

## NOTICES OF FINAL RULEMAKING

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

### NOTICE OF FINAL 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
- Rulemaking Action:**  
Amend  
Amend  
Amend
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statute: A.R.S. § 28-202  
Implementing statute: A.R.S. §§ 28-2402 and 28-2412
3. **The effective date of the rules:**  
February 20, 1996
4. **A list of all previous notices appearing in the Register addressing the final rule:**  
**Notice of Rulemaking Docket Opening:**  
1 A.A.R. 203, March 17, 1995  
**Notice of Proposed Rulemaking:**  
1 A.A.R. 2260, November 3, 1995
5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Harry McFate/Glenn C. Johnson  
Address: Motor Vehicle Division, Executive Hearing Office  
4747 North Seventh Avenue  
Phoenix, Arizona 85013-2401  
Telephone: (602) 255-7737  
Facsimile: (602) 241-1624
6. **An explanation of the rule, including the agency's reasons for initiating the rule:**  
The Motor Vehicle Division is amending the rules to adopt the October 1, 1993, edition of Title 49 of the Code of Federal Regulations. Specifically, the Division is adopting Subtitle B - Other Regulations Relating to Transportation, Chapter B - Federal Motor Carrier Safety Regulations, 49 CFR 390, 391, 392, 393, 395, 396, 397, and 399. The existing rule adopted the October 1, 1992, edition of the Code of Federal Regulations.  
As a participant in the Motor Carrier Safety Assistance Program, Arizona has agreed to adopt and maintain rules consistent with the Federal Motor Carrier Safety Regulations. The Departments of Transportation and Public Safety have certified, in the State Enforcement Plan, that the state will adopt and enforce the Motor Carrier Safety Regulations as required under the provisions of the Motor Carrier Safety Assistance Program as specified in 49 CFR 350 and 355.  
The amendments to the rules are necessary to update the Motor Vehicle Division's rules governing motor carrier safety. Modifications to the text incorporated by reference are only intended to make the language consistent with state terminology and are not intended to make any change to the content.
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.

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

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

There is only 1 change that will have any economic impact. Motor Carriers will be required to maintain an accident register. The register will contain information about accidents that occurred during the previous 12 months. The requirement to maintain an accident register is expected to have minimal economic impact on the motor carrier industry.

The benefit to law enforcement personnel and the Motor Vehicle Division is the ability to track a motor carrier's accident experience and to identify an individual carrier for further investigation and enforcement action if necessary to protect the motoring public.

Small business does not receive special consideration due to the federal mandate requiring the adoption of the federal motor carrier safety regulations and the blanket application of the regulations to all motor carriers.

Consumers will benefit from the rule if accident-prone carriers are identified and removed from the highways.

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

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

- A. R17-4-435(A) - A space was added between 390 and 391 to correct a grammatical error. The words "amendments or" were added and the word "herein" was deleted for clarity, conciseness, and understandability.
- B. R17-4-435(B)(5) - The words "a four" were changed to "4" to conform with Secretary of State rules. The words "member board" were changed to "individuals" for clarity, conciseness, and understandability. The words "for the purpose of making" were changed to "to make" to correct a grammatical error.
- C. R17-4-435(C) - Commas were added to correct a grammatical error. The words "of this rule" were deleted for clarity, conciseness, and understandability.
- D. R17-4-435(C)(1) - The word "six" was changed to "6" to conform with Secretary of State rules.

