

## 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. Due to time restraints, the Secretary of State's Office will no longer edit the text of proposed rules. We will continue to make numbering and labeling changes as necessary. 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 adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

### NOTICE OF PROPOSED RULEMAKING

#### TITLE 4. PROFESSIONS AND OCCUPATIONS

#### CHAPTER 23. BOARD OF PHARMACY

#### PREAMBLE

- 1. Sections Affected**

	<b><u>Rulemaking Action</u></b>
R4-23-608	Amend
R4-23-611	Amend
R4-23-612	Amend
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statutes: A.R.S. §§ 32-1904(A)(1), and 32-1904(A)(2)  
Implementing statutes: A.R.S. §§ 32-1904(B)(3) and (5), and 32-1932(D)(4)
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 7 A.A.R. 978, February 23, 2001
- 4. The name and address of agency personnel with whom persons may communicate regarding the rule:**

Name:	Dean Wright Compliance Officer
Address:	Board of Pharmacy 4425 West Olive Ave., Suite 140 Glendale, Arizona 85302
Telephone:	(623) 463-2727, Ext. 131
Fax:	(623) 934-0583
E-mail:	rxcop@qwest.net
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**

The Board's 5-year rule review in September 1997 identified Sections 611 and 612 for amending. The changes will increase the clarity, conciseness, continuity, and understandability of the rule. Other changes are necessary based on contemporary practice standards and new technology in pharmacy equipment. Because of recent format and style changes to other Sections of Article 6, Section 608 will be updated to improve clarity. The amended rule will include format, style, and grammar changes necessary to comply with the current Administrative Procedure Act.

The Board believes that making these rules will benefit the public health and safety by establishing standards for pharmacy facilities and equipment.
- 6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material:**

Not applicable

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**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 cost to the Board of Pharmacy and the Secretary of State for writing and publishing the rule will be minimal. The proposed rule will have little economic impact on pharmacies. The rule clarifies and updates existing language that relates to the facilities of a pharmacy, the supply of drugs and chemicals, and minimum pharmacy equipment standards. The rule clarifies the intent of an April 1, 1995 rule change that required toilet facilities either within the pharmacy area or no further than 50 feet from the pharmacy area. Since implementing this 1995 rule change, there have been instances where a toilet was physically within 50 feet of the pharmacy area, but the actual walk to the toilet was over 50 feet. The proposed rule will require toilet facilities either within the pharmacy area or no further than a walking distance of 50 feet from the pharmacy area. This change could have a minimal economic impact on some pharmacies. The majority of pharmacies will see no economic impact by the proposed rule. The proposed rule will have no economic impact on the public. The Board, pharmacies, and the public benefit from a rule that establishes standards for pharmacy facilities, the supply of drugs and chemicals, and pharmacy equipment in Arizona.

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

Name: Dean Wright  
Compliance Officer

Address: Board of Pharmacy  
4425 West Olive Ave., Suite 140  
Glendale, Arizona 85302

Telephone: (623) 463-2727, Ext. 131

Fax: (623) 934-0583

E-mail: rxcop@qwest.net

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

Comments may be written or presented orally. Written comments must be received by 5:00 p.m., Monday, May 14, 2001. An oral proceeding is scheduled for:

Date: May 14, 2001

Time: 10:00 a.m.

Location: 4425 West Olive Ave., Suite 140  
Glendale, Arizona 85302

A person may request information about the oral proceeding by contacting the person listed in paragraphs #4 and #9.

**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 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 23. BOARD OF PHARMACY**

**ARTICLE 6. PERMITS AND DISTRIBUTION OF DRUGS**

Section

R4-23-608. Change of Personnel and Responsibility  
R4-23-611. ~~Sanitation~~—Quality Pharmacy Facilities  
R4-23-612. Equipment

**ARTICLE 6. PERMITS AND DISTRIBUTION OF DRUGS**

**R4-23-608. Change of Personnel and Responsibility**

- A. ~~The owner or management of a~~ A community, hospital, or limited-service pharmacy permittee shall notify give the Board:
1. of a change of pharmacists Notice by mail, facsimile, or electronic mail within ten days of employing or terminating a pharmacist; and
  2. shall notify the Board of a change of the pharmacist in charge within 24 hours Immediate notice, as defined in R4-23-110, of designating or terminating a pharmacist-in-charge.
- B. Responsibility of ownership and management: ~~The owner and management of a pharmacy are:~~
1. Responsible for the acts of the pharmacists, interns, and other employees of the pharmacy similar to the laws pertaining to agents; and
  2. An owner or manager is Obligated to impress upon his the employees of the pharmacy that the laws must be observed; but
  3. he shall Not allowed to overrule the pharmacist in charge a pharmacist in matters upon questions of ethics and interpretations of the laws pertaining to the practice of pharmacy and the distribution of drugs and devices.
- C. Unprofessional conduct or conduct contrary to the public's interest by personnel of a pharmacy shall be cause for the suspension or revocation of the pharmacy permit.

