

NOTICES OF PROPOSED RULEMAKING

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

NOTICE OF PROPOSED RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

PREAMBLE

1. Sections Affected

Article 2
R2-8-201
R2-8-202
R2-8-203
R2-8-204
R2-8-205
R2-8-206
R2-8-207

Rulemaking Action

New Article
New Section
New Section
New Section
New Section
New Section
New Section
New Section

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 38-714(F)(5)

Implementing statute: Laws 1995, Ch. 32, § 24, as amended by Laws 1999, Ch. 66, § 1

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

Notice of Rulemaking Docket Opening: 8 A.A.R. 4423, October 18, 2002

Notice of Rulemaking Docket Opening: 9 A.A.R. 4456, October 17, 2003

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

Name: Susanne Dobel, Manager, External Operations

Address: Arizona State Retirement System
3300 N. Central Avenue, 14th Fl.
Phoenix, AZ 85012

Telephone: (602) 240-2039

Fax: (602) 246-6113

E-mail: susanned@asrs.state.az.us

or

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

The Arizona State Retirement System (ASRS) has two benefit structures: The defined benefit program, commonly referred to as the "Plan," was established in Fiscal Year 1971/1972 by a vote of 80% of the membership. The defined contribution program, commonly referred to as the "System," was established in 1953 and includes all those ASRS members who have not elected to transfer to the Plan. As of June 30, 2002, the System had 2,113 members remaining. All but 397 of these members were retired. The System has been closed to new membership since the Plan was established. This rulemaking addresses the System.

For each year in which the System has investment earnings that are in excess of the assumed rate of return and assets which are greater than total liabilities, the ASRS Board may elect to distribute a share of the excess to all System members as described in Laws 1995, Ch. 32, § 24, as amended by Laws 1999, Ch. 66, § 1 (the Implementing Statute). Specifically, Section 24 (B)(3) of the Implementing Statute provides the method for allocating this surplus. When a change in an actuarial assumption specified in Section 24 (B)(4) of the Implementing Statute results in a gain, the ASRS Board may elect to distribute a share of the excess to all retired System members and retired System member's beneficiaries.

In addition to increasing benefits, Section 24 (B)(3) and (B)(4) of the Implementing Statute also authorize the ASRS Board to reduce benefits for System members and beneficiaries "if subsequent experience determines that the account is inadequate to maintain necessary reserves and to pay the life incomes or benefits."

The new Article 2 deals specifically with System members, i.e. members in the Defined Contribution Program, and implements, by rule, a procedure for applying annual actuarial losses, if any, to non-retired System members' accounts or to the benefits of retired members and beneficiaries under Section 24 (B)(3) of the Implementing Statute.

The new Article 2 also provides a procedure for applying gains and losses to retired System members' and their beneficiaries' benefits under Section 24 (B)(4) of the Implementing Statute, should the Board elect to make distributions under that subsection of Session Law.

Finally, the new Article 2 specifies:

1. How contributions are paid to members who terminate their membership prior to retirement,
2. How lump-sum benefits are paid to non-retired members' beneficiaries, and
3. The ratio of guaranteed to non-guaranteed benefits for a partial lump-sum distribution if a System member elects a partial lump-sum distribution.

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

None

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

Not applicable

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

The economic impact of potential investment losses will be felt by all System members. Since the impact on the member or beneficiary depends on investment returns and the funding level of the System reserves, it is difficult to calculate the approximate cost of the impact per member, as each member's account value is different.

As an example of the possible economic impact on the System fund as a whole, assume that a 0% rate of return is achieved in a fiscal year, which would be less than the current assumed rate of 8%. If the System fund had \$475.6 million in assets and an estimated \$506.8 million in total liabilities, which resulted in a funded status of 93.8%, the ASRS would have to recover \$6.2 million dollars from its System members in order to retain a funded status of 95%.

For the non-retired member, the immediate financial impact is to the non-retired member's account, and will affect the monthly annuity, calculated upon the non-retired member's retirement. For the retired member and the beneficiaries, there is an immediate impact to their benefits. The amount the benefit is impacted depends on the ratio of the retired member's or the beneficiary's benefit to the System fund as a whole.

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: Susanne Dobel, Manager, External Operations
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3300 N. Central Avenue, 14th Fl.
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Phoenix, AZ 85012
Telephone: (602) 308-5172
Fax: (602) 264-6113
E-mail: nancyj@asrs.state.az.us

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

The ASRS has scheduled an oral proceeding on the proposed rulemaking:

Date: December 11, 2003
Location: 3300 N. Central Avenue, 5th Floor, Board Room
Phoenix, AZ 85012
Time: 1:30 p.m.

The close of record is 5:00 p.m., Thursday, December 11, 2003.

A person may also submit written comments on the proposed rules no later than 5:00 p.m., Thursday, December 11, 2003, to the individuals listed in items #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:

Not applicable

13. The full text of the rules follow:

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

ARTICLE 2. STATE RETIREMENT DEFINED CONTRIBUTION PROGRAM

Section

R2-8-201. Definitions
R2-8-202. Actuarial Assumptions
R2-8-203. Adjustment of Benefits for Retired System Members and Retired or Non-retired System Members' Beneficiaries under Section 24 (B)(3) of the Implementing Statute
R2-8-204. Adjustment of Non-guaranteed Account Balances for Non-retired System Members Under Section 24 (B)(3) of the Implementing Statute
R2-8-205. Adjustment of Benefits Under Section 24 (B)(4) of the Implementing Statute
R2-8-206. Benefit increases under Section 24 (B)(3) and (B)(4) of the Implementing Statute
R2-8-207. Return of contributions

ARTICLE 2. STATE RETIREMENT DEFINED CONTRIBUTION PROGRAM

R2-8-201. Definitions

The following definitions apply to this Article unless otherwise specified:

1. "Thirteenth check" means the aggregated amount of the annual annuities awarded to a retired System member as the member's pro rata share of the excess surplus allocated by the Board for an increase in retirement benefits and distributed once a year to a retired System member or, upon election by the retired System member, to the retired System member's surviving beneficiary.