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

- A. R17-4-435.01 - The subsection indicator "A" has been deleted to conform with Secretary of State rules.
- B. R17-4-435.01(1) - The word "Applicability" was changed to "applicability" to correct a grammatical error. The sentence "Paragraphs (a), (b), and (c) are amended as follows:" was deleted for clarity, conciseness, and understandability.
- C. R17-4-435.01(1)(b) - The words "at the end of the paragraph:" were added; the words "Title 28, Chapter 4" were changed to "§ 28-402"; and the word "thereunder" was changed to "under that chapter" for clarity, conciseness, and understandability.
- D. R17-4-435.01(2)(a) - The entire sentences "Unless the term 'Commercial Motor Vehicle' or 'CMV' is used in reference to the licensing requirements of either 49 CFR 383 or A.R.S. § 28-402, in which case it shall have the same meaning prescribed therein 'Commercial Motor Vehicle' or 'CMV' means any self-propelled, motor-driven vehicle or vehicle combination used on any public highway in this state in the furtherance of a commercial enterprise, which vehicle or vehicle combination used on ~~any~~ public highway in this state in the furtherance of a commercial enterprise, which vehicle or vehicle combination used on the licensing requirements of either 49 CFR 383 or A.R.S. § 28-402, the term has the meaning set forth at 49 CFR 383 or A.R.S. § 28-402. If the term 'Commercial Motor Vehicle' or 'CMV' is not used in reference to the licensing requirements of 49 CFR 383 or A.R.S. § 28-402, the term means self-propelled, motor-driven vehicle or vehicle combination used on a public highway in this state in the furtherance of a commercial enterprise, that:" for clarity, conciseness, and understandability.
- E. R17-4-435.01(2)(a)(i) - The word "or" was deleted to correct a grammatical error.
- F. R17-4-435.01(2)(a)(ii) - The word "persons" is changed to "individuals" to conform the language in R17-4-435.01(2)(a)(ii) to the language in R17-4-435(C)(1). The word "seven" was changed to "7" to conform with the Secretary of State rules.
- G. R17-4-435.01(2)(a)(iii) - The words "placarding or marking" were changed to "marking or placarding" for clarity, conciseness, understandability, and consistency.
- H. R17-4-435.01(2)(b) - The words "the term shall have" were changed to "has" for clarity, conciseness, and understandability.
- I. R17-4-435.01(2)(c) - The words "shall be used in their place" were changed to "is used" for clarity, conciseness and understandability.
- J. R17-4-435.01(3)(a) - The subsection "(a)" was deleted to conform with the Secretary of State rules.
- K. R17-4-435.01(4) - The words "All motor carriers that are" were changed to "A motor carrier that is" for clarity, conciseness, and understandability. The word "their" was changed to "its" and the words "in accordance with the provisions of this Section. Such carrier shall use" were changed to "with" to correct grammatical errors. The words "in lieu of the USDOT identification number, except that no identification number marking shall be required for those carriers exempt from the Use Fuel/Motor Carrier License requirement" were deleted for clarity, conciseness, and understandability.

**Notices of Final Rulemaking**

- L. R17-4-435.01(5) - The sentence "Paragraphs (a), (a)(1), (a)(1)(A), (a)(1)(B), (a)(1)(B)(ii), (a)(2)(A), (a)(2)(B), (a)(2)(B)(ii), and (b) are amended as follows:" was deleted to correct grammatical errors and because the sentence is redundant.
- M. R17-4-435.01(5)(a) - The word "use" in the proposed rule is changed to "used" to correct a grammatical error. The words "any", "operating", "that is being", and "emergency" were deleted for clarity, conciseness, and understandability. The words "'a", "that is", and "and that operates" were added for clarity, conciseness, and understandability.
- N. R17-4-435.01((5)(b)) - The words "shall not apply" are changed to "are deleted" for clarity, conciseness and understandability.
- O. R17-4-435.01(5)(d)(6) - The word "which" was changed to "that" for clarity, conciseness, and understandability.
- P. R17-4-435.01(6) - The word "any" throughout the paragraph was changed to "a" for clarity, conciseness, and understandability. The words "both", "ongoing", and "requested" were deleted for the same reason.
- Q. R17-4-435.01(7) - The words "Section 390.27 any request for relief" were changed to "To make a request for relief the motor carrier requesting relief," for clarity, conciseness, and understandability. The words "be made to" was changed to "contact" for clarity, conciseness, and understandability.
- R. R17-4-435.01(7) - The telephone number for the Department Public Safety, Special Services Region was erroneously deleted in the proposed rule.
- S. R17-4-435.01(5)(d), (6), and (7) - The words "Arizona Department of Public Safety, Special Services Division" are changed to "Arizona Department of Public Safety, Special Services Region" to reflect a recent name change in the organizational unit.

