

NOTICES OF PROPOSED RULEMAKING

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

NOTICE OF PROPOSED RULEMAKING

TITLE 17. TRANSPORTATION

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

Editor's Note: The following Notice of Proposed Rulemaking was reviewed per Laws 2009, 3rd Special Session, Ch. 7, § 28. (See the text of § 28 on page 2152.) The Governor's Office authorized the notice to proceed through the rulemaking process on November 10, 2009.

[R09-129]

PREAMBLE

- 1. Sections Affected**

R17-4-301	<u>Rulemaking Action</u>
R17-4-312	Amend
	New Section
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statutes: A.R.S. §§ 28-366 and 28-1177
Implementing statutes: A.R.S. §§ 28-1176 through 28-1181
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 15 A.A.R. 133, January 9, 2009
Notice of Rulemaking Docket Opening: 15 A.A.R. 2148, December 25, 2009 (*in this issue*)
- 4. The name and address of agency personnel with whom persons may communicate regarding the rule:**

Name: John Lindley, Administrative Rules Analyst
Address: Administrative Rules Unit
Department of Transportation, Motor Vehicle Division
1801 W. Jefferson St., Mail Drop 517M
Phoenix, AZ 85007
Telephone: (602) 712-8804
Fax: (602) 712-3373
E-mail: jlindley@azdot.gov
Please visit the ADOT web site to track the progress of this rule and any other agency rulemaking matters at <http://www.azdot.gov/MVD/MVDrules/rules.asp>.
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**

The Arizona Department of Transportation, Motor Vehicle Division, engages in this rulemaking to prescribe the application procedure, design and placement, and user fee associated with the off-highway vehicle user indicia prescribed under A.R.S. § 28-1177.
- 6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

None

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7. 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

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

The Division anticipates, as a result of this rulemaking, a minimal economic impact to qualified persons and business entities seeking to operate off-highway vehicles, as defined under A.R.S. § 28-1177, after December 31, 2008. Costs may include additional administrative expenses for preparing the prescribed application and a nominal user fee for each all-terrain vehicle or off-highway vehicle registered with the Department under A.R.S. § 28-1177, depending on the owner's declared use.

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

Name: John Lindley, Administrative Rules Analyst
Address: Administrative Rules Unit
Department of Transportation, Motor Vehicle Division
1801 W. Jefferson St., Mail Drop 517M
Phoenix, AZ 85007
Telephone: (602) 712-8804
Fax: (602) 712-3373
E-mail: jlindley@azdot.gov

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

Date: January 29, 2010
Time: 2:00 p.m.
Location: 1801 W. Jefferson St., Rm. 403
Phoenix, AZ 85007
Nature: Oral Proceeding/Public Hearing
The public record for this rulemaking will close at 5:00 p.m. on January 29, 2010.

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

None

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

None

13. The full text of the rules follows:

TITLE 17. TRANSPORTATION

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

ARTICLE 3. VEHICLE REGISTRATION

Section

R17-4-301. Definitions
R17-4-312. ~~Transferred~~ Off-highway Vehicle User Indicia

ARTICLE 3. VEHICLE REGISTRATION

R17-4-301. Definitions

Definitions. In addition to the definitions prescribed under A.R.S. §§ 28-101, 28-2231, and 28-5100, the following definitions apply to this Article, unless otherwise specified:

~~“Alternative form of registration” means an allocated registration, apportioned registration, interstate registration, and undersized mobile home plate registration.~~

“Apportioned commercial vehicle” means a commercial vehicle that is subject to the proportional registration provi-

sions prescribed under A.R.S. § 28-2233.

“Biennial” means once every two years.

“Business day” means a day other than a Sunday or holiday.

“Calendar quarter” means the following time periods established by the Division: January 1 to March 31, April 1 to June 30, July 1 to September 30, and October 1 to December 31.

“Day” means the 24-hour period from one midnight to the following midnight.

“Disabled person” means a recipient of public monies as a disabled individual under Title 16 of the Social Security Act.