**R4-23-611. Sanitation — Quality Pharmacy Facilities**

- A. ~~Sanitary facilities must comply with laws: All sanitary~~ Facilities. A pharmacy permittee or pharmacist-in-charge shall ensure that:
1. A pharmacy's facilities shall be are constructed in accordance with the state and local laws and ordinances; applying thereto.
- B. ~~The A~~ pharmacy facility's:
- a. Walls, ceilings, windows, floors, shelves, and equipment shall be are kept clean and in good repair and order; and
  - b. The Counters, shelves, aisles, and open spaces shall are not be cluttered;
- C. ~~Trash:~~ Adequate trash receptacles shall be are provided; and that no waste material shall be is permitted to collect in the pharmacy area;
- D. ~~Toilet:~~ The pharmacy facility of any pharmacy permit issued or pharmacy remodeled after April 1, 1995 shall provide October 1, 2001 provides toilet facilities either within the pharmacy area or no further than a walking distance of 50 feet from the pharmacy area;
5. The toilet shall be facilities are maintained in a sanitary condition and in good repair at all times;
- E. ~~Personnel's apparel:~~ All professional personnel and staff of the pharmacy shall be required to keep themselves and their apparel neat and clean while in the pharmacy area;
- F. ~~Animals:~~ No animals, except man, guide dogs for the blind, and guard dogs, shall be are allowed in the pharmacy; other than guide dogs for the blind and guard dogs.
- G. ~~Insects and rodents:~~ The pharmacy facility shall be is kept free of insects and rodents; and
- H. ~~Hot and cold running water:~~ There shall be is a sink with hot and cold running water, other than a sink in a toilet facility, within the pharmacy area for pharmaceutical purposes only. A sink in the lavatory shall not be considered satisfactory: use in preparing drug products.
- ~~IB.~~ Supply of drugs and chemicals: A pharmacy permittee or pharmacist-in-charge shall ensure that:
1. Reasonable supply required: A pharmacy shall have maintains a stock of pharmaceuticals drugs and chemicals that:
    - a. Are sufficient to reasonably meet the normal demands of the trading area or patient base the pharmacy serves; and
    - b. Such drugs and chemicals shall Meet all standards of strength and purity as established by the official compendiums;
  2. Must be free of contamination: All stock, and materials, drugs, and chemicals held for ultimate sale or supply to the consumer shall be are free of contamination;
  3. Expiration date: All stock and material which has exceeded its expiration date shall be removed from stock and returned to the source of supply or destroyed. Policies and procedures are developed and implemented to prevent the sale or use of a drug or chemical:
    - a. That exceeds its expiration date;
    - b. Deteriorated stock: All stock and material that appears and can be presumed to have That is deteriorated or damaged by reason of age, heat, light, cold, moisture, crystallization, chemical reaction, rupture of coating, disintegration, solidification, separation, discoloration, change of odor, precipitation, or other change that can be as determined by organoleptic examination or by other means; shall be removed from stock and returned to the source of supply or destroyed.

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- 5. ~~c. Improper labels: All stock and materials That are is improperly labeled; shall be removed from stock and returned to the source of supply or destroyed.~~
- 6. ~~d. Defective container: All stock and material the Whose container of which is defective; or shall be removed from stock and returned to the source of supply or destroyed.~~
- ~~e. That does not comply with federal law; and~~
- 4. The policies and procedures described in subsection (B)(3):
  - a. Are made available in the pharmacy for employee reference and inspection by the Board or its designee; and
  - b. Provide the following:
    - i. Any expiration-dated drug or chemical is reviewed regularly;
    - ii. Any drug or chemical, that exceeds its expiration date, is deteriorated or damaged, improperly labeled, has a defective container, or does not comply with federal law, is moved to a quarantine area and not sold or distributed; and
    - iii. Any quarantined drug or chemical is properly destroyed or returned to its source of supply.

**R4-23-612. Equipment**

~~In every pharmacy there shall be available the necessary equipment for the practices to be performed A pharmacy permittee or pharmacist-in-charge shall ensure that a pharmacy has the necessary equipment to allow a pharmacist to practice the profession of pharmacy, including the following:~~

- 1. ~~Adequate refrigeration storage equipment for operation of the pharmacy; dedicated to the storage of drugs and biologicals;~~
- 2. ~~Equipment to produce a typed or mechanically printed label.~~
- 3. ~~Equipment to produce mechanically printed numbers.~~
- 4. ~~Poison register wherever poisons are sold.~~
- 52. A C-V controlled substance register, if C-V controlled substances are sold without an order of a medical practitioner;
- 63. Graduates in assorted sizes;
- 74. One mortar and pestle;
- 85. Spatulas of assorted sizes including one nonmetallic;
- 96. Prescription balance, Class A, ~~and with~~ weights or an electronic balance of equal or greater sensitivity;
- 107. One ointment tile or equivalent;
- 118. Arizona Pharmacy Act and ~~regulations~~ administrative rules and Arizona Controlled Substance Act;
- 129. A professional reference library consisting of a minimum of 1 current reference or text, in hard-copy or electronic media, addressing the following subject areas:
  - a. Pharmacology or toxicology;
  - b. Therapeutics;
  - c. Drug compatibility; and
  - d. Drug product equivalency;
- 1310. An assortment of labels, including prescription labels, transfer labels for controlled substances, and cautionary and warning labels;
- 1411. A "C" red C stamp as required by the federal Act for controlled substances, if using other than the three file systems; defined in R4-23-110, if C-II, C-IV, and C-V controlled substance invoices are not filed separately from other invoices;
- 1512. Current antidote and drug interaction information; and
- 1613. Regional poison control phone number prominently displayed in the pharmacy area.

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 7. EDUCATION**

**CHAPTER 2. STATE BOARD OF EDUCATION**

**PREAMBLE**

**1. Sections Affected**

R7-2-305  
R7-2-306

**Rulemaking Action**

New  
Amend

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**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. § 15-203(A)

Implementing statutes: A.R.S. § 15-203(A) and § 15-741

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

Notice of Rulemaking Docket Opening: 6, A.A.R. 4511, December 1, 2000

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

Name: Corinne L. Velasquez  
Executive Director

Address: State Board of Education  
1535 West Jefferson, Room 418  
Phoenix, Arizona 85007

Telephone: (602) 542-5057

Fax: (602) 542-3046

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

The State Board of Education is proposing to add new rule, R7-2-305, to implement Senate Bill 1216, amending A.R.S. § 15-203. The law, as amended, requires the State Board of Education to ensure that students in grades 4 through 6, at the commencement of the first class of the day, recite a specified passage from the Declaration of Independence.

The State Board of Education is proposing to amend R7-2-306, Bilingual Programs and English as a Second Language Programs, to conform with recent changes ordered or approved by the Court in the case *Flores v. State of Arizona*.

**6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**

None

**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:**

There will be no economic or small business impact related to this rule.