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2. "Fourteenth check" means the aggregated amount of the annual annuities awarded to a retired System member or a retired System member's beneficiary as their pro rata share of the excess surplus due to changes in the interest rate assumption and life expectancy table assumption and allocated by the Board for an increase in retirement benefits distributed to a retired System member or a retired System member's beneficiary once a year.
3. "ASRS" means the same as in A.R.S. § 38-711.
4. "Actuary" means an individual who is a Fellow of the Society of Actuaries, and is hired and directed by the Board to make actuarial calculations, determinations, valuations, experience studies, recommendations and other actions directed by the Board.
5. "Board" means the same as in A.R.S. § 38-711.
6. "Beneficiary longevity reserve account" means the account established pursuant to Laws of 1953 and continued in Section 24 (B) of the Implementing Statute that is used to maintain benefits payable to retired System members and the System members' beneficiaries.
7. "Employer" means the same as in A.R.S. § 38-711.
8. "Employer contributions" means the same as in A.R.S. § 38-711.
9. "Excess surplus" means the funds in the beneficiary longevity reserve account that exceed the funded status range and that is subject to allocation by the Board as provided in rule R2-8-203(A)(3).
10. "Fiscal year" means the same as in A.R.S. § 38-711.
11. "Funded status" means the ratio, expressed as a percentage, of the actuarial value of assets for System members to the total liabilities of the System for future benefits.
12. "Guaranteed account balance" means all System member and employer contributions in a System member's retirement account, not including supplemental adjustments, plus the interest credited annually on those contributions.
13. "Guaranteed benefit" means the portion of a retired system member's or the retired System member's beneficiary's monthly benefit derived from the guaranteed account balance and calculated at the time of retirement.
14. "Implementing Statute" means Arizona Session Laws 1995, Chapter 32, Section 24, as amended by Arizona Session Laws 1999, Chapter 66, Section 1.
15. "Interest" means the assumed actuarial investment earnings rate approved by the Board.
16. "Market value" means an estimated monetary worth of an asset, based on the current demand for the asset, and the amount of that type of asset that is available for sale.
17. "Member contributions" means the same as in A.R.S. § 38-711.
18. "Monthly benefit" means the annuitized payment of a retired System member's guaranteed and non-guaranteed account balances.
19. "Non-guaranteed account balance" means the sum of all supplemental adjustments and interest credited on those adjustments.
20. "Non-guaranteed benefit" means:
 - a. The portion of the monthly benefit derived from all supplemental adjustments and interest credited on those adjustments.
 - b. The 13th check, and
 - c. The 14th check
21. "Plan" means the same as "defined benefit plan" in A.R.S. § 38-769, and administered by the ASRS.
22. "Retirement account" means the same as in A.R.S. § 38-771.
23. "Supplemental adjustment" means the amount credited or debited to a non-retired system member's employer account or to a retired System member's non-guaranteed benefit as determined by Section 24 (B) of the Implementing Statute.
24. "System" means the same as "defined contribution plan" as defined in A.R.S. § 38-769, and which is administered by the ASRS.
25. "System member" means the same as in A.R.S. § 38-771.
26. "Total liabilities" means the amount needed to pay all System benefits.

R2-8-202. Actuarial Assumptions

The following actuarial assumptions apply to this Article:

1. The interest and investment yield rate is 8% per annum, compounded annually; and
2. Mortality rates are based on the 1983 Group Annuity Mortality Table, Unisex 50% male / 50% female as provided in Table 1.

Table 1
1983 Group Annuity Mortality Table
Unisex 50% male / 50% female

<u>Age</u>	<u>Mortality Rate</u>
<u>1</u>	<u>0.000000</u>
<u>2</u>	<u>0.000000</u>
<u>3</u>	<u>0.000000</u>
<u>4</u>	<u>0.000000</u>
<u>5</u>	<u>0.000257</u>
<u>6</u>	<u>0.000229</u>
<u>7</u>	<u>0.000210</u>
<u>8</u>	<u>0.000199</u>
<u>9</u>	<u>0.000195</u>
<u>10</u>	<u>0.000195</u>
<u>11</u>	<u>0.000201</u>
<u>12</u>	<u>0.000209</u>
<u>13</u>	<u>0.000216</u>
<u>14</u>	<u>0.000224</u>
<u>15</u>	<u>0.000233</u>
<u>16</u>	<u>0.000241</u>
<u>17</u>	<u>0.000251</u>
<u>18</u>	<u>0.000261</u>
<u>19</u>	<u>0.000272</u>
<u>20</u>	<u>0.000283</u>
<u>21</u>	<u>0.000297</u>
<u>22</u>	<u>0.000310</u>
<u>23</u>	<u>0.000325</u>
<u>24</u>	<u>0.000341</u>
<u>25</u>	<u>0.000359</u>
<u>26</u>	<u>0.000378</u>
<u>27</u>	<u>0.000398</u>
<u>28</u>	<u>0.000422</u>
<u>29</u>	<u>0.000446</u>
<u>30</u>	<u>0.000475</u>
<u>31</u>	<u>0.000505</u>
<u>32</u>	<u>0.000538</u>
<u>33</u>	<u>0.000574</u>
<u>34</u>	<u>0.000614</u>
<u>35</u>	<u>0.000668</u>
<u>36</u>	<u>0.000705</u>