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

- A. R17-4-435.02 - The subsection indicator "A" has been deleted to conform with Secretary of State rules.
- B. R17-4-435.02(1) - The words "do not apply" were changed to "are deleted" for clarity, conciseness, and understandability.
- C. R17-4-435.02(3) - The sentence "Paragraphs (a), (b), (c)(iv), (d)(3)(i), and (d)(3)(i)(B) are amended as follows:" was deleted to correct a grammatical error.
- D. R17-4-435.02(3)(a) - The words "A person" was changed to "An individual" to conform with the language in R17-4-435 and R17-4-435.01. The word "two" was changed to "2" to conform with the Secretary of State rules. The words "Once granted, an intrastate waiver may be transferred" was changed to "An individual granted an intrastate waiver may transfer the intrastate waiver" for clarity, conciseness, and understandability.
- E. R17-4-435.02(3)(b) - The sentence "A letter of application for an intrastate waiver may be submitted by the applicant, or jointly by the person who seeks an intrastate waiver of the physical qualification (driver applicant) and the motor carrier (co-applicant) that shall employ the driver applicant if the intrastate waiver request is granted" was changed to "An applicant or an applicant and co-applicant shall submit a letter of application for an intrastate waiver of a physical qualification."
- F. R17-4-435.02((3)(d)) - The citation "(d)(e)(i)" was changed to "(d)(3)(i)" to correct the citation.
- G. R17-4-435.02(3)(e) - The words "or better" were deleted for clarity, conciseness, and understandability. A comma was added after the word "green" to correct a grammatical error.
- H. R17-4-435.02(4)(a)(i) - The words "four member" was deleted for clarity, conciseness, and understandability. The word "two" was changed to "2" to conform with the Secretary of State rules.
- I. R17-4-435.02(4)(b)(ii) - The word "insure" was changed to "ensure" to correct a grammatical error.
- J. R17-4-435.02(4)(b)(iv) - The word "Assure" was changed to "Ensure" to correct a grammatical error.
- K. R17-4-435.02(4)(b)(iv)(1) - The words "two" and "five" were changed to "2" and "5" to conform with the Secretary of State rules.
- L. R17-4-435.02(4)(b)(iv)(2) - The sentence ending punctuation "." was changed to a ";" to correct a grammatical error.
- M. R17-4-435.02(4)(b)(v) - The sentence ending punctuation "." was changed to "; and" to correct a grammatical error.
- N. R17-4-435.02(4)(b)(vi) - Added the word "of" for clarity, conciseness, and understandability.
- O. R17-4-435.02(4)(b)(vi)(1) - The sentence "Prior to the review, of the date, time, and place of the review" was changed to "The date, time, and place of the review at least 5 days before the review; and" for clarity, conciseness, and understandability.
- P. R17-4-435.02(4)(b)(vi)(2) - The sentence "After the decision of the Division Director, of the results of such decisions concerning the approval or denial of the waiver" was changed to "The results of the Division Director's decision concerning approval or denial of the waiver within 10 days of the decision" for clarity, conciseness, and understandability.

**Notices of Final Rulemaking**

- Q. R17-4-435.02(4)(c)(i) - The sentencing ending punctuation was changed from “.” to “; and” to correct a grammatical error.
- R. R17-4-435.02(4)(d)(i) - A comma was added after the word “conditions” to correct a grammatical error.
- S. R17-4-435.02(4)(d)(iii) - The words “as a driver” was added for clarity, conciseness, and understandability. The word “three” were changed to “3” to conform with the Secretary of State rules.
- T. R17-4-435.02(4)(d)(iv) - The words “or otherwise on duty” are deleted for clarity, conciseness, and understandability.
- U. R17-4-435.02(6) - The words “do not apply” are changed to “are deleted” for clarity, conciseness, and understandability.

**10. A summary of the principal comments and the agency response to them:**

The only public comment received was that the name of the Department of Public Safety, Special Services Division has recently been changed to the Arizona Department of Public Safety, Special Services Region.

**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:**

49 CFR 390, 391, 392, 393, 395, 396, 397, and 399 published October 1, 1993 (and no later editions), incorporated at R17-4-435(A).

**13. Was this rule previously adopted as an emergency rule?**

No.

**14. 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 of Federal Regulations; Application; Definitions
- 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

**ARTICLE 4. MOTOR CARRIERS**

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

**A. Adoption of Federal Regulations:** The Motor Vehicle Division adopts and approves as its own, the following Parts of 49 CFR 390, 391, 392, 393, 395, 396, 397, and 399, ~~as amended, revised, and printed in the published October 1, 1992 1993, (and no later amendments or editions) edition, incorporated herein~~ by reference and on file with the Division and the Office of the Secretary of State ~~Subtitle B Other Regulations Relating to Transportation, Chapter III Federal Highway Administration, Subchapter B Federal Motor Carrier Safety Regulation, Parts 390, 391, 392, 393, 395, 396, 397, and 399,~~ as amended by these rules.

