

TITLE 17. TRANSPORTATION

CHAPTER 1. DEPARTMENT OF TRANSPORTATION
ADMINISTRATION

ARTICLE 1. GENERAL PROVISIONS

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

Section

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Table A.	Recodified
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Table A.	Motor Vehicle Division
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R17-1-103.	Petition for Department Rulemaking or Review
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ARTICLE 2. FEES

Article 2, consisting of Sections R17-1-202 through R17-1-204, recodified from 17 A.A.C. 4 at 7 A.A.R. 3477, effective July 20, 2001 (Supp. 01-3).

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ARTICLE 3. TAXES

Article 3, consisting of Sections R17-1-301 through R17-1-349, transferred from Title 17, Chapter 4, Article 3 (Supp. 92-4).

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R17-1-324.	Renumbered
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R17-1-328.	Renumbered

R17-1-329.	Renumbered
R17-1-330.	General requirements; collection of use fuel tax by vendor; form of invoice; approval of invoice form; disposition of invoices
R17-1-331.	Repealed
R17-1-332.	Repealed
R17-1-333.	Repealed
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R17-1-336.	Repealed
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R17-1-339.	Renumbered
R17-1-340.	Renumbered
R17-1-341.	Renumbered
R17-1-342.	Renumbered
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R17-1-346.	Procedure to estimate use fuel consumption
R17-1-347.	Procedure to estimate percentage of consumption of use fuel in each county
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ARTICLE 4. REPEALED

Article 4, consisting of Sections R17-1-401 through R17-1-407, repealed by final rulemaking at 15 A.A.R. 182, effective March 7, 2009 (Supp. 09-1).

Article 4, consisting of Sections R17-1-401 through R17-1-407, made by final rulemaking at 8 A.A.R. 3236, effective July 10, 2002 (Supp. 02-3).

Section

R17-1-401.	Repealed
R17-1-402.	Repealed
R17-1-403.	Repealed
R17-1-404.	Repealed
R17-1-405.	Repealed
R17-1-406.	Repealed
R17-1-407.	Repealed

ARTICLE 5. ADMINISTRATIVE HEARINGS

Section

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R17-1-502.	Request for Hearing
R17-1-503.	Notice of Hearing
R17-1-504.	Representation
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R17-1-510.	Document Filing
R17-1-511.	Continuing an Administrative Hearing
R17-1-512.	Rehearing and Judicial Review
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R17-1-514.	Maintaining Administrative Hearing Decorum

Department of Transportation – Administration

February 11, 2002 (Supp. 02-1).

Table A. Motor Vehicle Division

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

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

Historical Note

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

Table B. Intermodal Transportation Division

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

Historical Note

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

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

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

Historical Note

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

R17-1-104. Rulemaking Oral Proceeding

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

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

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

Historical Note

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

ARTICLE 2. FEES

R17-1-201. Definitions

In addition to the definitions prescribed under A.R.S. §§ 28-440 and 44-6851, the following terms apply to this Article:

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

“Batch” means a query-command method that initiates simultaneous production of an electronic file or series of requests that may have delayed results.

“Certified record” means a copy of a document designated as a true copy by the agency officer entrusted with custody of the original to be used for purposes prescribed under A.R.S. § 28-442.

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

“Interactive” means an electronic query-command method individually initiated by a person that produces immediate results.

“Reasonable costs” means 10 cents for each page of standard reproduction of documents and the actual costs for reproduction of documents which require special processing plus the reasonable clerical costs incurred in locating and making the documents available billed at the rate of \$10 per hour per person.

“Special MVR” means a motor vehicle record that is comprised of the least possible subset of information necessary to respond to the type of request received.

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

“Support document” means any customer record maintained by the agency in an electronic, hardcopy, or micro-film file storage format.

Historical Note

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

R17-1-202. MVD Record Copy Charges

In accordance with A.R.S. §§ 12-351 and 28-446, for each separate request, the Division shall assess a charge as provided in Table 1. Certified and Uncertified Motor Vehicle Record Fees. Therefore, a fee is collected if the request results in a motor vehicle record or

“No Record Found.”

