or object, or change in the elevation, slope, or drainage of a state highway right-of-way.
- “Permittee” means a person or entity to whom the Department issues an encroachment permit, and who is responsible for meeting the obligations, responsibilities, and specifications stated in the encroachment permit.
- “Right-of-way” means the real property or interest in real property on which state transportation facilities and appurtenances to the facilities are constructed or maintained.
- “Special event” means any temporary organized or supervised activity that could affect the normal operation of a state highway.
- “State highway” has the meaning prescribed in A.R.S. § 28-101(47).

R17-3-502. Applicability

- A.** A person or entity shall not encroach on a state highway right-of-way without obtaining an encroachment permit.
- B.** Only the following types of encroachments qualify for a Department encroachment permit:
 - 1. Access improvements to abutting properties, consistent with subsection (C)(6);
 - 2. Utility construction and maintenance, including underground and overhead;
 - 3. Drainage improvements;
 - 4. Airspace encroachments, such as overhanging signs, awnings, and banners;
 - 5. Landscaping;
 - 6. Special events;
 - 7. Removing or improving an existing encroachment;
 - 8. Rest area coffee breaks;
 - 9. Change in the principal activity or function of an abutting property where an access or utility encroachment has been constructed;
 - 10. Adopt-a-highway;

Notices of Final Rulemaking

11. Activities, such as surveying, performed to compile information about physical features in the highway right-of-way;
 12. Traffic control unrelated to the types of encroachments listed above for specific incidents, such as hazardous material removal, accident clean-up, or check points by government enforcement; and
 13. For such uses as the Director specifies.
- C.** An encroachment not listed under subsection (B) is ineligible to qualify for an encroachment permit and is an unauthorized encroachment. An unauthorized encroachment also includes:
1. Outdoor advertising signs, except as an overhang in subsection (B)(4);
 2. Parking areas;
 3. Sales of any service or thing;
 4. Bicycling, walking, horseback riding, or other activities prohibited under A.R.S. § 28-733;
 5. Any commercial or industrial activity; or
 6. Access to undeveloped property abutting a state highway, unless the applicant demonstrates a plan for:
 - a. Immediate development of the property evidenced by construction plans or building permits, or
 - b. Continuing maintenance of the undeveloped property.
- D.** A new owner of an existing permitted encroachment shall apply for an encroachment permit in the new owner's name within 30 days from the date of purchase of the abutting real property.

R17-3-503. Who Can Apply for an Encroachment Permit

- A.** Any person or entity, other than the Department, seeking an encroachment upon a state highway right-of-way shall apply to the Department for an encroachment permit.
- B.** Any person or entity is eligible to apply for an encroachment permit, except for an encroachment involving:
1. Access, only an abutting property owner is eligible to apply.
 2. Landscaping and aesthetic enhancements, only an abutting property owner or a political subdivision is eligible to apply.
 3. Utility installation, only an ultimate owner who will be responsible for maintenance and liability of the utility after it is put into service is eligible to apply. An ultimate owner includes a utility company, improvement district, political subdivision, or abutting property owner. A contractor or developer may apply if the contractor or developer provides evidence that an ultimate owner has approved plans and agrees to obtain an encroachment permit as a new owner upon completion of the utility installation.

R17-3-504. General Application Procedures

- A.** An applicant shall obtain an encroachment permit application form from the District Office serving the Department's district in which the proposed encroachment will be located.
- B.** An applicant shall include the following information on a District Office's encroachment permit application:
1. Name, address, city, state, zip code, telephone number, and signature of proposed encroachment owner;
 2. Name, address, city, state, zip code, telephone number, and signature of applicant, if different from proposed encroachment owner;
 3. Applicant's legal relationship to proposed encroachment owner;
 4. City nearest to the proposed encroachment;
 5. Location of proposed encroachment from the nearest milepost (in feet), including state highway route number, side of highway, and engineering stationing (if applicable); and
 6. Purpose of proposed encroachment, as listed in R17-3-502(B), and a description of the proposed work or activity in the right-of-way.
- C.** By signing an application, an applicant or proposed encroachment owner, or both, agree to accept the following general obligations and responsibilities:
1. Assume all legal liability and financial responsibility for the encroachment activity for the duration of the permit;
 2. Be responsible for any repair or maintenance work to the encroachment for the duration of the permit;
 3. Comply with the Department's traffic control standards;
 4. Obtain written approval from the abutting property owner if the encroachment encroaches on abutting property;
 5. Upon notice from the Department, repair any aspect or condition of the encroachment that causes danger or hazard to the traveling public;
 6. Remove the encroachment and restore the right-of-way to its original or better condition if the Department cancels the encroachment permit, and terminates all rights under the permit;
 7. Reimburse the Department for costs incurred or deposit with the Department money necessary to cover all costs incurred for activities related to the encroachment, such as inspections, restoring the right-of-way to its original or better condition, or removing the encroachment;
 8. Notify a new owner to apply for an encroachment permit, as required by R17-3-502(D);
 9. Apply for a new encroachment permit if the use of the permitted encroachment changes;
 10. Keep a copy of the encroachment permit at the work site or site of encroachment activity;
 11. Construct the encroachment according to plans that the Department approves as part of the final permit;

Notices of Final Rulemaking

12. Obtain required permits from other government agencies or political subdivisions;
13. Remove any defective materials, or materials that fail to pass the Department's final inspection, and replace with materials the Department specifies.

R17-3-505. Supporting Documentation

An applicant for an encroachment permit shall provide supporting documentation relevant to the type of encroachment activity and necessary to allow the Department to analyze the proposed encroachment's impact on the state highway and right-of-way, using such criteria as:

1. Whether the proposed encroachment is for commercial or residential access;
2. The proposed encroachment's impact on roadway features within the right-of-way;
3. The amount of traffic the proposed encroachment will generate;
4. Duration of the proposed encroachment;
5. The proposed encroachment's potential to disrupt traffic or change traffic patterns;
6. The surrounding terrain and physical features of the right-of-way and the abutting property; and
7. The number, size, and intended use of any buildings that would be accessed via the proposed encroachment.

R17-3-506. Encroachment Permit Requirements

A. An encroachment permit consists of the materials submitted by an applicant under R17-3-504 and R17-3-505, and additional requirements from the Department as described in subsection (B). An encroachment permit will list in detail the requirements with which the permittee shall comply in order to perform the requested encroaching activity. Some of the requirements are general and apply to every encroachment permit. Others are specific to a particular encroachment activity.

B. The Department shall set encroachment permit requirements to:

1. Maintain the integrity of the Department's right-of-way and transportation facilities;
2. Mitigate the risk to traffic safety;
3. Improve traffic movement, efficiency, and capacity;
4. Mitigate adverse drainage on state property or abutting property affecting state property;
5. Mitigate environmental impacts;
6. Mitigate maintenance costs to transportation facilities;
7. Mitigate potential liability for the Department or the state; and
8. Mitigate potential harms to national or state security.

C. By accepting an encroachment permit, a permittee agrees to the requirements described in the permit. If the permittee disagrees with the requirements, the permittee shall return the permit immediately to the District Office.

R17-3-507. Review Procedures

A. The Department shall conduct an administrative completeness review and substantive review of an application for an encroachment permit under A.R.S. §§ 41-1072 through 41-1077 and R17-1-102.

B. The Department shall decide whether to grant an encroachment permit based solely on the documents and information before the Department.

C. Decision.

1. The Department shall approve an encroachment permit if:
 - a. The proposed encroachment use is lawful.
 - b. The applicant provides complete and accurate information.
 - c. The proposed encroachment use qualifies under R17-3-502(B), and
 - d. The applicant agrees to comply with the Department's requirements as set out in the permit.
2. The Department shall deny an encroachment permit application if:
 - a. The proposed encroachment use is unlawful.
 - b. The applicant provides incomplete or inaccurate information.
 - c. The proposed encroachment use does not qualify under R17-3-502(B), or
 - d. The permittee disagrees with the requirements in the permit.
3. An applicant may appeal the Department's denial decision on an encroachment permit application as prescribed in R17-3-509.

