

NOTICES OF PROPOSED RULEMAKING

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

NOTICE OF PROPOSED RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 7. DEPARTMENT OF TRANSPORTATION THIRD PARTY PROGRAMS

PREAMBLE

1. Sections Affected

Chapter 7
Article 1
R17-7-101
R17-7-102
Article 2
R17-7-201
R17-7-202
R17-7-203
R17-7-204
Article 3
R17-7-301
R17-7-302
Article 4
R17-7-401
Article 5
R17-7-501

Rulemaking Action

New Chapter
New Article
New Section
New Section
New Article
New Section
New Section
New Section
New Section
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New Section
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New Article
New Section

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. §§ 28-1145; 28-2058 effective January 1, 2002; 28-2160; 28-2207; 28-2269; 28-2356; 28-3164; 28-5101 through 28-5110, as amended by Laws 2001, Ch. 326 § 1, effective August 9, 2001, and Laws 2001, Ch. 107, §§ 12 and 13, effective August 9, 2001; 28-5735 and 28-5738 as amended by Laws 2001, Ch. 287, §§ 66 and 70, effective August 9, 2001; 28-5739; 28-5740; 28-5863; and 28-5864

3. A list of all previous notices appearing in the Register addressing the proposed rule:

Notice of Rulemaking Docket Opening: 7 A.A.R. 2530, June 15, 2001 (expired)

Notice of Rulemaking Docket Opening: 7 A.A.R. 3849, August 31, 2001 (expired)

Notice of Rulemaking Docket Opening: 9 A.A.R. 106, January 10, 2003

4. The name and address of agency personnel with whom individuals may communicate regarding the rulemaking:

Name: Troy A. Walters, Rules Analyst

Address: Administrative Rules Unit
Department of Transportation, Mail Drop 507M
3737 N. 7th Street, Suite 160
Phoenix, AZ 85014-5079

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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.

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

The Arizona Department of Transportation, Motor Vehicle Division (Division) proposes to use Chapter 7 of Title 17 of the *Arizona Administrative Code* for third party program rules. The Division will make new third party program rules in two or more rulemaking actions. In a separate rulemaking action, the Division will repeal existing rules affecting third parties, R17-5-701 through R17-5-706.

In this rulemaking action, the Division is making general rules regulating authorized third parties. These general rules will provide needed guidance to the business community and the public while Chapter 7 rulemaking continues. In a separate rulemaking action, the Division will propose rules dealing with the specific third party programs, including:

- Commercial driver licenses and instruction permits;
- Dealer licenses;
- Driver license examinations;
- Motor carrier permits;
- Motor vehicle record processing;
- Noncommercial driver licenses, instruction permits, and identification licenses;
- Tax report processing;
- Title and registration; and
- Vehicle verification.

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

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

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

Not applicable

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

The Division and authorized third parties incur substantial costs under the proposed third party program rules. On the other hand, the proposed rules increase the business opportunities of entities and people meeting the authorization or certification requirements.

Additionally, the rules protect consumers of services provided by authorized third parties through Division oversight as required by statute. The public benefits by having specified activities traditionally performed only by the Division at Division offices available at nontraditional times and locations and via nontraditional media.

The creation of business opportunities and the benefits to, and protection of, the public outweigh the costs of regulation of third parties.

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

An interested party may communicate with the agency official listed in item #4 concerning the economic impact statement.

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

An oral proceeding is not scheduled for this proposed rule. To request an oral proceeding or to submit written, faxed, or internet comments, please contact the rules analyst listed in item #4 between the hours of 8:00 a.m. and 4:30 p.m.,

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Monday through Friday, except legal holidays. If no request for an oral proceeding is made, the public record in this rulemaking will close at 4:30 p.m. on February 14, 2003.

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

Not applicable

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

None

13. The full text of the rules follows:

TITLE 17. TRANSPORTATION

CHAPTER 7. ~~RESERVED~~ DEPARTMENT OF TRANSPORTATION

THIRD PARTY PROGRAMS

ARTICLE 1. GENERAL PROVISIONS – DEFINITIONS AND APPLICABILITY

Section

R17-7-101.

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R17-7-102.

Applicability

ARTICLE 2. GENERAL PROVISIONS – AUTHORIZATION

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R17-7-201.

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Authorization Approval or Denial and Hearing

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Authorization Agreement

R17-7-204.

