



NOTICES OF PROPOSED EXEMPT RULEMAKING

This section of the *Arizona Administrative Register* contains Notices of Proposed Exempt Rulemaking. An agency may be exempt from rulemaking standards outlined in the Arizona Administrative Procedures Act (APA).

An agency's exemption is listed in the Preamble of the rulemaking as specified under: A.R.S. §§ 41-1005 or 41-1057; or a specific statute; or if a rule is promulgated by the Corporation Commission, it is exempt from Attorney General review under a court decision as determined by the Commission.

If an agency determines it is exempt under the law or court decision, the law may still require publication of the Proposed Exempt Rulemaking in this section to solicit and review public comments on the rulemaking.

Some agencies, even though completely exempt, may still elect to follow certain provisions of the APA, such as circulating its exempt rulemaking for comment. If an agency chooses this option, our office encourages filing the notice with our office for publication in the *Register*.

Please note, if a statute dictates that an agency is completely exempt from the rulemaking process, the agency is authorized to file a Notice of Exempt Rulemaking.

In all cases, an agency must still follow the procedures as established by our office in order to have its rulemaking package published.

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the proposed exempt rule should be directed to the agency proposing them. Refer to Item #5 of the Preamble to contact the person charged with the rulemaking.

NOTICE OF PROPOSED EXEMPT RULEMAKING

TITLE 17. TRANSPORTATION

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

[R16-12]

PREAMBLE

1. **Article, Part, or Section Affected (as applicable)**
R17-4-407
R17-4-409
- Rulemaking Action**
New Section
Amend
2. **Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific), and the statute or session law authorizing the exemption:**
Authorizing statutes: A.R.S. §§ 28-366 and 28-3175
Implementing statutes: A.R.S. §§ 28-3002, 28-3165, and 28-3170 and 6 CFR 37
Statute or session law authorizing the exemption: Laws 2015, Ch. 294, § 5
3. **The effective date of the rule and the agency's reason it selected the effective date:**
March 28, 2016. This effective date will allow customers to be issued the credentials at the beginning of the week of April 1, 2016, as provided under A.R.S. § 28-3175, and provides the Department the necessary time needed in order to begin issuance of the credentials.
4. **A list of all notices published in the *Register* as specified in R1-1-409(A) that pertain to the record of the exempt rulemaking:**
None
5. **The agency's contact person who can answer questions about the rulemaking:**
Name: Candace Olson, Rules Analyst
Address: Government Relations and Policy Development Office
Department of Transportation
206 S. 17th Ave., Mail Drop 140A
Phoenix, AZ 85007
Telephone: (602) 712-4534
Fax: (602) 712-3232
E-mail: COlson2@azdot.gov
Web site: <http://azdot.gov/about/GovernmentRelations>



6. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

The REAL ID Act of 2005 required driver licenses and identification cards issued by states to meet certain requirements in order for the credentials to be accepted by the federal government for official purposes, including boarding a federally regulated commercial aircraft or accessing restricted areas in federal facilities, nuclear power plants or military facilities. A.R.S. §§ 28-336 and 28-338 prohibit the Department from implementing the REAL ID Act of 2005. Laws 2015, Ch. 294, allows the Department to issue a federally recognized driver license or identification license that allows the applicant to board a federally regulated commercial aircraft or to access restricted areas in federal facilities, nuclear power plants or military facilities to applicants upon request.

The U.S. Department of Homeland Security (DHS) has granted Arizona an extension until October 10 2016, that allows Arizona licensees to use their current Arizona driver licenses or nonoperating identification licenses at airport security and restricted federal facilities. DHS has also indicated that once Arizona is deemed fully compliant with the REAL ID Act of 2005, current Arizona credentials will continue to be accepted at airport security and restricted federal facilities until October 1, 2020.

Pursuant to Laws 2015, Ch. 294, § 5, the Department engages in this exempt rulemaking to set the requirements and fee for applying for a federally recognized travel-compliant credential. In addition, a change was made to R17-4-409 to indicate that the Section does not apply to individuals applying for the federally recognized travel-compliant nonoperating identification license. A change was also made to replace the term "Division" to "Department" to reflect organizational changes made by the Department.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on 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 Department did not review or rely on any study relevant to the rules.