R17-3-508. Unauthorized Encroachments; Enforcement Actions

A. An encroachment is unauthorized if:

1. A permittee fails to comply with the permit requirements.
2. A permittee provides false or inaccurate information on the encroachment permit application.
3. A person or entity fails to obtain an encroachment permit, or
4. The encroachment is unauthorized under R17-3-502(C).

B. An encroachment owner shall remove any unauthorized encroachment at the owner's own cost.

C. After considering the totality of the circumstances and in consultation with the Office of the Attorney General, the Depart-

Notices of Final Rulemaking

ment may refer a matter to the Office of the Attorney General according to A.R.S. §§ 28-7053 and 28-7054 for:

1. Enforcement against the owner of an unauthorized encroachment, or
2. Recovery of costs from the encroachment owner for the Department removing an unauthorized encroachment if the encroachment owner fails to remove the unauthorized encroachment.

R17-3-509. Hearings

The Department shall inform an applicant or permittee of the hearing procedures when the Department:

1. Denies an application for an encroachment permit, or
2. Determines that an encroachment is unauthorized.

ARTICLE 7. HIGHWAY ENCROACHMENTS AND PERMITS

R17-3-702. Encroachments in highway rights-of-way Repealed

A. Purpose and authority:

1. Purpose. ~~In order to adequately control highway rights of way, prevent their abuse, and unauthorized use, the Director herein wishes to prescribe the above referenced rule.~~
2. Authority A.R.S. § 28-108(19). ~~“The Director shall: . . . 19. Exercise complete and exclusive operational control and jurisdiction over the use of state highways and routes and prescribe such rules and regulations regarding such use as he deems necessary to prevent the abuse and unauthorized use of such highways and routes.”~~

B. Scope. ~~The rules and regulations herein established include permit application procedures, permit processing procedures, initial placement, adjustment, relocation, reconstruction and replacement for use of state highway rights of way.~~

C. Encroachment permit application procedures:

1. ~~Completed ADOT applications shall be sent to the appropriate district engineer. The district engineer is responsible within the district for all phases of implementing the control of encroachment permits from the initial application, review, approval, construction and final inspection.~~
2. ~~Plans required. Applicants shall submit a set of plans indicating highway route number, mileposts, highway engineering stations, and physical features such as buildings, bridges, culverts, poles and other stationary landmarks necessary to adequately describe the location. Permit applicants are encouraged to employ competent design professionals such as registered professional engineers or architects when preparing plans of a complex nature. Permit applications shall include four sets of plans on primary and secondary highways and five sets on interstate highways. Commonly used construction standards are included as Exhibit Numbers 1-9.~~
3. ~~Each application reviewed. All permit applications are initially submitted to the respective districts. Only when necessary, will the districts route them to the appropriate department, for comments. The findings will be forwarded to the district office for final evaluation and issuance. A copy of the permit is sent to Maintenance Permits Services for filing as well as for quality control, i.e., review for uniformity and consistency in compliance with ADOT standards, specifications and special requirements in the issuance of permits. No work is to be performed until the permit is approved. All work is to be in accordance with Arizona Department of Transportation standards.~~
4. ~~Time limit. Ninety calendar days will be the normal time allowed for completion of construction. Time limits beyond 90 days' time may be granted as determined by the Arizona Department of Transportation.~~
5. ~~Time extension. Applicants may apply for a time extension beyond the allotted time indicated on the permit by contacting the District office. If work has changed, a reapplication may be required.~~
6. ~~Transfer of permits. Permits are transferable upon sale of ownership provided new owner furnishes the Arizona Department of Transportation with a notification within 30 days after date of sale. It is the obligation of the permittee to notify the new owner of the necessity to apply for a change of ownership.~~
7. ~~Bonding:~~
 - a. ~~Performance bonds or other assurance of construction may be required to ensure faithful performance of a permittee's obligation. The amount shall be equal to one half the amount of the cost of the work or any other possible financial loss to the state (as determined by the district engineer).~~
 - b. ~~The performance bonds shall be executed by the applicant as principal with a corporation duly authorized to transact surety business in the state of Arizona. The bond shall be in favor of the Arizona Department of Transportation, shall be continuous in form, and shall be limited to the face amount of the bond irrespective of the number of years the bond is in force. The bond shall be released upon satisfactory performance and acceptance of the work or may be cancelled after the applicant has provided other security satisfactory to the Arizona Department of Transportation which will cover obligations that remain.~~
 - c. ~~In instances where an applicant is issued numerous small permits throughout the year, he may post a continuing bond to cover work under more than one permit. The continuing bond shall be of a value sufficient to cover all work under construction by the permittee at any time and shall be satisfactory to the district engineer.~~
 - d. ~~The bonding requirement may be waived when it can be determined by the district engineer that adequate protection is provided the Department to ensure satisfactory completion of the construction.~~
8. ~~Access:~~
 - a. ~~No access will be granted where access control rights have been legally established unless waived by the state~~

Notices of Final Rulemaking

- engineer in accordance with FHWA standards.
- b. Access to abutting property from within interstate or other freeway rights-of-way where permitted will be limited to:
 - i. Frontage roads except the merging entrance and exit ramp areas which will be subject to traffic engineering evaluation.
 - ii. Intersecting or nearby public roads and streets within interstate rights of way. At interchanges control for connections to the crossroad is normally effected beyond the ramp terminals by purchasing of access rights. Such control should extend along the crossroads beyond the ramp terminal 100 feet or more in urban areas and 300 feet or more in rural areas subject to traffic engineering evaluation.
 - c. Access from within primary, secondary or other conventional highway rights-of-way will be permitted in accordance with appropriate standards. (See Exhibits 1, 2 and 7.)
 - d. Median openings may be allowed on divided highways except interstate or other freeways provided they conform to Arizona Department of Transportation policy regarding the design and spacing of such openings. This policy will be provided applicants upon request.
 - e. Permits shall be only for the construction of new turnouts and driveways or changing the location of an existing driveway. They shall not be issued for the purpose of providing a parking area or for servicing of vehicles on highway right-of-way.
 - f. Joint driveways may become desirable for landowners of adjacent properties to require a joint driveway to service both properties. If this is the case, only one of the two adjacent landowners need apply for the access permit but a notarized written mutual agreement, signed by all parties involved, must accompany the application form.
9. Signs. On premise signs, displays, canopy, awning, or devices may be erected on structures occupying highway right-of-way airspace, but shall be limited to those indicating ownership and type of on-premise activities and shall be constructed in accordance with Arizona Department of Transportation Standards. (See Exhibit 9.) No portion of the structure support is allowed within highway right of way.
10. Landscaping.
- a. The Highway roadside is an integral unit of a total highway facility. The term "roadside" generally refers to the area between the outer edge of the roadway and the right of way boundary. These include all unpaved areas within the right-of-way.
 - b. All plans and specifications shall be sufficiently complete and detailed for easy analysis, cost estimating and compliance inspection and shall be submitted in accordance with "Roadside Development Landscaping Permit Guidelines" available to applicants upon request.
 - c. Permit applicants or their professional consultants may be required to discuss and coordinate landscape plans with the roadside development services prior to permit approval.
 - d. Plans shall be designed to select plant materials appropriate for the intended use and location, to arrange plants for optimum effect, and to ensure reasonable maintenance within the capability of the proposed permittee. Permit application will be reviewed for consideration of the factors which can affect the safe and efficient operation of the highway facility. It will be the responsibility of the permit applicant to assure that all landscaping is maintained after construction.
 - e. A clear line of sight must be maintained at all highway intersections and entrances; therefore, all plantings in this zone must be limited to an ultimate height of 30 inches or less.
 - f. Plants shall not be used where they may encroach upon drainage ways and impede their functional value or increase maintenance. It shall be the responsibility of the permit applicant to assure that all landscaping is maintained after construction.
11. Hydraulics. At the discretion of the district engineer the following information shall be submitted by permit applicants when any changes are made in drainage conditions:
- a. A narrative report including a description of the existing drainage conditions, the proposed revisions and the effect of the proposed changes on existing conditions;
 - b. Maps and/or drawings sufficient to show all pertinent features of the proposed modifications. This may include site maps, drainage area maps, contour maps, grading plans, structure profiles, channel profiles, etc.;
 - c. Hydrologic and hydraulic calculations when applicable for design discharge, headwater elevations, tailwater elevations, flow depths and flow velocities in channels.
12. Utilities. All use permits will be in accordance with the Arizona Department of Transportation Guide for Accommodating Utilities on Highway Rights of Way. If applicant has a utility agreement with Arizona Department of Transportation, this agreement shall be included with the application. Utility plans shall adequately show such features as pavement and right of way lines in relation to their proposed facilities. Plans shall clearly indicate any existing utilities in the area. (See Exhibit 8.) If plan symbols are used that are not standard, they shall be defined on the plans submitted.
13. Fences, gates and cattle guards. Applicants shall be responsible for assuring that stock do not enter upon the highway while modifying or installing fence, gates or cattle guards. Back fences shall be maintained in a stockproof condition.

