

NOTICES OF FINAL RULEMAKING

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

NOTICE OF FINAL RULEMAKING

TITLE 17. TRANSPORTATION

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

PREAMBLE

- 1. Sections Affected**
R17-4-310
- Rulemaking Action**
Amend
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 28-366
Implementing statute: A.R.S. § 28-2406
- 3. The effective date of the rules:**
November 15, 2002
- 4. A list of all previous notices appearing in the Register addressing the final rule:**
Notice of Rulemaking Docket Opening: 7 A.A.R. 2162, May 25, 2001
Notice of Recodification: 7 A.A.R. 3479, August 10, 2001
Notice of Proposed Rulemaking: 8 A.A.R. 2098, May 10, 2002
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
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Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters at www.dot.state.az.us/about/rules/index.htm.
- 6. An explanation of the rule, including the agency's reasons for initiating the rule:**
R17-4-310 (R17-4-708 before recodification) gives the procedure for receiving personalized license plates. This rule-making action arises from a five-year review report approved by the Governor's Regulatory Review Council on December 7, 1999 (F-99-1202). The Department is revising this rule for clarity and reducing appeal time from 15 to 10 days. The reduction in appeal time is to make the rule compliant with all division programs.
- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
None

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

Not applicable

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

Because this rulemaking will make the rule clearer, it will benefit the public by making the rule easier to understand and follow. The rulemaking will impose minimal costs on state agencies for rule development and regulatory review.

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

Technical and grammatical changes were based on suggestions from the G.R.R.C. staff.

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

No comments were received during the comment period.

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

None

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

None

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

No

15. The full text of the rules follows:

TITLE 17. TRANSPORTATION

CHAPTER 4. DEPARTMENT OF TRANSPORTATION

TITLE, REGISTRATION, AND DRIVER LICENSES

ARTICLE 3. VEHICLE REGISTRATION

Section

R17-4-310. Personalized License Plates

ARTICLE 3. VEHICLE REGISTRATION

R17-4-310. Personalized License Plates

A. Definitions:

1. "Committee" means the Personalized Plate Committee comprised of 7 employees of the state of Arizona appointed by the Division Director to serve at the Director's pleasure, to conduct reviews of applications and/or public complaints regarding Personalized Plates.
2. "Division" means the Motor Vehicle Division of the Arizona Department of Transportation.
3. "Division Director" means the Assistant Director for the Motor Vehicle Division of the Arizona Department of Transportation.
4. "Format" means the combination of letters, numbers and spaces on vehicle number plates.
5. "Personalized Plates" means personalized number plates as defined in A.R.S. § 28-375.

B. Procedures for application:

1. An applicant for issuance of Personalized Plates shall file an application form provided by the Division defining the Format requested.
2. The requested Format shall meet the criteria as set forth in A.R.S. § 28-375.
3. The Division shall review the requested Format to determine if the content violates the provisions of A.R.S. § 28-375. Prohibited Formats shall be rejected.
4. If the Format is rejected prior to review by the Committee, the Division shall inform the applicant at the time application is made or by mail. The applicant may make a written request, within 15 days of rejection, for review of the Format by the Committee.

C. Prohibited Format. Formats with the following contents are prohibited:

1. Combinations of letters, words or numbers with any connotation which is profane or obscene.
2. Combinations of letters, words or numbers which connote breasts, genitalia, pubic area, buttocks, or relate to sexual and eliminatory functions.
3. Combinations of letters, words or numbers which connote the substance, paraphernalia, sale, user, purveyor of, or physiological state produced by any illicit drug, narcotic or intoxicant.
4. Combinations of letters, words or numbers that express contempt, ridicule, or superiority of a defined class of persons.

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D. Review by the Committee:

1. The Committee shall review the Format for connotations that may reasonably be detected through linguistic, numerical, or phonetic modes of communication. The review may include translation from foreign languages, an upside-down or reverse reading of the requested Format and may include the use of references such as dictionaries or glossaries of slang, foreign language, or drug terms.
2. The Committee shall consider the applicant's declared definition of the Format.
3. The Committee shall recommend to the Director whether the application be approved or disapproved.
4. The Director shall render a decision regarding the acceptability of the format. If the application is rejected, the Division shall notify the applicant in writing of the right to appeal to the Division Director pursuant to subsections (E)(5) and (6) of this rule.