Table 1. Certified and Uncertified Motor Vehicle Record Fees

Description	Method of Delivery	Amount
A certified record:	Over-the-counter immediate or overnight service; Mail-in request; or Electronic interactive.	\$5
	Electronic batch.	\$3
A certified support document:	Over-the-counter immediate or overnight service; or Mail-in request.	\$5
An uncertified record:	Over-the-counter immediate service; Mail-in request; or Electronic interactive.	\$3
	Electronic batch; or Over-the-counter overnight service.	\$2
An uncertified support document:	Over-the-counter immediate or overnight service; or Mail-in request.	\$3
An uncertified Special MVR:	Over-the-counter immediate and overnight service; Mail-in request; or Electronic interactive.	\$1.50
Civil subpoena support documentation:	Over-the-counter immediate and overnight service; or Mail-in request.	Reasonable costs.
Any photocopied item: (Does not include... etc.)	Over-the-counter immediate and overnight service; or Mail-in request.	25¢ per page.

Historical Note

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

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

- A. In addition to the original payment amount, the maker or drawer of a check, draft, order, or electronic payment dishonored because of insufficient monies, payments stopped, or closed accounts shall pay to the Department:
 1. A service fee of \$25 as provided under A.R.S. §§ 28-372 and 44-6852,
 2. Any actual charges assessed to the Department by a financial institution as a result of the dishonored instrument, and
 3. Any collection costs due to the Department under A.R.S. § 28-372.
- B. For a check, draft, or order dishonored:
 1. Insufficient monies include:
 - a. A check written for less than the minimum amount due,
 - b. A check drawn against uncollected funds,
 - c. A check post-dated, or
 - d. A check stale-dated;

2. Payments stopped include an item marked refer to maker, and
 3. Closed accounts include an item marked unable to locate account.
- C.** For an electronic payment dishonored:
1. Insufficient monies include:
 - a. A credit limit exceeded,
 - b. An e-check or other electronic payment failure, or
 - c. An inaccurate automated clearing house transaction,
 2. Payments stopped include a credit card charge back, and
 3. Closed accounts include an item marked unable to locate account.
- D.** Payments, fees, and charges due to the Department under subsection (A), shall be made by:
1. Cash, cashier's check, money order, or credit card for a dishonored check, draft, or order; or
 2. Cash, cashier's check, or money order for a dishonored electronic payment.
- E.** Penalties.
1. A person who does not make payment under subsection (A) on or before the vehicle's registration expiration date is subject to a late title and registration penalty as prescribed under A.R.S. § 28-2162.
 2. A person who does not make payment under subsection (A) within 45 days after the date of a written Department notice of a dishonored check, draft, order, or electronic payment is subject to the following actions on the person's license, permit, or registration that was insufficiently funded:
 - a. For a driver license or permit, as prescribed under A.R.S. § 28-3301(A);
 - b. For a nonoperating identification license, as prescribed under A.R.S. § 28-3301(F); or
 - c. For a vehicle registration, as prescribed under A.R.S. § 28-2161(A)(2).

Historical Note

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

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

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

Historical Note

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

R17-1-205. Abandoned Vehicle Fees

- A.** The Department establishes the following fees under A.R.S. § 28-4802 for the transfer of ownership or disposal of an abandoned vehicle:
1. The fee is \$500 if the vehicle was abandoned as described under A.R.S. § 28-4802(A), and
 2. The fee is \$600 if the vehicle was abandoned as described under A.R.S. § 28-4802(B).
- B.** The Department establishes the following fees under A.R.S. § 28-4802 for processing an abandoned vehicle report:

1. The fee is \$8 if the report is submitted electronically, via the Department's authorized third-party electronic service provider; and
 2. The fee is \$10 if the report is submitted for processing by any other means.
- C.** The fee for processing the abandoned vehicle report is non-refundable unless provided for under A.R.S. § 28-373.

Historical Note

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

R17-1-206. MVD Facsimile Charges

In accordance with A.R.S. § 28-446, the Department shall assess a fee of \$2 per page for information or copies faxed to a requester.

Historical Note

New Section made by exempt rulemaking at 14 A.A.R. 4046, effective October 24, 2008 (Supp. 08-4).

