

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by 1st 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 2. ADMINISTRATION

CHAPTER 10. DEPARTMENT OF ADMINISTRATION RISK MANAGEMENT SERVICES

PREAMBLE

1. Sections Affected

R2-10-101
R2-10-102
R2-10-103
R2-10-104
R2-10-105
R2-10-106
R2-10-107
R2-10-108
R2-10-109
R2-10-201
R2-10-202
R2-10-203
R2-10-204
R2-10-205
R2-10-206
R2-10-207

Rulemaking Action

Amend
Amend
Amend
Amend
Amend
Amend
Amend
Amend
New Section
Amend
Amend
Amend
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Amend
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. §§ 41-621(Q) and 41-623(A)

Implementing statutes: A.R.S. §§ 41-621 and 41-623

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

Notice of Rulemaking Docket Opening: 4 A.A.R. 331, January 30, 1998.

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

Name: John Kindree
Address: Risk Management
1818 West Adams
Phoenix, Arizona 85007
Telephone: (602) 542-1492
Fax: (602) 542-1473
E-mail: adkindj@ad.state.az.us

Arizona Administrative Register
Notices of Proposed Rulemaking

5. **An explanation of the rule, including the agency's reasons for initiating the rule:**
R2-10-101 defines terms used in Title 2, Chapter 10 of the *Arizona Administrative Code*. R2-10-102 through R2-10-108 contain the provisions for coverage of property and liability claims covered by Risk Management under A.R.S. § 41-621. A new Section, R2-10-109, contains provisions for computation of time periods prescribed or allowed in this Chapter. R2-10-201 through R2-10-207 contain requirements for risk management and loss prevention programs in all state agencies, boards and commissions. As a result of recommendations made in the 5-Year-Review Report, the rules have been amended to improve the clarity, conciseness, and understandability for those who are required to comply with the rules. Definitions were added and updated, and language was brought into conformity with the style of GRRC and the Office of the Secretary of State. Amendments further clarify the reporting requirements and time-frames for filing property and liability claims. The requirements for and explanation of loss prevention programs have been updated to reflect current practices in the State's Risk Management Program. Existing incorporation's by reference have been updated to provide the most current published information.
6. **A reference to any study that the agency proposes to rely on in its evaluation or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, and analysis of the study and other supporting material.**
Not applicable.
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 rules do not impact small business or consumers. There are loss prevention program requirements that may require additional resources from state agencies, but in the interest of improving health and safety, these additional resources are necessary to carry out the intent of the program. When it is feasible, Risk Management will provide support to the agencies to minimize the cost of the programs while ensuring the integrity of the effort.
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:**
Not applicable.
10. **The time, place and nature of the proceedings for the adoption, amendment or repeal of the rule, or if no proceeding scheduled, where, when, and how persons may request an oral proceeding on the proposed rules:**
The Department has not scheduled any oral proceedings. Written comments on the proposed rules or preliminary economic, small business, and consumer impact statement may be submitted to the person named above. Pursuant to A.R.S. § 41-1023(C), the Department will schedule an oral proceeding if a written request for an oral proceeding is submitted within 30 days after the publication of this notice.
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. **Incorporation by reference and their location in the rules:**
None.
13. **The full text of the rules as follows:**

TITLE 2. ADMINISTRATION

**CHAPTER 10. DEPARTMENT OF ADMINISTRATION
RISK MANAGEMENT SECTION SERVICES**

ARTICLE 1. COVERAGE AND CLAIMS PROCEDURE

- R2-10-101. Definitions
- R2-10-102. Reporting Procedures
- R2-10-103. Liability Claim Procedures
- R2-10-104. Property Claim Procedures
- R2-10-105. Employment Discrimination Claim Procedures
- R2-10-106. Property Coverage ~~Coverages~~ and Limitations
- R2-10-107. Liability Coverage ~~Coverages~~ and Limitations

Arizona Administrative Register
Notices of Proposed Rulemaking

- R2-10-108. Deductibles and Waivers
R2-10-109. Computation of Time

ARTICLE 2. LOSS PREVENTION

- R2-10-201. Submission of Building Plans
R2-10-202. Purchase of Specialized Hazard Control Personal Property
R2-10-203. Reporting of Hazards
R2-10-204. RM Loss Prevention Consultative Services Recommendations for Hazard Control
R2-10-205. Development and Implementation of Agency Loss Prevention Control Programs
R2-10-206. Agency Loss Prevention Control Program Management
R2-10-207. Mandatory Agency Loss Prevention Control Program

ARTICLE 1. COVERAGE AND CLAIMS PROCEDURE

R2-10-101. Definitions.

The following definitions shall apply ~~in for purposes of~~ this Chapter unless the context otherwise requires.

1. "Agency" means each state department, board, and commission.
2. "Agency loss prevention control committee" means a panel of individuals established by the head of an agency to develop and oversee the agency's loss prevention control program.
3. "Agency loss prevention control coordinator" means an individual chosen by the head of an agency to implement an agency's loss prevention control program and is an agency's liaison with Risk Management.
4. "Attorney General's Office" mean specifically the Liability Management Section department of the Attorney General's Office assigned to defend ~~Risk Management covered~~ claims covered by A.R.S. § 41-621.
5. "Client" means an individual in custodial care of a provider who has a custodial relationship through contract or court order with a state agency, ~~who is in the care, custody, and control of a provider, and who is receiving services through~~ 1 of the 4 programs listed in A.R.S. § 41-621(B).
6. "Confined space" means a space which ~~by design~~ has:
 - a. Limited openings for entry and exit;
 - b. Unfavorable natural ventilation that may contain or produce air contaminants; and
 - c. By design, Not been is intended for use other than continuous employee occupancy. Confined spaces include storage tanks, process vessels, pits, silos, vats, degreasers, reaction vessels, boilers ventilation and exhaust ducts, sewers, tunnels, underground utility vaults, and pipelines.
7. "Contaminant" means a substance that is radioactive, infectious, carcinogenic, toxic, irritant, corrosive, sensitizer or agent that damages the lungs, skin, eyes, mucous membranes, and other body organs.
- ~~7-8.~~ "Deductible" means the amount of a loss that the agency will pay before Risk Management is obligated to pay anything.
9. "Department" means the Department of Administration, an agency of the State of Arizona.
- ~~8-10.~~ "Emergency means an immediate ~~or imminent~~ health threat.
- ~~9-11.~~ "Environment" means navigable water, surface water, groundwater, drinking water supply, land surface or subsurface strata, and of ambient air, within or bordering on this state.
- ~~10-12.~~ "Environmental contractor" means a company ~~or corporation~~ hired by the state to conduct environmental site investigations ~~and~~ or remediation work.
- ~~11-13.~~ "Environmental property claim" means chemical or biological damage to the environment, navigable water, any other surface waters, groundwater, drinking water supply, land surface, or subsurface strata or ambient air, within or bordering on this state.
- ~~12-14.~~ "Ergonomics" means the a science of the relationship between human capability and the work environment. The department uses ergonomics to design a job, task, equipment or tool to conform comfortably within the limits of human capability. Study of the interactions, both physical and behavioral, between people and their total working environment including all tools and equipment in the workplace and the stresses related to such environmental elements as atmosphere, heat, light, and sound.
- ~~13-15.~~ "Feasibility study" means ~~taking the findings of the site investigation and developing a recommended a~~ remediation plan based upon a site investigation to clean up ~~a the~~ contaminated site by an environmental contractor.
- ~~14-16.~~ "Geophysical survey" means a radar, magnetic, electric, gravity, thermal, or seismic survey.
- ~~15-17.~~ "Groundwater" means water beneath the ground in sediments or permeable bedrock.
- ~~16-18.~~ "Hazardous substance or waste" means hazardous waste as defined in A.R.S. § 49-921(5). any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, or other discarded materials, including solid, liquid, semisolid, or contained gaseous material, resulting from industrial, commercial, mining, and agricultural operations or from community activities which because of its quantity, concentration of physical, chemical or infectious characteristics, may cause or significantly contribute to an increase in mortality or an increase serious irreversible or incapacitating reversible illness or pose a substantial present or potential hazard to

Arizona Administrative Register
Notices of Proposed Rulemaking

human health or the environment if improperly treated, stored, transported, disposed of, or otherwise managed or any waste identified as hazardous pursuant to A.R.S. § 49-922.