Notices of Final Rulemaking

(See Exhibits 5 and 6.)

14. Jack or bore. Pipes, conduit or other utilities shall be jacked or bored through beneath paved areas. Pits may be placed in the median for boring, jacking or driving of pipes or conduits under divided roadways. The pit areas shall be completely fenced or barricaded and placed at a minimum distance of thirty feet from the edge of shoulder. Pavement cuts shall be considered only when jacking, boring or other alternatives are proven impractical and then only when approved by the district engineer. (See Exhibits 3 and 4.)
- ~~D.~~ Parades, motion pictures. Parade and motion picture requests shall be made in writing with an accompanying sketch and submitted directly to the appropriate district engineer. The request shall include:
1. Location,
 2. Purpose,
 3. Time -- date and hour,
 4. Length of time,
 5. Traffic control,
 6. Traffic reroute,
 7. A statement holding the Arizona Department of Transportation harmless in the event of any damage to persons or property which is caused by the event.
- ~~E.~~ Temporary signs or banners, including Christmas decorations. No temporary signs, banners or Christmas decorations shall be attached to any traffic control device, nor shall any such signs, banners or decorations interfere with operation of such devices. Requests for temporary signs or banners shall be made in writing and submitted directly to the appropriate district engineer. The request shall include:
1. Location,
 2. Height of sign or banner across highway (18 minimum),
 3. Size of sign or banner and wording,
 4. Inclusive dates sign or banner will hang,
 5. A statement holding the Arizona Department of Transportation harmless in the event of any damage to persons or property which is caused by this event,
 6. Legend.
- ~~F.~~ Traffic control and detours. Traffic shall be protected at all times in accordance with the Arizona Department of Transportation Traffic Control Manual. All signs, placement of signs, barricades, lights, and necessity of flagmen shall be the responsibility of the Permittee.
- ~~G.~~ Minimum setback:
1. 50 MPH or greater design speed:
 - a. Minimum setback of a fixed object from the edge of the traffic lane should be 30 feet unless one of the following reasons will allow for a lesser distance:
 - i. Cuts of 3 to 1 or steeper -- obstacles are allowed 10 feet behind the point of vertical intersection (P.V.I.) at the toe of the slope.
 - ii. Where concrete barriers, walls, abutments, or other rigid obstructions are used -- fixed objects may be placed 4 feet behind the obstructions.
 - iii. Where flexible guardrail (box beam, w beam, or cable) is used 6 to 20 feet behind the face of the guardrail, depending upon the type.
 - iv. Where there are barrier curbs (5" or more vertical face) near a traveled lane -- 6 feet behind the face of the curb; adjacent to a parking lane -- no definite setback distance.
 - b. Where limited right of way or the necessity for planting would result in less clearance, all factors in the particular problem area should be weighed to decide if a special exception is warranted.
 2. 50 MPH or less design speed:
 - a. Minimum setback of a fixed object from the edge of the traffic lane may be 25 feet unless one of the reasons set forth under paragraph (1) will allow for a lesser distance.
 - b. On curves, adequate sight distance for the design speed of the highway must be maintained.
- ~~H.~~ Rest area coffee breaks. Free coffee is allowed in rest areas for which donations may be accepted but not required if the following conditions are met:
1. The activity must be conducted for the expressed purpose of improving the safety of the highway travel and not as an advertisement of any organization or activity.
 2. The applicant must be a nonprofit organization with a concern for automotive, highway or driver safety.
 3. The activity must be carried on solely within the rest area apart from any ramp or other surface used for the movement of vehicles. The intent is to assure an absolutely safe operation. Permission will not be granted for such activity at rest areas where the activity could cause a backup along the ramps to the main lanes of the highway.
 4. The activity must have the approval of the appropriate DOT District Engineer and must meet other requirements of state law:
 - a. Applicant shall specify the rest area to be utilized on interstate or primary highways including route number and

Notices of Final Rulemaking

milepost. If on a divided highway with dual rest areas, both shall be utilized. This is to promote highway safety by alleviating the need of vehicles to cross the median illegally.

- b. Specific time and date that a "safety break" is to be in operation shall be stated by the applicant.
- c. In order to provide the least rest area interruption, the district shall designate the location to be utilized for the coffee break facility.
- d. Applicants must submit a sketch indicating the location, legend and size for any proposed signs. The district engineer shall have authority over type, size up to the maximum as stated in subdivision (v) below, and location of signs on or off the right of way.
- e. A letter for each request must state that the applicant agrees to abide by the following requirements:
 - i. The state accepts no liability for such activities.
 - ii. There shall be no impeding of traffic or normal use of the rest area.
 - iii. Erection and removal of all signs will be at no cost to the state.
 - iv. After the specified time for the activity has terminated, the applicant will be given 24 hours to remove all signs.
 - v. The maximum size of signs shall be limited to a rectangular 4' x 8' or one with an equivalent area.
 - vi. Any connection to rest area power shall be done in full compliance with OSHA safety requirements. The use of electrical cords outside the area of the facility will not be permitted.
 - vii. The connector to the rest area power source shall be so placed that it does not constitute a hazard to the public nor be an inconvenience to them. Permittee shall use only the connector furnished by the state. If no power is available, the permittee shall provide his own.
 - viii. Applicant shall be responsible for cleaning the site following use. Failure to do so will result in the district billing applicant for costs.
 - ix. No tools other than those manufactured for use on water faucets shall be used to secure water from rest area facilities.
 - x. Approval for requests will be made on a first come, first served basis; however, requests will not be accepted earlier than 45 days nor later than 7 days before the first date of proposed service. No formal permit will be issued; however, a letter of responses will originate from the appropriate district engineer with copies to the appropriate maintenance highway crew supervisor, DPS Office and maintenance permit engineer. The letter may also contain additional specific conditions for use of that particular rest area.

I. City issued state permits. When authorized by maintenance agreements with Arizona Department of Transportation, cities may issue permits to use state highway right of way. A city authorized to issue state highway permits is required to use state standard permit forms and follow such general state policies regarding encroachments as may be specified by Arizona Department of Transportation. State design standards may be modified in cases where city standards of design are more restrictive than state requirements, in which case city standards of design will be followed.

J. Maintenance responsibility. The adjacent property owners having access to a state highway shall be fully responsible for the maintenance of their driveway including the portion from the highway right of way line to the outside edge of the highway shoulder or curbline. This maintenance responsibility includes the removal of snow and ice and keeping the portion within the highway right of way in a safe condition for the general public. The owner shall be responsible for the maintenance of ditches, pipes, catch basins, grates, poles, gates, aerial wires, buried cables and other structures or installations placed in connection with encroachment permits. The owner will be given ten days notice to perform the required maintenance. After this period, the Director may then perform the required maintenance, and the owner shall be liable for the costs of such maintenance. If an emergency exists wherein there is an immediate hazard to the highway, the Director may perform the required remedial maintenance, and the owner shall be liable for all such costs incurred. The owner shall be responsible for any revisions or improvements required as a result of changed conditions of use after the permit is issued and/or after construction is completed, upon the direction of the Arizona Department of Transportation.

