

NOTICE OF PROPOSED EXPEDITED RULEMAKING
TITLE 17. TRANSPORTATION
CHAPTER 4. DEPARTMENT OF TRANSPORTATION
TITLE, REGISTRATION, AND DRIVER LICENSES
PREAMBLE

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action**
- | | |
|-----------|-------------|
| R17-4-801 | Amend |
| R17-4-802 | Amend |
| R17-4-803 | New Section |
| Table 1 | New Table |
- 2. Citations to the agency’s statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**
- Authorizing statutes: A.R.S. § 28-366
Implementing statutes: A.R.S. §§ 28-446 and 28-455
- 3. Citations to all related notices published in the *Register* as specified in R1-1-409(A) that pertain to the record of the proposed expedited rules:**
- Notice of Rulemaking Docket Opening: 24 A.A.R. (*Register* editor to complete), September 14, 2018
- 4. The agency’s contact person who can answer questions about the rulemaking:**
- Name: Candace Olson, Rules Analyst
Address: Government Relations and Policy Development Office
Department of Transportation
206 S. 17th Ave., Mail Drop 140A
Phoenix, AZ 85007
Telephone: (602) 712-4534
E-mail: COlson2@azdot.gov
Web site: <http://www.azdot.gov/about/GovernmentRelations>
- 5. An agency’s explanation why the proposed expedited rule should be made, amended, repealed or renumbered under A.R.S. § 41-1027(A), and why expedited proceedings are justified under A.R.S. § 41-1001(16)(c):**

Pursuant to A.R.S. § 41-1027(A)(7), the Department is engaged in this expedited rulemaking to incorporate the changes proposed in the Department’s recent five-year review report on 17 A.A.C. Chapter 4, Article 8, Motor Vehicle Records, approved by the Governor’s Regulatory Review Council on March 6, 2018. The Department determined there is a need to update outdated, inconsistent, and incorrect text and add clarifying language for better understandability and accuracy. Some of these changes include changing the use of “Division” to “Department;” deleting unused definitions; and clarifying customer number, identification requirements, information needed to locate a record, and consent to release information. In

addition, the Department is expanding the available types of motor vehicle records (MVRs). Part of clarifying the definition of “customer number” includes combining it with the definition of “driver license number” in order to better reflect that a customer number and driver license number can be one and the same; this helps to streamline and keep current with the Department’s terminology.

The Department also made the determination that it would be more appropriate and would better serve the public to relocate R17-1-202, MVD Record Copy Charges and its corresponding Table 1, which details the fees charged by the Department for copies of the various types of records, to Article 8. This relocation would require the removal of the following definitions from R17-1-201, Definitions, to R17-4-801: “batch”, “interactive”, “reasonable costs”, and “support document.” In addition to relocation, terminology was updated in order to ensure accuracy, compliance, consistency in use, and to be current with the Department’s practice.

Additional changes include making minor technical changes to ensure conformity to the rulemaking format and style requirements of the Arizona Administrative Procedure Act and the Office of the Secretary of State.

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:

The Department did not review or rely on any study relevant to the rules.

7. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking 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 Department is exempt from the requirements under A.R.S. § 41-1055(G) to prepare and file an economic, small business, and consumer impact statement under A.R.S. § 41-1055(D)(2).

9. The agency’s contact person who can answer questions about the preliminary summary of the economic, small business and consumer impact of the proposed expedited rule:

Name: Candace Olson, Rules Analyst
Address: Government Relations and Policy Development Office
Department of Transportation
206 S. 17th Ave., Mail Drop 140A
Phoenix, AZ 85007
Telephone: (602) 712-4534
E-mail: COlson2@azdot.gov
Web site: <http://www.azdot.gov/about/GovernmentRelations>

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, and how persons may provide written comment to the agency on the proposed expedited rule under A.R.S. § 41-1027(E):

Written comments on the proposed rulemaking should be directed to the person listed in item 4. All comments must be received by the close of public record at 5:00 p.m. on September 26, 2018. The Department has scheduled the following oral proceeding for public comments:

Date: September 26, 2018
Time: 1:30 p.m.
Location: 206 S. 17th Ave., Rm. 107
Phoenix, AZ 85007
Nature: Oral Proceeding/Public Hearing

Pursuant to Title VI of the Civil Rights Act of 1964, and the Americans with Disabilities Act (ADA), the Department does not discriminate on the basis of race, color, national origin, age, gender, disability, or limited English proficient. Persons that require a reasonable accommodation based on language or disability should contact ADOT Civil Rights at (602) 712-8946 or civilrightsoffice@azdot.gov. Requests should be made as early as possible to ensure the state has an opportunity to address the accommodation.