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

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

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

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

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

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

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

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

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

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

R17-1-306. Motor vehicle fuel - distributor reports

- A.** That all distributors of motor vehicle fuel shall, in addition to the information now required of them as such, furnish to the Motor Vehicle Division of the Arizona Highway Department at the time of making their regular monthly report to the said Motor Vehicle Division, the following information:
1. Motor vehicle fuel on hand at first of month.
 2. Motor vehicle fuel acquired during month (sources itemized).
 3. Total sales during month.
 4. Total taxable sales during month.
 5. Sales to United States Government during month.
 6. Export sales during month (sources itemized).
 7. Motor vehicle fuel on hand end of month.
- B.** That sale of motor vehicle fuel to the Federal Government during the month must be supported by affidavit in the case of charge sales, and by submittal of U.S. Form 44 in the case of sales other than charge sales.
- C.** That the form on which the information hereby required is furnished and the form of affidavit to be used in supporting charge sales to the United States Government shall be pre-

scribed by the Motor Vehicle Superintendent, and shall be furnished by him.

Historical Note

Former Rule, General Order 14. Former Section R17-4-05 renumbered without change as Section R17-4-306 (Supp. 87-2). Renumbered from R17-4-306 (Supp. 92-4).

R17-1-307. Repealed

Historical Note

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

R17-1-308. Repealed

Historical Note

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

R17-1-309. Motor vehicle fuel - distributor reports of sales by counties

- A. Each county in the state of Arizona participates in motor vehicle fuel taxes in the proportion that sales in such county bear to the total sales throughout the state.
- B. The statutes require that the county in which a sale is completed by a distributor (county in which delivery is made, irrespective of the source of supply) shall be credited with the sale.
- C. It is essential that the accounting office of the distributor and the Motor Vehicle Division shall definitely know the county in which a delivery is made by a distributor.
- D. On and after November 1, 1936, each distributor's invoice and duplicates covering a sale of motor vehicle fuel in this state shall designate the name of the county in which such fuel is delivered by the distributor. Such designation shall be made at the time the invoice is prepared by writing or stamping the name of the county in a conspicuous place on the invoice and duplicates, preferably following the name or address of the purchaser.

Historical Note

Former Rule, General Order 31. Former Section R17-4-11 renumbered without change as Section R17-4-309 (Supp. 87-2). Renumbered from R17-4-309 (Supp. 92-4).

R17-1-310. Repealed

Historical Note

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

R17-1-311. Repealed

Historical Note

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

R17-1-312. Repealed

Historical Note

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

R17-1-313. Repealed

Historical Note

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

R17-1-314. Repealed

Historical Note

Former Rule, General Order 69. Former Section R17-4-27 renumbered without change as Section R17-4-314 (Supp. 87-2). Renumbered from R17-4-314 (Supp. 92-4). Section repealed by final rulemaking at 8 A.A.R. 563, effective January 15, 2002 (Supp. 02-1).

R17-1-315. Repealed

Historical Note

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

R17-1-316. Motor vehicle fuel - pipeline imports

- A. Imports of motor vehicle fuel via pipeline carriers: Authorization of report forms: and definition of "barrel,"
 1. A.R.S. § 28-1503 reads as follows:
 - a. On or before the twenty-fifth day of each month, every distributor shall file with the superintendent, on forms prescribed and furnished by the superintendent, a true and verified statement showing the total number of gallons of motor vehicle fuel refined, manufactured, produced, blended, compounded, imported or acquired during the preceding calendar month, the number of gallons of motor vehicle sold or otherwise disposed of by him for use in each of the several counties of this state and other and further data or information the superintendent requires.
 - b. Every distributor shall, in addition to making the report required in subsection (a) of this Section, upon receipt of any interstate shipment of motor vehicle fuel, forthwith report to the superintendent, on forms prescribed and furnished by the superintendent, the quantity and particular description of the fuel received, the name of the consignor, the date shipped, the date received, how shipped and other information in respect thereto the superintendent requires.
 2. To carry out the provisions of A.R.S. § 28-1503(B), it is ordered that a copy of the pipeline carrier's delivery ticket, as approved by the vehicle superintendent, is designated as the consignee report to be used by distributors receiving shipments of motor vehicle fuel via pipeline carrier.
- B. A.R.S. § 28-1515 reads, in part:
 1. Every railroad company, street, suburban or interurban railroad company, pipeline company, common carrier and

person transporting motor vehicle fuel by whatever manner to points in this state from any point without this state, shall report to the vehicle superintendent on forms prescribed by the superintendent, all deliveries of motor vehicle fuel so transported.