**C.B. Definitions**

1. "Bureau of Motor Carrier Safety" means the Arizona Department of Transportation.
2. "Co-applicant" means an employer or potential employer.
3. "Division" means the Motor Vehicle Division, Department of Transportation.
4. "Division Director" means the Assistant Director of the Department of Transportation for the Motor Vehicle Division or the Assistant Director's designated agent.
5. "Waiver Board" means ~~a four member board~~ 4 individu-

als appointed by the Division Director ~~for the purpose of making to make~~ recommendations on applications for intrastate waivers.

6. "49 CFR" means Title 49, Code of Federal Regulations. ~~B.C.~~ Application. The regulations of 49 CFR, incorporated by subsection (A), ~~of this rule shall~~ apply as amended by R17-4-435.01 through R17-4-435.04 to:

1. Motor Carriers as defined in A.R.S. § 28-401 except Motor Carriers transporting passengers for hire in a vehicle with a design capacity of ~~six 6~~ or less ~~persons~~ individuals.
2. All vehicles owned or operated by the state, a political subdivision, or a public authority of the state, which are used to transport hazardous materials in an amount requiring the vehicle to be marked or placarded pursuant to 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 as incorporated in these rules is amended as follows:

1. 49 CFR 390.3 General ~~Applicability~~ applicability. Paragraphs (a), (b), and (c) are amended as follows:
  - a. Paragraph (a) is amended to read:  
The regulations adopted in Arizona and all vehicles owned or operated by the state, a political subdivision, or a public authority of the state, which are used to transport hazardous materials in an amount requiring the vehicle to be marked or placarded pursuant to R17-4-436.
  - b. Paragraph (b) is amended by adding the following sentence at the end of the paragraph:  
In addition to the requirements specified in 49 CFR 383, motor carrier drivers domiciled in Arizona who operate Commercial Motor Vehicles as defined in A.R.S. ~~Title 28, Chapter 4 §~~

28-402 shall comply with the requirements of that Chapter and any rules promulgated ~~thereunder under that Chapter.~~

- c. Paragraph (c) is amended to read:  
Motor carriers operating in Arizona in the furtherance of a commercial enterprise, shall comply with the financial responsibility requirements specified in A.R.S. Title 28, Chapter 7, Article 7, and 49 CFR 387.
- 2. 49 CFR 390.5 Definitions. The definitions listed in Section 390.5 are amended as follows:
  - a. ~~Unless~~ If the term "Commercial Motor Vehicle" or "CMV" is used in reference to the licensing requirements of either 49 CFR 383 or A.R.S. § 28-402, ~~in which case it shall have the same meaning prescribed therein the term has the same meaning set forth at 49 CFR 383 or A.R.S. § 28-402. If the term "Commercial Motor Vehicle" or "CMV" is not used in reference to the licensing requirements of 49 CFR 383 or A.R.S. § 28-402, the term means any a self-propelled; motor-driven vehicle or vehicle combination used on any a public highway in this state in the furtherance of a commercial enterprise, which vehicle or vehicle combination that:~~
    - i. Has a declared gross weight of 20,001 pounds or more; ~~or~~
    - ii. Transports passengers for hire and has a design capacity of seven (7) or more persons individually; or
    - iii. Transports hazardous materials in an amount placarding marking or marking placarding pursuant to R17-4-436.
  - b. "Exempt intracity zone" is deleted from R17-4-435.01 through R17-4-435.04 and ~~the term shall have~~ has no application in these rules.
  - c. "For-hire motor carrier", "private motor carrier of passengers," and "private motor carrier of property" are deleted from R17-4-435.01 through R17-4-435.01 and the term "motor carrier" ~~shall be~~ is used ~~in their place.~~
  - d. "Gross combination weight training" (GCWR) and "Gross vehicle weight rating" (GVWR) mean declared gross weight as defined in A.R.S. § 28-206.
  - e. "Regional Director" means the Division Director.
  - f. "Special agent" means an officer or agent of the Department of Public Safety, the Motor Vehicle Division, or of a political subdivision, who is trained and certified by the Department of Public Safety, to enforce Arizona's Motor Carrier Safety requirements.
  - g. "State" means a state of the United States and District of Columbia.
- 3. 49 CFR 390.15 Assistance in investigation 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 a part of any inquiry within such time as the request or inquiry may specify. 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.