E. Recall of Issued Personalized Plates:

1. If, after issuance of a Personalized Plate, the Division becomes aware that the Format may be prohibited by subsection (C) of this rule, the Committee shall review the Format.
2. If the Committee determines that the issued Format is prohibited, the Committee shall so advise the Director.
3. The Director will determine whether the Format is prohibited and the holder of the plates shall be notified in writing and directed to surrender the plates.
4. The holder of the plates may appeal the decision to the Division Director.
5. An appeal shall be in writing and shall be submitted to the Division Director within 15 days of the final decision. The appeal shall include any additional evidence the applicant wishes the Division Director to consider.
6. The Director shall consider the evidence presented by the applicant and render a final decision.
7. The holder of the plates shall be issued a refund for the amount of the Personalized Plate fee and the pro rata amount of the special annual renewal fee or shall be allowed to apply for replacement Personalized Plates.
8. If the holder of plates found to violate subsection (C) of this rule fails to voluntarily surrender the plates within 30 days after the mailing of the notice of the Division's final decision that the Format is prohibited, the Division shall cancel the Personalized Plates and vehicle registration.

A. Definitions.

1. "Division" means the Motor Vehicle Division of the Arizona Department of Transportation.
2. "Division Director" means the Assistant Division Director for the Motor Vehicle Division of the Arizona Department of Transportation.
3. "Personalized plate" means a license plate with a registration number chosen by a person rather than assigned by the Division.
4. "Plate number" means the combination of letters, numbers, and spaces on a vehicle license plate.

B. A person who wants to receive a personalized plate shall file an application with the Division on a form provided by the Division.

1. An applicant shall provide the following information on the form:
 - a. Name of the vehicle's owner or lessee;
 - b. Vehicle owner's or lessee's mailing address;
 - c. Vehicle's make and year;
 - d. Vehicle identification number;
 - e. Vehicle's current plate number;
 - f. Date the vehicle's current registration expires;
 - g. Plate number to appear on the personalized plate;
 - h. Meaning or message of the personalized plate; and
 - i. Other information required by the Division.
2. If an applicant is purchasing the personalized plate as a gift for the vehicle's owner or lessee, the applicant shall also provide the applicant's name and mailing address.

C. The Division shall reject the application if the requested plate number:

1. Refers to or connotes breasts, genitalia, pubic area, buttocks, or relates to sexual or eliminatory functions;
2. Refers to or connotes the substance, paraphernalia, sale, use, purveyor of, or physiological state produced by any illicit drug, narcotic, or intoxicant;
3. Expresses contempt for or ridicule or superiority of a class of persons;
4. Duplicates another registration number;
5. Has connotations that are profane or obscene; or
6. Uses linguistics, numbers, phonetics, translations from foreign languages or upside-down or reverse reading to achieve a reference or connotation prohibited in subsection (C)(1) through (C)(3) or (C)(5).

D. Rejection of application.

1. If the Division does not issue personalized plates to an applicant, the Division shall inform the applicant by mail.
2. An applicant may make a written appeal by letter for a review of the rejection, within 10 days after the date of the Division's notice, to the following address:

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Motor Vehicle Division
Special Plates Unit, Mail Drop 801Z
PO Box 2100
Phoenix, Arizona 85001-2100.

E. Revocation of personalized plates; appeal.

1. If the Division determines that a personalized plate should not have been issued because it contains a plate number prohibited under subsection (C), the Division shall require the plate holder to surrender the plates to the division within 30 days after the date of the Division's mailed notice, unless the plate holder requests an appeal under subsection (D)(2).
2. A person who has been directed to surrender a personalized plate may submit a written appeal by letter as prescribed under subsection (D)(2).
3. Refund of personalized plate fees on revocation.
 - a. The Division shall refund the amount of the personalized plate fee and the pro rated amount of the special annual renewal fee to the person holding the revoked personalized plate along with any credit or refund calculated by the Division.
 - b. A person whose plate is revoked may request that instead of a refund, the Division issue the person a different personalized plate. The person shall apply for the personalized plate as prescribed under subsection (B).
4. The Division shall cancel the vehicle plate of a vehicle if the person who holds a revoked personalized plate does not surrender the plate within 30 days after the date of the Division's notice or, if the person timely requests an appeal, within 30 days after the Division issues a final decision.