2. The report shall:
 - a. Cover monthly periods and shall be submitted monthly within twenty-five days after the close of the month covered by the report.
 - b. Show the name and address of the person to whom the deliveries of motor vehicle fuel have in fact been made, or the name and address of the originally named consignee if the fuel has been delivered to other than the originally named consignee.
 - c. Show the point of origin, the point of delivery and the date of delivery.
- C. To carry out the provisions of A.R.S. § 28-1515(A) and (B), it is ordered that a summary report of all shipments handled by the pipeline carrier, containing the information required in said Section, is authorized as the carrier's report.
- D. It is further ordered that the term "barrel," as used in connection with the shipment of motor vehicle fuel via pipeline, shall mean a quantity equivalent to 42 U.S. gallons.
- E. It is further ordered that motor vehicle fuel shall be deemed "possessed" and/or "imported" under A.R.S. §§ 28-1501, 28-1503 and 28-1515 when delivered by the pipeline carrier into the terminal storage facilities of the distributor in Arizona.

Historical Note

Former Rule, General Order 57. Former Section R17-4-20 renumbered without change as Section R17-4-316 (Supp. 87-2). Renumbered from R17-4-316 (Supp. 92-4).

R17-1-317. Motor vehicle fuel - importation reports

- A. Section 1686, Revised Code of the state of Arizona, as amended, defines motor vehicle fuel as follows: "Motor vehicle fuel shall mean and include any inflammable liquid, by whatsoever name such liquid may be known or sold, which is used or usable in motor vehicles, either alone or when mixed, blended or compounded, for the propulsion thereof upon the public highways . . ."
- B. Certain liquid petroleum products having an A.P.I. gravity greater than 24 at 60° F, such as diesel oil, stove oil, etc., not now classed as motor vehicle fuel, are being used to propel motor vehicles over the highways of this state and for mixing, blending or compounding motor vehicle fuel.
- C. Each person who delivers such products into the fuel tanks of motor vehicles, or who uses such products in mixing, blending or compounding motor vehicle fuels, is required to pay to the state of Arizona the five-cent-per-gallon motor vehicle fuel tax on such fuel so used.
- D. It is necessary that the Vehicle Superintendent know the sources of supply in this state of such products when used as motor vehicle fuel in order to ascertain that the tax has been paid to the state.
- E. Each distributor and each person shall, upon receipt of any interstate shipment of liquid petroleum products having an A.P.I. gravity greater than 24 at 60° F, which might be classed as motor vehicle fuel, immediately report the receipt of such shipment to the Vehicle Superintendent in the manner prescribed in sections 1673c and 1674c, R.C.A., as amended by Chapter 70, Legislature of 1935, regular session, for immediately reporting receipt of interstate shipments of motor vehicle fuel.
- F. Each person transporting such products from a point without this state to a point within this state by means of any vehicle operated over the highways of this state shall immediately

report such shipment to the Vehicle Superintendent in the manner prescribed in Section 1675, R.C.A., as amended by Chapter 70, Legislature of 1935, regular session, for immediately reporting such shipments of motor vehicle fuel.

- G. Every railroad company transporting such products from a point without this state to a point within this state shall report such shipment to the Vehicle Superintendent on or before the 25th of the next succeeding month, in the manner as shipments of motor vehicle fuel are reported.
- H. Forms 70-3307 "Motor Vehicle Fuel Shipments to Arizona" shall be used for the above mentioned reports in the same manner as prescribed for their use in reporting shipments of motor vehicle fuel.
- I. Penalties prescribed by the statutes for noncompliance with respect to reporting shipments of motor vehicle fuel shall likewise apply for noncompliance with respect to reporting shipments of liquid petroleum products as above mentioned.