~~3-4.~~ 49 CFR 390.21 Making of motor vehicles. Paragraph (a) is amended to read:

This Section shall apply to all motor carrier vehicles operated in Arizona. ~~At A motor carriers carrier that are~~ is not subject to the marking requirements of the U.S. Department of Transportation, shall mark ~~their~~ its vehicles ~~in accordance with the provisions of this Section. Such carriers shall use with the letters "AZ" and their its Arizona Use Fuel/Motor Carrier account number, in lieu of the USDOT identification number, except that no identification number marking shall be required for those carriers exempt from the Use Fuel/Motor Carrier License requirement.~~

~~4-5.~~ 49 CFR 390.23 Relief from regulations. Paragraphs (a), (a)(1), (a)(1)(A), (a)(1)(B), (a)(1)(B)(ii), (a)(2)(A), (a)(2)(B), (a)(2)(B)(ii), and (b) are amended as follows:

- a. Paragraph (a) is amended to read:  
The regulations ~~of contained in~~ contained in 49 CFR 390 through 397 ~~incorporated by R17-4-435~~ shall not apply to ~~any a~~ any a motor carrier; ~~that is~~ that is not subject to federal jurisdiction, ~~operating and that operates~~ operates a commercial motor vehicle used or designated to provide emergency relief during an emergency, ~~subject to the following conditions:~~
- b. Paragraphs (a)(1), (a)(1)(B), and (a)(1)(B), and (a)(1)(B)(ii) ~~shall not apply~~ are deleted.
- c. Paragraph (a)(2)(A) is amended as follows:  
An emergency has declared by a federal, state, or local government official having authority to declare an emergency, and
- d. Paragraph (a)(2)(B) is amended as follows:  
The Department of Public Safety, Services ~~Division, has determined~~ Region, determines that a local emergency exists ~~which that~~ which justifies an exemption from any or all of these Parts. If it is determined that relief is necessary to provide vital service to the public, relief shall be granted with any restrictions ~~which they consider necessary.~~
- e. Paragraph (b) is amended as follows:  
"Interstate commerce" means in the furtherance of a commercial enterprise.

~~5-6.~~ 49 CFR 390.25 Extensions of relief from regulations - emergencies is amended as follows:

~~Any A~~ Any A motor carrier seeking to extend ~~any a~~ any a period of relief shall obtain approval from the Department of Safety, Special Services ~~Division~~ Region. The motor carrier shall give full details of the additional relief requested. Taking into account ~~both~~ both the severity of the ~~ongoing~~ ongoing emergency and the nature of the relief services to be provided by the motor carrier, the Department of Public Safety shall extend ~~any a~~ any a period of relief ~~requested~~ requested with any restrictions deemed necessary.

~~6-7.~~ 49 CFR 390.27 Locations of regional motor carrier safety offices. ~~This Section is amended to read:~~

~~Section 390.27 any~~ To make a request for relief the motor carrier requesting relief, shall be made to contact the Arizona Department of Public Safety, Special Services Division: Region, Telephone (602) 223-2212.

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

**A:** 49 CFR 391, as incorporated in these rules, is amended as follows:

1. 49 CFR 391.2 General exemptions. The exceptions for "exempt intracity zone drivers" in paragraph (d) ~~do not apply~~ are deleted.

2. 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 reportable quantities of hazardous substances, hazardous wastes required to be manifested or hazardous materials in an amount requiring the vehicle to be placarded pursuant to R17-4-436; .

3. 49 CFR 391.49 Waiver of certain physical defects. Paragraphs (a), (b), (c)(iv), (d)(3)(i), and (d)(3)(i)(B) are amended as follows:

a. Paragraph (a) is amended by adding:

A person An individual who is not physically qualified to drive under Section 49 CFR 391.41(b)(1), (2), or (10) who is otherwise qualified to drive a motor vehicle, may drive a motor vehicle in intrastate commerce if the Division Director has granted an intrastate waiver to that person. Application for an intrastate waiver shall be submitted in accordance with paragraph (4) of this rule. If granted, an intrastate waiver shall be for a period not exceeding two 2 years. ~~Once granted, an intrastate waiver may be transferred~~ An individual 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 name of the new employer and the type of equipment to be driven.