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<u>37</u>	<u>0.000751</u>
<u>38</u>	<u>0.000806</u>
<u>39</u>	<u>0.000873</u>
<u>40</u>	<u>0.000952</u>
<u>41</u>	<u>0.001043</u>
<u>42</u>	<u>0.001151</u>
<u>43</u>	<u>0.001278</u>
<u>44</u>	<u>0.001426</u>
<u>45</u>	<u>0.001597</u>
<u>46</u>	<u>0.001794</u>
<u>47</u>	<u>0.002014</u>
<u>48</u>	<u>0.002252</u>
<u>49</u>	<u>0.002509</u>
<u>50</u>	<u>0.002778</u>
<u>51</u>	<u>0.003059</u>
<u>52</u>	<u>0.003352</u>
<u>53</u>	<u>0.003659</u>
<u>54</u>	<u>0.003988</u>
<u>55</u>	<u>0.004336</u>
<u>56</u>	<u>0.004711</u>
<u>57</u>	<u>0.005121</u>
<u>58</u>	<u>0.005581</u>
<u>59</u>	<u>0.006103</u>
<u>60</u>	<u>0.006700</u>
<u>61</u>	<u>0.007383</u>
<u>62</u>	<u>0.008172</u>
<u>63</u>	<u>0.009080</u>
<u>64</u>	<u>0.010127</u>
<u>65</u>	<u>0.011328</u>
<u>66</u>	<u>0.012698</u>
<u>67</u>	<u>0.014242</u>
<u>68</u>	<u>0.015966</u>
<u>69</u>	<u>0.017869</u>
<u>70</u>	<u>0.019958</u>
<u>71</u>	<u>0.022241</u>
<u>72</u>	<u>0.024765</u>
<u>73</u>	<u>0.027581</u>
<u>74</u>	<u>0.030740</u>
<u>75</u>	<u>0.034295</u>
<u>76</u>	<u>0.038286</u>

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<u>77</u>	<u>0.042715</u>
<u>78</u>	<u>0.047569</u>
<u>79</u>	<u>0.052837</u>
<u>80</u>	<u>0.058508</u>
<u>81</u>	<u>0.064570</u>
<u>82</u>	<u>0.071006</u>
<u>83</u>	<u>0.077798</u>
<u>84</u>	<u>0.084927</u>
<u>85</u>	<u>0.092377</u>
<u>86</u>	<u>0.100370</u>
<u>87</u>	<u>0.108870</u>
<u>88</u>	<u>0.118004</u>
<u>89</u>	<u>0.128107</u>
<u>90</u>	<u>0.139029</u>
<u>91</u>	<u>0.150645</u>
<u>92</u>	<u>0.163045</u>
<u>93</u>	<u>0.176292</u>
<u>94</u>	<u>0.191504</u>
<u>95</u>	<u>0.208253</u>
<u>96</u>	<u>0.225097</u>
<u>97</u>	<u>0.242999</u>
<u>98</u>	<u>0.262351</u>
<u>99</u>	<u>0.283670</u>
<u>100</u>	<u>0.307186</u>
<u>101</u>	<u>0.333156</u>
<u>102</u>	<u>0.361975</u>
<u>103</u>	<u>0.394472</u>
<u>104</u>	<u>0.432808</u>
<u>105</u>	<u>0.478674</u>
<u>106</u>	<u>0.533916</u>
<u>107</u>	<u>0.600414</u>
<u>108</u>	<u>0.680076</u>
<u>109</u>	<u>0.774845</u>
<u>110</u>	<u>1.000000</u>
<u>111</u>	<u>1.000000</u>
<u>112</u>	<u>1.000000</u>
<u>113</u>	<u>1.000000</u>
<u>114</u>	<u>1.000000</u>
<u>115</u>	<u>1.000000</u>
<u>116</u>	<u>1.000000</u>

<u>117</u>	<u>1.000000</u>
<u>118</u>	<u>1.000000</u>
<u>119</u>	<u>1.000000</u>
<u>120</u>	<u>1.000000</u>

R2-8-203. Adjustment of Benefits for Retired System Members and Retired or Non-retired System Members' Beneficiaries under Section 24 (B)(3) of the Implementing Statute

A. The following actuarial methods apply:

1. The actuarial value of the assets of the System is equal to the market value of all System assets on the last day of each fiscal year.
2. The market value of the System assets are compared annually to the total liabilities, as of the last day of each fiscal year, including the amount necessary to fund the beneficiary longevity reserve account; and
3. A non-guaranteed benefit is not increased or decreased if the funded status is between 95% and 105%.

B. Benefits are reduced as follows:

1. The ASRS shall not reduce a retired System member's and a retired or non-retired System member's beneficiary's guaranteed benefit.
2. The ASRS shall reduce a retired System member's and a retired or non-retired System member's beneficiary's non-guaranteed benefit under this Section, and
3. The ASRS shall reduce a retired System member's and a retired or non-retired System member's beneficiary's non-guaranteed benefit if the funded status is less than 95%, in which case the ASRS shall reduce a non-guaranteed benefit until the funded status equals 95%.

C. A retired system member's or a retired or non-retired System member's beneficiary's benefit is reduced as follows:

1. If the ASRS reduces the non-guaranteed benefits for a retired System member or retired or non-retired System member's beneficiary under this Article, ASRS shall reduce non-guaranteed benefits using the same method used to distribute excess surpluses, as provided in Section 24 (B)(3) of the Implementing Statute.
2. The ASRS shall apply a negative supplemental adjustment to a retired System member's or the retired or non-retired System member's beneficiary's non-guaranteed benefit in the following order:
 - a. The 13th check, issued following the date of the valuation that determines the supplemental adjustment.
 - b. The monthly benefit, applied by January 1 following the date of the valuation that determines the supplemental adjustment.
3. Any remaining negative supplemental adjustments the ASRS does not apply to the retired System member's or the retired or non-retired System member's beneficiary's non-guaranteed benefit is used as an offset against future positive supplemental adjustments.