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ARTICLE 3. GENERAL PROVISIONS – CERTIFICATION

Section

R17-7-301.

Certification Application Requirements

R17-7-302.

Certification Approval or Denial and Hearing

ARTICLE 4. GENERAL PROVISIONS – AUDITS

Section

R17-7-401.

Audits

ARTICLE 5. GENERAL PROVISIONS – COMPLAINTS

Section

R17-7-501.

Complaints

ARTICLE 1. GENERAL PROVISIONS – DEFINITIONS AND APPLICABILITY

R17-7-101. Definitions

The following definitions apply to this Chapter unless otherwise specified:

1. “Accountable inventory” means an item that is reproduced by the Division in a consecutively numbered series for:
 - a. Recording the number of a completed, issued, or voided item in a log, and
 - b. Reporting the number of a completed, issued, or voided item to the Division.
2. “Activity” means a function or service stated in subsections (8), (16), (24), (25), (28), (30), (31), (32), or (33) that is provided by an authorized third party and performed by a certified individual.
3. “Agency head” or “political subdivision head” means the chief officer of an agency or political subdivision or another individual with authority to act for the agency head or political subdivision head.
4. “Audit” means an examination or inspection of the operations of an authorized third party to determine compliance with all applicable statutes, rules, contract terms, and Division policies.
5. “Authorized third party” means an entity that:
 - a. Has written permission from the Division to operate a business under A.R.S. Title 28, Chapter 13; and
 - b. Employs or contracts with at least one certified individual.

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6. “Branch” means an authorized third party’s business location that is:
 - a. Division-approved;
 - b. Not used as a residence;
 - c. Authorized to perform one or more activities of the established place of business (onsite), and
 - d. Located within the same county as the established place of business.
7. “Cancellation” means a Division action that withdraws an authorization or certification issued under A.R.S. Title 28, Chapter 13.
8. “Certified individual” means an individual with written certification from the Division under A.R.S. Title 28, Chapter 13 to perform specified activities for an authorized third party. The Division may certify a individual as a:
 - a. Commercial driver license examiner.
 - b. Dealer license processor.
 - c. Driver license processor.
 - d. Noncommercial driver license examiner.
 - e. Tax report processor.
 - f. Title and registration processor.
 - g. Vehicle inspector, or
 - h. Vehicle permit processor.
9. “Classes of driver licenses” are defined in A.R.S. § 28-3101.
10. “Commercial driver license examiner” means an individual certified by the Division to administer class A, B, or C driver license tests.
11. “Contact individual” means an individual, other than a principal of an authorized third party:
 - a. Whose name and telephone number the authorized third party submits to the Division in writing and keeps current;
 - b. Who communicates with the Division on behalf of the authorized third party in matters identified by the authorized third party.
12. “Convenience fee” means the amount exceeding the statutorily prescribed fees and taxes that an authorized third party collects and retains for its services.
13. “Department” means the Arizona Department of Transportation.
14. “Division” means the Arizona Department of Transportation, Motor Vehicle Division.
15. “Division headquarters” means 1801 W. Jefferson Street, Phoenix, Arizona 85007.
16. “Division-issued business license” means:
 - a. An automotive recycler license.
 - b. A broker license.
 - c. A distributor license.
 - d. A distributor branch license.
 - e. A factory branch license.
 - f. A manufacturer license.
 - g. A new motor vehicle dealer license.
 - h. A professional driver training school license.
 - i. A third party authorization.
 - j. A title service company license.
 - k. A used motor vehicle dealer license.
 - l. A wholesale motor vehicle dealer license, or
 - m. A wholesale motor vehicle auction dealer license.
17. “Driver license processor” means an individual certified by the Division to:
 - a. Review applications for driver licenses, instruction permits, and identification licenses;
 - b. Administer driver license tests;
 - c. Enter information related to the applications in the Division’s database; and
 - d. Issue or deny specified classes of driver licenses, instruction permits, and identification licenses.
18. “Established place of business” means an authorized third party’s business location that is:
 - a. Division-approved;
 - b. Not used as a residence, and
 - c. Performs third party activities onsite.
19. “Floor plan” means a Division-approved diagram of a building interior, as seen from above, that shows the interior dimensions and the location of doors, windows, and equipment. A floor plan is either:
 - a. A computer-generated graphic.
 - b. A blueprint or other photographic reproduction of an architectural plan or technical drawing, or
 - c. A non-technical drawing made by hand using a straightedge.