Personas que requieren asistencia o una adaptación razonable por habilidad limitada en inglés o discapacidad deben ponerse en contacto con la Oficina de Derechos Civiles de ADOT al (602) 712-8946 or civilrightsoffice@azdot.gov. Las solicitudes deben hacerse tan pronto como sea posible para asegurar que el estado tiene la oportunidad de abordar el alojamiento.

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

There are no other matters prescribed by statute applicable to the Department or to any specific rule or class of rules.

a. Whether the rules require a permit, license, or agency authorization under A.R.S. § 41-1037(A), and whether a general permit is used and if not, the reasons why a general permit is not used:

These rules do not require the issuance of a permit, license, or agency authorization.

b. Whether a federal law is applicable to the subject of the rules, whether the rules are more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

The manner in which the Department may release information from MVRs is regulated by the Federal Driver's Privacy Protection Act of 1994 (DPPA), 18 USC 2721-2725, and A.R.S. Title 28, Chapter 2, Article 5. The DPPA stipulates who may receive personal information from MVRs and its applicable penalties. These rules follow the permissible uses as prescribed in A.R.S. § 28-455, which is in

keeping with the DPPA. The DPPA does not impose the criteria needed to request a record nor the length of time covered in a driver MVR. Therefore, the Department has determined that the rules in Article 8 are not more stringent than the corresponding federal law.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

No analysis was submitted to the Department.

12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

This rulemaking incorporates no materials by reference.

13. The full text of the rules follows:

TITLE 17. TRANSPORTATION
CHAPTER 4. DEPARTMENT OF TRANSPORTATION
TITLE, REGISTRATION, AND DRIVER LICENSES

ARTICLE 8. MOTOR VEHICLE RECORDS

Section

- R17-4-801. Definitions
- R17-4-802. Motor Vehicle Record Request
- R17-4-803. ~~Reserved~~ MVD Record Copy Charges
- Table 1. Certified and Uncertified Motor Vehicle Record Fees

ARTICLE 8. MOTOR VEHICLE RECORDS

R17-4-801. Definitions

In addition to the definitions under A.R.S. §§ 28-101 and 28-440, the following definitions apply to this Article, unless otherwise specified:

“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.

“Commercial driver license record” has the same meaning as a CDLIS motor vehicle record as defined in 49 CFR 384.105.

“Customer number” means the system-generated, or other distinguishing number, assigned by the ~~Division~~ Department to each person ~~conducting business with the Division~~ with a record on the Department’s database, which includes the driver license number assigned to a person for a driver license, identification card, or instruction permit.

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

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

~~“Driver license number” means the system-generated, or other distinguishing number, assigned by the Division to a person for a driver license, identification card, or instruction permit record.~~

“Driver record” means a motor vehicle record more specifically defined to include any data that pertains to a driver license, identification card, instruction permit, or driver related activities.

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

“Reasonable costs” has the same meaning as prescribed under A.R.S. § 12-351.

“Requester” means the person, as defined under A.R.S. § 41-1001, requesting a motor vehicle record.

“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.

“Support document” means any customer record maintained by the Department in an electronic, hardcopy, or microfilm file storage format.

“Title and registration record” means a motor vehicle record more specifically defined to include any data that pertains to a vehicle title or registration record.

R17-4-802. Motor Vehicle Record Request

- A. Identification requirements. The requester of a motor vehicle record shall present valid ~~photo~~ identification information as indicated on the motor vehicle record request form or by the Department at the time a motor vehicle record request is made.