D. The ASRS shall restore a retired system member's benefit after the ASRS has applied a negative supplemental adjustment under R2-8-203(C). The ASRS shall apply a positive supplemental adjustment to a retired System member's non-guaranteed benefit in the following order:

1. The monthly benefit, applied by January 1 following the date of the valuation that determines the supplemental adjustment. The ASRS shall not apply more than the amount needed to offset previous negative supplemental adjustments.
2. The 13th check, issued following the date of the valuation that determines the supplemental adjustment.

E. The ASRS shall restore a retired or non-retired System member's beneficiary's benefit after the ASRS has applied a negative supplemental adjustment under R2-8-203(C). The ASRS shall apply a positive supplemental adjustment to a retired or non-retired System member's beneficiary's non-guaranteed benefit in the following order:

1. The monthly benefit, applied by January 1 following the date of the valuation that determines the supplemental adjustment. The ASRS shall not apply more than the amount needed to offset previous negative supplemental adjustments.
2. The 13th check, issued following the date of the valuation that determines the supplemental adjustment. The ASRS shall not apply more than the amount needed to offset previous negative supplemental adjustments.

R2-8-204. Adjustment of Non-guaranteed Account Balances for Non-retired System Members Under Section 24 (B)(3) of the Implementing Statute

A. The actuarial methods listed in R2-8-203(A) apply to non-retired members.

B. If the ASRS reduces non-guaranteed account balances for non-retired System members under this Article, ASRS shall reduce non-guaranteed account balances using the same method as excess surpluses are credited, as provided in Section 24 (B)(3) of the Implementing Statute.

C. Account balances are reduced as follows:

1. The ASRS shall not reduce a non-retired System member's guaranteed account balance, and
2. The ASRS shall reduce a non-retired System member's non-guaranteed account balance under this Section.
3. The ASRS shall reduce a non-retired System member's non-guaranteed account if the funded status is less than 95%, in which case the ASRS shall reduce a non-guaranteed account until the funded status equals 95%.

R2-8-205. Adjustment of Benefits Under Section 24 (B)(4) of the Implementing Statute

If the Board elects to distribute gains and losses pursuant to Section 24 (B)(4) of the Implementing Statute:

1. Changes in the interest rate assumption and the life expectancy table assumption shall take effect on June 30 following the approval of the change by the Board;
2. Gains are allocated to a retired System member's or the retired system member's beneficiary's 14th check, issued following the date of the valuation that determines the supplemental adjustment, and are distributed as provided in Section 24 (B)(4) of the Implementing Statute;
3. Losses are allocated to the extent previous gains on or after January 1, 1975 have been allocated using the method employed under this Section;
4. The actuarial methods listed in rule R2-8-203(A) apply to this Section;
5. Benefits are reduced as follows:
 - a. The ASRS shall not reduce a retired System member's and the retired System member's beneficiary's guaranteed benefit.
 - b. The ASRS shall reduce a retired System member's and he retired System member's beneficiary's non-guaranteed benefit under this Section, and
 - c. The ASRS shall reduce a retired System member's and a retired System member's beneficiary's non-guaranteed benefit if the funded status is less than 95%, in which case the ASRS shall reduce the non-guaranteed benefit until the funded status equals 95%;
6. If the ASRS reduces the non-guaranteed benefits for a retired System member or the retired System member's beneficiary due to changes in the interest rate assumption and life expectancy table assumption, ASRS shall reduce non-guaranteed benefits using the same method used to distribute excess surpluses, as provided in Section 24 (B)(4) of the Implementing Statute;
7. The ASRS shall apply a negative supplemental adjustment to a retired System member or the retired System member's beneficiary's 14th check, issued following the date of the valuation that determines the supplemental adjustment; and
8. The ASRS shall apply any remaining negative supplemental adjustment not applied to the retired System member's or the retired System member's beneficiary's 14th check, under R2-8-203.

R2-8-206. Benefit increases under Section 24 (B)(3) and (B)(4) of the Implementing Statute

If the funded status is more than 105% the Board shall exercise its discretion under Section 24 (B)(3) and (B)(4) of the Implementing Statute whether to allocate excess surplus to the appropriate System members and System member's beneficiaries.

R2-8-207. Return of contributions

A. A System member who elects to receive a return of contributions under A.R.S. § 38-740 is paid as follows:

1. The ASRS shall pay the guaranteed portion of the account balance no sooner than 30 days after the member separates from service, unless earlier payment is otherwise authorized by law.
2. The ASRS shall pay the non-guaranteed portion of the account balance upon completion of the actuarial valuation as of the fiscal year end immediately preceding the date the member separates from service, and
3. The ASRS shall pay the entire account balance no later than 90 days after the member separates from service.

B. A non-retired member's beneficiary who qualifies for and elects a lump-sum payout pursuant to A.R.S. § 38-762, is paid as follows:

1. The ASRS shall pay the guaranteed portion of the account balance upon verification of the member's death and determination of the deceased member's guaranteed portion of the account balance.
2. The ASRS shall pay the non-guaranteed portion of the account balance upon completion of the actuarial valuation as of the fiscal year end immediately preceding the date of the member's death, and
3. The ASRS shall pay the entire account balance no later than 90 days after the beneficiary requests the lump sum payout.

C. If the ASRS pays a partial lump sum to a System member at retirement, the proportion of the guaranteed to non-guaranteed funds the ASRS pays to the System member is equal to the proportion of guaranteed to non-guaranteed funds in the System member's entire account.

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

An oral proceeding is not scheduled for these proposed rules. To request an oral proceeding or to submit comments, please contact the rules analyst listed in item #4 between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, except legal holidays. If a request for an oral proceeding is not made, the public record in this rulemaking will close at 5:00 p.m. on December 8, 2003.