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20. “Good standing” means an authorized or certified third party applicant does not have:
 - a. Within three years before the application date, a suspension, cancellation, revocation, or denial of a Division-issued business license or certification; or
 - b. On the application date, any delinquent fees, taxes, or unpaid balance owed to the Division; and
 - c. While holding a third party authorization or certification:
 - i. A suspension, cancellation, revocation, or denial of another Division-issued license; or
 - ii. Delinquent fees, taxes, or unpaid balance owed to the Division.
21. “Inactive status” means a Division action taken at the request of an authorized third party that:
 - a. Deactivates a third party authorization for no more than six months, and
 - b. Becomes a cancellation if the third party fails to resume active status after six months.
22. “Log” means a complete, chronological record, kept by an authorized third party, of accountable inventories and activities performed.
23. “Monthly reconciliation report” means an authorized third party’s report on accountable inventory other than title and registration accountable inventory. A monthly reconciliation report:
 - a. Lists the number of each completed license, permit, or form,
 - b. Lists the number of each voided license, permit, or form,
 - c. Is signed by a principal or contact individual of the authorized third party,
 - d. Is due by the fifth day of the month for activities performed in the previous month, and
 - e. Includes all voided licenses, permits, or forms.
24. “Noncommercial driver license examiner” means an individual certified by the Division to administer class D, G, and/or M driver license tests.
25. “Principal place of business” means an authorized third party’s administrative headquarters.
26. “Skills Test” means a set of tests, authorized and approved by the Division and administered by a commercial or non-commercial driver license examiner or driver license processor to determine if the applicant possesses the required skills for the type of license for which the applicant has applied.
27. “Skills test route” means a public road or highway driving course, identified by an authorized third party and approved by the Division, for administering skills tests to driver license applicants.
28. “Suspension” means a Division action that, for a stated period, prohibits:
 - a. An authorized third party from:
 - i. Providing at least one type of activity, or
 - ii. Operating as an authorized third party.
 - b. A certified individual from:
 - i. Performing at least one type of activity, or
 - ii. Working for an authorized third party.
29. “Tax report processor” means an individual certified by the Division to:
 - a. Process motor fuel tax reports and interstate user fuel tax reports from fuel suppliers, fuel vendors, and motor carriers; and
 - b. File the reports with the Department.
30. “Test site” means a location, identified by an authorized third party, for administering skills tests to driver license applicants that is:
 - a. Division-approved,
 - b. Permanently marked, and
 - c. Off the public road or highway.
31. “Title and registration processor” means an individual certified by the Division to:
 - a. Review applications for vehicle certificates of title or registrations under A.R.S. Title 28, Chapter 7,
 - b. Enter information related to applications for vehicle certificates of title or registrations in the Division’s database, and
 - c. Issue or deny vehicle certificates of title or registrations.
32. “Vehicle dealer license processor” means an individual certified by the Division to:
 - a. Review applications for vehicle dealer licenses under A.R.S. Title 28, Chapter 10;
 - b. Enter information related to the applications in the Division’s database; and
 - c. Issue or deny vehicle dealer licenses.
33. “Vehicle inspector” means an individual certified by the Division to perform motor vehicle inspections.
34. “Vehicle permit processor” means an individual certified by the Division to:
 - a. Review applications for permits or registrations under A.R.S. Title 28, Chapter 3, Articles 18 and 19, and Chapter 7.
 - b. Enter information related to the applications in the Division’s database; and
 - c. Issue or deny permits or registrations.

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R17-7-102. Applicability

- A.** The general provisions of this Chapter apply to authorization or certification under A.R.S. Title 28, Chapter 13.
B. The specific provisions of this Chapter apply as stated.