K. Unauthorized encroachments. A.R.S. § 28-1870 defines misuse of public highways or airports. Use of state highway rights of way shall be limited to authorized uses herein described. Any other uses will be permitted only by specific approval by the Director of Transportation. Owners of unauthorized property located in the state highway right of way will be notified that they are in violation of state law. If the encroachment has not been removed within the time prescribed, the Director may remove the unauthorized encroachment, and the owner shall be liable for the cost of such removal.

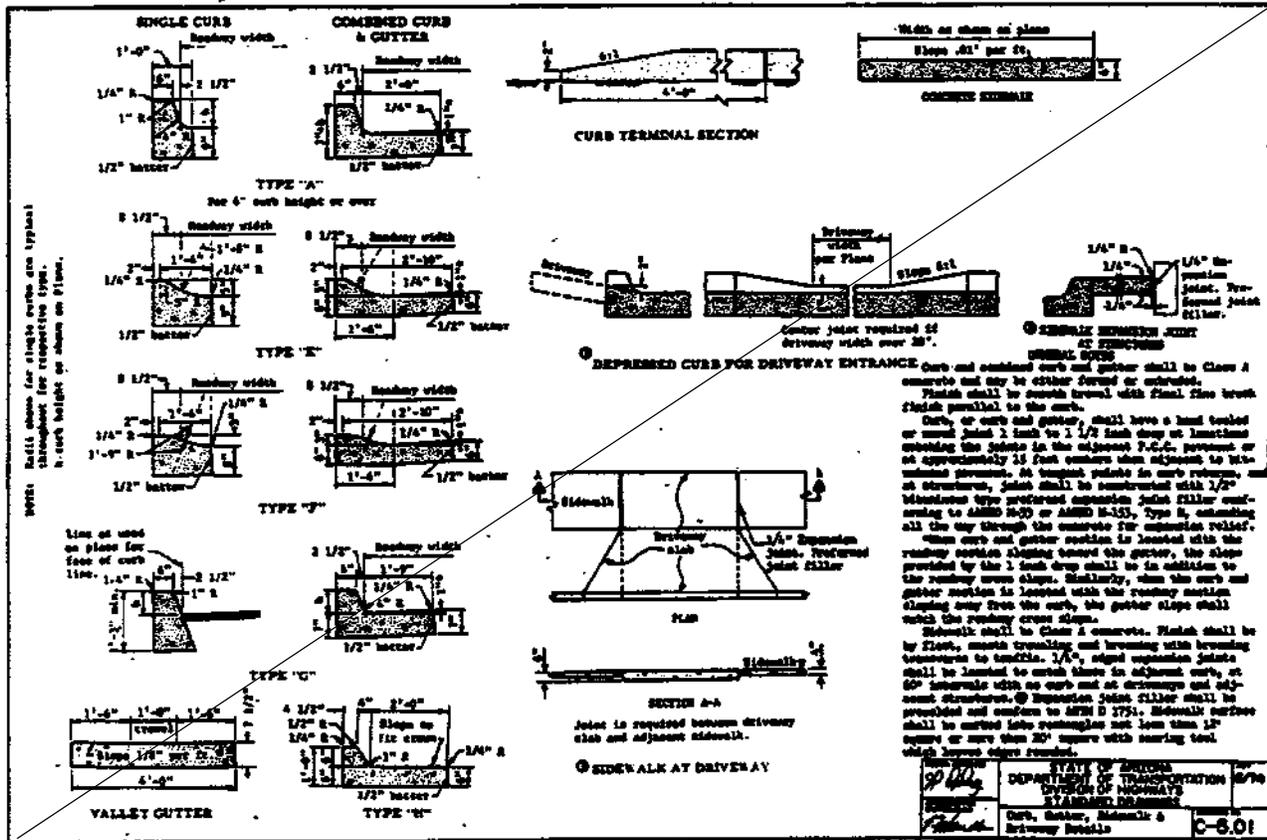
- 1. The following encroachments or uses of state highway rights of way will normally not be permitted:
 - a. Advertising signs;
 - b. Parking areas;
 - c. Sales of any article, service, or thing;
 - d. Bicycle, walking, equestrian or other activities on urban freeways;
 - e. Any commercial or industrial activity.
- 2. None of the above uses of state highway right of way will be permitted except for applications in special circumstances, and the use in no way conflicts with safe and efficient highway uses nor with highway maintenance or other

Notices of Final Rulemaking

authorized activities. Permits will always need to be acquired for these encroachments.

- Traffic hazards and permits. No permit shall be issued for any encroachment if it creates a traffic hazard. Applicants will adhere to the manual on Uniform Traffic Control Devices (copy of which is on file with the Secretary of State), R17-3-01 (repealed). No work shall be allowed without a properly approved permit.

EXHIBIT 1



Arizona Administrative Register / Secretary of State
Notices of Final Rulemaking

EXHIBIT 2

See proper city or county regulation.

RURAL DEVELOPMENT

URBAN DEVELOPMENT

SIGNAL STANDARDS

RURAL CROSS SECTION

URBAN CROSS SECTION

STATE OF ARIZONA
 DEPARTMENT OF TRANSPORTATION
 DIVISION OF HIGHWAYS
 STANDARD DRAWINGS
 TITHEM & ENGINEERS
 C-6.01

Regulatory Text:

Travel Through Pans...
 Section 27 A.C.T.A., Page A, Standard C-6, U. Item 8 graphic.
 This standard shall be the same as that shown for rural sections, unless otherwise stated.
 Exception or departure for standards shall be indicated by reference to other standards.
 Dimensions indicated in parentheses shall be provided wherever possible as clear of those indicated or detailed.
 Geometry and placement notes shall be treated as notes on plans or be directed by the engineer.
 The type 'A' shown is the preferred standard design. Type 'B' and 'C' shall only be used when specifically approved.
General Note:
 Residential - any providing parking in a single family residence, in a duplex, or in an apartment building containing two or fewer dwelling units.
 Commercial - any building existing or to be constructed for use as an office, retail or commercial building or to an apartment building having more than five dwelling units.
 Industrial - any building existing or to be constructed for use as a warehouse or for the storage of goods or materials in and from handling thereof in an industrial building, warehouse or stock yard.
 Structures for high voltage traffic purposes shall be approved individually by Traffic Engineering Section.
 Structures with daily access to other areas shall be approved only with the approval of Traffic Engineering Section.
 Joint Use Structures - It may become desirable for residents of adjacent properties to require a joint driveway to service both properties. If this is the case, the site of the use adjacent buildings shall apply for the normal permit, but a statement of joint use agreement, signed by all parties involved, must accompany the application form.
 Dimensions of curb, gutter and ditch, in other cases by the guidelines, along the portion of the highway frontage with joint driveway, may be a departure of the normal standard if there appears to be reasonable need.
 Storage structures shall be provided under driveway where necessary.