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:

Hue 4, Chrome H, in Plate 1, of A. Maerz and M. Rea Paul Dictionary of Color, 1st Edition, published 1930—R3-4-717(A)(1)(c)

13. The full text of the rules follow:

TITLE 3. AGRICULTURE

CHAPTER 4. DEPARTMENT OF AGRICULTURE
PLANT SERVICES DIVISION

ARTICLE 7. FRUIT AND VEGETABLE STANDARDIZATION

Section

- R3-4-708. Cantaloupe Standards; Maturity Sampling; and Packing Arrangements
R3-4-717. Melon Standards (Persian Melons, Casabas, Crenshaw, Honeydew, Honeyball, Other Specialty Melons, and Watermelons); Maturity Sampling

ARTICLE 7. FRUIT AND VEGETABLE STANDARDIZATION

R3-4-708. Cantaloupe Standards; Maturity Sampling; and Packing Arrangements

A. Definitions.

- 1. "Mature" means that a cantaloupe has reached the stage of development that ensures the completion of the normal ripening process, the arils that surround the seed during development of maturity are absorbed, and the juice of the edible portion contains not less than nine percent soluble solids as determined by the standard hand refractometer.
2. "Serious damage" includes means damage caused by bruises, sunburn, growth cracks, cuts, sponginess, flabbiness, or wilting.

B. Cantaloupes shall be:

- 1. Mature but not overripe;
2. Fairly well-netted;
3. Free from mold, decay, and insect damage that penetrates or damages the edible portion of the cantaloupe; and
4. Free from serious damage.

C. If a preliminary inspection of the cantaloupes as prescribed at R3-4-738(A) indicates that further testing for maturity is required, as prescribed in R3-4-739(A) and (B) the inspector shall randomly select melons for testing and average the results to determine the percent of soluble solids for each lot. The minimum number of cantaloupes selected from a lot for maturity sampling is as follows:

Table with 2 columns: Melons Per Container, Min. Melons Per Container Tested. Rows include 9 or less, 12, 15, 18, 22, 23, 24 or more.

Notices of Proposed Rulemaking

- D. The Department shall not permit more than five percent, by count, of the cantaloupes in any one lot for any one defect and not more than 10 percent, by count, to fail the total requirements prescribed in this Section. ~~The owner or holder of a lot in violation of these tolerance standards may recondition the lot as prescribed in R3-4-739. If the lot is not reconditioned, the provisions of A.R.S. § 3-486 apply.~~
- E. All cantaloupes in each container shall be of one variety or of similar varietal characteristics.
- F. Cantaloupes packed in containers shall be uniform in size and packed in a compact arrangement.

R3-4-717. Melon Standards (Persian Melons, Casabas, Crenshaw, Honeydew, Honeyball, Other Specialty Melons, and Watermelons); Maturity Sampling

A. Definitions.

- 1. "Mature" means that ~~the~~:
 - a. ~~A~~ melon has reached the stage of development that ensures ~~the~~ proper completion of the normal ripening process; ~~and~~ the arils that surround the seed during development of maturity are absorbed;
 - b. The juice of the edible portion of honeyball and honeydew melons contains not less than 10% percent soluble solids as determined by the standard hand refractometer; ~~and~~ ~~If a preliminary inspection of the melons indicates that further testing is required, as prescribed in R3-4-739(A) and (B), the inspector shall conduct the following maturity sampling and tolerance tests and average the results to determine the percent of soluble solids:~~
 - a- ~~When sampling honeydews and honeyball melons for maturity in lot containers more than 600, three melons shall be added for each additional 500 melons or fraction thereof. The minimum number of melons selected from a container for maturity sampling of honeydews in containers is as follows:~~

Containers in Lot	Containers Sampled
Up to 400	7
401 to 600	9

- b. ~~When sampling honeydews and honeyball melons for maturity in bulk containers, seven honeydews or honeyballs shall be selected at random from the top of the bulk container. The minimum number of melons selected from a container for maturity sampling of honeydews or honeyballs in bulk containers is as follows:~~

No. of Bulk Containers	Containers Sampled
Less than 10	2
10 to 30	3
31 to 50	4
51 or more	5

- c. ~~Except for yellow flesh watermelons, the~~ The flesh of a watermelon, except for yellow flesh watermelon, shall be colored to a degree not less than that indicated by Hue 4, Chrome H, in Plate 1, of A. Maerz and M. Rea Paul Dictionary of Color, 1st Edition, published 1930, ~~which is incorporated by reference and does not include any later amendments or editions of the incorporated matter. This color standard is on file with the Office of the Secretary of State or may be examined in the Fruit and Vegetable Standardization Offices, Arizona Department of Agriculture, 1688 West Adams, Phoenix, Arizona, 85007; or in the Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, South Building, Washington, D.C. 20250. This material is incorporated by reference and is on file with the Department. This incorporation by reference contains no future editions or amendments.~~

- 2. "Serious damage" ~~includes~~ means damage to a melon caused by:
 - a. ~~Damage to a melon caused by growth~~ Growth cracks, cuts, bruises, ~~sunburn,~~ or softness;
 - b. ~~Damage to a melon caused by growth~~ cracks, cuts, bruises, sunburn, beetle damage, whiteheart, rindrot, or softness;
 - i-b. ~~Beetle damage is serious damage~~ when it affects an area of more than 10% percent of the total surface of a watermelon;
 - ii-c. ~~Whiteheart is serious damage~~ if apparent on internal examination;
 - iii-d. ~~Sunburn is serious damage~~ when the sunburned area, regardless of size, is devoid of green coloration and is turning brown; ~~or~~
 - iv-e. ~~Rindrot is serious damage~~ when the distinct brown color or decay in the edible flesh of at least one inch in aggregate occurs in the edible portion of ~~the~~ a watermelon.

B. All melons, except watermelons, when packed or offered for sale, shall be:

- 1. Mature but not overripe;
- 2. Free from mold, decay, and insect damage ~~which that~~ has penetrated or damaged the edible portion of the melon; and
- 3. Free from serious damage.

C. Watermelons, when packed or offered for sale, shall be:

- 1. Fairly well-shaped;
- 2. Mature but not overripe;

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- 3. Free from mold, decay, insect and beetle damage; and
- 4. Free from serious damage.