- 17-19. "Health threat" means statistical evidence that exposure to a specific type and concentration of a contaminant is harmful to human health. A material for which there is statistical evidence that acute or chronic effects may occur in persons exposed. This evidence shall be based upon at least 1 one study conducted by the National Institute of Occupational Safety and Health or the Environmental Protection Agency in accordance with established scientific principles. ~~The term "health threat" includes materials that are radioactive, infectious, carcinogenic, toxic, irritants, corrosive, sensitizers and agents that damage the lungs, skin, eyes, mucous membranes, and other body organs.~~
- 18-20. "Incident" means an ~~occurrence or~~ event involving an agency personnel employee, facility, facilities or equipment that which results in an occupational injury or illness, personal injury, loss or damage to state property or, an ~~occurrence or~~ event involving the public that exposes the state to a liability loss.
- 19-21. "Loss prevention" ~~control~~ means any action or plan intended to reduce the frequency and/or severity of property, liability or worker's compensation losses.
22. "Passenger Van" means any motor vehicle designed, modified, or otherwise capable of being configured to carry not less than 8 passengers and no more than 15 passengers.
- 20-23. "Personal protective equipment" means any clothing, material, device, or equipment worn to protect a person from exposure to or contact with any harmful material or force.
- 21-24. "Provider" means those individual or entity providers who are licensed to provide services to state clients of the State of Arizona, as outlined in A.R.S. § 41-621(B), and who is are not contractually required by the terms of the contract with the State to indemnify and hold the state harmless the State.
- 22-25. "Remedial action or remediation" mean the process of cleaning up a hazardous substance or waste site by an environmental contractor.
- 23-26. "Risk Manager" means the Administrator Risk Manager for the State Risk Management Program.
- 24-27. "Risk Management" or "RM" means the State Risk Management Program.
- 25-28. "Self-insurance" means the State provided loss protection for an agency or employee government and its employees are not covered against employees loss funded by private insurance but losses are funded through RM's revolving funds.
- 26-29. "Site characterization" means the process of completing and assessing a site characterization investigation.
- 27-30. "Site investigation" means a detailed examination by an environmental contractor of an area of a building or ground suspected of being contaminated with a hazardous substance or waste.
28. "Structural facility" means buildings, a roofed and walled structure.

R2-10-102. Reporting Procedures

- A. Agencies and providers shall report all property losses and liability claims, or incidents that may give rise to a claim, ~~against parties provided coverage~~ under A.R.S. § 41-621 ~~and all state property losses~~ to RM as follows:
1. ~~Liability claims or incidents involving a~~ A physical injury to an individual or individuals are to be reported within 1 one working day of the incident injury either orally, in writing, or by electronic means.
 2. ~~Liability claims or incidents in which property~~ Property damage is expected to exceed \$10,000 ~~shall be reported~~ within 1 one working day of the incident damage, either orally, in writing, or by electronic means.
 3. ~~All state property~~ Property loss losses in which damage is expected to exceed \$10,000 ~~shall be reported~~ within 1 one working day of the incident damage, either orally, in writing, or by electronic means.
 4. All other claims or incidents ~~shall be reported in writing, facsimile, or electronic mail~~ within 10 ten working days of the incident by writing, facsimile, or electronic mail.
- B. ~~In addition to the above, an~~ An agency, officer, agent or employee of the state agencies, officers, agents or employees thereof shall immediately upon receipt forward a claim, notice, summons, complaint or other process by any claimant or their representative all claims, notices, summonses and complaints or other processes by any claimants or their representatives to RM. This applies to all claims for injuries or damages whether real or imagined or alleged, and whether or not the reporting party believes there to be a factual basis for a the claim, arising from the event but excludes it is not required that contract lawsuits or other matters not covered under A.R.S. § 41-621. ~~pursuant to statute be sent to RM.~~
- C. Each agency, officer, agent or employee and all officers, agents, and employees thereof shall cooperate under A.R.S. § 41-621(M) in accordance with A.R.S. § 41-621(L) in all respects with RM, and the Attorney General's Office and their representatives and shall provide all information and materials RM requests to investigate and resolve claims required for adequate investigation and resolution of claims.
- D. Each agency shall submit a report of a loss on the following RM forms: All reports of loss shall be submitted to RM on designated forms as follows:
1. A loss ~~All losses~~ involving a state vehicle ~~and/~~ or a state driver ~~shall be reported~~ on the "Automobile Loss Report". This form requests information about the concerning that agency involved, facts of the accident, information about the vehicles involved, information concerning injuries, names of witnesses, and the police agency that investigated the accident.

Notices of Proposed Rulemaking

2. ~~A loss~~ ~~All losses~~ involving either ~~damage to private property of others~~ damage or injury to a member of the public as a result of alleged negligence of ~~a the~~ state officer, ~~agent or employee~~ agents or employees other than ~~a loss~~ losses arising out of the use of a motor vehicle; ~~shall be reported by the agency on a the~~ "General Liability Report". This form requests information ~~about concerning~~ the agency and employees involved, facts of the incident, information ~~about concerning~~ the claimant and ~~their the~~ claimant's injuries, witnesses to the incident, and the name of the police agency that investigated the incident, if any.
3. ~~A loss~~ ~~All losses~~ to state property, whether personal property (other than motor vehicles) or real property ~~shall be reported~~ on the "Property Loss Report". This form requests information ~~about concerning~~ the agency and employees involved, facts of the incident giving rise to the loss, description of the damaged property, and the police agency investigating the loss.
4. ~~A loss~~ ~~All losses~~ to employee-owned property covered under pursuant to A.R.S. § 41-621(A)(4), shall be reported on the "Property Loss Report form". This form requests information necessary to document the loss and calculate the actual dollar value of the claim. In addition, an the employee shall submit a copy of any written agreement between the employee and the employing state agency, authorizing the use of the employee owned property on the job, as well as a copy of the Personal Property Inventory form (PROPINV) maintained by the employing state agency. ~~This form requests information necessary to document the loss and calculate the actual dollar value of the claim.~~

R2-10-103. Liability Claim Procedures

- A. RM shall investigate all reported liability claims to determine coverage; RM shall notify the appropriate insurance carrier, if applicable, and evaluate the merits of self-insured claims, and coordinate defense and settlements under pursuant to A.R.S. § 41-621.
- B. State employees shall direct all contacts concerning any liability claim against the state, its agencies, officers, agents, or employees by a 3rd party to ~~either~~ RM, the Attorney General's Office, or an independent contractor ~~contractors~~ representing either of those offices.
- C. Unless authorized by law, an agency, officer, agent, or employee shall obtain prior approval from the Risk Manager or Attorney General before disclosure of ~~No~~ oral discussions, ~~or~~ written reports of claims, or lawsuits ~~shall be disclosed~~ to anyone other than state authorized personnel, unless required by law or unless Prior permission for each discussion or report is given by the Attorney General's Office or RM necessary to comply with provisions of this subsection.