Historical Note

Former Rule, General Order 36. Former Section R17-4-12 renumbered without change as Section R17-4-317 (Supp. 87-2). Renumbered from R17-4-317 (Supp. 92-4).

R17-1-318. Repealed

Historical Note

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

R17-1-319. Repealed

Historical Note

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

R17-1-320. Repealed

Historical Note

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

R17-1-321. Repealed

Historical Note

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

R17-1-322. Repealed

Historical Note

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

R17-1-323. Repealed

Historical Note

Former Rule, General Order 2A. Former Section R17-4-

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

R17-1-324. Renumbered

Historical Note

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

R17-1-325. Renumbered

Historical Note

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

R17-1-326. Renumbered

Historical Note

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

R17-1-327. Renumbered

Historical Note

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

R17-1-328. Renumbered

Historical Note

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

R17-1-329. Renumbered

Historical Note

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

R17-1-330. General requirements; collection of use fuel tax by vendor; form of invoice; approval of invoice form; disposition of invoices

- A. Any sales of use fuel delivered into a vehicle fuel tank by a vendor on which no tax was collected will be presumed taxable to the vendor unless the vendor retains an invoice completed pursuant to the requirements of A.A.C. R17-1-330(B) showing that no tax was required to be collected on such sale.
- B. The invoice required by A.R.S. § 28-1568 shall contain the following preprinted information:
 - 1. Consecutive invoice numbers, which numbers shall be selected and used in such a way that a particular number will be used no more than once every four years by the licensed use fuel vendor.
 - 2. Use fuel tax license number of the vendor;
 - 3. Name and physical address of the vendor provided, however, that when a licensed use fuel vendor maintains multiple use fuel vending locations, separate invoices are required bearing
 - a. The name and account number reflected on the use fuel vendor’s license and
 - b. The city or place of such branch use fuel vending location.
 - 4. An entry line identified as “Plus Arizona Use Fuel Tax”; or if the posted pump price includes the Arizona Use Fuel Tax, an entry line identified as “Less Arizona Use Fuel Tax” together with the statement: “Posted pump price includes Arizona Use Fuel Tax.”

5. The following information block:

ARIZONA USE FUEL TAX INFORMATION BLOCK	
A	VEHICLE TYPE <input type="checkbox"/> USE CLASS <input type="checkbox"/> LIGHT CLASS
B	USE FUEL TAX YES <input type="checkbox"/> NO <input type="checkbox"/>
C	BULK SALE <input type="checkbox"/> <hr/> Type of Container

PLACE AN “X” IN CORRECT BOX(S)

The block shall be at least 2 inches wide and 2 1/2 inches high, and shall be in the form set forth above. Parts A and B must be completed on each vehicle fuel tank sale or delivery, and parts B and C must be completed on each sale or delivery into other than a vehicle fuel tank, except as provided for in A.A.C. R17-1-333(D).

- 6. The form of the invoice must be such that at least one simultaneous duplicate is prepared. The top sheet shall be marked “Original” and each succeeding sheet shall be marked “Copy.”
- C. Prior to use of the invoice forms provided for in this rule, the vendor shall submit the form, and any modifications to existing approved forms, to the Motor Vehicle Division, Arizona Department of Transportation, for approval.
- D. Whenever a vendor of use fuel prepares an invoice as required by this rule, the original shall be given to the purchaser of the use fuel and the original will be the only document deemed as valid for tax credit to the user. At least one copy of the invoice shall be indexed by the vendor as to calendar month of sale and maintained for audit in ascending invoice number order.

Historical Note

Adopted effective March 1, 1984 (Supp. 84-1). Former Section R17-4-67 renumbered without change as Section R17-4-330 (Supp. 87-2). Renumbered from R17-4-330 (Supp. 92-4).