~~“Director” means the Assistant Director for the Arizona Department of Transportation’s Motor Vehicle Division or the Assistant Director’s designee.~~

“Division” means the Arizona Department of Transportation’s Motor Vehicle Division.

“Division Director” means the Assistant Director for the Arizona Department of Transportation’s Motor Vehicle Division or the Assistant Director’s designee.

“Drop box” means a receptacle designated by the Division into which a person places vehicle registration forms and fees, and from which the Division retrieves these items daily.

“Effective date of registration” means the date the vehicle first becomes subject to registration fees in Arizona.

“Electronic delivery” means the transmission of registration and credit card information to the Division, by computer, through an ~~Authorized Third-party Electronic Delivery Provider~~ authorized third party electronic service provider.

“Emergency Vehicle Permit” means a document issued by the Division’s Enforcement Services Program to a private fire department for a single fire engine that authorizes the driver of a permitted vehicle to exercise the privileges prescribed under A.R.S. § 28-624.

“Expiration date” means the day, month, and year in which a vehicle registration expires.

“Fire Engine” means a motor vehicle containing fire-fighting equipment capable of extinguishing fires.

“IM147 Test” means the emissions test prescribed under A.R.S. § 49-542(F)(2)(a).

“Included vehicle” means a vehicle subject to annual or biennial Arizona registration unless otherwise excluded from the staggered registration prescribed under A.R.S. § 28-2159 and R17-4-304.

“Initial registration” means the first registration of an included vehicle in Arizona.

“OBD” means the On-Board Diagnostics emissions test prescribed under A.R.S. § 49-542(F)(2)(a).

“Off-highway vehicle” has the same meaning as prescribed under A.R.S. § 28-1171.

“Operator Requirements” means the requirements given in Chapter 2, Basic Driver/Operator Requirements, of the National Fire Protection Association Standard for Fire Apparatus Driver/Operator Professional Qualification (NFPA 1002), 1998 edition, which is incorporated by reference and on file with the Arizona Department of Transportation and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.

“Private ~~Fire Department~~ fire department” means a fire fighting business equipped to provide emergency fire-fighting devices for a private purpose that is neither a public service corporation nor a municipal entity.

“Private Fire Emergency Vehicle” means a fire engine operated by a private fire department for which an Emergency Vehicle Permit is issued.

“Registration” means the authorization, issued by the Division that allows a vehicle to use state highways.

“Registration fees” means the fees due to the Division at the time of registration and consisting of the general registration fees imposed ~~by~~ under A.R.S. § 28-2003, the vehicle license tax imposed ~~by~~ under A.R.S. § 28-5801, and the commercial registration and gross weight fees imposed ~~by~~ under A.R.S. § 28-5433.

“Registration period” means the time-frame during which a vehicle registration is valid.

“Renewal registration” means the second and subsequent registration of an included vehicle.

R17-4-312. ~~Transferred Off-highway Vehicle User Indicia~~

A. For lawful Arizona off-highway operation, the owner or operator of a qualifying all-terrain vehicle, off-highway vehicle, or off-road recreational motor vehicle shall apply to the Department for an off-highway vehicle user indicia as prescribed under A.R.S. § 28-1177. The owner or operator shall submit to the Division:

1. The off-highway vehicle user indicia application provided by the Division; and
2. The fee prescribed under subsection (C).

B. The owner or operator shall indicate, on the application submitted to the Division under subsection (A), one of the following categories of intended vehicle usage:

1. Exclusively off-highway;
 2. Primarily off-highway, occasionally on-highway; or
 3. Primarily on-highway, occasionally off-highway.
- C.** The fee for each off-highway vehicle user indicia issued or renewed by the Department under A.R.S. § 28-1177 is \$25.
- D.** The off-highway vehicle user indicia, issued by the Division under subsection (A), shall have the same basic design as the license plate tab issued by the Division for other types of vehicles and shall contain the letters OHV.
- E.** The applicant shall display the off-highway vehicle user indicia in the upper left corner of the license plate issued by the Division under A.R.S. Title 28, Chapter 7, Articles 11 through 15.