R2-10-104. Self-Insured Property Claim Procedures

- A. ~~All~~ property ~~loss~~ ~~losses~~ covered under the terms of with the state's self-insurance ~~retention~~ program for state agencies that is are not reported to RM as required by A.A.C. R2-10-102(A), shall not be covered if reported later than 90 days following one year of discovery of the incident, giving rise to the loss shall not be covered. All property loss losses reported to RM within 90 days of the date of discovery of the loss shall have proper documentation as to the cause and amount of the loss, RM shall cover only those claims with documentation submitted to RM within 1 year of the date of loss, with the state's self-insured retention program, that have been reported within one year of discovery of the incident date but lack proper documentation as to the cause and amount of the loss shall not be covered. If a loss to a building buildings or structure structures requires more than 1 one year to repair or replace, the Risk Manager may grant an extension of time to properly document the amount of the loss. An agency shall submit a request for an extension in writing to the Risk Manager no later than 11 months from the date of loss, and must contain clear justification for the delay, with a projected date of completion.
- B. RM shall investigate all reported property claims to determine coverage (and notify the appropriate excess insurance carrier if applicable) and coordinate settlements under A.R.S. § 41-621.
- ~~C.B.~~ RM or upon request, the agency involved, shall obtain competitive bids for the necessary repairs or replacement. RM shall authorize and approve all repairs or replacement. Repairs will be authorized only upon the approval of RM.
- ~~D.C.~~ RM shall review and approve consulting Consulting services, when required, of architects and or engineers who are advising the state on the replacement or construction of state buildings that have been partially or totally damaged (and are to be paid for by RM funds), shall be reviewed and approved by RM.

R2-10-105. Employment Discrimination Claim Procedures

- A. Upon receipt of a notice of discrimination charge ~~of discrimination~~, the agency or employee shall:
 1. Within 1 day, send ~~Send~~ a copy of the charge ~~immediately~~ to RM and the Attorney General's Office;
 2. Contact the Attorney General's Office for any required ~~if the agency requires~~ legal assistance during the administrative process; and
 3. Provide to RM, upon completion, with a copy of any the response upon completion, prior to filing. RM shall review the information contained in the response material and assist in resolution during the administrative process.
- B. ~~Upon receipt of the determination or A Right to Sue Letter from the appropriate administrative agency, the~~ The agency shall ~~immediately~~ provide a copy of a decision or Right to Sue Letter to RM within 1 day.

Arizona Administrative Register
Notices of Proposed Rulemaking

R2-10-106. State-Owned Property Coverage Coverages and Limitations

- A. ~~The Department provides property State-owned property-loss coverage for~~ state-owned buildings ~~shall be on a replacement cost basis for items actually replaced or repaired.~~ Property State-owned property loss coverage for state owned personal property ~~shall be on a~~ is replacement cost less depreciation. Personal State personal property claims less than \$100 ~~shall~~ are not be covered.
- B. Property loss reimbursement shall not include labor time, if state employee labor cost for repair or replacement is allocated from appropriated funds. ~~If the state or its agencies requesting repairs or replacement of a state property loss have the facilities and qualified personnel available to repair state property, RM shall will determine whether to use if work shall be performed by state employees or contractors for repair work based upon availability. Reimbursement for cost of repair or replacement of state property shall not include the state employee's labor time, when the labor cost for the repair or the replacement is allocated from appropriated funds.~~
- C. Property loss coverage includes all state-owned property except: Roads, bridges, tunnels, dams, dikes, retaining walls, and animals and insects used for research or experimentation. ~~The following state-owned property shall be excluded from coverages: Roads, bridges, tunnels, dams, dikes, and retaining walls.~~

R2-10-107. Liability Coverage Coverages and Limitations

- A. The following coverage coverages and limitations apply in ~~for~~ purposes of this chapter:
1. ~~An officer, agent or employee shall be covered, within the limitations of A.R.S. § 41-621 et. Seq., while driving a state-owned or a non-state-owned vehicle in the course and scope of employment. Each agency will ensure that any one operating a state-owned vehicle or non-state-owned vehicle on state business has a valid driver's license. Coverage shall be on a primary basis for state-owned vehicle use and on an excess basis for non-state-owned vehicle use. There is no coverage provided for damage to or loss of the employee-owned vehicle.~~
 1. The Department provides liability coverage for an officer, agent, or employee (within the limitations of A.R.S. § 41-621) while driving a state-owned or other vehicle in the course and scope of employment.
 - a. Each agency shall ensure that an individual operating a vehicle on state business has a valid State of Arizona driver's license.
 - b. Coverage shall be on a primary basis for a state-owned, leased or rented vehicle and on an excess basis for any other vehicle use.
 - c. The state shall not provide coverage for damage or loss of a personal vehicle.
 2. ~~An officer, agent, or employee All officers, agents, or employees operates a state vehicle shall be considered within the course and scope of their employment if driving: while driving a state vehicle under the following conditions:~~
 - a. On While driving on authorized state business;
 - b. To while driving to and from work;
 - c. To While driving to and from lunch on a working day; and
 - d. While driving outside the geographical area of regular employment on authorized state travel.
 - e. While driving at any other specifically state authorized time outside regular employment hours.
 - d.f. To While driving to and from meals while on out-of-town travel.
 3. ~~There is no coverage for an employee while driving a state or non-state owned vehicle outside the course and scope of employment.~~
 - 3.4. ~~An officer, agent, or employee will not be considered does not operate a personal vehicle within the course and scope of employment when driving: while driving a non-state-owned vehicle.~~
 - a. To While driving to and from work;
 - b. To While driving to and from lunch in the area of employment and not on authorized state business. ~~officially authorized state business.~~
 - c. On While driving on other than state-authorized business.
- B. Volunteers acting at the direction of state officials, and within the course and scope of their state authorized activities, are covered come within state coverage under pursuant to A.R.S. § 41-621.
- C. Claims alleging civil rights violations are shall be covered through RM, except there is no coverage for payment of that portion of a settlement or judgment for position status adjustments.
- D. The state shall cover an agent, officer, or employee for liability on an excess basis while using the agent, officer or employee's If an employee's personal aircraft is used while acting within the course and scope of employment with the state, aircraft liability coverage shall be provided by RM under the following guidelines:
1. Coverage shall be on an excess basis for an employee's personal aircraft.
 - 1.2. An employee shall be required to carry a minimum of \$1,000,000 in aircraft liability coverage. ~~On their personal aircraft.~~
 - 2.3. RM shall approve an An employee pilot shall be on record and approved by RM prior to flying on state business. An employee Employees shall complete a RM pilot application form that requests requesting the pilot's name, airman's certificate number, driver's license number, aircraft description, rating and flying hours, and return it to RM for review along with a certificate of insurance evidencing the required limits of coverage on a personal aircraft. An

Arizona Administrative Register
Notices of Proposed Rulemaking

- employee pilot shall submit an ~~An~~ updated pilot application form and certificate of insurance ~~shall be required~~ annually.
3. RM shall send a letter to an employee approving or rejecting an application to fly on state business. The approval letter shall be presented to the appropriate department head and a copy sent to the agency's loss prevention coordinator.
 4. An employee shall maintain a current FAA pilot certification. ~~issued by the FAA.~~
 5. An employee shall meet the pilot warranties ~~as indicated~~ in the aircraft insurance policy owned by the state. available through RM.
 6. An employee shall hold all licenses, certificates, endorsements, and other qualifications, including proficiency checks, and recent experience, required by the FAA, or other federal, state, or local statutes and rules to act as pilot-in-command or as a required crew member for the aircraft being flown. The pilot-in-command shall meet current requirements for carrying passengers.
 7. Use of non state owned aircraft is limited to authorized activity which is in the course Course and scope of employment with the state does not include: No coverage is available for the following uses:
 - a. Personal use of an aircraft;
 - b. An aircraft ~~Aircraft~~ for hire, reward, or commercial use;
 - c. Agricultural operations;
 - d. External loads; or
 - e. Aerial acrobatics.
 8. An employee shall limit the ~~The~~ seating capacity on an aircraft ~~is limited~~ as outlined in the aircraft insurance policy purchased by RM.
 9. The Department does not cover ~~No coverage is provided for~~ damage or loss of the employee owned aircraft.
 10. A letter shall be sent to the employee from RM approving or rejecting an application to fly on state business. The approval letter shall be presented to the appropriate department head and a copy sent to the agency's loss control coordinator.
 - 10.11. The guidelines in this section apply to ~~If an~~ non-state employee pilots, piloting an employee-owned aircraft ~~on behalf of a state employee~~ on authorized state business, all guidelines listed above shall apply.
 - 11.12. All aircraft used for state business by state employees or non state employees as an agent of the state shall comply meet with all statutes and rules of the FAA and other federal, state, and local jurisdictions for flight.