R17-1-331. Repealed

Historical Note

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

R17-1-332. Repealed

Historical Note

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

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

Adopted effective March 1, 1984 (Supp. 84-1). Former Section R17-4-71 renumbered without change as Section R17-4-333 (Supp. 87-2). Amended effective December 30, 1987 (Supp. 87-4). Renumbered from R17-4-333 (Supp. 92-4). Section repealed by final rulemaking at 14 A.A.R. 316, effective March 8, 2008 (Supp. 08-1).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Historical Note

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

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

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

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

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

Historical Note

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

R17-1-348. Requirements to provide data pertaining to county highway miles

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

Historical Note

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

R17-1-349. Period of applicability

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

Historical Note

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The following definitions apply to this Article unless otherwise required:

1. "Administrative hearing" means a scheduled Executive Hearing Office proceeding for deciding a dispute based on the evidence presented to an administrative law judge. An administrative hearing includes:
 - a. Advance notice to participants of record,
 - b. An opportunity for witnesses to testify under oath, and
 - c. Presentation of documentary evidence.

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

Historical Note

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

13 A.A.R. 4598, effective February 3, 2008 (Supp. 07-4).

R17-1-502. Request for Hearing

- A. A petitioner or petitioner’s attorney shall file a request for a hearing:
 1. By mail or hand delivery to the Executive Hearing Office’s street address:
Executive Hearing Office, Arizona Department of Transportation, Motor Vehicle Division, 3737 N. 7th St., Suite 160, Phoenix, AZ 85014-5017;
 2. By fax to (602) 241-1624; or
 3. By e-mail to the Executive Hearing Office’s electronic mail address: hearingoffice@azdot.gov; and
 4. Timeliness of filing is determined as of the date the Executive Hearing Office receives a request for hearing.
- B. A request for hearing shall be submitted to the Executive Hearing Office within 15 days of the date of an agency action notice.
- C. A request for a hearing shall include the petitioner’s name, mailing address, and telephone number.

Historical Note

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

R17-1-503. Notice of Hearing

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

Historical Note

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

R17-1-504. Representation

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

Historical Note

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

R17-1-505; new R17-1-504 made by final rulemaking at 13 A.A.R. 4598, effective February 3, 2008 (Supp. 07-4).

R17-1-505. Administrative Hearing Procedure

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

Historical Note

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

R17-1-506. Administrative Hearing Evidence

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

Historical Note

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

R17-1-507. Time Computation

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

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

Historical Note

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

R17-1-508. Motion Practice

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

Historical Note

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

R17-1-509. Subpoena Issuance

- A.** In connection with an administrative hearing, an administrative law judge may issue a subpoena to compel the attendance of a witness or the production of documents or things.
1. A party or a party's attorney requesting a subpoena shall file a written subpoena request, briefly stating the substance of the evidence sought and why the evidence is necessary for the hearing.
 2. An administrative law judge has discretion to issue or deny a subpoena based on the:
 - a. Relevance of the evidence sought,
 - b. Reasonable need for the evidence sought, and
 - c. Timeliness of the request.
- B.** A party or a party's attorney requesting a subpoena shall:
1. Draft the subpoena in the correct format, including:
 - a. The caption and docket number of the matter;
 - b. A list of documents or things to be produced;
 - c. The full name and address of:
 - i. The custodian of the documents or things listed, or
 - ii. The person ordered to appear;

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

Historical Note

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

R17-1-510. Document Filing

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

Historical Note

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

R17-1-511. Continuing an Administrative Hearing

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

Historical Note

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

R17-1-512. Rehearing and Judicial Review

- A.** A party may file a written motion for rehearing with the executive hearing office, stating in detail the reasons a rehearing should be granted.
- B.** Unless otherwise provided by statute, a motion for rehearing is timely if received by the Executive Hearing Office within the later of:
1. Fifteen days after the date of in-person service of the administrative hearing decision, or
 2. Fifteen days after the mailing date of the administrative hearing decision.
- C.** A timely motion for rehearing stays an agency action, other than:
1. A summary suspension under A.R.S. § 41-1064(C), or
 2. An agency action sustained under subsection (J).
- D.** An administrative law judge may grant a rehearing for any of the following reasons materially affecting a party's rights:
1. Irregularity in the proceedings of the Arizona Department of Transportation or the Division, or any order or abuse of discretion, that deprived the moving party of a fair hearing;
 2. Misconduct of the Arizona Department of Transportation or the Division, its staff, an administrative law judge, or the prevailing party;

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

Historical Note

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

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

- A.** A petitioner issued a driving privilege suspension order under A.R.S. § 28-1385, may request summary review instead of a hearing.
1. The requirements of R17-1-502 apply to a summary review request.