ARTICLE 2. GENERAL PROVISIONS – AUTHORIZATION

R17-7-201. Authorization Application Requirements

- A.** An applicant for third party authorization shall provide to the Division:
1. The applicant's name, d.b.a., and federal Employer Identification number;
 2. The applicant's status as exempt or nonexempt under A.R.S. §§ 28-5104 and 28-5105. If applying as exempt, the applicant's name shall be the exempt entity's name;
 3. The names of the applicant's principals. If the applicant is:
 - a. A sole proprietor, state the sole proprietor's name;
 - b. A partnership, limited partnership, limited liability partnership, limited liability limited partnership, limited liability company, or corporation, state the name of each:
 - i. Partner;
 - ii. Manager;
 - iii. Member;
 - iv. Officer;
 - v. Director;
 - vi. Agent, and
 - vii. If a limited liability company or corporation, each stockholder owning 20 percent or more of the limited liability company or corporation;
 - c. A political subdivision or government agency, state the name of the political subdivision head or agency head;
 4. The name and telephone number of the applicant's contact individual;
 5. The activities for which the applicant seeks authorization;
 6. The address of the applicant's principal place of business and the address of each established place of business;
 7. A statement that the applicant is in good standing or has no prior standing with the Division;
 8. The signature, of:
 - a. The sole proprietor,
 - b. All partners,
 - c. A corporate officer,
 - d. A limited liability company manager, or
 - e. The political subdivision head or agency head;
 9. Documents relating to the applicant's business organization. If the applicant is:
 - a. A corporation, provide:
 - i. A copy of the articles of incorporation filed with the Arizona Corporation Commission; and
 - ii. A copy of the minutes, filed with the Arizona Corporation Commission, of the most recent board of directors' meeting;
 - b. A limited liability company, provide:
 - i. A copy of the articles of organization filed with the Arizona Corporation Commission, or
 - ii. A copy of the application for registration as a foreign limited liability company filed with the Arizona Corporation Commission and a copy of the certificate of registration issued by the Arizona Corporation Commission to a foreign limited liability company; or
 - c. A limited partnership, limited liability partnership, or a limited liability limited partnership, provide:
 - i. A copy of a valid certificate of existence issued by the Arizona Secretary of State, or
 - ii. A copy, stamped "Filed" by the Arizona Secretary of State, of a Certificate of Limited Partnership, Certificate of Foreign Limited Partnership, Limited Liability Partnership form, Foreign Limited Liability Partnership form, or Statement of Qualification for Conversion of Limited Partnership or Limited Liability Partnership to a Limited Liability Limited Partnership;
 10. A floor plan for each established place of business;
 11. A map, drawing, or narrative description of each skills test route and a photograph or drawing of each test site;
 12. Unless exempt, a surety bond executed in accordance with A.R.S. § 28-5104;
 13. Unless exempt, a full set of fingerprints for a criminal records check of each principal at least age 18 named under subsection (A)(3)(a) or (A)(3)(b). Each full set of fingerprints shall be impressed on a fingerprint card:
 - a. Supplied by the Division, and
 - b. Completed by a law enforcement agency; and

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14. Unless exempt, a money order or cashier's check payable to the Arizona Department of Public Safety in the amount set by the Arizona Department of Public Safety for a criminal records check times the number of fingerprint cards submitted under subsection (A)(13).

B. Unless exempt, an applicant for a third party authorization shall submit, for the individual named under subsection (A)(3)(a) or for each individual named under subsection (A)(3)(b), a statement of personal history form provided by the Division with the following information:

1. Basic personal information, including other names and birth dates used;
2. Residence address;
3. Any Division issued business license suspension, cancellation, revocation, or denial within five years before the application date;
4. The individual's signature witnessed by a notary public or a Division agent designated under A.R.S. § 28-370(A); and
5. Any other information requested by the Division.

R17-7-202. Authorization Approval or Denial and Hearing

A. The Division shall send written and dated notification of approval or denial of third party authorization:

1. By regular mail.
2. To the address provided on the application, and
3. In accordance with A.R.S. § 28-5107(A).

B. A.R.S. § 28-5107(B) through 28-5107(D), R17-1-501 through R17-1-511, and R17-1-513 apply to a hearing on the denial of third party authorization.

R17-7-203. Authorization Agreement

A. Before issuance of a third party authorization, an applicant receiving authorization shall sign a written agreement with the Division.