NOTICE OF FINAL RULEMAKING

TITLE 17. TRANSPORTATION

**CHAPTER 5. DEPARTMENT OF TRANSPORTATION
COMMERCIAL PROGRAMS**

PREAMBLE

- | | |
|---|--|
| 1. <u>Sections Affected</u>
R17-5-212 | <u>Rulemaking Action</u>
Amend |
| 2. <u>The authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):</u>
Authorizing statute: A.R.S. § 28-366
Implementing statutes: A.R.S. §§ 28-332, 28-5204, 28-5232, and 28-5237 | |
| 3. <u>The effective date of the rules:</u>
November 15, 2002 | |
| 4. <u>A list of all previous notices appearing in the Register addressing the final rule:</u>
Notice of Rulemaking Docket Opening: 8 A.A.R. 1194, March 22, 2002
Notice of Proposed Rulemaking: 8 A.A.R. 2315, May 31, 2002 | |
| 5. <u>The name and address of agency personnel with whom persons may communicate regarding the rulemaking:</u> | |
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Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters at www.dot.state.az.us/about/rules/index.htm.

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

R17-5-212 defines the motor carrier hearing process and establishes emergency hearing requirements to ensure public safety. This rulemaking arose from proposed agency action in the five-year review report, F-98-0401, approved by the Governor's Regulatory Review Council on May 5, 1998. At the time of the five-year rule review, this Section was numbered R17-4-440.

This Section also increases the time-frame for the occurrence of an emergency hearing from ten to 30 days. This action is necessitated for purposes of expediency surrounding the availability of administrative law judge staff and hearing office overall caseload scheduling.

This rule revision updates both statutory references and rule language to conform to current standards for clarity, conciseness, and understandability of the Governor's Regulatory Review Council and the Secretary of State.

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

The agency did not review or rely on any study in this rulemaking.

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

Not applicable

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

Enforcement of federal and state motor carrier regulations focuses on the identification and resolution of safety violations, which can reduce deaths, personal injuries, and their related costs. The motor carrier safety hearing process provides an opportunity for motor carrier owners and drivers cited for safety violations to respond to a citation or to resolve a safety issue prior to a hearing. The motor carrier safety hearing process also provides emergency hearings for motor carriers with significant safety violations that may result in a cost avoidance to both enforcement and the general driving public by removing motor carrier transports identified as being unsafe. The motor transport owners and drivers will incur costs for repairing equipment to meet federal and state statutes and rules. They may also incur attorney fees in defending against a citation as well as civil fine sanctions imposed by an administrative law judge's decision that finds a carrier responsible for cited violations. Motor carriers may experience a loss of income when equipment is impounded, being repaired, or while enforcement personnel examine the cited motor carrier vehicle to ensure the cited safety issues have been resolved.

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

The agency made minor non-substantial syntactical and grammatical changes upon recommendation by the Governor's Regulatory Review Council staff.

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

The agency received no comments regarding this rulemaking.

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

Not applicable

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

None

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

No

15. The full text of the rules follows:

TITLE 17. TRANSPORTATION

**CHAPTER 5. DEPARTMENT OF TRANSPORTATION
COMMERCIAL PROGRAMS**

ARTICLE 2. MOTOR CARRIERS

Section

R17-5-212. Motor Carrier Safety: Hearing ~~Procedures~~ Procedure

ARTICLE 2. MOTOR CARRIERS

R17-5-212. Motor Carrier Safety: Hearing ~~Procedures~~ Procedure

~~A. Scope. This rule applies exclusively to enforcement actions conducted pursuant to R17-4-435 through R17-4-435.05 and R17-4-436 and A.R.S. Title 28, Chapter 19.~~

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B. Complaint.

1. ~~Every action to enforce the provisions of R17-4-435 through R17-4-435.05 and R17-4-436 and A.R.S. Title 28, Chapter 19, except for enforcement actions pursuant to subsection (G) of this rule, shall be commenced by the filing of a complaint signed by the Director. A copy of the complaint shall be served on all parties in accordance with subsection (D) of this rule.~~
2. ~~The complaint shall contain:~~
 - a. ~~A designation of the state of Arizona through the Motor Vehicle Division as the petitioner.~~
 - b. ~~A designation of the party or parties from whom relief is requested as the respondent.~~
 - c. ~~The facts upon which the alleged violations are based.~~
 - d. ~~The statutes, rules, or regulations alleged to be violated.~~
 - e. ~~The relief requested.~~
 - f. ~~A statement that the respondent was served with written notice that a violation was not remedied by the date specified in the violation notice.~~
 - g. ~~A statement that failure to file an answer within 15 days of service of the complaint shall constitute a default and be treated as an admission of the allegations contained in the complaint and a waiver of the respondent's right to contest the relief prayed for.~~
 - h. ~~The name, address, and telephone number of the attorney representing the petitioner.~~
3. ~~The original of the complaint shall be filed with the Hearing Office.~~