EXHIBIT 3

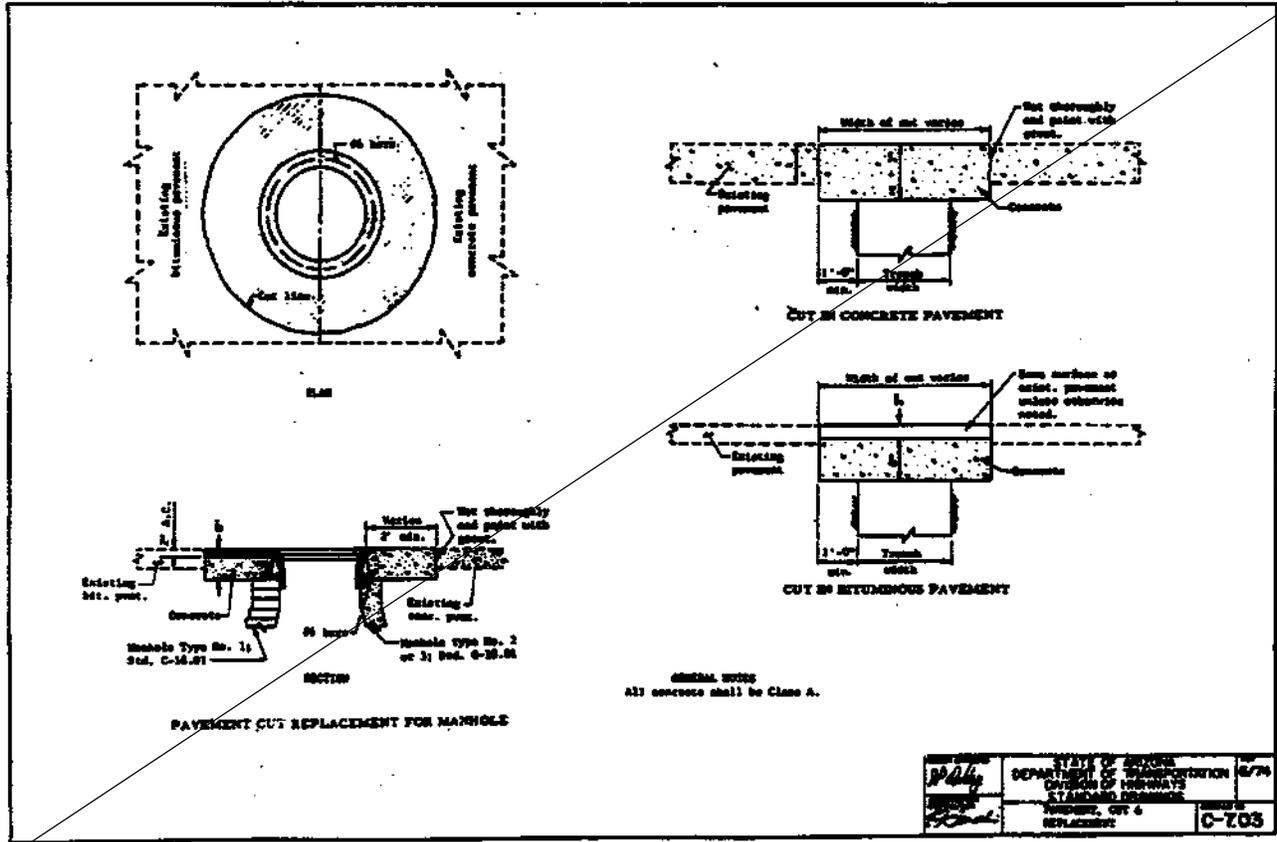


EXHIBIT 4

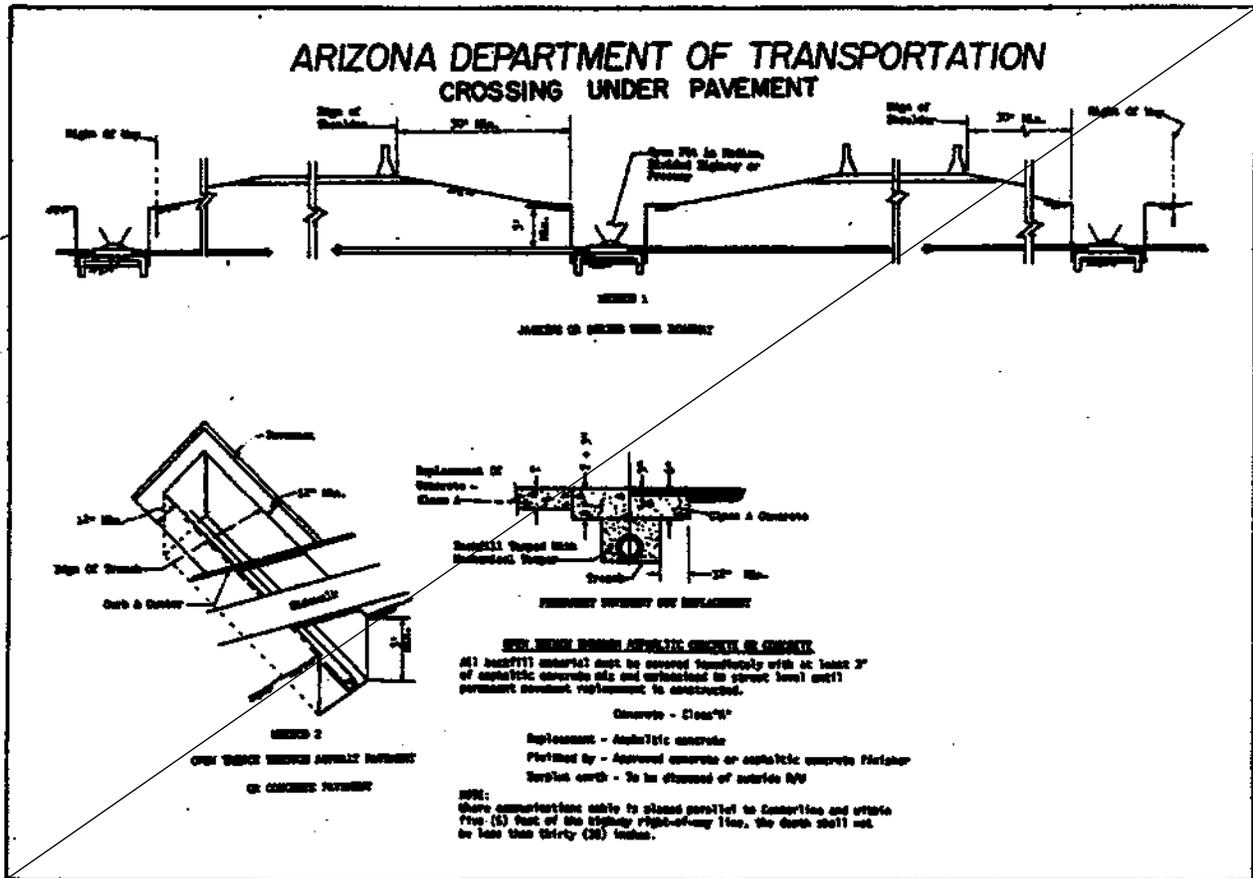


EXHIBIT 5

**BUSINESS AREA
AT RURAL FREEWAY INTERCHANGE**

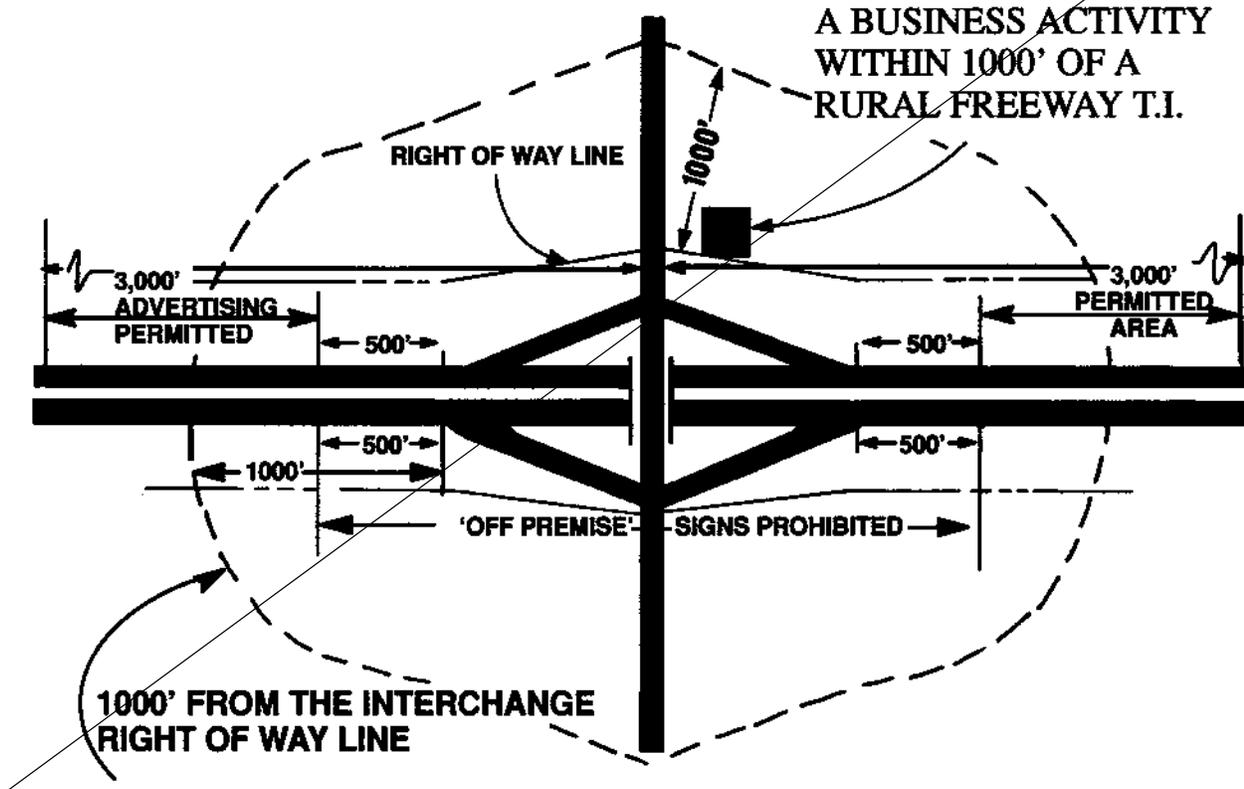
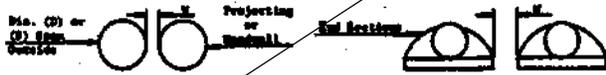
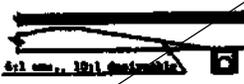
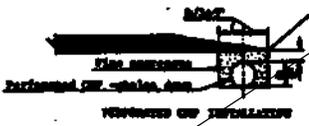
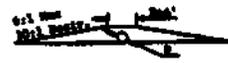


EXHIBIT 7



GENERAL NOTES
 Any required label and/or outlet protection shall be as called for on plans.
 See also: C-10.00 and remaining C-13.00 series standards.