B. The agreement may contain:

1. The definitions of specialized terms used in the authorization agreement;
2. A provision that each established place of business be pre-approved by the Division;
3. A provision that the applicant's advertising be pre-approved by the Division;
4. A provision that the authorized third party shall comply with all statutes, rules, regulations, directives, policy and procedures.
5. The Division's requirements for the applicant's computer hardware and software;
6. The Division's requirements for the applicant's liability insurance;
7. The Division's requirements for the applicant's electronic file backup and data recovery procedures;
8. A provision on the applicant's handling of peak-load conditions on the internet or on an interactive voice response system;
9. A provision on acceptance testing of all the applicant's online business equipment and procedures;
10. A provision on the applicant's access to the Division's database;
11. A provision that the applicant pay all financial obligations arising from access to the Division's database;
12. A provision that the applicant comply with the Division's security requirements;
13. The Division's requirements for the applicant's banking;
14. A provision establishing penalties for the applicant's failure to deposit all monies due to the Division under A.R.S. § 28-5101;
15. A provision that the applicant maintain appropriate oversight of personnel;
16. A provision that the applicant notify the Division of procedural changes, personnel changes, or location changes;
17. A provision that the applicant comply with the Division's training requirements;
18. The Division's records maintenance requirements;
19. A provision on audits and inspections of the applicant;
20. A provision that the applicant comply with the authorization agreement;
21. A provision on the consequences of noncompliance by the applicant;
22. A provision that the Division may authorize other businesses to provide the activities provided by the applicant;
23. A provision on modifications and amendments to the authorization agreement;
24. A provision on terminating the authorization agreement;
25. A provision on change of ownership of the applicant;
26. A provision that the applicant comply with the Drivers Privacy Protection Act, 18 U.S.C. § 2721;
27. A provision on waiver or invalidity of a provision of the authorization agreement;
28. A provision on the applicant's indemnification of the Department, the Division, and the officers, agents, and employees of the Department and the Division;
29. A provision that the applicant not discriminate in employment, training, or testing;
30. Any addenda to the authorization agreement;

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31. The duration of the authorization agreement; and
32. Any other information requested by the Division.

R17-7-204. An Authorized Third Party's Duties

- A.** Until returned to the Division, an authorized third party shall retain the following records at each established place of business or at the principal place of business:
1. All logs and copies of completed, issued, or voided accountable inventory;
 2. All unused accountable inventory; and
 3. All other paper and electronic records, including all supporting documents, relating to the activities provided.
- B.** The Division shall receive the records listed in subsections (A)(1) through (A)(3) by one of the following methods:
1. Department personnel or law enforcement agency personnel may retrieve the records during a close-out audit of a business ceasing authorized third party activity, or
 2. Department personnel or law enforcement agency personnel may seize the records during a Division initiated closure of an authorized third party.
 3. A business ceasing authorized third party activity shall deliver to the Division, within one business day after ceasing the activity, all records not retrieved by Department personnel.
- C.** An authorized third party shall maintain, at the location where a certified individual works, a copy of the certificate relating to each type of activity performed by the certified individual.
- D.** An authorized third party shall retain a certified individual's personnel file for one year after the certified individual's last day of work. The retained personnel file shall include at least the certified individual's:
1. Dates of employment,
 2. All computer access forms, and (if applicable)
 3. Computer access termination form (if applicable).
- E.** An authorized third party shall timely submit a monthly reconciliation report. If the authorized third party fails to timely submit a monthly reconciliation report, the Division shall:
- a. Give a verbal warning for the first untimely report,
 - b. Send letter of concern for the second untimely report in one year, or
 - c. Suspend or cancel the authorization for the third untimely report in one year.
- F.** An authorized third party shall establish a place of business as required by the Division.
- G.** An authorized third party shall satisfy the audit and inspection requirements of R17-7-401.
- H.** An authorized third party shall obtain the Division's approval before:
1. Changing the location or floor plan of an established place of business,
 2. Changing a skills test route or test site, or
 3. Performing an additional activity.
- I.** An authorized third party shall notify the Division, within two business days, of any change to the list of certified personnel.
- J.** An authorized third party that is open to the public shall post at each established place of business the sign required by A.R.S. § 28-5101(F) and a sign provided by the Division stating that:
1. The business is a Division-authorized third party provider, and
 2. The business may charge the customer a convenience fee.
- K.** An authorized third party shall not represent that it is the state of Arizona, the Department, or the Division in any printed or electronically published advertising or promotional material.
- L.** An authorized third party shall not employ or contract with a current Department employee unless:
1. The authorized third party provides to the Division the current Department employee's name, and
 2. The authorized third party affirms in writing that the current Department employee will provide training for certification and will do no other work for the authorized third party, and
 3. The authorized third party affirms in writing that the current Department employee will conduct the training outside the employee's Department work hours, and
 4. The current Department employee obtains the Division's written approval to train the authorized third party's personnel for certification.
- M.** An authorized third party shall comply with the requirements of R17-7-201:
1. Before using a name different from the name on its authorization, or
 2. Before an ownership change in the entity operating the authorized third party.