8. 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

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

Laws 2015, Ch. 294, § 5, authorizes an exemption from the rulemaking requirements of A.R.S. Title 41, Chapter 6, thus this rulemaking is exempt from the requirements of the Administrative Procedures Act and no economic, small business, and consumer impact statement is required.

10. A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking and the final rulemaking package (if applicable):

Not applicable

11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:

The Department solicits public comments throughout the rulemaking process. Written comments on the proposed rulemaking should be directed to the person listed in item 5. All comments must be received by the close of public record at 5:00 p.m. on March 14, 2016.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:

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

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

The rule contains provisions for the issuance of a federally recognized travel compliant credential to individuals. These credentials do fall under the definition of general permits since the activities and practices allowed are substantially similar in nature for all credential holders.

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

The rule, R17-4-407, is not more stringent than any applicable federal law and requires applicants to meet and comply with the requirements of 6 CFR 37. There are no applicable federal laws that pertain to R17-4-409.

c. Whether a person submitted an analysis to the agency that compares a 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.

13. A list of any incorporated by reference material and its location in the rule:

This rulemaking incorporates no materials by reference.



14. Whether the rule was previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:

Not applicable

15. The full text of the rules follows:

TITLE 17. TRANSPORTATION

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

ARTICLE 4. DRIVER LICENSES

Section

R17-4-407. ~~Repealed~~ Application for Travel-Compliant Driver License or Nonoperating Identification License; Fee

R17-4-409. Application for Nonoperating Identification License; Fees ~~Fee~~

ARTICLE 4. DRIVER LICENSES

R17-4-407. ~~Repealed~~ Application for Travel-Compliant Driver License or Nonoperating Identification License; Fee

- A.** An applicant shall apply to the Department, on a form provided by the Department, for a travel-compliant driver license or a travel-compliant nonoperating identification license.
- B.** An applicant must meet and comply with all lawful requirements for an Arizona driver license or nonoperating identification license.
- C.** An applicant shall meet and comply with all application and documentation requirements in the most current edition of 6 CFR 37, including satisfactory proof of identity, date of birth, social security number, principle residency, and evidence of lawful status in the United States. Documents and information must be verified by the Department. An applicant may obtain a listing of acceptable documentation from the Department's website at www.azdot.gov.
- D.** An applicant shall pay a \$25 fee for any class of a travel-compliant driver license or travel-compliant nonoperating identification license.
- E.** A travel-compliant driver license is valid for a period of eight years after issuance and is renewable for successive periods of eight years up to but not exceed the year of the licensee's 65th birthday, except for when:
 - 1.** The applicant is authorized for a shorter period of time as provided under A.R.S. §§ 13-3821, 28-3171(B), and 28-3223, and the applicant's lawful presence in the United States as authorized under federal law.
 - 2.** The applicant is 60 years of age or older and the travel-compliant driver license is valid for a period of five years after issuance and renewable for successive periods of five years.
- F.** A travel-compliant nonoperating identification license is valid for a period of eight years after issuance and is renewable for successive periods of eight years, except for when the applicant is authorized for a shorter period of time as provided under A.R.S. §§ 13-3821, 28-3171(B), and 28-3223, and the applicant's lawful presence in the United States as authorized under federal law.

R17-4-409. Application for Nonoperating Identification License; Fees ~~Fee~~

- A.** This Section does not apply to applicants for a travel-compliant nonoperating identification license. Except as provided under R17-4-407, this Section applies to applicants for a nonoperating identification license.
- ~~A-B.~~** An applicant shall apply to the ~~Division~~ Department, on a form provided by the ~~Division~~ Department, for a nonoperating identification license, and shall comply with the requirements under A.R.S. § 28-3165.
- ~~B.~~** Satisfactory proof of an applicant's name and date of birth may be established by any of the following:
 - 1.** Birth certificate,
 - 2.** Citizenship papers,
 - 3.** Passport,
 - 4.** School identification,
 - 5.** Military discharge papers, or
 - 6.** Military I.D. card.
- C.** An applicant may obtain a listing of satisfactory proof of an applicant's name and date of birth from the Department's website at www.azdot.gov.
- ~~C-D.~~** Except as provided under A.R.S. § 28-3165, an applicant shall pay a \$12 fee for a nonoperating identification license.