R2-10-108. Deductibles and Waivers

A. Liability judgments and claim settlements.

1. The Department shall charge each ~~Each~~ agency shall be charged a deductible of \$10,000 on each court judgment of \$150,000 or more and on each claim approved for settlement by the Joint Legislative Budget Committee under JLBC Rule 14, State Liability Claims (April 25, 1997), which is incorporated by reference and on file with the Department and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.
2. RM shall waive the deductible under the following conditions:
 - a. The agency provides a response to RM, in the form of a plan, as to the actions to be taken to eliminate or limit similar future risk of liability to the state; ~~and~~
 - b. The plan is submitted as supportive detail to the agency's official JLBC Rule 14 response, or is provided to RM within 60 days of the judgment or settlement date; ~~and~~
 - c. RM approves the plan as reasonable and effective; and
 - d. The agency implements the plan ~~is implemented by the agency~~ within 30 days of RM approval, and the agency provides brief monthly status reports on the essence of the plan's implementation.
3. If the agency fails to comply with all the conditions outlined in subsection (A)(2), RM shall charge a deductible of \$10,000 on the subject judgment or claim as well as each subsequent claim resulting from that cause or exposure until all conditions of the waiver have been met.

B. Worker's compensation claims.

1. Beginning January 1, 1999, RM shall charge ~~each agency shall be charged~~ a deductible on each worker's compensation claim the agency fails to report ~~not reported~~ to RM within 10 days after the employee notifies their supervisor or other agency representative of the injury. The deductible amount of the claim shall be equal to 20% of the total claim, not to exceed \$10,000.
2. RM shall waive the deductible on all of the agency's worker's compensation claims reported after the 10-day period, except those identified in subsection (C), if the agency meets the following criteria:
 - a. In calendar year 1998, the agency reports 50% of all occurrences of industrial injury or illness within 2 days ~~48 hours~~ of being reported by the employee to their supervisor, or other agency representatives. The computation for the criteria shall will be on a rolling 12 month average, and the deductible shall will be applicable to claims filed during the individual months of 1999.
 - b. In calendar year 1999, the agency reports 66% of all occurrences of industrial injury or illness within 2 days ~~48 hours~~ of being reported by the employee to their supervisor or, other agency representatives. The computation for

Arizona Administrative Register
Notices of Proposed Rulemaking

the criteria ~~shall will~~ be on a rolling 12-month average, and the deductible ~~shall will~~ be applicable to claims filed during the individual months of 2000.

- c. In calendar year 2000, and all years forward, the agency reports 75% of all occurrences of industrial injury or illness within 2 days ~~48 hours~~ of being reported by the employee to their supervisor or, other agency representatives. The computation for the criteria ~~shall will~~ be on a rolling 12-month average, and the deductible ~~shall will~~ be applicable to claims filed during the individual months of 2001 and all years forward.

C. Loss prevention opportunities.

1. ~~RM shall charge each~~ ~~Each agency shall be charged~~ a deductible of not more than \$10,000 on each claim resulting from the exposure that ~~RM and the agency identify is identified and agree agreed upon by the agency and RM to have~~ has the most significant opportunity for reduction through loss prevention actions (significant exposure). Each year the agency and RM shall identify and agree upon the significant exposure to be selected under this plan.
 2. RM shall waive all deductibles against ~~an the~~ agency, except those stated in subsections (A) and (B) under the following conditions:
 - a. The agency prepares a plan approved by its agency head to address the significant exposure with specific loss prevention actions; ~~and~~
 - b. ~~The agency submits~~ Submits the plan for RM for review by October 31 for the current fiscal year; ~~and~~
 - c. RM approves the plan as reasonable and effective; ~~and~~
 - d. The agency implements the plan; and
 - e. ~~The agency submits~~ Submits a brief report to RM on a quarterly basis as to the essence of progress on the implementation of the plan.
 3. If the agency fails to meet the conditions of subsection (C)(2), ~~RM shall charge~~ a deductible of not more than \$10,000 ~~shall be charged~~ on each claim resulting from the significant exposure until the agency meets all conditions of the waiver. ~~have been met.~~
 4. RM shall have the right to exempt an agency from the requirements of subsection (C).
- D.** If disputes arise between RM and the agency pertaining to this ~~Section, 1 section, one~~ or more meetings will be held at progressively upward, incremental Department of Administration management levels until the agency and RM reach a solution. ~~is reached.~~
- E.** RM shall have the right to waive any deductible to any agency for just cause. Just cause exists when the application of the deductible is not warranted due to the circumstances of the claim, or it is in the best interest of the state.

R2-10-109. Computation of Time

In computing any period of time prescribed or allowed in this Chapter, the day from which the designated period begins to run shall not be included. The last day of the period shall be included unless it is a Saturday, Sunday or legal holiday. When the period of time is less than 7 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.

ARTICLE 2. LOSS PREVENTION

R2-10-201. Submission of Building Plans

~~All agencies notify RM of any newly planned~~ If an agency anticipates the cost of building construction, alteration, or repair to a state-owned or leased buildings in which the cost is anticipated to exceed \$25,000, the agency shall submit building plans to RM prior to the a pre-planning conference with an the architect to allow RM to offer recommendations for improved loss prevention control measures.

R2-10-202. Purchase of Specialized Hazard Control Equipment

A. An agency shall notify the RM Loss Prevention Manager prior to starting the procurement process to obtain any specialized safety, security equipment, or systems exceeding \$10,000. RM shall assist each agency to determine if the equipment or system will adequately perform its specialized function and is in compliance with applicable municipal codes.

B. RM shall submit any comments or recommendations to the agency within 10 days from the date RM receives notification. ~~All agencies shall notify RM prior to the purchase of any specialized hazard control equipment in order to verify specifications and determine that the equipment is approved for and shall properly perform its specialized function. RM shall notify the state or agency procurement officer of any recommended changes within ten working days after notification of intent to purchase is received by RM.~~

R2-10-203. Hazard Reporting of Hazards

Any agency, officer, agent, or employee ~~thereof~~ shall advise their supervisor, loss prevention control ~~control~~ coordinator, or loss prevention control ~~control~~ committee chairperson ~~chairman~~ of any suspected or potential hazards that may warrant inspection and investigation to determine if a hazard exists or requires action to correct. A supervisor shall report identified hazards that cannot be corrected ~~by responsible agency personnel shall be reported~~ to the agency head. The agency head shall notify RM ~~shall be notified~~ of any hazards that cannot be corrected by the agency, or those requiring further evaluation and assessment before corrective action can be taken.

Arizona Administrative Register
Notices of Proposed Rulemaking

R2-10-204. RM Loss Prevention Consultative Services Recommendations for Hazard Control

- A. The Risk Manager shall schedule, evaluate, and assess ~~and conduct evaluations and assessments~~ of each state agency's loss prevention control program and facilities to assist in identifying program deficiencies or hazardous conditions that might lead to loss, losses. Following an evaluation or assessment, RM shall submit a written report to the agency head and ~~or~~ loss prevention control coordinator, with giving findings and providing recommendations to eliminate or control physical hazards or to correct unsafe practices and procedures. The recommendations shall be reviewed by the agency to determine cost feasibility and integration into agency plans, and RM shall be notified of corrective action taken.
- B. An agency agencies shall respond in writing to RM recommendations detailing the agency's corrective action plan within 60 days, whether or not corrective action has been completed by the agency. The agency shall review the recommendations to determine cost feasibility and integration into agency plans. The agency shall notify RM of the corrective action it plans to take. An agency Agencies shall will report in writing every 30 days thereafter until the agency takes corrective action ~~corrective action has been taken or until Risk Management determines has determined the agency has taken all reasonable corrective action. has been taken. Reports sent to an agency by RM in response to a hazard assessment requested by an agency do not require a response to RM as outlined above.~~
- C. Subsection (B) does not apply to an RM recommendation in response to an agency request for a hazard assessment.