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

Name: Corinne L. Velasquez  
Executive Director

Address: State Board of Education  
1535 West Jefferson, Room 418  
Phoenix, Arizona 85007

Telephone: (602) 542-5057

Fax: (602) 542-3046

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

An oral proceeding on the proposed rulemaking is scheduled as follows:

Date: May 21, 2001  
Time: 1:30 p.m.  
Location: State Board of Education  
1535 West Jefferson, Room 417  
Phoenix, Arizona 85007

Written comments may be submitted on or before 5:00 p.m. on May 9, 2001 to the contact person listed in paragraphs #4 and #9.

**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 7. EDUCATION**

**CHAPTER 2. STATE BOARD OF EDUCATION**

**ARTICLE 3. CURRICULUM REQUIREMENTS AND SPECIAL PROGRAMS**

Section

R7-2-305.      Declaration of Independence  
R7-2-306.      Bilingual programs and English as a second language program

**ARTICLE 3. CURRICULUM REQUIREMENTS AND SPECIAL PROGRAMS**

**R7-2-305.      Declaration of Independence**

The governing board of each common school district shall adopt policies that:

1. Require pupils to recite the following passage from the Declaration of Independence for pupils in grades 4 through 6 at the commencement of the first class of the day in the schools: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed".; and
2. Enables the pupil or the parent or legal guardian of the pupil to object to reciting the passage of the Declaration of Independence, and that specifies that a pupil shall not be required to participate if the pupil or the pupils parent or guardian objects.

**R7-2-306.      Bilingual programs and English as a second language program**

- A. No change
- B. No change
- C. No change
- D. No change
- E. No change
- F. Program options
  - ~~1. All students who have been classified as limited English proficient shall be provided a program as prescribed in A.R.S. §15-799.03.~~
  2. Limited English proficient students shall be provided the State Board of Education's course of study pursuant to R7-2-301 and R7-2-302.
  2. Daily instruction in English language development. The English language instruction shall be appropriate to the level of English proficiency and shall include listening and speaking skills, reading and writing skills, and cognitive and academic development in English.
  3. Daily instruction in basic subject areas that is understandable and appropriate to the level of academic achievement of the LEP student, and is in conformity with accepted strategies for teaching LEP students.

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4. The curriculum of all bilingual education and ESL programs shall incorporate the State Board of Education's Academic Standards and shall be comparable in amount, scope, and quality to that provided to English proficient students.

**G. Reassessment for reclassification**

1. The purpose of reassessment is to determine if a limited English proficient student has developed the English skills necessary to succeed perform in the English curricula.
2. A limited English proficient student may be reassessed for reclassification to fluent English proficient at any time but no less than every 2 years. After a student is exited from a Lau program, that exited student shall be reassessed in each of the two years following the student's exit.
3. All of the following criteria must be met in order for a student to be reclassified:
  - a. Teacher evaluation. The teacher must observe the student's oral English proficiency and review the student's performance on the State Board of Education's minimum competency skills in the required subjects to determine the student's readiness to succeed in an English language course of study. The student must be performing at a level consistent with district standards for grade level established pursuant to R7-2-301 and R7-2-302. The reassessment shall consist of tests of the exited student's reading and writing skills, math skills and mastery of academic content areas.
  - b. Parental opinion and consultation. At least 1 of the student's parents or legal guardian must be contacted by telephone, written communication, or personal interview in the language of the home to inform him/her that the child is being considered for reclassification and to give him/her the opportunity to review student performance data and to provide input into the reclassification decision.
  - e. Objective assessment of English oral language proficiency. The student must be reassessed with an oral language proficiency assessment test selected by the district from the State Board of Education's approved list. The student must achieve the publisher's designated score for fluent English proficient.
  - b. The exited student's scores on the assessment tests shall be compared to the scores of other students of the same age or grade level within the state to determine whether the student is performing at a satisfactory level.
  - d. Objective assessment of writing skills. The student shall demonstrate writing skills at a level consistent with the district standards for grade level established pursuant to R7-2-301 and R7-2-302. This shall be determined by use of a standardized writing test or by a writing sample.
  - c. In reassessing an exited student's math skills and content area mastery, a school district may use either the regularly administered Arizona Instrument to Measure Standards (AIMS) or the norm-referenced achievement test adopted by the State Board of Education.
  - e. Objective assessment of reading skills. Two options are provided for this standard:
    - i. The student shall have scored at or above the 36th percentile of national norms on the reading comprehension subtest of the state pupil achievement testing program; or
    - ii. The student shall have scored in the range of the 31st to the 35th percentile if the criteria in subsections (a) through (d) are met and a decision to reclassify is made by a language assessment team which includes the student's parent, the student's limited English proficiency program teacher pursuant to A.R.S. §15-799.03, and a school district representative.
  - d. In reassessing an exited student's reading and writing skills, a school district may use any of the tests identified by the Superintendent pursuant to A.R.S. § 15-756(7).
4. Students who are exempt from the state pupil achievement testing program pursuant to A.R.S. §15-744(B), need not be administered an English reading and writing test. Such students shall continue to be classified as limited English proficient.
5. Review of program sufficiency. When, as a result of each reassessment, a student continues to be classified as limited English proficient, a review of the program services offered must be conducted. The purpose of the program review will be to determine whether the program model and services selected for the student are being provided of the nature and to the extent necessary to afford the limited English proficient student the opportunity to acquire sufficient English language and academic skills to enable the student to meet reclassification criteria.
6. Follow-up for reclassified students. For 1 year following the reclassification of each student, the district shall review achievement levels to ensure that each student has been correctly reclassified. This review must be conducted at least twice during the follow-up year.
4. The determination of whether an exited student has performed satisfactorily on the reassessment tests shall be based on the following:
  - a. If one of the tests selected by the Superintendent pursuant to A.R.S. § 15-756(7) is used as a reassessment test, a student must score at or above the proficiency score established by the Superintendent for that test.
  - b. If the norm-referenced achievement test is used as a reassessment test for math skills and content area mastery, a student must score at or above the proficiency score established by the Superintendent for that test in connection with the responsibilities specified in A.R.S. § 15-756(7).

