

**NOTICE OF PROPOSED EXPEDITED RULEMAKING**  
**TITLE 17. TRANSPORTATION**  
**CHAPTER 8. DEPARTMENT OF TRANSPORTATION**  
**FUEL TAXES**  
**PREAMBLE**

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action**
- |           |       |
|-----------|-------|
| R17-8-401 | Amend |
| R17-8-403 | Amend |
| R17-8-404 | Amend |
| R17-8-501 | Amend |
| R17-8-502 | Amend |
| R17-8-504 | Amend |
- 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, 28-374, and 28-5930  
Implementing statutes: A.R.S. §§ 28-5618, 28-5619, 28-5620, and 28-5625
- 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: 25 A.A.R. (*Register* Editor to complete), August 23, 2019
- 4. The agency’s contact person who can answer questions about the rulemaking:**
- Name: Candace Olson, Rules Analyst  
Address: Rules and Policy Development  
Department of Transportation  
206 S. 17th Ave., Mail Drop 180A  
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 An agency’s explanation why the proposed expedited rule should be made, amended, repealed or renumbered under A.R.S. § 41-1027(A), and why expedited proceedings are justified under A.R.S. § 41-1001(16)(c):**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 five-year review report on 17 A.A.C. Chapter 8, Articles 4 and 5, which was approved by the Governor’s Regulatory Review Council on May 7, 2019. The Department determined that these rules should be updated and improved for clarity and for a better reflection of the Department’s process and needs. This rulemaking includes updates and clarification to the definitions and

the removal of old and inconsistent information including the allowance of a paper form in R17-8-502(D) since the Department no longer allows for this. The Department is also clarifying the electronic funds declaration requirements by changing the “fee or tax” verbiage to “payment” to more accurately classify the data needed from the licensee, requiring additional information from the contact person to ensure the Department has the appropriate information and method of being able to contact the licensee, and adding a requirement for a signature of a person authorized to sign for the licensee as the signature attests to the licensee’s declaration of the use of either credit or debit to make fuel tax payments to the Department.

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: Rules and Policy Development  
Department of Transportation  
206 S. 17th Ave., Mail Drop 180A  
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 expedited 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 5, 2019. The Department has scheduled the following oral proceeding for public comments:

Date: September 5, 2019  
Time: 11:00 a.m.  
Location: 206 S. 17<sup>th</sup> 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](mailto: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 o [civilrightsoffice@azdot.gov](mailto: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 concern the requirements of filing electronic fuel tax reports and remitting payments by licensees and applicants for licensure under A.R.S. Title 28, Chapter 16, Article 1. The license for these entities would be considered a general permit since for each license type the facilities, activities, or practices in the class are substantially similar in nature.

**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:**

There are no federal laws directly applicable to these rules.

**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 8. DEPARTMENT OF TRANSPORTATION**  
**FUEL TAXES**

**ARTICLE 4. ELECTRONIC FUNDS TRANSFERS**

Section

- R17-8-401. Definitions
- R17-8-403. Electronic Funds Transfer Declaration
- R17-8-404. Procedures for Payment

**ARTICLE 5. ELECTRONIC FUEL TAX REPORTING**

Section

- R17-8-501. Definitions
- R17-8-502. Applicability; General Provisions
- R17-8-504. Data Elements and Format

## ARTICLE 4. ELECTRONIC FUNDS TRANSFERS

### R17-8-401. Definitions

In addition to the definitions provided under A.R.S. §§ 28-101 and 28-5601, the following terms apply to this Article:

~~“Automated Clearing House,” or “ACH,” means a central distribution and settlement point for the electronic clearing of debits and credits between financial institutions.~~

“ACH credit” means an electronic funds transfer:

Generated by a licensee, and

Cleared through an ACH for deposit to the Department account.

“ACH debit” means an electronic funds transfer ~~of funds~~ from a licensee’s account:

Authorized by a licensee-signed authorization agreement,

Generated at a licensee’s instruction, and

Cleared through an ACH for deposit to the Department account.

“ADOT account number” means a confidential number assigned by the Department that identifies a licensee.

“Authorized representative” means the owner, officer, or managing person of the licensee.

~~“Automated Clearing House,” or “ACH,” means a central distribution and settlement point for the electronic clearing of debits and credits between financial institutions.~~

“Cash Concentration or Disbursement Plus,” or “CCD Plus,” means the standardized data format approved by ~~NACHA~~ Nacha for remitting tax payments electronically.

“Electronic Fuel Tax Program” means the Department program for the electronic filing of fuel tax reports and payment of fuel taxes.

“Electronic fuel tax report” means the monthly fuel tax report required under A.R.S. Title 28, Chapter 16, Article 1, filed pursuant to the Electronic Fuel Tax Program.

“Electronic funds transfer” means a transmission of funds by electronic means to order, instruct, or authorize a financial institution to debit or credit an account pursuant to the Electronic Fuel Tax Program.

“Financial institution” means a licensed bank, savings and loan association, mutual savings bank or credit union.

“Licensee” means a person licensed under A.R.S. Title 28, Chapter 16, Article 1.

~~“MVD account number” means a confidential number assigned by the Department that identifies a licensee.~~

~~“NACHA Nacha” means NACHA—The Electronic Payments Association, which is a not-for-profit association that oversees the Automated Clearing House ACH network.~~

“Payment information” means data the Department requires of a licensee when making an electronic funds transfer.