R2-10-205. Development and Implementation of Agency Loss Prevention Control Programs

- A. Each agency head shall develop and implement an agency loss prevention control program that integrates ~~shall integrate~~ loss prevention control and safety policy into all agency activities. The loss prevention control program shall incorporate the requirements of this Section, rule, and ~~the requirements of~~ applicable state and federal standards. The agency's loss prevention control program shall encompass not only state worker and property protection and ~~but~~ shall also include programs, practices, and procedures to protect the state from 3rd-party liability claims.
- B. An agency head, in coordination with RM, shall develop and implement policies, practices and procedures to reduce the frequency and severity of a future incident if:
 - 1. The agency has or may have a loss; and
 - 2. Federal and state rules, or National Consensus Standards have not been developed, or do not apply to protect the state from such losses.
- B. ~~Where agency losses have or may occur as the result of accidents, injuries, or third party liability claims, and federal and state rules, or National Consensus Standards have not been developed, or do not apply to protect the state from such losses, the agency head in coordination with RM shall develop and implement policies, practices, and procedures to reduce the frequency and severity of such future loss events.~~
- C. RM shall publish criteria and program information as guidance to agencies to use in their loss prevention control programs, and shall interpret and explain ~~provide interpretation and explanation of~~ state, federal and National Consensus Standards, when required.

R2-10-206. Agency Loss Prevention Control Program Management

- A. Each agency shall prepare and issue in writing a policy letter expressing the agency agencies commitment to programs and practices to prevent or control losses. The letter shall solicit the support by agency personnel of the goals and objectives of loss prevention, control and The agency shall include the letter ~~be included~~ in the agency loss prevention control program document which shall be and made available for review by all agency personnel.
- B. Each agency shall appoint a qualified hire loss control and safety professionals, or shall appoint management level or professional employee as loss prevention coordinator. The loss prevention coordinator shall conduct and coordinate the agency's loss prevention control program. The loss prevention control coordinator shall be an ex-officio member of the agency's loss prevention control committee and report to the agency head on matters pertaining to administration of the loss prevention program and safety within the agency. The loss prevention coordinator interprets and applies policies and procedures, chairs and coordinates the agency safety committee, reviews agency loss claims, and makes recommendations to prevent future losses. The loss prevention coordinator shall provide technical information to employees and agency management relating to all Arizona Department of Safety and Health (ADOSH) and Arizona Department of Environmental Quality (ADEQ) requirements as well as RM policies, procedures, and the rules in this Chapter.
- C. Each agency shall establish an agency loss prevention control committee to develop, implement, and monitor the agency's loss prevention control program. The agency shall appoint to the committee Personnel appointed to the committee shall be management level personnel representing each major division within the agency. Agencies with multi-level organizational structures shall ensure that committee membership is representative of the functional and geographical divisions of the agency.
- D. Each agency shall provide safety and loss control education and training programs regarding worker safety, property protection and liability exposure to each employee. Training shall emphasize safe methods and procedures to prevent mishaps, protect employees and property, and prevent liability exposures. The training program shall also include agency-specific information, such as emergency plans and actions, and first aid. Loss control and safety educational training shall also be provided to employees performing tasks where frequent or severe accidents have occurred or where there is a potential for frequent or severe accidents. The programs shall include such mandatory training specified under OSHA, 29

Arizona Administrative Register
Notices of Proposed Rulemaking

CFR 1920 with amendments as of September 5, 1989, incorporated herein by reference and on file with the Office of the Secretary of State.

R2-10-207. Mandatory Agency Loss Prevention Control Program Elements

Each agency loss prevention coordinator shall develop, implement and monitor the following generally accepted loss prevention program elements of an occupational health and safety program (as applicable to their agency):

1. An agency loss prevention policy statement;
2. New employee and continuous in-service training programs to include:
 - a. Safety and loss prevention education regarding property protection, liability exposure, and workplace safety;
 - b. Agency specific safety training regarding emergency plans, actions, and first-aid; and
 - c. Job specific safety training to employees performing tasks where:
 - i. Frequent or severe accidents have occurred; or
 - ii. There is a potential for frequent or severe accidents.
3. Documentation and recordkeeping of employee training;
4. An emergency plan for each agency location. The plan shall include procedures to follow in the event of serious injury, fire, or other emergency that can be reasonably foreseen at the specific agency location. The plan shall include the following:
 - a. A designated employee responsible for formulating, implementing, testing, and maintaining the emergency plan;
 - b. Written procedures for notification of emergency response personnel and safe evacuation of personnel from the location, including an evacuation diagram that shall be visibly posted throughout each location;
 - c. Provision for first-aid, medical treatment, and emergency transportation in the event of serious injury; and
 - d. Provision for periodic testing and evaluation of the plan and correction of identified deficiencies;
5. Policies and procedures for scheduled safety inspections of buildings, grounds, equipment, and machinery work practices and procedures. An agency shall document the results of all inspections and forward any deficiencies noted to the loss prevention coordinator for corrective action. The agency loss prevention committee or coordinator shall follow-up on inspection recommendations to ensure action to remedy noted deficiencies. The agency loss prevention committee or coordinator shall bring uncollected deficiencies to the attention of the agency head;
6. Procedures for accident and incident investigations:
 - a. Each agency shall develop procedures for reporting accidents and incidents involving personnel, property, automobile, liability, industrial, environmental, and mishaps or near misses to the agency's loss prevention coordinator or loss prevention committee. The loss prevention coordinator and loss prevention committee shall review the accident and incident reports and identify the corrective action necessary to prevent recurrence;
 - b. Procedures for the report, investigation, and record maintenance of work-related accidents and incidents shall include:
 - i. Timely and accurate reporting of all work-related accidents and incidents;
 - ii. Investigation of all accidents and incidents in order to gather pertinent information, determine causes, and recommend solutions to prevent recurrence of similar incidents;
 - iii. Compilation, analysis, and evaluation of all data derived from the investigation to determine the frequency, severity, and location of incidents and communication of the information to appropriate agency personnel;
and
 - iv. Maintenance of records of employee injuries under A.A.C. R20-5-631 through R20-5-636;
7. A maintenance program for vehicles, equipment, and grounds under the control of an agency to include:
 - a. A preventive maintenance program with a written schedule of routine inspection, adjustment, cleaning, lubrication, and testing of equipment including boilers and machinery, fire protection, security and emergency equipment, and motor vehicles;
 - b. Safety procedures such as "lock-out-tagout" and "buddy procedures" for jobs subject to serious accidents such as those involving working in confined spaces, operating dangerous equipment and machinery, and working on electrical equipment; and
 - c. Personal protective equipment for specific jobs and areas including training on proper fit, use, care, maintenance, inspection, cleaning, and storage;
8. A fire protection program that meets the standards described in the Arizona State Fire Code contained in the Fire Protection Manual 1990 edition which is incorporated by reference and on file with the Department and the Office of the Secretary of State;
9. Systems and procedures to protect the personal security of employees and prevent losses to state property. Systems and procedures to include:
 - a. Security escorts, exterior lighting, identification badges, and electronic access systems for protection of employees;
 - b. Labeling systems, inventory control procedures, property removal procedures, and key control systems to prevent loss of state property; and