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- c. If the AIMS test is used as a reassessment test for math skills and content area mastery, a student must meet or exceed the minimum competency standards adopted by the State Board of Education pursuant to A.R.S. § 15-203.
- d. If a test is selected by the Superintendent as a reassessment test for reading and writing skills, a student must score at or above the proficiency score established by the Superintendent for that test.
- 5. Exited students who do not perform satisfactorily on the reassessment tests in the two years following their exit from a *Lau* program shall, subject to parental consent, be re-enrolled in a *Lau* program and given compensatory instruction aimed at curing the skill or knowledge deficits revealed by the reassessment results.
- 6. “Compensatory instruction” may include individual or small group instruction, extended day classes, summer school and intersession school.

**H. LEP Individual Education Plans.**

- 1. On request of a parent or legal guardian with regard to that parent or legal guardian’s own LEP student, the principal of the student’s school shall require a meeting with the principal or principal’s designee, the parent or legal guardian, and the classroom teacher to review the student’s progress in achieving proficiency in the English language or in making progress toward the State Board of Education’s Academic Standards and to make modifications to the student’s instruction in order to address identified problems.
- 2. LEP students who are not progressing toward achieving proficiency of the State Board of Education’s Academic Standards, as evidenced failure to improve scores on tests conducted pursuant to A.R.S. §§ 15-741(A)(2) and (3), shall be provided additional compensatory instruction to help them achieve those academic standards.
- 3. The modifications to a student’s instruction shall be provided in the form of an Individual Education Plan (IEP).
- 4. IEPs shall also be provided to students (1) whose school has too few LEP students at a given grade level to require maintenance of a regular bilingual education program or ESL program for that grade level, or (2) whose parents or legal guardians withhold consent to place a student in a regular *Lau* program.
- 5. An IEP shall be prepared by an IEP team comprised of the school principal the principal’s designee, one of the student’s academic subject teachers, the student’s *Lau* program teacher or another certified teacher who has a bilingual education or ESL endorsement, and the parent(s) or legal guardian(s), unless they decide not to participate in the IEP team. If the parent(s) or legal guardian(s) so desire, the IEP team shall also include one advocate for the student selected by the student’s parent(s) or legal guardian(s) and/or the student.
- 6. The IEP team shall determine the scope and/or type of services the student will need to become proficient in English. The curriculum of all IEPs shall incorporate the Academic Standards adopted by the State Board of Education pursuant to A.R.S. § 15-701 and shall be comparable in amount, scope, and quality to that provided to English proficient students.
- 7. Upon request by the Department of Education, a copy of the IEP shall be submitted to the Department, along with a summary of the student’s progress, including academic gain as measured by the AIMS Test, the norm-referenced achievement test, or other school assessments for use in the Department’s annual English Acquisition Report to the Legislature.
- 8. The IEP is not required to be implemented by a classroom teacher who possesses a basic or standard certificate to teach and a bilingual or ESL endorsement, and may be implemented by any certificated teacher. A teacher who possesses a basic or standard certificate to teach and a bilingual or ESL endorsement shall collaborate with the classroom teacher in the implementation of the IEP, including documentation of periodic reviews of the students progress toward English proficiency and content area knowledge, as well as plans to remedy any lack of progress.

**H. Reassessment for reclassification of limited English proficient students whose language needs are addressed within the context of special education.**

- 1. Reassessment for language reclassification may be conducted at any time but no less than every 2 years. This process shall be conducted in conjunction with the review of the individualized education plan by the individualized education plan (IEP) team.
- 2. The purpose of the reassessment is to determine whether the limited English proficient student in special education has developed the English language skills necessary to succeed in English-only instruction.
- 3. The reassessment of special education students for reclassification shall be conducted as prescribed in subsection(G). If the individualized education plan team finds the procedures to be inappropriate for a particular student because of the nature of the handicapping condition, the district shall employ alternate procedures for reassessment.
- 4. Special education students shall be reclassified to fluent English proficient as prescribed in subsection (G). If the individualized education plan team finds these standards to be inappropriate for a particular student, the team shall determine the impact of the handicapping condition upon the level of language proficiency and shall set the standards for each student accordingly. Persons conducting the language assessments shall participate with the individualized education plan team in the determination of the student’s language proficiency designation.



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**I. Monitoring**

If the monitoring report requested by the Superintendent indicates that a school district or charter school is not in compliance with state or federal laws regarding LEP students, the district or charter school shall submit a corrective action plan to the Department within sixty days from the date of the report.

Appendix A

English Language Assessment Tests and Procedures

**A. Oral Language Proficiency Assessment**

1. The following tests are approved for oral language assessment in English:
  - a. Bilingual Syntax Measure I (BSM I) K-2  
Publisher: The Psychological Corporation
  - b. Bilingual Syntax Measure II (BSM II) 3-12  
Publisher: The Psychological Corporation
  - c. IDEA Oral Language Proficiency Test I (IPT I) K-6
  - d. IDEA Oral Language Proficiency Test II (IPT II) 7-12  
Publisher: Ballard and Tighe, Inc.
  - e. Language Assessment Scales I (LAS I) — Forms A and B, K-5
  - f. Language Assessment Scales II (LAS II) — Forms A and B, 6-12
  - g. Language Assessment Scales I (LAS) — Short Form, K-5
  - h. Language Assessment Scales II (LAS II) — Short Form, 6-12  
Publisher: Linguametrics Group
2. Districts may request authorization on an annual basis to utilize a test not listed above. The request shall be submitted to the Department of Education by April 1 and shall include a copy of the test and the technical manual for the test. The Department of Education shall review and approve/disapprove such requests by June 1 annually, based upon the technical adequacy of the test in the areas of norming, reliability, validity, and administration.
3. Districts which conducted oral language proficiency assessment prior to August, 1984 may continue to utilize the current tests for the 1984-1985 school year if the tests provide for the individual assessment of comprehension and speaking.

**B. Reading and Writing Assessments**

1. Districts shall utilize the reading comprehension subtest of the state pupil achievement test or district procedures established pursuant to R7-2-301 and R7-2-302 to assess proficiency in reading English.
2. Districts shall utilize procedures established pursuant to R7-2-301 and R7-2-302 to assess proficiency in writing English.