2. The petitioner or the petitioner's attorney may include with the summary review request a written statement of:
 - a. The reasons why the Division should not suspend the petitioner's driving privilege, and
 - b. Reasons to find that at least one issue in subsections (C)(1) through (C)(3) is not met by the affidavit filed by a law enforcement officer with the Department.
- B.** An administrative law judge conducting summary review of a suspension order under A.R.S. § 28-1385 shall:
1. Conduct the summary review without the petitioner's presence,
 2. Examine the documents in the Executive Hearing Office case file, and
 3. Issue a written summary review decision sustaining or voiding the suspension order.
- C.** An administrative law judge conducting summary review of a suspension order under A.R.S. § 28-1385 shall consider the following factors:
1. Whether the law enforcement officer's certified report reflects the officer had reasonable grounds to believe the petitioner was driving or in actual physical control of a motor vehicle while under the influence of intoxicating liquor;
 2. Whether the law enforcement officer's certified report reflects the officer placed the petitioner under arrest for a violation of A.R.S. §§ 4-244(33), 28-1381, 28-1382, or 28-1383, and the petitioner complied with A.R.S. § 28-1321;
 3. Whether the law enforcement officer's certified report reflects petitioner's test results indicating at least the applicable alcohol concentration stated in A.R.S. § 28-1385; and
 4. Whether the petitioner's written statement of the reasons why the Division should not suspend the petitioner's driving privilege provides convincing evidence that at least one issue in subsections (C)(1) through (C)(3) was not met.

Historical Note

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

R17-1-514. Maintaining Administrative Hearing Decorum

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

Historical Note

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

ARTICLE 6. SOLICITATION

R17-1-601. Definitions

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

“Animal guide or service animal” means an animal that:
Completes a formal training program,

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

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

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

“Department” means the Arizona Department of Transportation.

“Department property” means real property and buildings under the jurisdiction of the Director, excluding a highway, highway right-of-way, excess right-of-way, property leased by the Department to a third party, and any sidewalk or paved area along the street frontage of the property that is not physically distinguishable from an adjacent municipal or other public sidewalk.

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

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

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

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

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

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

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

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

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

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

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

Historical Note

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

R17-1-602. Applicability; Exemptions

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

cipally of employees of state government agencies are exempt from the requirements of R17-1-607 and R17-1-608, as applicable.

Historical Note

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

R17-1-603. Application for Permit

- A. A person seeking to conduct a solicitation on Department property shall first apply to the Department for a permit by completing a solicitation request form provided by the Department.
- B. The person shall submit the completed solicitation request form by mail, fax, or e-mail as provided on the form at least 15 days before the desired effective date of the solicitation.
- C. A completed application is one that is legible and contains, at a minimum, all of the following information:
 1. The name, address, and telephone number of the applicant. If a permit is requested on behalf of an organization, the application shall also include the name, address, and telephone number of the organization, as well as its primary representative or contact person deemed in charge of and responsible for the proposed solicitation;
 2. The proposed effective date and approximate starting and concluding times of the proposed solicitation;
 3. The names of all persons who will take part in conducting solicitation activities on behalf of the applicant;
 4. The specific office location requested for the proposed solicitation;
 5. The general purpose of the proposed solicitation;
 6. Copies of all solicitation materials to be used so the Department can verify that the purpose of the solicitation does not violate R17-1-607(B)(3) or (4);
 7. Certification by the applicant that the applicant, and any person acting on behalf of the applicant, has not been convicted of a felony or misdemeanor offense involving dishonesty, fraud, theft, assault, battery, or other crime involving physical violence within five years of the date of the application; and
 8. The signature of the applicant acknowledging that he or she agrees to:
 - a. Comply with all requirements under this Article; and
 - b. Indemnify and reimburse the Department for claims and expenses arising out of the solicitor’s use of Department property, including any cleanup or damage repair costs associated with the solicitation incurred by the Department.
- D. The Department, to the extent necessary and as appropriate to the time, place, and manner of each proposed solicitation and the safety issues it may pose, may require an applicant to provide at the applicant’s own expense:
 1. Adequate liability insurance coverage in the form of a certificate of insurance listing the state of Arizona and the Arizona Department of Transportation as additional insured entities, and
 2. Adequate security services during solicitation activities.
- E. The Department shall consider the following criteria in determining whether one or more of the actions in subsection (D) is necessary and in the best interest of the state. The listed factors also apply in determining the amount of liability insurance coverage an applicant shall provide:
 1. Previous experience with similar solicitation activities,
 2. Data regarding the risk of the proposed solicitation activities,
 3. Security services required for similar solicitation activities in Arizona and the cost of those services, and