ARTICLE 3. GENERAL PROVISIONS – CERTIFICATION

R17-7-301. Certification Application Requirements

- A.** A certification applicant shall provide to the Division the following:
1. The applicant's name, residence address, mailing address, telephone number, and date of birth;
 2. The activities for which the applicant seeks certification;

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3. The dates of any period of employment of the applicant by the Division;
 4. Whether the Division previously denied any certification of the applicant and the reasons for each denial;
 5. For each previous certification issued to the applicant by the Division:
 - a. The dates the certification was effective, and
 - b. The activity the applicant was certified to perform;
 6. Whether the Division suspended or canceled any certification listed under subsection (A)(5) and the reason for each suspension or cancellation;
 7. Whether the applicant previously worked as a certified individual, the names of the last three authorized third parties that employed or contracted with the applicant, and the dates of the employment or contract work;
 8. The signature, of the applicant;
 9. A full set of fingerprints, on a fingerprint card supplied by the Division and completed by a law enforcement agency, for a criminal records check;
 10. A money order or cashier's check payable to the Arizona Department of Public Safety in the amount set by the Arizona Department of Public Safety for a criminal records check; and
 11. If the applicant requests certification as a driver license processor or a driver license examiner, the applicant's driving record for the thirty-nine months before the application date.
- B.** An applicant for a certification shall submit to the Division a statement of personal history form with the information listed under R17-7-201(B).
- C.** An applicant is eligible for certification if the applicant:
1. Is at least age 18 on the application date;
 2. Meets the "good standing" definition of R17-7-101(20); and
 3. Successfully completes or agrees in writing to complete all training courses and continuing education courses required by the Division.
- D.** An applicant who was a Division employee is eligible for certification if the applicant:
1. Meets the requirements under subsection (C).
 2. Was not terminated by the Division for misconduct in performing official duties within three years before the application date, and
 3. Did not resign during a Division investigation of misconduct in performing official duties within three years before the application date.
- E.** The certified individual shall perform the activity for which they are certified at least once every 90 days to remain on active status.

R17-7-302. Certification Approval or Denial and Hearing

- A.** The Division shall send written and dated notification of certification approval or denial:
1. By regular mail,
 2. To the address provided on the application, and
 3. In accordance with A.R.S. § 28-5107(A).
- B.** A.R.S. § 28-5107(B) through 28-5107(D), R17-1-501 through R17-1-511, and R17-1-513 apply to a certification denial hearing.

ARTICLE 4. GENERAL PROVISIONS – AUDITS

R17-7-401. Audits

- A.** During an onsite audit or inspection of an authorized third party, Department personnel, a law enforcement agency, or federal personnel may:
1. Review and copy paper and electronic records relating to:
 - a. Third party activities provided,
 - b. Accountable inventories, and
 - c. Customer transactions.
 2. Examine the site to determine:
 - a. Accuracy of the floor plan submitted under R17-7-201(A)(10); and
 - b. Compliance with Division requirements for equipment and signs, and security.
 3. Interview the authorized third party's:
 - a. Employees.
 - b. Customers.

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- B.** If Department personnel or law enforcement personnel conduct an onsite audit of an authorized third party outside Arizona under A.R.S. § 28-5102(B)(3), the Department shall charge, and the authorized third party shall pay, for the audit.
1. The audit charge and payment shall equal the Arizona Department of Administration reimbursement for out-of-state travel authorized by A.R.S. Title 38, Chapter 4, Article 2 and stated in sections II-D-3 and sections II-D-6 of the Arizona Accounting Manual prepared by the Arizona Department of Administration.
 2. Sections II-D-3 and II-D-6 of the Arizona Accounting Manual are available on the Arizona General Accounting Office web site at www.gao.state.az.us.
- C.** If an authorized third party does not allow or cooperate with an onsite audit by Department personnel or law enforcement personnel, the Division may immediately cancel the third party's authorization.

ARTICLE 5. GENERAL PROVISIONS – COMPLAINTS

R17-7-501. Complaints

- A.** The Division requires a written complaint involving an authorized third party or a certified individual.
- B.** After the Division receives a written complaint, the Division requires a principal, employee, or agent of the authorized third party to submit a written and signed statement addressing the complaint within ten working days.