D. If a preliminary inspection of honeydew or honeyball melons as prescribed at R3-4-738(A) indicates that further testing for maturity is required, the inspector shall randomly select melons for testing and average the results to determine the percent of soluble solids for each lot:

- 1. When sampling honeydew or honeyball melons for maturity in lot containers of more than 600, three melons shall be added for each additional 500 melons or fraction thereof. The minimum number of containers to be sampled is as follows:

<u>Containers in Lot</u>	<u>Containers Sampled</u>
<u>Up to 400</u>	<u>7</u>
<u>401 to 600</u>	<u>9</u>

- 2. When sampling honeydew or honeyball melons for maturity in bulk containers, seven honeydew or honeyball melons shall be selected at random from the top of the bulk container. The minimum number of bulk containers to be sampled is as follows:

<u>No. of Bulk Containers</u>	<u>Containers Sampled</u>
<u>Less than 10</u>	<u>2</u>
<u>10 to 30</u>	<u>3</u>
<u>31 to 50</u>	<u>4</u>
<u>51 or more</u>	<u>5</u>

~~**D.E.** Not~~ The Department shall not permit more than 5% ~~five percent~~, by count, of the melons in any one lot ~~shall be allowed~~ for any one defect and not more than 10% ~~percent~~, by count, ~~shall to~~ fail the total requirements prescribed in this Section.

~~**E.**~~ Standard containers in which melons are packed shall have the following information appearing in plain sight and in plain letters on one outside end:

- 1. ~~The name of the person who first packed or authorized the packing of the melons, or the name under which the packer does business; and~~
- 2. ~~The address of the person or business.~~

~~**F.**~~ Bulk containers in which melons are packed shall be 18", 24", 36", or 42" in depth.

NOTICE OF PROPOSED RULEMAKING

TITLE 7. EDUCATION

CHAPTER 5. STATE BOARD FOR CHARTER SCHOOLS

PREAMBLE

1. Sections Affected

Article 1
R7-5-101
Article 2
R7-5-201
R7-5-202
R7-5-203
R7-5-204
Article 3
Article 4
R7-5-401

Rulemaking Action

New Article
New Section
New Article
New Section
New Section
New Section
New Section
New Article
New Article
New Section

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 15-182

Implementing statutes: A.R.S. §§ 15-181, 15-183, and 41-1072 et seq.

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

Notice of Rulemaking Docket Opening: 8 A.A.R. 4300, October 11, 2002

Notice of Rulemaking Docket Opening: 9 A.A.R. 4819, November 7, 2003

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

Name: Kristen Jordison, Executive Director

Address: Arizona State Board for Charter Schools
1700 W. Washington, #164
Phoenix, AZ 85007

Telephone: (602) 364-3080

Fax: (602) 364-3089

E-mail: Jordison_Kristen@pop.state.az.us

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

The agency is complying with A.R.S. § 15-182, which requires the agency to adopt rules for its own governance.

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

Not applicable

7. A showing of good cause why the rules are necessary to promote a statewide interest if the rules 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 rules impose an administrative burden on the agency. Because the agency already issues the charters involved, the time-frames will have a minimal economic impact on the agency. The rules provide certainty regarding the amount of time required for those who seek a charter. The economic impact on other state agencies, such as the Arizona Department of Education, is expected to be minimal. The cost associated with the activation of a charter arises from statutory requirements rather than from the proposed rules. The application process (Article 2) imposes minimal costs on each applicant in the form of time to complete an application and the provision of required documentation. Some of the documentation is quite detailed, including a program of instruction, a budget, and business plan.

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: Kristen Jordison, Executive Director
Address: Arizona State Board for Charter Schools
1700 W. Washington, #164
Phoenix, AZ 85007
Telephone: (602) 364-3080
Fax: (602) 364-3089
E-mail: Jordison_Kristen@pop.state.az.us

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

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

Date: December 15, 2003
Time: 3:00 p.m.
Location: Executive Tower
1700 W. Washington, First Floor Conference Room
Phoenix, AZ 85007

Please call (602) 364-3080 for special accommodations pursuant to the Americans with Disabilities Act.

Written comments may be submitted until 5:00 p.m., December 15, 2003 to the contact person listed in item #9.

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:

None

13. The full text of the rules follow:

TITLE 7. EDUCATION

CHAPTER 5. STATE BOARD FOR CHARTER SCHOOLS

ARTICLE 1. GENERAL PROVISIONS

Section

R7-5-101. Definitions

ARTICLE 2. NEW CHARTERS

Section

R7-5-201. Application for a New Charter
R7-5-202. Time-frames for Granting or Denying a New Charter
R7-5-203. Review of Application Package and Technical Assistance
R7-5-204. Execution of a Charter

ARTICLE 3. RESERVED

ARTICLE 4. CHARTER OVERSIGHT

Section

R7-5-401. Amendment to a Charter

ARTICLE 1. GENERAL PROVISIONS

R7-5-101. Definitions

For the purpose of this Article, the following definitions apply:

“Administrative completeness review time-frame” means the number of days from the Board’s receipt of an application package to obtain a charter until the Board determines whether the application package contains all components required by statute and rule. The administrative completeness review time-frame does not include the period during which the Board performs a substantive review of the application.

Notices of Proposed Rulemaking

“Applicant” means a person that applies to the Board for a charter to operate a charter school or to transfer a charter under A.R.S. § 15-181 et seq.

“Application” means the Board-approved forms and instructions for a stated fiscal year, which is available on-line and in writing.

“Application package” means an application, narrative, and documents described in the application.

“Board” means the Arizona State Board for Charter Schools.

“Charter” means a contract between a person and the Board to operate a charter school under A.R.S. § 15-181 et seq.

“Charter school” means a school operated under a charter granted under A.R.S. § 15-181 et seq.