Appendix B

Primary Language Assessment Tests and Procedures

- A.** Districts shall utilize formal tests to the extent such tests are available in the particular language for assessing comprehension, speaking, reading, and writing. Districts may refer to a list of such tests maintained by the Department of Education.
- B.** The parallel versions of the tests listed under Appendix A, (A)(1) shall be used for oral language proficiency assessment in the native language, if available.
- C.** In the event no test is available in a particular language, a structured interview and academic evaluation shall be conducted by personnel with proficiency in the particular language. Districts may refer to the Directory of Bilingual Resource Persons maintained by the Department of Education to identify such individuals.

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 17. TRANSPORTATION**

**CHAPTER 4. DEPARTMENT OF TRANSPORTATION - MOTOR VEHICLE DIVISION**

**PREAMBLE**

**1. Sections Affected**

R17-4-435  
R17-4-435.01  
R17-4-435.02  
R17-4-435.03  
R17-4-436

**Rulemaking Action**

Amend  
Amend  
Amend  
Amend  
Amend

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**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. §§ 28-5204 and 28-5235

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

Notice of Rulemaking Docket Opening: 7 A.A.R. 1387, March 30, 2001

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

Name: George R. Pavia  
Department Rules Supervisor

Address: Arizona Department of Transportation  
Administrative Rules Unit, Mail Drop 507M  
3737 North Seventh Street, Suite 160  
Phoenix, Arizona 85014-5017

Telephone: (602) 712-8446

Fax: (602) 241-1624

E-mail: gpavia@dot.state.az.us

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

MVD engages in this rulemaking to incorporate sections of the 2000 edition of the 49 CFR by reference into Arizona Motor Carrier Safety and Hazardous Materials Transportation administrative rules.

**6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**

None

**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:**

There is only 1 change in the economic impact information for this set of rules since the previous incorporation of 1999 federal regulations. The addition of exempting the 18,001 pound gross vehicle weight applicability for intrastate-operating tow trucks can result in moderate to substantial savings for qualifying towing entities. The savings would be in decreased administrative costs and reduction in incidence of sanctions for non-compliance with the lower GVWR threshold.

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

Communication concerning the economic impact of this rulemaking may be made with the officer listed under item #4 of this notice.

**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 persons may request an oral proceeding on the proposed rule:**

No public hearing is scheduled in this rulemaking, since no provisions of these rules effect any change in regulatory requirement, except the raised threshold GVWR for intrastate-operating tow trucks. The raised tow truck weight threshold was included by consensus between industry and agency enforcement. Since all other rule provisions in this rule package remain unchanged, the agency sees no need for a hearing. A request for a public hearing may be made to the officer listed in item #4 of this notice. If no hearing is requested, the public record in this rulemaking will close at 4:30 p.m. on Friday, May 18, 2001.

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

None

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

In R17-4-435, subsection (A):

49 CFR Parts 40, 382, 390, 391, 392, 393, 395, 396, 397, and 399, published on October 1, 2000.

In R17-4-436, subsection (A):

49 CFR Parts 107, 171, 172, 173, 188, 178 and 180, published on October 1, 2000.

**13. The full text of the rules follows:**

**TITLE 17. TRANSPORTATION**

**CHAPTER 4. DEPARTMENT OF TRANSPORTATION - MOTOR VEHICLE DIVISION**

**ARTICLE 4. MOTOR CARRIERS**

Section

R17-4-435. Motor Carrier Safety: ~~Adoption~~ Incorporation of Federal Regulations; Definitions; Application  
R17-4-435.01. Motor Carrier Safety: 49 CFR 390 - Federal Motor Carrier Safety Regulations; General Applicability and Definitions; General Requirements and Information  
R17-4-435.02. Motor Carrier Safety: 49 CFR 391 - Qualifications of Drivers  
R17-4-435.03. Motor Carrier Safety: 49 CFR 382 - Controlled Substances and Alcohol Use and Testing  
R17-4-436. Hazardous Materials Transportation

**ARTICLE 4. MOTOR CARRIERS**

**R17-4-435. Motor Carrier Safety: ~~Adoption~~ Incorporation of Federal Regulations; Definitions; Application**

- A. The Division incorporates by reference 49 CFR 40, 382, 390, 391, 392, 393, 395, 396, 397, and 399 published October 1, ~~1999~~ 2000, and no later amendments or editions and on file with the Federal Motor Carrier Safety Administration, the Division, and the Office of the Secretary of State, as amended by R17-4-435 through R17-4-435.06.
- B. The following definitions apply for purposes of R17-4-435 through R17-4-435.06 unless indicated otherwise:
1. "Co-applicant" means an employer or potential employer.
  2. "Commercial driver license" or "CDL" has the meaning prescribed in A.R.S. § 28-3001 (2).
  3. "Division" or "MVD" means the Motor Vehicle Division, Arizona Department of Transportation.
  4. "Division Director" means the Assistant Director of the Arizona Department of Transportation for the Motor Vehicle Division or the Assistant Director's designated agent.
  5. "49 CFR" means Title 49, Code of Federal Regulations.
- C. The regulations of 49 CFR, incorporated by subsection (A), apply as amended by R17-4-435.01 through R17-4-435.06 to:
1. A motor carrier as defined in A.R.S. § 28-5201 except a motor carrier transporting passengers for hire in a vehicle with a design capacity of 6 or fewer persons.
  2. A vehicle owned or operated by the state, a political subdivision, or a public authority of the state, that is used to transport hazardous materials in an amount requiring the vehicle to be marked or placarded as prescribed in R17-4-436.