C. Order to Show Cause.

1. ~~Upon the filing of the complaint, the Hearing Office shall forthwith issue its order for the respondent to appear and show cause at an administrative hearing why the relief requested in the complaint should not be granted.~~
2. ~~The date for the Order to Show Cause hearing shall be not less than 20 days or more than 60 days from the filing date of the complaint.~~
3. ~~Service. All service required by this rule shall be by certified mail or personal delivery. Service by mail is complete upon mailing. Personal service on a partnership or corporation shall be made in accordance with Rule 4.1 of the Arizona Rules of Civil Procedure. Personal service may be made by an employee of the Motor Vehicle Division or the Department of Public Safety. Proof of service shall be filed with the Hearing Office.~~

D. Service. All service required by this rule shall be by certified mail or personal delivery. Service by mail is complete upon mailing. Personal service on a partnership or corporation shall be made in accordance with Rule 4.1 of the Arizona Rules of Civil Procedure. Personal service may be made by an employee of the Motor Vehicle Division or the Department of Public Safety. Proof of service shall be filed with the Hearing Office.

E. Answer.

1. ~~Within 15 days of service of the complaint, the respondent shall file an answer with the Hearing Office and serve a copy on petitioner's attorney.~~
2. ~~The answer shall admit or deny each allegation of the complaint and shall state any defenses raised. Allegations which are not denied shall be deemed admitted for all purposes at the hearing.~~

F. Default.

1. ~~A respondent who fails to file an answer within 15 days of service of the complaint shall be in default.~~
2. ~~A respondent who is in default is deemed to have admitted all the allegations contained in the complaint.~~
3. ~~Upon default, the Hearing Office may enter an order granting the relief requested in the complaint.~~

G. Danger to the Public Safety.

1. ~~Notwithstanding any other rule to the contrary, where the Director has determined that a danger to the public safety exists, a copy of the order signed by the Director in accordance with R17-4-439(F) as well as the report of violations shall be served upon the respondent as soon as practical. An emergency hearing shall be held within 10 days of the issuance of the Director's order. A response shall be filed by the respondent at least 2 days prior to the emergency hearing.~~
2. ~~At the emergency order to show cause hearing, the hearing officer shall determine if sufficient cause exists for continuing the registration or license suspension pending a hearing on the merits pursuant to these rules. Failure to find sufficient cause for an emergency suspension shall not prevent the continuation of a normal enforcement action pursuant to this rule, in which case the usual provisions for enforcement actions under this rule shall apply.~~

H. Settlement.

1. ~~At any time prior to the issuance by the Hearing Office of a final decision, the parties may agree to disposition of the action through settlement. All settlements shall be approved by the Director and the respondent and submitted to the Hearing Office. The Hearing Officer shall incorporate the settlement in a final decision.~~
2. ~~The settlement of any action constitutes a waiver by both parties of any rights to an appeal or other review under the Administrative Review Act, A.R.S. § 12-901 et seq. and A.A.C. R17-4-912.~~

I. Unless otherwise specifically prescribed in this rule, the general rules for hearing and appeal procedures set forth in A.A.C. Title 17, Chapter 4, Article 9 apply.

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A. Scope.

1. This Section applies only to a motor carrier enforcement action under:
 - a. R17-5-202 through R17-5-207;
 - b. R17-5-209; and
 - c. A.R.S. Title 28, Chapter 14.
2. In an enforcement hearing involving a manufacturer, motor carrier, shipper, or driver under this Section, the Department shall follow the procedures prescribed under A.A.C. Title 17, Chapter 1, Article 5, except as specified in subsections (B) through (I).

B. Initiation of proceedings, pleadings.

1. The Division Director shall initiate a hearing under this Section by:
 - a. Signing and serving a complaint in the form prescribed under subsection (G) that cites a manufacturer, motor carrier, shipper, or driver for an alleged infraction; and
 - b. Serving the cited manufacturer, motor carrier, shipper, or driver with a hearing notice within 15 days after the date the complaint is signed.
2. After the Division Director signs a complaint, the Executive Hearing Office as defined in R17-1-501 shall act on the Division Director's behalf through completion of an administrative proceeding under this Section.

C. Order to show cause.

1. When a complaint is served, the Executive Hearing Office shall immediately issue a summons for a respondent to appear at an administrative hearing to explain why the Division should not grant the requested relief.
2. The Executive Hearing Office shall hold a hearing under this Section within 60 days after the date the complaint is served.
3. The parties may resolve a complaint before the hearing date.
 - a. The respondent shall file any settlement condition with the Executive Hearing Office.
 - b. Complaint settlement terminates the right of both petitioner and respondent to receive additional administrative review.