Arizona Administrative Register
Notices of Proposed Rulemaking

- c. Building and ground security systems, alarms systems, electronic surveillance, perimeter fencing, and security patrol services to prevent theft and vandalism of state property;
 - 10. An environmental protection program to include:
 - a. A plan to ensure compliance with all applicable local, state, and federal environmental laws;
 - b. Identification of equipment, processes, and practices that may cause water pollution, air pollution, or land and property contamination;
 - c. Procedures and processes to prevent or control emissions and discharges in excess of local, state, and federal laws and rules; and
 - d. Plans, programs, and procedures to investigate, report, and remediate any discharge or contamination in excess of local, state, or federal laws and rules;
 - 11. An industrial hygiene program that encompasses existing or potential health hazards within an agency, or that agency personnel may be exposed to during the course of work. The program shall include a documented survey of agency facilities and work practices to identify areas of concern such as noise, air contamination, ergonomic factors, lighting, confined spaces, and other concerns. The program shall include procedures to notify employees of health hazards, medical monitoring when applicable, and personal protective equipment requirements to include training, fit testing, and care. The industrial hygiene program shall include the following program elements as applicable:
 - a. Hazard communication;
 - b. Laboratory safety (Chemical Hygiene Plan);
 - c. Hearing conservation;
 - d. Confined space entry;
 - e. Handling and disposal of hazardous waste;
 - f. Back protection;
 - g. Ergonomics;
 - h. Asbestos management;
 - i. Building air quality;
 - j. Chemical exposure assessment;
 - k. Personal protective equipment;
 - l. Respiratory protection;
 - m. Bloodborne pathogen protection; and
 - n. Tuberculosis protection;
 - 12. A motor fleet safety program for employees operating a state or other vehicle on state business to include:
 - a. Standards to ensure that employees who drive on state business are capable of operating a vehicle in a safe manner and are currently licensed to operate a motor vehicle in the state of Arizona;
 - b. Instruction in safe vehicle operation and defensive driving techniques;
 - c. Mandatory use of seat belts;
 - d. A maintenance log of all state vehicles to assure their safe operating condition;
 - e. Review of vehicular accidents by the agency loss prevention committee or by a committee appointed by the agency head to specifically review vehicular accidents and recommend corrective action to prevent recurrence,
 - f. Review of driving records of all agency employees who are authorized to drive state vehicles or other vehicles on state business. All employees operating a state or other vehicle on state business shall upon request, provide their agency loss prevention coordinator, personnel representative, supervisor, fleet manager, or RM with their name, date of birth, driver's license number, and expiration date, and;
 - g. A training program for drivers of passenger vans designed for an occupancy of 8 to 15 people. The program shall include classroom instruction, behind the wheel instruction (on the road or on a closed course), and a certificate of completion to be filed with the agency's fleet management.
 - 13. A safety and security standard for construction sites to include:
 - a. Site specific safety rules and procedures to with the types of risks expected to be encountered on the site;
 - b. Routine inspections of construction sites to ensure compliance with local, state, and federal safety laws and rules;
 - c. Training of employees in safe practices and procedures;
 - d. Availability of first-aid, medical, and emergency equipment and services at the construction site, including arrangements for emergency transportation;
 - e. Security procedures to prevent theft, vandalism, and other losses at the construction site; and
 - f. Provision for periodic testing and evaluation of the plan and correction of identified deficiencies.
- A.** ~~If the job description or actual duties of the employee include loss control responsibilities, loss control responsibilities and standards shall be included as a part of the employee's performance evaluation.~~
- B.** ~~Each agency shall develop procedures for reporting and reviewing accidents and incidents involving personnel, property, automobile, liability, industrial, environmental and other mishaps to the agency's loss control coordinator or loss control committee. The loss control coordinator and loss control committee shall review accidents and incidents and identify the corrective action required to prevent recurrence.~~

Arizona Administrative Register
Notices of Proposed Rulemaking

- ~~C.~~ Procedures for the investigation, reporting, and records maintenance of work-related incidents shall include:
- ~~1.~~ Timely and accurate reporting of all work-related incidents.
 - ~~2.~~ Investigation of all incidents in order to gather pertinent information, determine causes, and recommend solutions to prevent recurrence of similar incidents.
 - ~~3.~~ Compilation, analysis and evaluation of all incident data to determine the frequency, severity and location of incidents and communication of the information to appropriate management personnel.
 - ~~4.~~ Maintenance of records of employee injuries pursuant to A.A.C. R4-13-631 et seq.
- ~~D.~~ Each agency shall develop an emergency plan for each agency location. The plan shall include procedures to follow in the event of serious injury, fire, or other emergencies that can be reasonably foreseen at the specific agency location. The plan shall include the following:-
- ~~1.~~ Designated employee(s) responsible for formulating, implementing, testing and maintaining the emergency plan;
 - ~~2.~~ Written procedures for notification of emergency personnel and safe evacuation of people, including an evacuation diagram that shall be visibly posted throughout each location;
 - ~~3.~~ Provide or arrange for first aid, medical treatment and emergency transportation in the event of serious injury; and
 - ~~4.~~ Provide for periodic tests and evaluation of the plan and correction of identified deficiencies.
- ~~E.~~ Each agency shall develop procedures for scheduled routine safety inspections of buildings, grounds, equipment, machinery work practices and procedures. Results of all inspections shall be documented and deficiencies noted shall be forwarded to the loss control coordinator for corrective action. Follow-up on inspection recommendations shall be made by the agency loss control committee or coordinator to ensure action is being taken to remedy any noted deficiencies. Deficiencies not corrected shall be brought to the attention of the agency head.
- ~~F.~~ Each agency shall develop an industrial hygiene program that encompasses existing or potential health hazards with the agency, or to which agency personnel may be exposed during the course of work. The program shall include a documented survey of agency facilities and work practices to identify areas of concern such as noise, air contaminants, ergonomic factors, lighting, confined spaces, etc., and shall include procedures to notify employees of health hazards, medical monitoring when applicable, and personal protective equipment requirements, to include training, fit testing, and care. The industrial hygiene program shall include the following additional program elements as applicable.
- ~~1.~~ Hazard communications, including securing and maintaining Material Safety Data Sheets(MSDS);
 - ~~2.~~ Laboratory safety (Chemical Hygiene Plan);
 - ~~3.~~ Hearing conservation;
 - ~~4.~~ Confined space entry;
 - ~~5.~~ Handling and disposal of hazardous waste;
 - ~~6.~~ Back protection;
 - ~~7.~~ Ergonomic programs;
 - ~~8.~~ Asbestos operations and maintenance (O & M) programs; and
 - ~~9.~~ Building air quality.
- ~~G.~~ An agency shall develop an environmental protection program that includes:
- ~~1.~~ A plan to ensure compliance with all applicable local, state and federal environment laws and regulations.
 - ~~2.~~ Identification of equipment, processes and practices that may cause water pollution, air pollution, or land and property contamination.
 - ~~3.~~ Procedures and processes to prevent or control emissions and discharges in excess of local, state, and federal laws and regulations; and
 - ~~4.~~ Plans, programs, and procedures to investigate, report, and remediate any discharges or contamination in excess of local, state, or federal laws and regulations.
- ~~H.~~ An agency shall develop facility and equipment operational and maintenance procedures that include:
- ~~1.~~ A preventive maintenance program including a written schedule of routine inspection, adjustment, cleaning, lubrication, and testing of equipment including but not limited to, boilers and machinery, fire protection, security, and emergency equipment.
 - ~~2.~~ Safety procedures such as "lockout tagout" and "buddy procedures" for jobs subject to serious accidents including, but not limited to, working in confined spaces, operating dangerous equipment and machinery, and working on electrical equipment.
 - ~~3.~~ Personal protective equipment requirements for specific jobs and areas, including training on proper fit, use, care, maintenance, inspection, cleaning, and storage of all personal protective equipment.
- ~~I.~~ Each agency shall develop a motor fleet safety program for employees operating a state or non-state owned vehicle on state business, including:
- ~~1.~~ Standards to ensure that employees who drive on state business are capable of operating a vehicle in a safe manner and are currently licensed to drive a motor vehicle in the State of Arizona;
 - ~~2.~~ Instruction in safe vehicle operation and defensive driving techniques;
 - ~~3.~~ Mandatory use of seat belts on those vehicles designed or retrofitted with seat belts;
 - ~~4.~~ A maintenance log of all state vehicles to assure their safe operating conditions;