**R17-4-435.01. Motor Carrier Safety: 49 CFR 390 - Federal Motor Carrier Safety Regulations; General Applicability and Definitions; General Requirements and Information**

- A. 49 CFR 390.3 General applicability is amended as follows:
1. Paragraph (a) is amended to read:  
~~The regulations adopted in this rule~~ Regulations incorporated in this Section are applicable to all motor carriers operating in Arizona and any vehicle owned or operated by the state, a political subdivision, or a state public authority ~~of the state~~, that is used to transport a hazardous materials in an amount requiring ~~the a~~ vehicle to be marked or placarded as prescribed in R17-4-436.
  2. Paragraph (b) is amended to read:  
A motor carrier driver domiciled in Arizona who operates a commercial motor vehicle defined in A.R.S. § 28-3001 shall comply with the requirements of A.R.S. Title 28, Chapter 8 and any rules made under that Chapter.
  3. Paragraph (c) is amended to read:  
A motor carrier operating in Arizona in furtherance of a commercial enterprise, shall comply with the financial responsibility requirement specified in A.R.S. Title 28, Chapter 9, Article 2, and 49 CFR 387.
- B. 49 CFR 390.5 Definitions. The definitions listed in 49 CFR 390.5 are amended as follows:
1. If the term "Commercial Motor Vehicle" or "CMV" is used in reference to the controlled substance and alcohol use and testing requirement of 49 CFR 382, the term has the meaning prescribed in 49 CFR 382,107.

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2. If the term “Commercial Motor Vehicle” or “CMV” is used in reference to the licensing requirements prescribed under A.R.S. § 28-3001, the term has the meaning prescribed under A.R.S. § 28-3001.
3. If the term “Commercial Motor Vehicle” or “CMV” is not used in reference to the controlled substance and alcohol use and testing requirement of 49 CFR 382 or the licensing requirement prescribed under A.R.S. § 28-3001, the term means a self-propelled, motor-driven vehicle or vehicle combination, used on a public highway in this state during a commercial enterprise, that:
  - a. Has a gross vehicle weight rating (GVWR) as a single vehicle or a gross combination weight rating (GCWR) of 18,001 pounds or more;
  - b. Transports passengers for hire and has a design capacity of 7 or more persons; or
  - c. Transports a hazardous materials in an amount requiring marking or placarding as prescribed in R17-4-436.
  - d. Is not an intrastate-operating tow truck that has a GVWR up to 26,000 pounds, but shall remain subject to all other provisions prescribed under 49 CFR 391.41, 391.43, 391.45, 391.47, and 391.49.
4. “Exempt intracity zone” is deleted from R17-4-435.01 through R17-4-435.04 and has no application in these rules.
5. “For-hire motor carrier,” “private motor carrier”, “private motor carrier of passengers (business)” and “private motor carrier of passengers (non-business)” are deleted from R17-4-435.01 through R17-4-435.04 and the term “motor carrier” is used.
6. Gross combination weight rating (GCWR) has the meaning prescribed under 49 CFR 390.5, Definitions.
7. Gross vehicle weight rating (GVWR) has the meaning prescribed under 49 CFR 390.5, Definitions, amended by adding:

In the absence of a value specified by the manufacturer and the vehicle identification number, law enforcement shall use a vehicle’s actual gross weight or declared gross weight to determine the GVWR.
8. “Regional Director of Motor Carriers” means the Division Director of the Arizona Department of Transportation, Motor Vehicle Division.
9. “Special agent” means an officer or agent of the Department of Public Safety, the Division, or a political subdivision, who is trained and certified by the Department of Public Safety to enforce Arizona’s Motor Carrier Safety requirements.
10. “State” means a state of the United States or the District of Columbia.
11. “Tow truck” has the meaning prescribed under R13-3-101.
- C. 49 CFR 390.15 Assistance in investigations and special studies. Paragraph (a) is amended to read:

A motor carrier shall make all records and information pertaining to an accident available to a special agent upon request or as part of any inquiry within the time ~~the~~ a request or inquiry specifies. A motor carrier shall give a special agent all reasonable assistance in the investigation of any accident including providing a full, true, and correct answer to any question of the inquiry.
- D. 49 CFR 390.21 Marking of commercial motor vehicles. Paragraph (a) is amended to read:

This Section applies to all motor carrier vehicles operated in Arizona. A motor carrier not subject to U.S. Department of Transportation marking requirements shall mark its vehicle with the:

  1. Company name, or
  2. Business trade name, and
  3. City and state.
- E. 49 CFR 390.23 Relief from regulations.
  1. Paragraph (a) is amended to read:

Regulations contained in 49 CFR 390 through 397 do not apply to a motor carrier that:

    - a. Is exempt from federal jurisdiction, and
    - b. Operates a commercial motor vehicle used or designated to provide relief during an emergency.
  2. Paragraphs (a)(1), (a)(1)(A), (a)(1)(B), and (a)(1)(B)(ii) are deleted.
  3. Paragraph (a)(2)(A) is amended as follows:

An emergency has been declared by a federal, state, or local government official having authority to declare an emergency; and
  4. Paragraph (a)(2)(B) is amended as follows:

The Arizona Department of Public Safety, Commercial Vehicle Enforcement Bureau, determines a local emergency exists that justifies an exemption from any or all of these Parts. If the Arizona Department of Public Safety, Commercial Vehicle Enforcement Bureau determines relief from these regulations is necessary to provide vital service to the public, relief shall be granted with any restrictions the Arizona Department of Public Safety considers necessary.
  5. Paragraph (b) is amended as follows:

“Interstate commerce” means engagement in a commercial enterprise.

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- F. 49 CFR 390.25 Extensions of relief from regulations - emergencies is amended as follows:  
A motor carrier seeking to extend a period of relief from these regulations shall obtain approval from the Arizona Department of Public Safety, Commercial Vehicle Enforcement Bureau. The motor carrier shall give full details of the additional relief requested. The Arizona Department of Public Safety shall observe time limits for emergency relief from regulations as prescribed under 49 CFR 390.23(a), but may extend a period of relief after considering:
1. Severity of the emergency,
  2. Nature of relief services to be provided by the motor carrier, and
  3. Other restrictions that may be necessary.
- G. 49 CFR 390.27 Locations of regional motor carrier safety offices is amended to read:  
A motor carrier requesting relief from these regulations shall contact the Arizona Department of Public Safety, Commercial Vehicle Enforcement Bureau, Telephone (602) 223-2522.