D. Service.

1. The Executive Hearing Office shall:
 - a. Send an order to show cause by certified mail as prescribed under A.R.S. § 28-5232(B); and
 - b. Maintain a proof-of-service file.
2. The date of service is the date of mailing.

E. Answer.

1. Within 15 days after service of a complaint, a respondent shall respond to the complaint by:
 - a. Filing a written answer with the Executive Hearing Office; and
 - b. Serving the Assistant Attorney General, Transportation Division, representing the Motor Vehicle Division with a copy of the answer.
2. A respondent's written answer shall contain:
 - a. An admission or denial of each complaint allegation, and
 - b. A list of all defenses that the respondent intends to raise during the hearing.
3. In a hearing, the Executive Hearing Office shall consider any allegation not denied in the answer as an admission to the allegation.

F. Default.

1. The Executive Hearing Office shall find a respondent that fails to file an answer within 15 days after a complaint's service date in default.
2. If the Executive Hearing Office finds a respondent in default, the Executive Hearing Office shall:
 - a. Consider the respondent's default as an admission of all complaint allegations unless the default is cured under subsection (F)(3); and
 - b. Enter an order granting the relief requested in the Division's complaint.
3. A respondent may cure a default by following Rule 60(c) of the Arizona Rules of Civil Procedure.

G. Emergency motor carrier hearings; scope.

1. The Division Director shall initiate an emergency motor carrier hearing process according to R17-5-211(F) by:
 - a. Issuing a complaint and order to show cause according to the hearing scope under A.R.S. § 28-5232(C); and
 - b. Ordering immediate suspension of the registration of the vehicle owned or leased by a motor carrier or the driver license or driver's non-resident operating privilege as prescribed under A.R.S. § 28-5232(A).
2. The Executive Hearing Office shall set an emergency hearing date to occur within 30 days after the date of the complaint.
3. The complaint and order to show cause shall contain the following:
 - a. The Division designated as the petitioner on the state's behalf;
 - b. The respondent's name and the basis of fact for the complaint, including a listing of any alleged violation of Department statute or rule;

- c. The relief sought by the Division; and
- d. An original copy of the written violation notice issued by a law enforcement agency that was served upon the respondent.
- 4. At an emergency motor carrier hearing, an Executive Hearing Office administrative law judge shall determine whether the respondent:
 - a. Was operating on a public highway and the operation created a danger to the public safety;
 - b. Was responsible for the danger; and
 - c. Is responsible for preventing or remedying further danger to public safety.
- 5. Upon a finding that the factors in subsection (G)(4) are present, the administrative law judge shall order that the motor carrier's registration and operator's driver license or driver's non-resident operating privilege suspension continue.
- 6. If a respondent fails to appear at an emergency motor carrier hearing, any suspension previously ordered remains in effect until the respondent appears and meets all requirements under A.R.S. § 28-5232(F).
- H. Upon a finding that the factors in subsection (G)(4) are present, the Division Director shall impose a civil penalty as prescribed under A.R.S. §§ 28-5232(F), 28-5237(E), and 28-5238.
- I. A respondent may request judicial review of a motor carrier safety hearing proceeding as prescribed under A.R.S. § 28-5239.

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TITLE 17. TRANSPORTATION

CHAPTER 5. DEPARTMENT OF TRANSPORTATION COMMERCIAL PROGRAMS

PREAMBLE

- 1. **Sections Affected**

R17-5-405	<u>Rulemaking Action</u>
R17-5-406	Amend
	Amend
- 2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 28-366
Implementing statutes: A.R.S. §§ 28-4303 and 28-4410(D)
- 3. **The effective date of the rules:**

November 15, 2002
- 4. **A list of all previous notices appearing in the Register addressing the final rule:**

Notice of Rulemaking Docket Opening: 8 A.A.R. 2057, May 3, 2002
Notice of Proposed Rulemaking: 8 A.A.R. 2224, May 24, 2002
- 5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

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Address:	Administrative Rules Unit Department of Transportation, Mail Drop 507M 3737 N. 7th Street, Suite 160 Phoenix, AZ 85014-5079
Telephone:	(602) 712-6722
Fax:	(602) 241-1624
E-mail:	twalters@dot.state.az.us

Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters at www.dot.state.az.us/about/rules/index.htm.
- 6. **An explanation of the rule, including the agency's reasons for initiating the rule:**

R17-5-405 and R17-5-406 provide specific direction to motor vehicle dealers doing business in either the acquisition of motor vehicles for direct resale or by consignment in which a dealer serves vehicle owners as a sales agent. The

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rules provide simple, step-by-step directions for completing either type of dealer contract. The rules provide direction on how each contract type is to be formatted and what specific information must be contained in the contracts. The rules also assist customers of either dealer group to understand their rights and responsibilities in these processes. The revised rules reflect the language requirements of both the Secretary of State and the Governor's Regulatory Review Council.