“State servicing bank” means the financial institution contracted to perform banking functions on behalf of the state.

**R17-8-403. Electronic Funds Transfer Declaration**

- A. Prior to remitting an initial payment by electronic funds transfer, and within 30 days prior to any change in the method of payment transfer, a licensee shall file with the Department an electronic funds transfer declaration.
- B. The electronic funds transfer declaration shall be made on a form approved by the Department and shall contain the following:
  - 1. Licensee name;<sub>2</sub>
  - 2. Licensee Employer Identification Number (EIN);<sub>2</sub>
  - 3. Business address;<sub>2</sub>
  - 4. ~~MVD~~ ADOT account number;<sub>2</sub>
  - 5. ~~Fee or tax~~ Payment type;<sub>2</sub>
  - 6. Either ACH credit or ACH debit payment method;<sub>2</sub>
  - 7. Name, title, email address, and phone number of contact person, ~~and~~;<sub>2</sub>
  - 8. Signature of the authorized representative of the licensee; and
  - ~~8-9.~~ Any other information required by the Director.

**R17-8-404. Procedures for Payment**

- A. All electronic funds transfers shall be in compliance with the ~~NACHA~~ Nacha Operating Rules and Guidelines.
- B. A licensee may remit payments by either ACH credit or ACH debit.
- C. A licensee using the ACH credit method shall ensure that all ACH credit transfers are in the CCD-Plus addenda format and contain all information required by the Department and the licensee's financial institution to process the transfer.
- D. A licensee using the ACH debit method shall electronically communicate the following payment information to the state servicing bank:
  - 1. ~~MVD~~ ADOT account number,
  - 2. Payment amount, and
  - 3. Any other information required by the Director.

## ARTICLE 5. ELECTRONIC FUEL TAX REPORTING

### R17-8-501. Definitions

In addition to the definitions provided under A.R.S. §§ 28-101 and 28-5601, the following terms apply to this Article:

“Applicant” means a person applying for licensure under A.R.S. Title 28, Chapter 16, Article 1.

“Electronic Fuel Tax Program” ~~means the Department program for the electronic filing of fuel tax reports and payment of fuel taxes~~ has the same meaning as defined in R17-8-401.

~~“Electronic Fuel Tax Reporting Agreement” means the contract between the Department and each licensee pertaining to filing electronic fuel tax reporting requirements in the form and containing such terms and conditions as established by the Director from time to time.~~

~~“Electronic funds transfer” has the same meaning as provided under R17-8-401.~~

~~“Electronic Fuel Tax Report fuel tax report” means the monthly fuel tax report required under A.R.S. Title 28, Chapter 16, Article 1, filed pursuant to the Electronic Fuel Tax Program~~ has the same meaning as defined in R17-8-401.

~~“Electronic Fuel Tax Reporting Agreement” means the contract between the Department and each licensee pertaining to filing electronic fuel tax reporting requirements in the form and containing such terms and conditions as established by the Director from time to time.~~

~~“Electronic funds transfer” has the same meaning as defined in R17-8-401.~~

“Fuel Tax Suite” means the secure ~~web site~~ website provided by the Department for filing fuel tax reports and accessing a licensee’s fuel tax account.

~~“Licensee” means a person licensed under A.R.S. Title 28, Chapter 16, Article 1~~ has the same meaning as defined in R17-8-401.

“Secure Access Gateway” means the Department’s secure network application that allows a remote user to connect to the Fuel Tax Suite.

~~“ServiceArizona Access Request and Agreement” means the contract documenting terms and conditions for access to the Secure Access Gateway and Fuel Tax Suite established by the Director from time to time.~~

### R17-8-502. Applicability; General Provisions

- A. For the purpose of administering the reporting requirements under A.R.S. Title 28, Chapter 16, Articles 1 and 5, a licensee shall participate in the Electronic Fuel Tax ~~Reporting~~ Program as provided under this Article.
- B. Each applicant and licensee shall apply for Department authorization to submit electronic fuel tax reports as required by the Department.
- C. Each applicant and licensee shall enter into an Electronic Fuel Tax Reporting Agreement as a condition of licensure.
- ~~D. A licensee shall submit monthly fuel tax reports required under A.R.S. Title 28, Chapter 16, Article 1, using paper forms provided by the Department until authorized by the Department to file electronic fuel tax reports.~~

**E.D.** A licensee authorized by the Department to file electronic fuel tax reports shall complete monthly fuel tax reports only by means of the Electronic Fuel Tax Program and shall not submit such reports in paper form.

**F.E.**A licensee authorized by the Department to file electronic fuel tax reports shall submit fuel tax payments by electronic funds transfer as provided under Article 4. The licensee shall ensure that the fuel tax payments are deposited to the Department account as prescribed under A.R.S. Title 28, Chapter 16, Articles 1 and 5.

**R17-8-504. Data Elements and Format**

Electronic ~~Fuel Tax Reports~~ fuel tax reports shall include the following:

1. Identification of the licensee,
2. Detailed load-by-load receipts information that establishes the amount of fuel received,
3. Detailed load-by-load disbursement information that establishes the amount of fuel delivered,
4. Diesel differential information that establishes the basis for the differential adjustment, and
5. Other information required by the Director.