- B. Charges and exemptions.** The requester of a motor vehicle record shall pay the appropriate motor vehicle record copy charge under ~~A.A.C. R17-1-202~~ R17-4-803, unless exempt under A.R.S. § 28-446.
- C. Motor vehicle record types.** Under this Article, the ~~Division~~ Department may release any of the following motor vehicle record types:
1. Title and Registration record, uncertified;
 2. Title and Registration record, certified;
 3. Driver 39-month record, uncertified;
 4. Driver five-year record, certified;
 5. Driver extended history record, certified; ~~and~~
 6. Special MVR, uncertified;:
 7. Commercial driver license record, uncertified;
 8. Support documents, uncertified; and
 9. Support documents, certified.
- D. ~~Permissible use record request~~ Search Criteria.** A requester who has a permissible use under A.R.S. § 28-455, ~~except as indicated under subsection (E) when using the permissible use under A.R.S. § 28-455(C)(11), shall~~ provide at least one of the items of information listed in this subsection when requesting a motor vehicle record. The requester may need to provide additional information as needed in order to locate the record.
1. For a title and registration motor vehicle record:
 - a. Vehicle identification number,
 - b. License plate number, or
 - c. Vehicle owner's full name.
 2. For a driver motor vehicle record:
 - a. The full name of the person whose record is requested, or
 - ~~b. Driver license number, or~~
 - ~~e-b.~~ Customer number.
- E. ~~Non-permissible use~~ Consent to release motor vehicle record request.** A requester who ~~does not have a~~ uses the permissible use under A.R.S. § 28-455, ~~but who presents either a notarized Consent To Release Motor Vehicle Record - General form #96-0276 or 28-455(C)(13) shall present a properly signed~~ Consent To Release Motor Vehicle Record - One-Time form #96-0463 from the person whose motor vehicle record is requested shall provide the items of information listed in this subsection when requesting a motor vehicle record. A requester who uses the permissible use under A.R.S. § 28-455(C)(11) shall present a properly signed Consent To Release Motor Vehicle Record - General form from the person whose motor vehicle record is requested if that person has not previously submitted this form to the Department. In addition, a requester who uses the permissible use under A.R.S. § 28-455(C)(11) shall provide the items of information listed in this subsection. The Consent To Release Motor Vehicle Record forms are available at all Customer Service and Authorized Third Party Provider offices and online at ~~http://mvd.azdot.gov/mvd/FormsandPub/mvd.asp~~ https://www.azdot.gov.
1. For a title and registration motor vehicle record:

- a. ~~The vehicle identification number and license plate number~~ Two items under subsection (D)(1), and
 - b. ~~The vehicle owner's full name, or~~
 - e-b. ~~The vehicle owner's residence address.~~
2. For a driver motor vehicle record:
- a. The name and ~~driver license number or~~ customer number of the person whose record is requested, and
 - b. The person's date of birth, or
 - c. The person's address, or
 - d. The person's Arizona driver license expiration date.
- F.** General consent to release information. The ~~Division~~ Department shall record a person's general consent to release information on the person's driver and title and registration records.
- 1. The general consent to release information is valid until revoked, in writing, by the person.
 - 2. A person may submit the written notice of revocation:
 - a. In person, at a Customer Service office or Authorized Third Party Provider; or
 - b. By mail, ~~at~~ to Motor Vehicle Division, ~~1801 W. Jefferson St.,~~ P.O. Box 2100, Mail Drop 500M,
Phoenix, ~~Arizona 85007-2100~~ AZ 85001-2100.
- G.** Insurance companies requesting a driver ~~or title and registration~~ record. The ~~Division~~ Department shall not release to an insurer, broker, managing general agent, authorized agent or insurance producer any information in a person's driving record pertaining to a traffic violation that occurred 40 months or more before the date of a request for the release of the information.

R17-4-803. ~~Reserved~~ MVD Record Copy Charges

In accordance with A.R.S. §§ 12-351 and 28-446, for each separate request, the Department 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

<u>Description</u>	<u>Method of Delivery</u>	<u>Amount</u>
<u>A certified record:</u>	<u>Over-the-counter immediate or drop-off service;</u> <u>Mail-in request; or</u> <u>Electronic interactive.</u>	<u>\$5</u>
	<u>Electronic batch.</u>	<u>\$3</u>
<u>A certified support document:</u>	<u>Over-the-counter immediate or drop-off service; or</u> <u>Mail-in request.</u>	<u>\$5</u>
<u>An uncertified record:</u>	<u>Over-the-counter immediate service;</u> <u>Mail-in request; or</u> <u>Electronic interactive.</u>	<u>\$3</u>

	<u>Electronic batch; or</u> <u>Over-the-counter drop-off service.</u>	<u>\$2</u>
<u>An uncertified support document:</u>	<u>Over-the-counter immediate or drop-off service; or</u> <u>Mail-in request.</u>	<u>\$3</u>
<u>An uncertified Special MVR:</u>	<u>Over-the-counter immediate or drop-off service;</u> <u>Mail-in request; or</u> <u>Electronic interactive.</u>	<u>\$1.50</u>
<u>Civil subpoena support</u> <u>documentation:</u>	<u>Served by a process server.</u>	<u>Reasonable</u> <u>costs</u>
<u>Any photocopied item:</u> <u>(Does not include... etc.)</u>	<u>Over-the-counter immediate or drop-off service; or</u> <u>Mail-in request.</u>	<u>25¢ per page</u>