- 7. A reference to any study relevant to the rule that the agency reviewed and relied on in its evaluation of or justification for the rule, or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study and any analysis of each study and other supporting material:**
None
- 8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable
- 9. The summary of the economic, small business, and consumer impact:**
The requirements of these rules are unchanged. The rules are revised only to conform with the requirements of both the Secretary of State and the Governor's Regulatory Review Council. Dealers experience costs related to form development and storage. The Division incurs enforcement costs regarding complaints and verifying dealer compliance with contract retention requirements. Customers of dealers bear industry-driven costs for forms and storage, which are not easily quantifiable because they are not tracked but are believed to be minimal.
- 10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**
None
- 11. A summary of the comments made regarding the rule and the agency response to them:**
The agency received no comments on this rulemaking.
- 12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**
Not applicable
- 13. Incorporations by reference and their location in the rules:**
None
- 14. Was this rule previously adopted as an emergency rule?**
No
- 15. The full text of the rules follows:**

TITLE 17. TRANSPORTATION

**CHAPTER 5. DEPARTMENT OF TRANSPORTATION
COMMERCIAL PROGRAMS**

ARTICLE 4. DEALERS

Section

R17-5-405. Motor Vehicle Dealer Acquisition Contract

R17-5-406. Motor Vehicle Dealer Consignment Contract

ARTICLE 4. DEALERS

R17-5-405. Motor Vehicle Dealer Acquisition Contract

- ~~A.~~** ~~General Requirements.~~ The dealer acquisition contract required by A.R.S. § 28-1310.01 shall be prepared and furnished by dealer on dealer's own business form and shall comply with all requirements of this rule.
- ~~B.~~** ~~Content.~~ The dealer acquisition contract shall contain, but is not limited to, the following information separately stated and in the following order at the beginning of the contract:
- ~~1. The heading "Dealer Acquisition Contract".~~
 - ~~2. Dealer name, trade name, and license number.~~
 - ~~3. Dealer business address and phone number.~~
 - ~~4. Vehicle owner name, address, and phone number.~~
 - ~~5. Vehicle identification number, license plate number, licensing state, model, make, and year.~~
 - ~~6. Vehicle title number and titling state.~~
 - ~~7. Lienholder name, address, phone number, and disclosed lien balance, prepayment penalties if any, and any other information relevant to the terms and conditions of repayment of the loan.~~