4. The applicant's ability to pay an insurance premium or security service provider.

Historical Note

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

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

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

Historical Note

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

R17-1-605. Permit Limitations

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

Historical Note

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

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

- A. If the Director approves an application for a solicitation permit, the permit:
 1. Shall expire after the approved solicitation time period specified on the permit, unless previously revoked;
 2. Shall not be valid for more than 90 days from the effective date approved by the Director;
 3. Shall not be transferred or assigned, in whole or in part, to any person other than the person or organization to whom the permit is issued; and
 4. May be renewed only upon submission of a new application.
- B. The Director shall deny an application for a permit for one or more of the following reasons:
 1. The solicitation is likely to:
 - a. Interfere with the work of an employee or daily business of the Department;
 - b. Create an unreasonable risk of injury to a person or risk of damage to property; or
 - c. Conflict with the time, place, manner, or duration of another solicitation for which a permit is already issued or pending;
 2. The applicant or the solicitation activity fails to comply with the requirements of this Article or any other applicable rule or statute;
 3. The applicant, or the person or organization on whose behalf the application was made, has:
 - a. Within 12 months of the date of application, had a previous solicitation permit revoked by the Department for non-compliance with a provision of this Article or any other applicable rule or statute; or
 - b. Within five years of the date of application, on three separate occasions, had a previous solicitation permit revoked by the Department for non-compliance with a provision of this Article or any other applicable rule or statute.
- C. If the Director denies an application for a solicitation permit, the Department shall send written notification of the Director's decision to the mailing address listed on the applicant's permit application, within three business days of denying the permit. The written notification shall state:
 1. The Department's reason for the denial, citing all applicable supporting statutes or rules;
 2. The applicant's right to request a hearing to appeal the Department's action under A.R.S. Title 41, Chapter 6, Article 6, and Article 5 of this Chapter; and
 3. The time-frame for requesting a hearing with the Department's Executive Hearing Office as prescribed under Article 5 of this Chapter.
- D. The scope of the hearing shall be limited to a determination of whether the Department possessed grounds to deny the solicitor's permit under subsection (B).

Historical Note

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

R17-1-607. Solicitor Responsibilities; Prohibited Activities

- A. After receiving express written permission from the Director for a solicitation on Department property, an approved solicitor shall:
 1. Provide a table to be used for all authorized solicitation activity;
 2. Present the original solicitation permit without any modifications or alterations, to an office supervisor at the approved location for inspection and sign-in prior to setting up a table or distributing materials;

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

Historical Note

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

R17-1-608. Signage Requirements

- A.** A solicitor approved for conducting a solicitation at any Department location shall provide, and prominently display beside each solicitation table, a sign that is clearly visible to the public.
1. The sign shall:
 - a. Be at least 22" wide and 28" high;
 - b. Be printed in black ink on plain white poster board; and
 - c. Include the following language using a minimum of one inch letters in Times New Roman font: "(Name of company or organization represented) is a private organization. Its representatives are not affiliated with, nor are they employees of, the state of Arizona or the Arizona Department of Transportation. By approval of this solicitation, the state of Arizona does not endorse any product or petition promoted by solicitors/representatives."
 2. The sign for a solicitor providing voter registration services shall include the following additional language using a minimum of one inch letters in Times New Roman font: "ADOT provides voter registration services inside all Motor Vehicle Division Customer Service offices and on the internet at www.ServiceArizona.com."
- B.** The sign required by the Department under subsection (A) shall contain no additions or modifications.

Historical Note

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

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

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

Historical Note

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