b. Paragraph (b) is amended by adding:

A An applicant or an applicant and co-applicant shall submit a letter of application for an intrastate waiver may be submitted by the applicant, or jointly by the person who seeks an intrastate waiver of the physical qualification (driver applicant) and the motor carrier (co-applicant) that shall employ the driver applicant if the intrastate waiver request is granted of a physical qualification. The application shall be addressed to the Motor Vehicle Division, P.O. Box 2100, Mail Drop 531M, Phoenix, Arizona 85001-2100. The driver applicant shall comply with all the requirements of paragraph (c) of 49 CFR 391.49, "Waiver of certain physical defects", except paragraphs (c)(1)(i) and (iii). The driver applicant shall respond to the requirements of paragraphs (c)(2)(ii) through (v) of 49 CFR 391.49, if the information is known.

c. Paragraph (c)(iv) is amended to read:

A description of the driver applicant's limb or visual impairment for which waiver is required requested.

d. Paragraph ~~(d)(e)(i)~~ (d)(3)(i) is amended to read:

The medical evaluation summary for a driver applicant disqualified under 49 CFR 391.41 (b)(1) or (10) shall include:

e. Paragraph (d)(3)(i)(B) is amended by adding:

Or a statement by the examiner that the applicant for an intrastate waiver has distant visual acuity of at least 20/40 (Snellen) ~~or better~~, with or without a corrective lens, in 1 eye; a field of vision of at least 70 degrees in one direction and 35 degrees in the other direction of the horizontal meridian of the applicant's dominant eye; and the ability to distinguish the colors of traffic signals and devices showing standard red, green, and amber.

4. Waiver procedures for intrastate drivers.

a. The Division Director shall:

i. Appoint a ~~four member~~ Waiver Board consisting of the Division's Driver Waiver Program Manager or designated alternate, the Division's Medical Review Officer and ~~two 2~~ two 2 other persons to consider requests for physical waivers.

ii. Approve or disapprove a physical waiver after consideration of the recommendation submitted by the Waiver Board.

b. The Waiver Board shall:

i. Meet within not less than 20 or more than 30 days of receipt of an ~~interstate intrastate~~ waiver application; ;

ii. Review the application to ~~insure ensure~~ that all provisions of 49 CFR 391.49 are met; ;

iii. Take necessary testimony and accept documentation and information pertinent to the application; ;

iv. ~~Assure Ensure~~ that drivers applying for an intrastate waiver of the visual requirements:

(1) Have driven the type of vehicle to be operated under the waiver for at least ~~two 2~~ two 2 of the previous ~~five 5~~ five 5 years; and

(2) Will not transport passengers for hire or transport reportable quantities of hazardous substances, hazardous wastes required to be manifested; or hazardous materials required to be placarded pursuant to ~~A.A.C. R17-4-436; ;~~

v. Submit a written recommendation to the Division Director to approve or deny the waiver; ; and

vi. Notify the applicant by mail of:

(1) ~~Prior to the review, of the~~ The date, time, and place of the review at least 5 days before the review; and ;

(2) ~~After the decision of the Division Director, of the~~ The results of such decisions the Division Director's decision concerning the approval or denial of the waiver within 10 days of the decision.

c. The applicant:

i. Shall submit the application to the Division pursuant to 49 CFR 391.49 (a), (b), (c), and (d) as amended by this rule; and

ii. May request a summary review or may appear in person or through counsel at the review.

d. Waiver form.

i. The waiver form shall reflect the terms, conditions, or limitations of the waiver.

ii. The original form shall be maintained by the Division.

iii. A legible copy shall be retained by the motor carrier as long as the driver is employed as a driver and for ~~three 3~~ three 3 years thereafter.

**Notices of Final Rulemaking**

- iv. A legible copy shall be in the possession of the driver when driving a commercial motor vehicle ~~or otherwise on duty.~~
- 5. Subpart F - Files and Records  
49 CFR 391.51 Driver qualification files. Paragraph (b)(2) is amended by adding the following text:  
or the Waiver ~~board's~~ Board's letter of notification, granting an intrastate waiver of physical disqualification, if a waiver is granted pursuant to this rule.
- 6. Subpart G - Limited Exemptions  
49 CFR 391.71 Intrastate drivers of vehicles transporting combustible liquids. Exemptions in this section ~~do not apply~~ are deleted.