Dia. or Spm	Projecting or Non-Projecting		End Section	
	Projection	Non-Projection	End Section	End Section
12" - 18"	1/2" or 3/4"	1/2" or 3/4"	1/2"	1/2"
18" - 24"	3/4"	3/4"	3/4"	3/4"
24" - 30"	1"	1"	1"	1"
30" - 36"	1 1/4"	1 1/4"	1 1/4"	1 1/4"
36" - 42"	1 1/2"	1 1/2"	1 1/2"	1 1/2"
42" - 48"	1 3/4"	1 3/4"	1 3/4"	1 3/4"
48" - 54"	2"	2"	2"	2"
54" - 60"	2 1/4"	2 1/4"	2 1/4"	2 1/4"
60" - 66"	2 1/2"	2 1/2"	2 1/2"	2 1/2"
66" - 72"	2 3/4"	2 3/4"	2 3/4"	2 3/4"
72" - 78"	3"	3"	3"	3"
78" - 84"	3 1/4"	3 1/4"	3 1/4"	3 1/4"
84" - 90"	3 1/2"	3 1/2"	3 1/2"	3 1/2"
90" - 96"	3 3/4"	3 3/4"	3 3/4"	3 3/4"
96" - 102"	4"	4"	4"	4"
102" - 108"	4 1/4"	4 1/4"	4 1/4"	4 1/4"
108" - 114"	4 1/2"	4 1/2"	4 1/2"	4 1/2"
114" - 120"	4 3/4"	4 3/4"	4 3/4"	4 3/4"
120" - 126"	5"	5"	5"	5"
126" - 132"	5 1/4"	5 1/4"	5 1/4"	5 1/4"
132" - 138"	5 1/2"	5 1/2"	5 1/2"	5 1/2"
138" - 144"	5 3/4"	5 3/4"	5 3/4"	5 3/4"
144" - 150"	6"	6"	6"	6"
150" - 156"	6 1/4"	6 1/4"	6 1/4"	6 1/4"
156" - 162"	6 1/2"	6 1/2"	6 1/2"	6 1/2"
162" - 168"	6 3/4"	6 3/4"	6 3/4"	6 3/4"
168" - 174"	7"	7"	7"	7"
174" - 180"	7 1/4"	7 1/4"	7 1/4"	7 1/4"
180" - 186"	7 1/2"	7 1/2"	7 1/2"	7 1/2"
186" - 192"	7 3/4"	7 3/4"	7 3/4"	7 3/4"
192" - 198"	8"	8"	8"	8"
198" - 204"	8 1/4"	8 1/4"	8 1/4"	8 1/4"
204" - 210"	8 1/2"	8 1/2"	8 1/2"	8 1/2"
210" - 216"	8 3/4"	8 3/4"	8 3/4"	8 3/4"
216" - 222"	9"	9"	9"	9"
222" - 228"	9 1/4"	9 1/4"	9 1/4"	9 1/4"
228" - 234"	9 1/2"	9 1/2"	9 1/2"	9 1/2"
234" - 240"	9 3/4"	9 3/4"	9 3/4"	9 3/4"
240" - 246"	10"	10"	10"	10"
246" - 252"	10 1/4"	10 1/4"	10 1/4"	10 1/4"
252" - 258"	10 1/2"	10 1/2"	10 1/2"	10 1/2"
258" - 264"	10 3/4"	10 3/4"	10 3/4"	10 3/4"
264" - 270"	11"	11"	11"	11"
270" - 276"	11 1/4"	11 1/4"	11 1/4"	11 1/4"
276" - 282"	11 1/2"	11 1/2"	11 1/2"	11 1/2"
282" - 288"	11 3/4"	11 3/4"	11 3/4"	11 3/4"
288" - 294"	12"	12"	12"	12"
294" - 300"	12 1/4"	12 1/4"	12 1/4"	12 1/4"
300" - 306"	12 1/2"	12 1/2"	12 1/2"	12 1/2"
306" - 312"	12 3/4"	12 3/4"	12 3/4"	12 3/4"
312" - 318"	13"	13"	13"	13"
318" - 324"	13 1/4"	13 1/4"	13 1/4"	13 1/4"
324" - 330"	13 1/2"	13 1/2"	13 1/2"	13 1/2"
330" - 336"	13 3/4"	13 3/4"	13 3/4"	13 3/4"
336" - 342"	14"	14"	14"	14"
342" - 348"	14 1/4"	14 1/4"	14 1/4"	14 1/4"
348" - 354"	14 1/2"	14 1/2"	14 1/2"	14 1/2"
354" - 360"	14 3/4"	14 3/4"	14 3/4"	14 3/4"
360" - 366"	15"	15"	15"	15"
366" - 372"	15 1/4"	15 1/4"	15 1/4"	15 1/4"
372" - 378"	15 1/2"	15 1/2"	15 1/2"	15 1/2"
378" - 384"	15 3/4"	15 3/4"	15 3/4"	15 3/4"
384" - 390"	16"	16"	16"	16"
390" - 396"	16 1/4"	16 1/4"	16 1/4"	16 1/4"
396" - 402"	16 1/2"	16 1/2"	16 1/2"	16 1/2"
402" - 408"	16 3/4"	16 3/4"	16 3/4"	16 3/4"
408" - 414"	17"	17"	17"	17"
414" - 420"	17 1/4"	17 1/4"	17 1/4"	17 1/4"
420" - 426"	17 1/2"	17 1/2"	17 1/2"	17 1/2"
426" - 432"	17 3/4"	17 3/4"	17 3/4"	17 3/4"
432" - 438"	18"	18"	18"	18"
438" - 444"	18 1/4"	18 1/4"	18 1/4"	18 1/4"
444" - 450"	18 1/2"	18 1/2"	18 1/2"	18 1/2"
450" - 456"	18 3/4"	18 3/4"	18 3/4"	18 3/4"
456" - 462"	19"	19"	19"	19"
462" - 468"	19 1/4"	19 1/4"	19 1/4"	19 1/4"
468" - 474"	19 1/2"	19 1/2"	19 1/2"	19 1/2"
474" - 480"	19 3/4"	19 3/4"	19 3/4"	19 3/4"
480" - 486"	20"	20"	20"	20"
486" - 492"	20 1/4"	20 1/4"	20 1/4"	20 1/4"
492" - 498"	20 1/2"	20 1/2"	20 1/2"	20 1/2"
498" - 504"	20 3/4"	20 3/4"	20 3/4"	20 3/4"
504" - 510"	21"	21"	21"	21"
510" - 516"	21 1/4"	21 1/4"	21 1/4"	21 1/4"