**R17-4-435.02. Motor Carrier Safety: 49 CFR 391 - Qualifications of Drivers**

- A. 49 CFR 391.11 Qualifications of drivers. Paragraph (b)(1) is amended to read:  
Is at least 21 years of age for interstate operation and at least 18 years of age for operations restricted to intrastate transportation not involving the transportation of a reportable quantity of hazardous substance, hazardous waste required to be manifested, or hazardous material in an amount requiring ~~the a~~ a vehicle to be marked or placarded as prescribed in R17-4-436.
- B. 49 CFR 391.49 ~~Waiver of certain physical defects~~ Alternative physical qualification standards for the loss or impairment of limbs.
1. Paragraph (a) is amended by adding:  
A person not physically qualified to drive as prescribed in 49 CFR 391.41(b)(1), (b)(2), (b)(3), or (b)(10) but otherwise qualified to drive a motor vehicle, may drive a motor vehicle in intrastate commerce if the Division Director grants an intrastate waiver to the person. Application for an intrastate waiver shall be submitted according to subsection (C). If granted, an intrastate waiver shall be for a period not exceeding 2 years. A person granted an intrastate waiver may transfer the intrastate waiver from an original employer to a new employer upon written notification to the Division Director stating the new employer's name ~~of the new employer~~ and the type of equipment to be driven.
  2. Paragraph (b) is amended by adding:  
To obtain an intrastate waiver, an applicant or an applicant and co-applicant shall submit a letter of application for an intrastate waiver of a physical qualification. ~~The application shall be addressed to the Motor Vehicle Division, Medical Review Program, P.O. Box 2100, Mail Drop 818Z, Phoenix, Arizona 85001-2100. The applicant shall comply with all the requirements of 49 CFR 391.49 (c), "Waiver of certain physical defects"~~ "Alternative physical qualification standards for the loss or impairment of limbs", except paragraphs (c)(1)(i) and (c)(1)(iii). The driver applicant shall respond to the requirements of 49 CFR 391.49 (c)(2)(ii) through (c)(2)(v), if the information is known.
  3. Paragraph (c)(1)(iv) is amended to read:  
A description of the driver applicant's limb or visual impairment for which waiver is requested.
  4. Paragraph (d)(3)(i) is amended to read:  
The medical evaluation summary for a driver applicant disqualified under 49 CFR 391.41 (b)(1) or (b)(10) shall include:
  5. Paragraph (d)(3)(i)(B) is amended by adding:  
Or a statement by the examiner that an applicant for an intrastate waiver has:
    - a. Distant visual acuity at least 20/40 (Snellen), with or without a corrective lens, in 1 eye;
    - b. Field of vision at least 70° peripheral measurement of the horizontal meridian of the applicant's dominant eye; and
    - c. Ability to distinguish the colors of a traffic signal or device showing standard red, green, and amber.
  6. Paragraph (d)(3)(iii) is added:  
~~The~~ A medical evaluation for a driver applicant disqualified as prescribed under 49 CFR 391.41(b)(3) shall include the requirements in 49 CFR 391.64.
  7. Paragraph (j)(1) is amended by adding:  
A person with a distant visual acuity of greater than 20/40 (Snellen), with or without a corrective lens, in 1 eye; a field of vision of less than 70° peripheral measurement of the horizontal meridian of the person's dominant eye; and the inability to distinguish the colors of a traffic signal or device showing standard red, green and amber, shall not:
    - a. Transport any amount of hazardous material required to be marked or placarded as prescribed under R17-4-436, or
    - b. Operate a vehicle for the purpose of transporting passengers as prescribed under R17-4-435.
- C. Waiver procedure for an intrastate driver.
1. The Division Director shall appoint the Division's Medical Review Officer to review a request for a physical waiver.
  2. The Medical Review Officer shall:
    - a. Review an application for waiver to ensure all provisions of 49 CFR 391.49 are met;

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- b. Take necessary testimony and accept documentation and information about the application;
  - c. Ensure that a driver applying for an intrastate waiver of the visual requirements:
    - i. Has driven the type of vehicle to be operated as prescribed in the waiver for at least 2 of the previous 5 years, and
    - ii. Will not transport passengers for hire, or
    - iii. Will not transport a reportable quantity of a hazardous substance, hazardous waste that requires a manifest, or hazardous material that requires marking or placarding as prescribed under R17-4-436;
  - d. Notify the applicant by mail:
    - i. To contact the nearest CDL examiner to schedule a time to take the CDL pre-inspection, off-road, and on-road tests within 30 days from date of notice.
    - ii. Of the approval or denial of the waiver within 10 days of the decision to approve or deny.
3. The applicant shall submit an application to the Division as prescribed under 49 CFR 391.49 (a), (b), (c) and (d) as amended by this rule.
  4. Waiver form.
    - a. The Division shall ensure that the application for waiver form reflects the terms, conditions, or limitations of the waiver.
    - b. The Division shall maintain the original waiver form.
    - c. The motor carrier shall retain a legible copy of the waiver form:
      - i. During the driver's employment as a driver, and
      - ii. For a minimum of 3 years after the driver ceases driving for the motor carrier.
    - d. A driver granted a waiver shall possess a legible copy of the waiver when driving a commercial motor vehicle.
  5. Hearings and appeals. If the Medical Review Officer denies a waiver application, the applicant may request a hearing with the MVD Executive Hearing Office within 15 days from the date of the notice as prescribed under R17-4-901 through R17-4-912.
  6. Using the US Department of Transportation Federal Highway Administration's Regulatory Criteria for Evaluation under Section 391.41, April 1996, the Medical Review Officer may suspend for life the commercial vehicle operating privilege of any driver who, after issuance of a waiver as prescribed in this Section:
    - a. Fails to meet the conditions imposed by this Section,
    - b. Commits a serious traffic violation described under A.R.S. § 28-3312(E), or
    - c. Is involved in a reportable accident related to the driver's medical condition.
  7. If enforcement of any provision of this Section would result in the loss or disqualification of federal funding for any state agency or program.
- D. Subpart F - Files and Records.**  
49 CFR 391.51 ~~Driver~~ General requirements for driver qualification files. Paragraph (b)(8) is amended by adding the following text:  
or the Division Director's letter of notification, granting an intrastate waiver of physical disqualification, if a waiver is granted as prescribed in this Section.
- E. The following sections are deleted:**
1. 49 CFR 391.68 Private motor carrier of passengers (non-business).
  2. 49 CFR 391.69 Private motor carrier of passengers (business).