Notices of Proposed Rulemaking

- 5. ~~Review of vehicular accidents by the agency loss control committee or by a committee appointed by the agency head to specifically review vehicular accidents and recommend corrective action to prevent recurrence; and~~
- 6. ~~A review of the driving record of all employees who are authorized to drive a state vehicle or operate a private vehicle on state business. All employees operating a state-owned vehicle or operating a non-state-owned on state business shall upon request provide their agency loss control coordinator, personnel representative, supervisor, fleet manager, or RM with their name, date of birth, driver's license number, and its expiration date.~~
- ~~J. Each agency shall develop safety and security standards for construction sites, including:

 - 1. ~~Site specific safety rules and procedures to deal with the types of risks expected to be encountered on the site;~~
 - 2. ~~Routine inspections of construction sites to ensure compliance with applicable local, state, and federal safety laws and regulations;~~
 - 3. ~~Training of employees in safe practices and procedures;~~
 - 4. ~~Availability of first aid, medical, and emergency equipment and services at the construction site, including arrangements for emergency transportation; and~~
 - 5. ~~Security procedures to prevent theft, vandalism, and other losses at the construction site.~~~~
- ~~K. Each agency shall develop systems and procedures to protect the personal security of employees and prevent losses to state property. Systems and procedures may include but are not limited to:

 - 1. ~~Security escorts, exterior lighting, identification badges, and electronic access systems for protection of employees;~~
 - 2. ~~Labeling systems, inventory control procedures, property removal procedures, and key control systems to prevent loss of state property; and~~
 - 3. ~~Building and ground security systems, such as alarm systems, electronic surveillance, perimeter fencing, and security patrol services to prevent theft and vandalism of state property.~~~~
- ~~L. Each agency shall develop a Fire Protection Program that meets the standards described in the Arizona State Fire Code, adopted pursuant to A.R.S. § 41-2146. C. And set forth in A.A.C. R4-34-1101 and that contains the program elements outlined in this Article and detailed in the Fire Protection Manuals (1990 edition) for state agencies, distributed by RM. The Fire Protection Manual is incorporated herein by reference and is on file with the Office of the Secretary of State.~~

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 43. BOARD OF OCCUPATIONAL THERAPY EXAMINERS

PREAMBLE

- 1. **Sections Affected**

R4-43-101	Amend
R4-43-401	Amend
R4-43-402	Amend
R4-43-403	Amend
- 2. **The specific authority for the rulemaking, including both the authorizing statute and the statutes the rules are implementing:**
 - Authorizing statute: A.R.S. § 32-3404(A)
 - Implementing statute: A.R.S. § 34-3441
- 3. **A list of all previous notices appearing in the Register addressing the proposed rule:**
 - Notice of Rulemaking Docket Opening: 4 A.A.R. 1973, July 24, 1998.
 - Notice of Rulemaking Docket Opening: 5 A.A.R. 1320, May 7, 1999.
- 4. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
 - Name: Kenneth D. Fink
 - Address: Board of Occupational Therapy Examiners
1400 West Washington, Suite 240
Phoenix, Arizona 85007
 - Telephone: (602) 542-6784
 - Fax: (602) 542-5469

Arizona Administrative Register
Notices of Proposed Rulemaking

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

The Board is revising 4 sections of its rules, R4-43-101 (Definitions), R4-43-401 (Supervision of Occupational Therapy Assistants), R4-43-402 (Supervision of Occupational Therapy Aides and other Unlicensed Personnel), and R4-43-403 (Designation of Title). The Sections, R4-43-401 and R4-43-402, are being amended for clarification. The Arizona Occupational Therapy Industry appears to be interpreting R4-43-401 and R4-43-402 beyond the intended scope of practice intended for these Sections. The new rule leaves less flexibility for personal interpretation. Sections R4-43-101 and R4-43-403 are effected by the proposed changes to R4-43-401 and R4-43-402.

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:

The cost impact for this change will be absorbed by the Board for reprinting and distribution of the amended rules to its licensees.

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: Kenneth D. Fink
Address: Board of Occupational Therapy Examiners
1400 West Washington, Suite 240
Phoenix, Arizona 85007
Telephone: (602) 542-6784
Fax: (602) 542-5469

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:

Written and oral comments will be accepted at the location listed in question #9 between 8 a.m. and 5 p.m., Monday through Friday (excluding state holidays), until the close of the record. No date has been selected for the close of record. Oral proceedings will be conducted at all open public meetings as they are announced by agenda. Meetings are scheduled several months in advance and schedules may be obtained by calling (602) 542-6784.

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 follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 43. BOARD OF OCCUPATIONAL THERAPY EXAMINERS

ARTICLE 1. GENERAL PROVISIONS

Section
R4-43-101. Definitions

ARTICLE 4. REGULATORY PROVISIONS

R4-43-401. Supervision of Occupational Therapy Assistants
R4-43-402. Supervision of Occupational Therapy Aides and other Unlicensed Personnel
R4-43-403. Designation of Title

Arizona Administrative Register
Notices of Proposed Rulemaking

ARTICLE 1. GENERAL PROVISIONS

R4-43-101. Definitions

- A.** “Client-Related Tasks” means delegated tasks specifically selected as being routine aspects of an intervention session where the environment is stable and it will not require judgement or adaptations to be made by the aide.
- A.B.** “Facility of Practice” means the principal location of each agency or organization for which the occupational therapist or occupational therapy assistant practices occupational therapy.
- B.C.** “Good Moral Character” means the person has not been convicted of a felony or a misdemeanor within 5 years prior to application and has never been convicted of a felony or misdemeanor involving moral turpitude.
- C.D.** “Health Care Professional” means any person who is certified as an Occupational Therapist or an Occupational Therapy Assistant by the American Occupational Therapy Certification Board or the National Board for Certification in Occupational Therapy, Incorporated or any health care professional duly licensed pursuant to A.R.S. Title 32 or the equivalent if licensed outside of Arizona.
- D.E.** “Immorality or misconduct that tends to discredit the occupational therapy profession” means:
1. Engaging in false advertising regarding occupational therapy services;
 2. Engaging in assault and battery of a patient or client, or other person, with whom the licensee has a professional relationship;
 3. Engaging in or attempting to falsify patient or client documentation or reports or intentionally making false reports;
 4. Failing to provide appropriate supervision of occupational therapy assistants or unlicensed personnel practicing or performing occupational therapy;
 5. Failing to provide a comprehensive occupational therapy service that is compatible with current research and within an ethical and professional framework or provide professional occupational therapy services based upon the evaluation of the patient or client needs and appropriate treatment procedures;
 6. Failing or refusing to document or maintain adequate patient treatment records or prepare patient or client reports within 30 days of service or treatment;
 7. Failing to renew a license while continuing to practice occupational therapy;
 8. Falsely or fraudulently claiming to have performed a professional service, charging for a service, or representing a service as the licensee's own when the licensee has not rendered the service or assumed supervisory responsibility for the service;
 9. Obtaining a fee by fraud, misrepresentation, or offering to refer or referring a patient or client for a fee or other compensation from a 3rd party;
 10. Sexually inappropriate conduct with a current client or patient or with a former client or patient within 6 months after the cessation or termination of treatment;
 11. Signing a blank undated or unprepared prescription form;
 12. Using fraud, misrepresentation, or deception in assisting another person to obtain or attempt to obtain an occupational therapist or occupational therapy assistant license;
 13. Violation of any federal or state law or administrative rules and regulations applicable to the practice of occupational therapy; and
 14. Violating the rules and statutes involving the training of unlicensed personnel assisting with the practice of occupational therapy or requiring an unlicensed person to provide occupational therapy services for which they have not been trained.
- E.F.** “Licensee” means a person licensed in Arizona as an occupational therapist or an occupational therapy assistant.
- G.** “Non-Client-Related Tasks” means clerical, maintenance activities and preparation of work area or equipment.
- F.H.** “Occupational therapy aide,” “unlicensed personnel,” and “occupational therapy technician” mean means a person who is not a licensed occupational therapist or occupational therapy assistant, who works under the direct continuous supervision of a licensed occupational therapist, and assists in the practice of occupational therapy. Occupational therapy aides are not service providers of occupational therapy in any setting, but may be assigned supportive services to perform delegated, selected, client and non-client or patient related tasks for which the aide is specifically on-the-job trained and have demonstrated competency, while under continuous supervision of an occupational therapist. The person's activities may require an understanding of occupational therapy, but do not require professional or advanced training in the basic anatomical, biological, psychological, and social sciences involved in the practice of occupational therapy.
- I.** “Supervision” means a collaborative process for the responsible periodic review and inspection of all aspects of occupational therapy services. The following levels of supervision are minimal and the occupational therapist may assign a more restrictive level of supervision if deemed necessary for the safety of a patient or client. The levels of supervision are:
1. “Continuous supervision” means the supervising occupational therapist practitioner is in the immediate area of the occupational therapy aide who is performing delegated client-related tasks.
 2. “Close supervision” means providing initial direction with daily contact while on the premise at the site of work.
 3. “Routine supervision” means direct contact while on the premise not less than every 15 days on a per patient or client basis at the site of work with interim supervision occurring and documented by other methods such as via telephone or written communication.