516" - 522"	21 1/2"	21 1/2"	21 1/2"	21 1/2"
522" - 528"	21 3/4"	21 3/4"	21 3/4"	21 3/4"
528" - 534"	22"	22"	22"	22"
534" - 540"	22 1/4"	22 1/4"	22 1/4"	22 1/4"
540" - 546"	22 1/2"	22 1/2"	22 1/2"	22 1/2"
546" - 552"	22 3/4"	22 3/4"	22 3/4"	22 3/4"
552" - 558"	23"	23"	23"	23"
558" - 564"	23 1/4"	23 1/4"	23 1/4"	23 1/4"
564" - 570"	23 1/2"	23 1/2"	23 1/2"	23 1/2"
570" - 576"	23 3/4"	23 3/4"	23 3/4"	23 3/4"
576" - 582"	24"	24"	24"	24"
582" - 588"	24 1/4"	24 1/4"	24 1/4"	24 1/4"
588" - 594"	24 1/2"	24 1/2"	24 1/2"	24 1/2"
594" - 600"	24 3/4"	24 3/4"	24 3/4"	24 3/4"
600" - 606"	25"	25"	25"	25"
606" - 612"	25 1/4"	25 1/4"	25 1/4"	25 1/4"
612" - 618"	25 1/2"	25 1/2"	25 1/2"	25 1/2"
618" - 624"	25 3/4"	25 3/4"	25 3/4"	25 3/4"
624" - 630"	26"	26"	26"	26"
630" - 636"	26 1/4"	26 1/4"	26 1/4"	26 1/4"
636" - 642"	26 1/2"	26 1/2"	26 1/2"	26 1/2"
642" - 648"	26 3/4"	26 3/4"	26 3/4"	26 3/4"
648" - 654"	27"	27"	27"	27"
654" - 660"	27 1/4"	27 1/4"	27 1/4"	27 1/4"
660" - 666"	27 1/2"	27 1/2"	27 1/2"	27 1/2"
666" - 672"	27 3/4"	27 3/4"	27 3/4"	27 3/4"
672" - 678"	28"	28"	28"	28"
678" - 684"	28 1/4"	28 1/4"	28 1/4"	28 1/4"
684" - 690"	28 1/2"	28 1/2"	28 1/2"	28 1/2"
690" - 696"	28 3/4"	28 3/4"	28 3/4"	28 3/4"
696" - 702"	29"	29"	29"	29"
702" - 708"	29 1/4"	29 1/4"	29 1/4"	29 1/4"
708" - 714"	29 1/2"	29 1/2"	29 1/2"	29 1/2"
714" - 720"	29 3/4"	29 3/4"	29 3/4"	29 3/4"
720" - 726"	30"	30"	30"	30"
726" - 732"	30 1/4"	30 1/4"	30 1/4"	30 1/4"
732" - 738"	30 1/2"	30 1/2"	30 1/2"	30 1/2"
738" - 744"	30 3/4"	30 3/4"	30 3/4"	30 3/4"
744" - 750"	31"	31"	31"	31"
750" - 756"	31 1/4"	31 1/4"	31 1/4"	31 1/4"
756" - 762"	31 1/2"	31 1/2"	31 1/2"	31 1/2"
762" - 768"	31 3/4"	31 3/4"	31 3/4"	31 3/4"
768" - 774"	32"	32"	32"	32"
774" - 780"	32 1/4"	32 1/4"	32 1/4"	32 1/4"
780" - 786"	32 1/2"	32 1/2"	32 1/2"	32 1/2"
786" - 792"	32 3/4"	32 3/4"	32 3/4"	32 3/4"
792" - 798"	33"	33"	33"	33"
798" - 804"	33 1/4"	33 1/4"	33 1/4"	33 1/4"
804" - 810"	33 1/2"	33 1/2"	33 1/2"	33 1/2"
810" - 816"	33 3/4"	33 3/4"	33 3/4"	33 3/4"
816" - 822"	34"	34"	34"	34"
822" - 828"	34 1/4"	34 1/4"	34 1/4"	34 1/4"
828" - 834"	34 1/2"	34 1/2"	34 1/2"	34 1/2"
834" - 840"	34 3/4"	34 3/4"	34 3/4"	34 3/4"
840" - 846"	35"	35"	35"	35"
846" - 852"	35 1/4"	35 1/4"	35 1/4"	35 1/4"
852" - 858"	35 1/2"	35 1/2"	35 1/2"	35 1/2"
858" - 864"	35 3/4"	35 3/4"	35 3/4"	35 3/4"
864" - 870"	36"	36"	36"	36"
870" - 876"	36 1/4"	36 1/4"	36 1/4"	36 1/4"
876" - 882"	36 1/2"	36 1/2"	36 1/2"	36 1/2"
882" - 888"	36 3/4"	36 3/4"	36 3/4"	36 3/4"
888" - 894"	37"	37"	37"	37"
894" - 900"	37 1/4"	37 1/4"	37 1/4"	37 1/4"
900" - 906"	37 1/2"	37 1/2"	37 1/2"	37 1/2"
906" - 912"	37 3/4"	37 3/4"	37 3/4"	37 3/4"
912" - 918"	38"	38"	38"	38"
918" - 924"	38 1/4"	38 1/4"	38 1/4"	38 1/4"
924" - 930"	38 1/2"	38 1/2"	38 1/2"	38 1/2"
930" - 936"	38 3/4"	38 3/4"	38 3/4"	38 3/4"
936" - 942"	39"	39"	39"	39"
942" - 948"	39 1/4"	39 1/4"	39 1/4"	39 1/4"
948" - 954"	39 1/2"	39 1/2"	39 1/2"	39 1/2"
954" - 960"	39 3/4"	39 3/4"	39 3/4"	39 3/4"
960" - 966"	40"	40"	40"	40"
966" - 972"	40 1/4"	40 1/4"	40 1/4"	40 1/4"
972" - 978"	40 1/2"	40 1/2"	40 1/2"	40 1/2"
978" - 984"	40 3/4"	40 3/4"	40 3/4"	40 3/4"
984" - 990"	41"	41"	41"	41"
990" - 996"	41 1/4"	41 1/4"	41 1/4"	41 1/4"
996" - 1002"	41 1/2"	41 1/2"	41 1/2"	41 1/2"