8. ~~Warranty from owner that vehicle is free and clear of all liens and encumbrances except those disclosed and that the amount of the unpaid lien balance is no greater than the disclosed lien balance.~~
 9. ~~Contract amount and recital that the amount has been paid to owner by dealer or credited against the purchase price of another vehicle sold by dealer to owner.~~
 10. ~~Statement that owner sells and transfers to dealer the described vehicle.~~
 11. ~~Authorization from owner to dealer permitting dealer to obtain from lienholder any and all information necessary to verify that stated lien amount is accurate and to assure that the debt is paid and the lien released.~~
 12. ~~Warranty from owner that the registration documentation delivered to dealer is the original and most recently issued registration for listed vehicle.~~
 13. ~~Agreement as to who shall pay off lien amount.~~
 14. ~~Authorization from owner to dealer permitting dealer to obtain the official, original certificate of title from lienholder and to endorse owner's name thereon, if necessary, to transfer title of vehicle to dealer.~~
 15. ~~Agreement by owner that, in the event the certificate of title is received by owner, owner will deliver same to dealer immediately and provide dealer with any signatures and acknowledgments necessary to transfer vehicle to dealer.~~
 16. ~~Date acquisition contract executed.~~
 17. ~~Signature of dealer.~~
 18. ~~Signature of owner.~~
- C.** ~~Any additional contract provisions shall not conflict with nor alter the meaning of the required provisions.~~
- D.** ~~Disposition. Whenever a dealer prepares an acquisition contract as required by this rule, a copy shall be given to the owner of the vehicle. The original contract shall be retained by the dealer at his established place of business for 3 years.~~
- E.** ~~Disclaimer. Compliance with the requirements of this rule is not and shall not be interpreted as nor held out to be approval by the state of Arizona, any of its departments, divisions, agencies, officers, or employees of the contract's fairness, validity, or legality. This rule merely furnishes information which is required to be on a dealer acquisition contract and is not intended to be a complete contract.~~
- A.** Definitions.
1. "Contract" or "Dealer acquisition contract" has the meaning prescribed under A.R.S. § 28-4410(G)(2).
 2. "Dealer" or "Motor vehicle dealer" has the meaning prescribed in A.R.S. § 28-4301(23).
 3. "Division" means the "Motor Vehicle Division" of the Arizona Department of Transportation and any authorized agent.
 4. "Vehicle" or "motor vehicle" has the meaning prescribed under A.R.S. § 28-4301(22).
 5. "Owner" means a person prescribed under A.R.S. § 28-101(36)(a), that has the legal right to sell or dispose of the motor vehicle.
 6. "State" means the "state of Arizona" and all its agencies and political subdivisions and their officers and agents.
- B.** General Requirements. For purposes of A.R.S. § 28-4410, a dealer shall prepare a dealer acquisition contract on a form with contents as prescribed under subsection (C).
- C.** Content. A dealer acquisition contract shall contain the following information:
1. The heading "Dealer Acquisition Contract;"
 2. The dealer's name and dealer license number;
 3. The dealer's business address and telephone number;
 4. The owner's name, address, and telephone number;
 5. The vehicle identification number; license plate number; licensing state; and model, make, and year;
 6. If there is a lien holder:
 - a. The lien holder's name, address, telephone number;
 - b. Lien balance;
 - c. Prepayment penalties, if any; and
 - d. Other information relevant to the terms and conditions of the lien repayment;
 7. A statement by the owner that the vehicle is free and clear of all liens and encumbrances, except those disclosed under subsection (C)(6)(a) and the unpaid lien balance is no greater than disclosed under subsection (C)(6)(b);
 8. The contracted purchase price and a recital that this amount has been either paid directly to the owner or credited to the owner against the purchase price of another vehicle;
 9. A statement indicating that the owner is selling and transferring the described vehicle to the dealer;
 10. An authorization by the owner permitting the dealer to obtain all information necessary to verify the accuracy of the lien balance and assure that the balance is paid and the lien is released;
 11. A statement by the owner that the registration document provided to the dealer is the original and most recent registration issued for the vehicle;
 12. An agreement indicating whether the owner or dealer is responsible to satisfy the lien balance;
 13. An authorization by the owner permitting the dealer to obtain the original title certificate from the lien holder; endorse the owner's name on the title; and if necessary, transfer the title to the dealer;

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14. A statement that if the owner receives the certificate of title, the owner shall immediately deliver the title to the dealer and provide any signature and acknowledgment necessary to complete the title transfer to the dealer;

15. The date the contract is executed;

16. The dealer's signature; and

17. The owner's signature.

D. A dealer or an owner who adds to a dealer acquisition contract a provision not described in this Section shall ensure that the provision does not conflict with or alter the meaning of a provision of this Section.

E. Disposition. When a dealer prepares a dealer acquisition contract as prescribed under this Section, the dealer shall give a copy to the owner and keep the original at the dealer's established place of business for three years after the date that the contract expires or terminates, or the date the vehicle is sold.

F. Disclaimer. In complying with this Section, a dealer shall not interpret or claim compliance to be an approval by the state of the fairness, validity, or legality of a dealer acquisition contract. This Section furnishes only information required in a dealer acquisition contract. It does not detail any additional contractual requirements that may be defined under other Arizona statutes.

R17-5-406. Motor Vehicle Dealer Consignment Contract

A. General Requirements. The dealer consignment contract required by A.R.S. § 28-1310.01 shall be prepared and furnished by dealer on dealer's own business form and shall comply with all requirements of this rule.

B. Content. The dealer consignment contract shall contain, but is not limited to, the following information separately stated and in the following order at the beginning of the contract:

1. The heading "Dealer Consignment Contract".

2. Dealer name, trade name, and license number.

3. Dealer business address and phone number.

4. Vehicle owner name, address, and phone number.

5. Vehicle identification number, license plate number, licensing state, model, make, and year.

6. Vehicle title number and titling state.

7. Lienholder name, address, phone number, disclosed lien balance, prepayment penalties, if any, and any other information relevant to the terms and conditions of repayment of the loan.

8. Warranty from owner that vehicle is free and clear of all liens and encumbrances except those disclosed.

9. Authorization from owner to dealer permitting dealer to market and sell vehicle on behalf of owner for mutually agreed upon and specified minimum price.