“Day” means a business day.

“Department” means the Arizona Department of Education.

“Fiscal year” means the 12-month period beginning July 1 and ending June 30.

“Overall time-frame” means the number of days after receipt of an application package until the Board determines whether to grant or deny a charter. The overall time-frame consists of both the administrative completeness review time-frame and the substantive review time-frame.

“Person” means an individual, partnership, corporation, association, public or private organization of any kind.

“Preliminary application package” means a complete application package that is forwarded to the Technical Review Panel for scoring.

“Revised application package” means a complete application package submitted by an applicant after receiving written notification that the preliminary application failed to meet or exceed the expectations.

“Substantive review time-frame” means the number of days after an application package is determined to be administratively complete until the Board decides whether to grant or deny a charter.

“Sufficiently qualified” means an applicant’s experience, qualifications, current and prior charter compliance, and credit-worthiness related to the ability to operate a charter school.

“Technical Review Panel” means individuals approved and acting on behalf of the Board who use their expertise in charter school development, curriculum, and finance to evaluate a preliminary application package.

ARTICLE 2. NEW CHARTERS

R7-5-201. Application for a New Charter

- A.** By March 31st of each year, the Board shall approve and make available in writing and on-line an application for a new charter for a specified fiscal year.
- B.** A person desiring to establish a charter school shall submit an unbound original application package and 15 bound copies of the application package to the Board under A.R.S. § 15-183.
- C.** An applicant for a charter shall ensure that the submitted application package contains the following in the order listed:
 - 1.** Cover Sheet form;
 - 2.** Title Page form;
 - 3.** Target Population form;
 - 4.** Curricular Emphasis. A narrative describing the school’s program of instruction to include philosophy, special emphasis, and methods of instruction and assessment in relation to achieving the school’s mission.
 - 5.** Goals form;
 - 6.** Curriculum Sample. A reading, writing, and math sample for each grade level to be served. Each sample will include a student assessment for the sample, description of instruction, description of student activities, and an indication of alignment with the Arizona Academic Standards;
 - 7.** Monitoring of Program of Instruction. A narrative and examples regarding dissemination of information to teachers, tracking of students’ progress toward mastery of state standards, and integration of Arizona Academic Standards into instructional practices;
 - 8.** Special education delivery models to be used;
 - 9.** Business Plan. A detailed business plan including
 - a.** Business description,
 - b.** Marketing plan,
 - c.** Management plan,
 - d.** Resume of applicant,
 - e.** Background information form,
 - f.** Valid fingerprint clearance card for applicant,
 - g.** Affidavit form.

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- h. Copy of Arizona filing required to conduct business in Arizona by the Arizona Corporation Commission or Arizona Secretary of State.
- i. Financial plan.
- j. Start up budget with assumptions form.
- k. Three year operating budget form, and
- l. First year month-by-month cashflow form;
- 10. Compliance Assurances form;
- 11. Certificate of Workshop Attendance or Workshop Waiver form;
- 12. Bibliography; and
- 13. Application Checklist form.

R7-5-202. Time-frames for Granting or Denying a New Charter

- A. For granting or denying a charter, the time-frames required by A.R.S. § 41-1072 et seq. are:
 - 1. Administrative completeness review time-frame: 25 days.
 - 2. Substantive review time-frame: 175 days.
 - 3. Overall time-frame: 200 days.
- B. An administratively complete application package for a charter school consists of all the information and documents listed in R7-5-201.
- C. The administrative completeness review time-frame, as described in A.R.S. § 41-1072(1) and listed in subsection (A)(1), begins on the date the Board receives an application package.
 - 1. If the application package is not administratively complete when received, the Board shall provide to the applicant a notice of deficiency that states the documents and information that are missing.
 - 2. Upon written notice to the applicant that the application package is incomplete, the Board shall close the applicant's file.
 - 3. If the application package is administratively complete, the Board shall send a written notice of administrative completeness to the applicant.
 - 4. If the Board does not provide a notice of deficiency or administrative completeness to the applicant within the administrative completeness review time-frame, the application package is deemed administratively complete.
- D. A substantive review time-frame, as described in A.R.S. § 41-1072(3) and listed in subsection (A)(2), begins when an application package is determined to be administratively complete.
- E. Within the time provided in subsection (A)(3), the Board shall provide the applicant with written notice of its decision to grant or deny a charter.
 - 1. The Board shall deny a charter if it determines that the application package does not meet the requirements of statute or rule or the applicant is not sufficiently qualified to operate a charter school. The written notice shall include the basis for the denial. The applicant may:
 - a. Submit a new application for consideration by the Board as provided in R7-5-201; or
 - b. Appeal the Board's decision as prescribed in A.R.S. Title 41, Chapter 6, Article 10.
 - 2. The Board shall grant a charter if it determines that the application package meets the requirements of statute and rule and the applicant is sufficiently qualified to operate a charter school.

R7-5-203. Review of Application Package and Technical Assistance

The review of a complete application package is as follows:

- 1. The Technical Review panel shall score the preliminary application package using the scoring criteria provided in the application.
- 2. The Board staff shall conduct background investigations of the applicant.
- 3. The Board shall notify the applicant if the preliminary application package fails to meet or exceed the expectations as evaluated by the Technical Review Panel. The Board shall include with the notice the comments of the Technical Review Panel, as technical assistance and suggestions for improving the application package.
- 4. An applicant who receives notification of failure to meet or exceed the expectations as evaluated by the Technical Review Panel may submit a revised application package for consideration within 20 days of the postmark date on the notice or may request in writing the application be forwarded to the Board.
- 5. If a revised application package or letter is not submitted to the Board within 20 days of the postmark date on the notice of failure to meet or exceed expectations, the Board shall close the applicant's file. An applicant whose file is closed and who wants to obtain a charter shall apply again under R7-5-201.
- 6. If a revised application package is submitted, the Technical Review Panel shall score the revised application package within 20 days of submission, using the scoring criteria provided in the application.
- 7. If a revised application package fails to meet or exceed expectations as evaluated by the Technical Review Panel, the Board shall notify the applicant of the intent to close the file. The Board shall include with the notice the comments of the Technical Review Panel.