**R17-4-435.03. Motor Carrier Safety: 49 CFR 382 - Controlled Substances and Alcohol Use and Testing**

- A.** 49 CFR 382.103 Applicability. Paragraph (a)(1) is amended to read:  
The commercial driver's license requirements of the State of Arizona.
- B.** 49 CFR 382.115 Starting date for testing programs. Paragraph (a) is amended to read:  
The controlled substance and alcohol use and testing requirements commence for all motor carriers on the date this Section goes into effect.
- C.** Paragraphs (b) through (d) are deleted.

**R17-4-436. Hazardous Materials Transportation**

- A.** Incorporation of federal regulations.
  1. The Motor Vehicle Division incorporates the following portions of the Federal Hazardous Materials Regulations by reference. Materials incorporated by reference are on file in the Secretary of State's Office. The incorporated Hazardous Materials Regulations are published in 49 CFR (Transportation), Subtitle B - (Other Regulations Relating to Transportation), Chapter I - (Research and Special Programs Administration, Department of Transportation); ~~Subchapter C (Hazardous Materials Regulations), Parts:~~
    - a. Subchapter A - Hazardous Materials and Oil Transportation; Part 107 - Hazardous materials program procedures; and
    - b. Subchapter C - Hazardous Materials Regulations; Parts:

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- i. 171 - General information, regulations, and definitions;
    - e ii. 172 - Hazardous materials table, special provisions, hazardous materials communications, emergency response information, and training requirements;
    - Ⓕ iii. 173 - Shippers - general requirements for shipments and packagings;
    - e iv. 177 - Carriage by public highway;
    - f v. 178 - Specifications for packagings; and
    - Ⓖ vi. 180 - Continuing qualification and maintenance of packagings.
  - 2. These parts are incorporated as printed in the October 1, ~~1999~~ 2000 edition, and those sections of the October 1, ~~1990~~ 1991 edition authorized for use under the transitional provisions of Section 171.14 of the October 1, ~~1999~~ 2000 edition.
- B. Application and exceptions.**
- 1. Application.
    - a. ~~The regulations~~ Regulations incorporated in subsection (A) ~~shall~~ apply as amended by subsection (C) to motor carriers, shippers, and manufacturers as defined in A.R.S. § 28-5201.
    - b. ~~The regulations~~ Regulations incorporated in subsection (A) also apply to ~~all any~~ vehicles owned or operated by the state, a political subdivision, or a state public authority ~~of the state~~, used to transport a hazardous materials, including hazardous substances and hazardous wastes.
  - 2. Exceptions. ~~Authorized~~ An authorized emergency vehicles, as defined in A.R.S. § 28-101, ~~are~~ is excepted from the provisions of this ~~rule~~ Section.
- C. Amendments.** The following sections of the Federal Hazardous Materials Regulations, incorporated under subsection (A), are amended as follows:
- 1. Part 171. General information, regulations, and definitions.
    - a. Section 171.1 Purpose and scope.

Paragraph (a) shall read:

“The transportation of hazardous materials by and their offering to: (1) interstate, intrastate, and foreign motor carriers; and (2) vehicles owned or operated by the state, a political subdivision or a state public authority ~~of the state~~, which are used to transport hazardous materials.”
    - b. Section 171.8 Definitions and abbreviations. Section 171.8 is amended by revising the definitions for “Carrier,” “Hazmat employer,” and “Person,” and adding a definition for “Highway” as follows:

“‘Carrier’ means a person engaged in the transportation of passengers or property by highway as a common, contract, or private carrier and also includes the state, a political subdivisions, and a state public ~~authorities of the state~~ authority engaged in the transportation of hazardous materials.”

“‘Hazmat employer’ means a person who uses 1 or more of its employees in connection with: transporting hazardous materials; causing hazardous materials to be transported or shipped; or representing, marking, certifying, selling, offering, reconditioning, testing, repairing, or modifying containers, drums, or packagings as qualified for use in the transportation of hazardous materials. This term includes motor carriers, shippers, and manufacturers defined in A.R.S. § 28-5201 and includes the state, political subdivisions, and public authorities of the state.”

“‘Highway’ means a public highway defined in A.R.S. § 28-5201.”

“‘Person’ has the same meaning defined in A.R.S. § 28-5201.”
  - 2. Part 172- Hazardous materials table, special provisions, hazardous materials communications, emergency response information, and training requirements.

Section 172.3 Applicability.

Paragraph (a)(2) is amended to read:

“Each motor carrier that transports hazardous materials, and each state agency, political subdivision, and state public authority ~~of the state~~ that transports, ~~by highway~~, hazardous materials by highway.”
  - 3. Part 177. Carriage by public highway.
    - a. Section 177.800 Purpose and scope of this part and responsibility for compliance and training.

Paragraph (a) is amended as follows: The phrase “by private, common, or contract carriers by motor vehicle” is amended to read, “by a motor carriers operating in Arizona, ~~and a state~~ agencies agency, a political subdivisions, and public authorities of the state that transport, by highway, or a state public authority that transports hazardous materials by highway.”
    - b. Section 177.802 Inspection. Section 177.802 is amended to read: “Records, equipment, packagings, and containers under the control of a motor carrier or other persons subject to this part, affecting safety in transportation of hazardous materials by motor vehicle, must be made available for examination and inspection by an authorized representative of the Department as prescribed in A.R.S. §§ 28-5204 and 28-5231.”