10. Agreement by dealer to inform any prospective customer that vehicle is on consignment.

11. Agreement by dealer to satisfy all disclosed liens immediately upon receipt of the proceeds from sale of vehicle.

12. Agreement by owner to deliver and reassign certificate of title for vehicle to purchaser properly endorsed and acknowledged upon payment of minimum specified price.

13. Expiration date of consignment contract.

14. Agreement by dealer to deliver vehicle to owner at specified location upon expiration or termination of consignment contract.

15. Agreement by owner to pay any money due dealer upon delivery of the vehicle after expiration or termination of the consignment contract.

16. Date consignment contract executed.

17. Signature of dealer.

18. Signature of owner.

C. Any additional contract provisions shall not conflict with nor alter the meaning of the required provisions.

D. Disposition. Whenever a dealer prepares a consignment contract as required by this Section, a copy shall be given to the owner of the vehicle. The original shall be retained by the dealer at his established place of business for 3 years after the consignment contract has expired or terminated or the sale of the vehicle is completed.

E. Disclaimer. Compliance with the requirements of this rule is not and shall not be interpreted as nor held out to be approval by the state of Arizona, any of its departments, divisions, agencies, officers, or employees of the contract's fairness, validity, or legality. This rule merely furnishes information which is required to be on a dealer consignment contract and is not intended to be a complete contract.

A. Definitions.

1. "Contract" or "Dealer consignment contract" has the meaning prescribed under A.R.S. § 28-4410(G)(1).

2. "Dealer" or "Motor vehicle dealer" has the meaning prescribed under A.R.S. § 28-4301(23).

3. "Division" means the "Motor Vehicle Division" of the Arizona Department of Transportation and any authorized agent.

4. "Vehicle" or "motor vehicle" has the meaning prescribed under A.R.S. § 28-4301(22).

5. "Owner" means a person prescribed under A.R.S. § 28-101(36)(a), that has the legal right to sell or dispose of the motor vehicle.

6. "State" means the "state of Arizona" and all its agencies and political subdivisions and their officers and agents.

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- B.** General Requirements. For purposes of A.R.S. § 28-4410, a dealer shall prepare a dealer consignment contract on a form with contents as prescribed under subsection (C).
- C.** Content. A dealer consignment contract shall contain the following information:
1. The heading "Dealer Consignment Contract;"
 2. The dealer's name and dealer license number;
 3. The dealer's business address and telephone number;
 4. The owner's name, address, and telephone number;
 5. The vehicle identification number; license plate number; licensing state; and model, make, and year;
 6. If there is a lien holder:
 - a. The lien holder's name, address, telephone number;
 - b. Lien balance;
 - c. Prepayment penalties, if any; and
 - d. Other information relevant to the terms and conditions of the lien repayment;
 7. A statement by the owner that the vehicle is free and clear of all liens and encumbrances, except those disclosed under subsection (C)(6)(a) and the lien balance is no greater than that disclosed under subsection (C)(6)(b);
 8. An authorization by the owner permitting the dealer to market and sell the vehicle on behalf of the owner at a mutually-agreed upon, specified, minimum price;
 9. An agreement by the dealer to inform any prospective purchaser that the vehicle is on consignment;
 10. An agreement by the dealer that, upon receiving the sale proceeds, the dealer shall immediately satisfy all disclosed liens and ensure that the liens are released;
 11. An agreement by the owner that, upon the completion of the sale and after receiving the sale proceeds, the owner shall promptly deliver and endorse the title certificate for reassignment to the purchaser;
 12. The expiration date of the consignment contract;
 13. An agreement by the dealer to deliver the vehicle to the owner at a specified location on the date that the contract expires or terminates;
 14. An agreement by the owner to pay any specified fees due the dealer upon the return of the vehicle, after the expiration or termination of the consignment contract;
 15. The date the contract is executed;
 16. The dealer's signature; and
 17. The owner's signature.
- D.** A dealer or an owner who adds to a dealer consignment contract a provision not described in this Section shall ensure that the provision does not conflict with or alter the meaning of a provision of this Section.
- E.** Disposition. When a dealer prepares a dealer consignment contract as prescribed under this Section, the dealer shall give a copy to the owner and keep the original at the dealer's established place of business for three years after the date that the contract expires or terminates, or the vehicle is sold.
- F.** Disclaimer. In complying with this Section, a dealer shall not interpret or claim compliance to be an approval by the state of the fairness, validity, or legality of a dealer consignment contract. This Section furnishes only information required in a dealer consignment contract. It does not detail any additional contractual requirements that may be defined under other Arizona statutes.