MINIMUM SPACING FOR MULTIPLE INSTALLATIONS

STATE OF ARIZONA
 DEPARTMENT OF TRANSPORTATION
 DIVISION OF HIGHWAYS
 STANDARD DRAWINGS
 THE CURB INSTALLATION C-13.01

Arizona Administrative Register / Secretary of State
Notices of Final Rulemaking

EXHIBIT 8

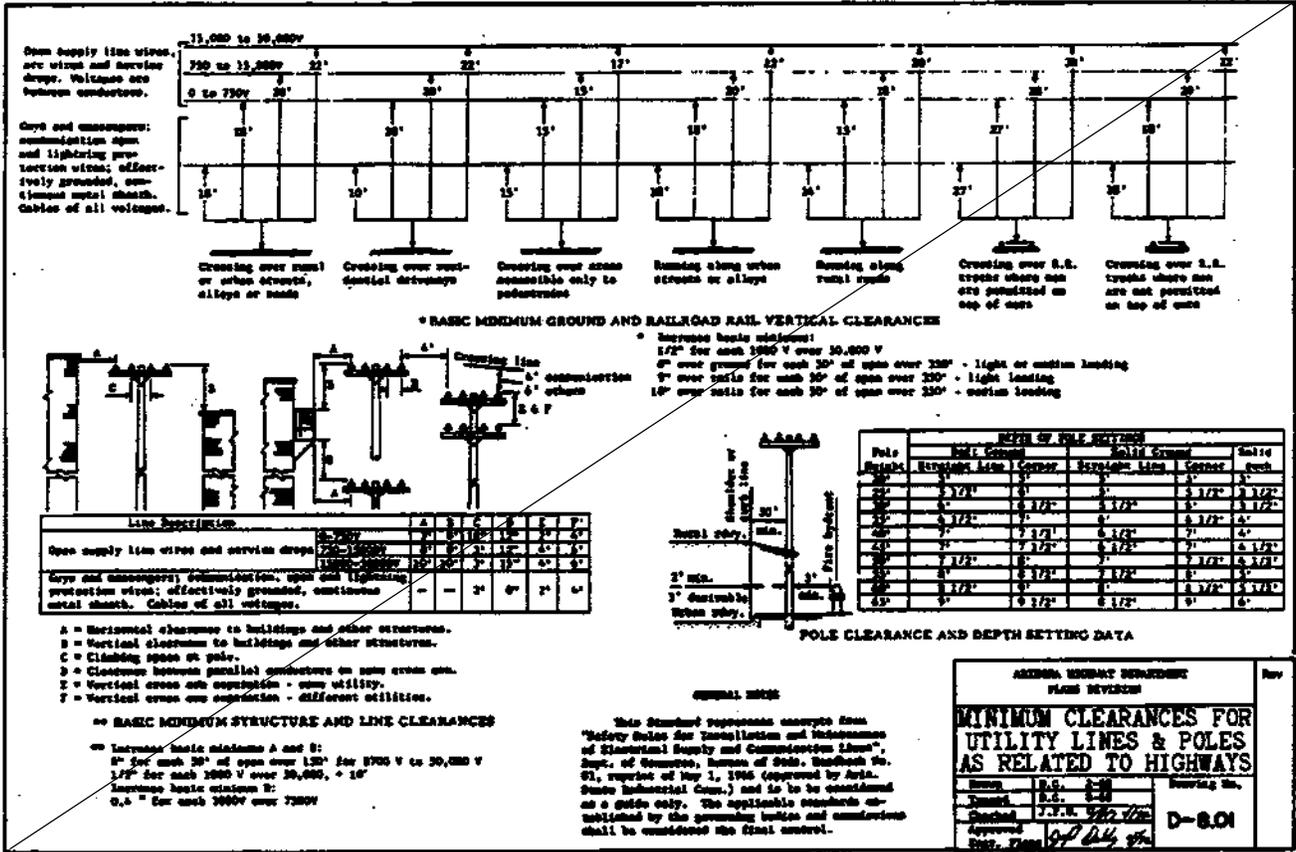
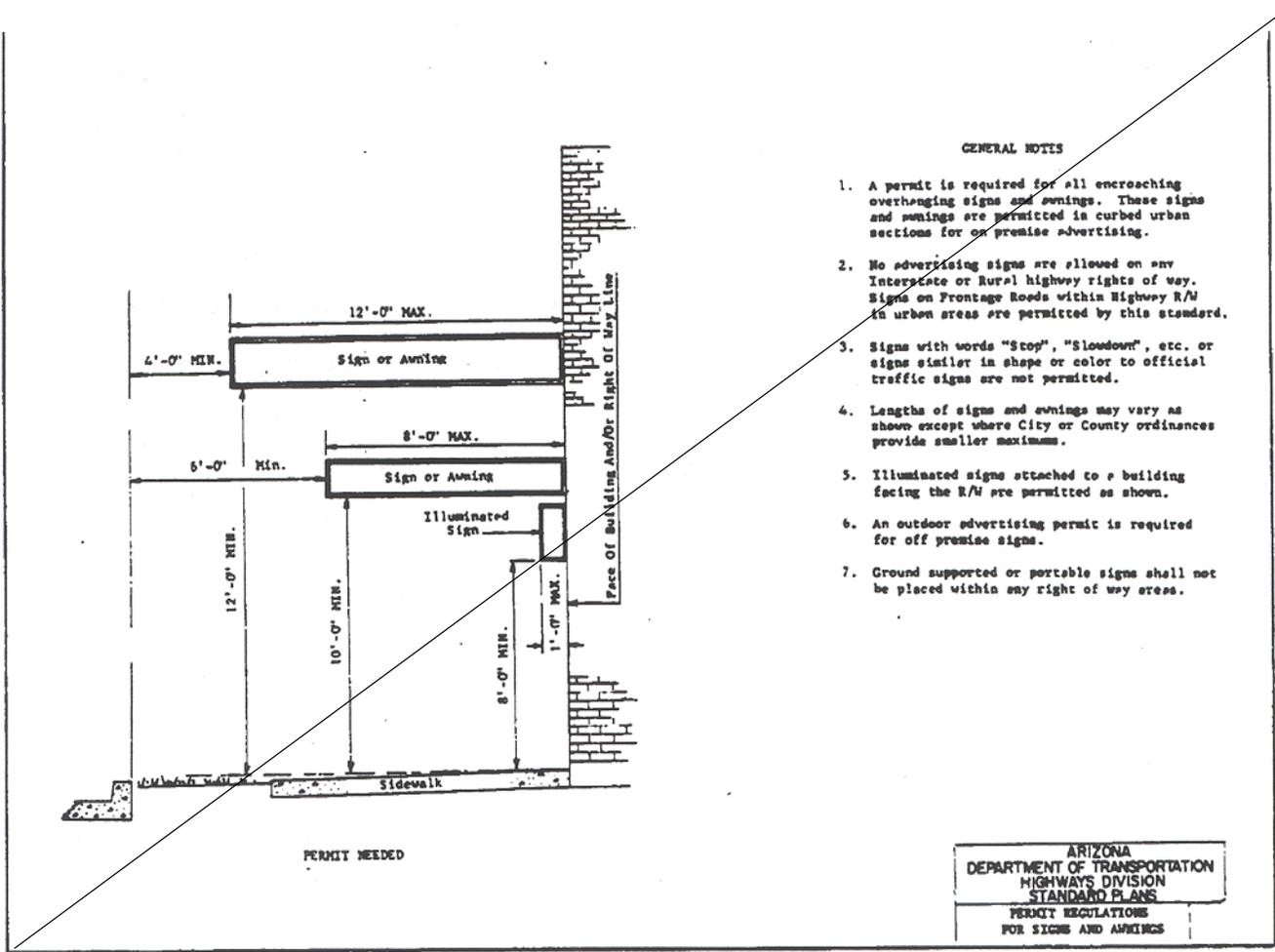


EXHIBIT 9



GENERAL NOTES

1. A permit is required for all encroaching overhanging signs and awnings. These signs and awnings are permitted in curbed urban sections for on premise advertising.
2. No advertising signs are allowed on any Interstate or Rural highway rights of way. Signs on Frontage Roads within Highway R/W in urban areas are permitted by this standard.
3. Signs with words "Stop", "Slowdown", etc. or signs similar in shape or color to official traffic signs are not permitted.
4. Lengths of signs and awnings may vary as shown except where City or County ordinances provide smaller maximums.
5. Illuminated signs attached to a building facing the R/W are permitted as shown.
6. An outdoor advertising permit is required for off premise signs.
7. Ground supported or portable signs shall not be placed within any right of way areas.

ARIZONA
DEPARTMENT OF TRANSPORTATION
HIGHWAYS DIVISION
STANDARD PLANS
PERMIT REGULATIONS
FOR SIGNS AND AWNINGS