Notices of Proposed Rulemaking

8. An applicant who receives notification of the intent to close the file may, within 20 days of the postmark date on the notice, request in writing the application be forwarded to the Board.
9. The Board shall close the file if a written request is not received.
10. An applicant whose file is closed and who wants to obtain a charter shall apply again under R7-5-201.
11. In conducting its consideration of an application package, the Board shall:
 - a. Review a copy of the application package scored by the Technical Review Panel;
 - b. Review a copy of the scoring rubric completed by the Technical Review Panel;
 - c. Review all information obtained through verification and investigation of an applicant's background including fingerprint clearance card and assessment of creditworthiness;
 - d. Hear a brief presentation by the applicant; and
 - e. Listen to the applicant's responses to Board questions.
12. The Board shall provide an applicant, with at least seven days written notice of the date, time, and place of the meeting at which the Board will consider the applicant's application package.

R7-5-204. Execution of a Charter

- A.** After the Board grants a charter, the charter holder shall submit to the Board the following:
 1. Completed W-9.
 2. School site location and contact information.
 3. General Statement of Assurances form obtained from the Board;
 4. Copy of the statement filed with the Secretary of State under A.R.S. § 38-431.02;
 5. Copy of lease agreement.
 6. Certificate of occupancy.
 7. Fire marshal report.
 8. Insurance policy binder issued by insurance company.
 9. County health certificate for each site at which students will be taught;
 10. Evidence of a public meeting at least 30 days before the charter school operator opens a site for the charter school pursuant to A.R.S. § 15-183(C)(5).
 11. Certificate of attendance of the applicant at the special education training for new charters offered by the Arizona Department of Education, Exceptional Student Services Division; and
 12. Request for exception to the USFRCS or procurement requirements form obtained from the Board, if exceptions are desired.
- B.** A new charter shall be signed by the Board President or designee and the charter holder, or a person with authority to execute documents for the charter holder, within 12 months after the Board grants the charter.
- C.** A charter that is not timely signed expires. If the holder of an expired charter wants to obtain a new charter, the holder shall apply again under R7-5-201.
- D.** A charter holder shall begin providing educational instruction within six months after signing the charter or within 18 months after the Board grants the charter, whichever occurs later.
- E.** A charter holder shall submit to the Board written proof that the charter school is in compliance with federal, state, and local rules, regulations, and statutes relating to health, safety, and insurance at least 10 days before the first day of operation of the charter school.
- F.** A charter is effective for 15 years from the first day of operation of the charter school unless revoked under A.R.S. § 15-183(I).

ARTICLE 3. RESERVED

ARTICLE 4. CHARTER OVERSIGHT

R7-5-401. Amendment to a Charter

- A.** A charter holder that wishes to amend its charter shall submit to the Board:
 1. A completed charter amendment form approved by the Board.
 2. The support documentation indicated on the charter amendment form, and
 3. Evidence that the proposed charter amendment has been approved by the charter school's governing board.
- B.** A charter holder shall conform to the terms of the charter until an amendment is approved by the charter school's governing board and submitted to and approved by the Board.

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remain in compliance to rule provisions. Costs of non-compliance to the business entity could be moderate to substantial monetary sanctions (\$5,000 to \$25,000) with possible loss of registration and driver license as prescribed under A.R.S. § 28-5238. Minimal administrative costs are borne by independent consultant trainers who educate law enforcement and business entities on rule compliance-provisions.

Benefits of the rule bring federal Motor Carrier Safety Assistance Program (MCSAP) grant funds of approximately \$2.2 million to state law enforcement of motor carrier safety and Hazmat programs. MCSAP funds are distributed chiefly to DPS but may also be sub-allocated to county and municipal enforcement agencies upon application to underwrite local enforcement costs. Hazardous material transport businesses benefit from rule compliance in decreased insurance premium costs, an increased margin of transportation safety, and subsequent better service to their customers resulting from expedited enforcement processing. Independent trainers in Hazmat compliance benefit through course fees, which can amount to as much as \$400 per class offering.

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:

Questions concerning the economic impact statement may be directed to the officer listed in item #4.

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 oral proceeding is scheduled for this rulemaking. An interested person may request an oral proceeding through the officer listed in item #4. If no oral proceeding is requested, the public record for this rulemaking will close at 4:30 p.m. on Friday, December 19, 2003.

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 rule:

In R17-5-202, subsection (A):

49 CFR Parts 40, 382, 390, 391, 392, 393, 395, 396, 397, and 399, published October 1, 2003.

13. The full text of the rule follows:

TITLE 17. TRANSPORTATION

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

ARTICLE 2. MOTOR CARRIERS

Section

R17-5-202. Motor Carrier Safety: Incorporation of Federal Regulations; Application

ARTICLE 2. MOTOR CARRIERS

R17-5-202. Motor Carrier Safety: Incorporation of Federal Regulations; Application

- A. The Division incorporates by reference 49 CFR 40, 382, 390, 391, 392, 393, 395, 396, 397, and 399 published October 1, ~~2002~~ 2003, and no later amendments or editions, with the changes described in R17-5-202 through R17-5-508. Copies of the incorporated material are on file with the Federal Motor Carrier Safety Administration, the Division, and the Office of the Secretary of State.
- B. The regulations of 49 CFR, incorporated by subsection (A), apply as amended by R17-5-203 through R17-5-208 to:
 1. A motor carrier as defined in A.R.S. § 28-5201 except a motor carrier transporting passengers for hire in a motor vehicle with a design capacity of six 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 R17-5-209.