Arizona Administrative Register
Notices of Proposed Rulemaking

4. “General supervision” means direct contact for each patient or client not less than once within each 30-calendar days on the premise at the site of work with interim supervision available as needed by other methods such as telephone or written communication.
5. “Minimal supervision” means direct contact on the premise at the site of work not less than once within each 30 calendar days.

~~G.J.~~ “Physically Present” means personally present to observe the practice of occupational therapy.

~~H.K.~~ “Premise” means the building and the surrounding property in which the occupational therapy is practiced.

~~L.~~ “Occupational Therapy Student” means a person not licensed pursuant to Arizona Revised Statutes §§ 32-3422(4) and (5) who works under the close supervision of a licensed occupational therapist.

ARTICLE 4. REGULATORY PROVISION

R4-43-401. Supervision of Occupational Therapy Assistants

~~A. The occupational therapist shall be responsible for the supervision of the occupational therapy assistant and the treatment of the patient. The supervising therapist need not be physically present or on the premises at all times when the occupational therapy assistant is performing the service. When the supervising therapist is not physically present, the supervising therapist shall be available for telephonic consultation. Only a licensed occupational therapist shall:~~

1. Personally and directly initiate or re-evaluate a client or patient's treatment plan;
2. Prepare the initial evaluation, re-evaluation, prepare the initial treatment plan or authorize in writing a change of a treatment plan;
3. Delegate duties and functions to a licensed occupational therapy assistant, designate their duties and assign a level of supervision; and
4. Authorize a patient discharge.

~~B. The occupational therapist shall be responsible for the evaluation of the patient and development of the patient's treatment plan. The occupational therapy assistant may contribute information from observations and standardized test procedures to the evaluation and the treatment plans. A licensed occupational therapy assistant shall not perform the following functions:~~

1. Evaluate or develop a treatment plan independently;
2. Initiate a treatment plan before the client or patient has 1st been evaluated and the treatment plan has been completed by the occupational therapist;
3. Continue a treatment procedure that appears harmful to the patient or client until the patient or client has been re-evaluated by the occupational therapist; and
4. Continue or discontinue occupational therapy services unless the treatment plan is approved or re-approved by the supervising occupational therapist.

~~C. The supervising occupational therapist shall determine the mode and extent of the communication between the supervising occupational therapist and the occupational therapy assistant. This determination shall be based on the competency and level of experience of the occupational therapy assistant and the patient's diagnosis and condition. At a minimum, every thirty days the occupational therapist and occupational therapy assistant shall meet and review:~~

1. ~~Patient's progress;~~
2. ~~Treatment rendered;~~
3. ~~Treatment plan.~~ Supervision of a licensed occupational therapy assistant shall be implemented as follows:
 1. Occupational therapy assistant with less than 12 months work experience in a practice environment or skill or upon entering a new practice environment or developing new skills shall be assigned not less than routine supervision.
 2. Occupational therapy assistants with more than 12 months but less than 24 months of experience in a practice environment or skill shall be assigned not less than general supervision.
 3. Occupational therapy assistants with more than 24 months of experience in a practice environment or skill shall be assigned not less than minimum supervision.
 4. The aforementioned levels of supervision are minimum and the responsible occupational therapist shall assign a more restrictive level of supervision if they deem it necessary for the safety of a patient or client.

~~D. The occupational therapist is responsible for maintaining written records documenting the meeting and the items discussed between the licensed occupational therapist and the occupational therapy assistant.~~

~~E. At a minimum, every thirty days, the occupational therapist shall observe and re-assess the patient's performance and make necessary modification to the treatment plan as needed when patient treatment has been delegated to an occupational therapy assistant.~~

R4-43-402. Supervision of Occupational Therapy Aides and Other Unlicensed Personnel

~~A. The occupational therapist shall be responsible for the on-the-job training and supervision of the occupational therapy aide and any other unlicensed personnel. Written records shall be maintained of the on-the-job training and specific duties that have been delegated to the occupational therapy aide by the supervising occupational therapist. Aides shall not act as service providers of occupational therapy in any setting. However, aides may be assigned supportive services to an occupational therapist or occupational therapy assistant after they have been specifically trained on-the-job by an occupational~~

Arizona Administrative Register
Notices of Proposed Rulemaking

therapist for the specific tasks assigned. Services shall be limited to delegated, selected, client/patient-related or non-client/patient related tasks for which the aide has demonstrated competency.

- B.** The occupational therapist is responsible for and may delegate specific occupational therapy related tasks to an occupational therapy aide. The supervising occupational therapist shall provide initial direction and periodic inspection of the tasks being performed. The nature of the tasks shall be limited to duties that support treatment, including transportation, preparation of materials, setup of equipment, arrangement of therapy schedules and aiding the occupational therapist or certified occupational therapy assistant who is actively providing individual or group treatment. Aides shall be provided with continuous supervision.
- C.** The supervising occupational therapist shall be on the premise during any patient related activity performed by unlicensed personnel. The supervising occupational therapist shall remain in that part of the premise where any occupational therapy related activity is being conducted by unlicensed personnel. The supervising occupational therapist shall be available to provide direction and supervision to the aide and other unlicensed personnel at all times. The supervision of unlicensed personnel shall be daily and periodic throughout the day. Aides shall not act independently or be assigned the following duties or tasks:
1. Determination of treatment plan;
 2. Perform evaluation procedures, evaluation of a client or patient or make entries in client or patient record regarding client or patient status;
 3. Develop, plan, adjust or modify treatment procedures;
 4. Interpret referrals or prescriptions for occupational therapy services, which requires judgment or decision-making;
 5. Continuation of a task if there is a change in the client or patient's condition;
 6. Any task that the aide has not been appropriately trained or does not possess adequate training or skills;
 7. Any task which requires licensure under Arizona Revised Statutes, Chapter 34, Articles 1 through 3.

R4-43-403. Designation of Title

- A.** On official patient records or third party reimbursement forms, title shall be designated as follows: On informal data sheets, 3rd-party reimbursement forms, the supervising occupational therapist shall require that the unlicensed person use 1 of the following titles as applicable following their name:
1. A person who is practicing under a limited permit shall use the term "limited permit" following his or her their name.
 2. The occupational therapist supervisor of an occupational therapy aide shall require the aide to use the abbreviation of "OT Aide". An occupational therapy aide shall use the term "OT Aide" following their name.
 3. An occupational therapy student enrolled in an accredited program in occupational therapy shall use the term "OT Student" following their name on informal data sheets.

NOTICE OF PROPOSED RULEMAKING

TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS; SECURITIES REGULATION

**CHAPTER 2. CORPORATION COMMISSION
FIXED UTILITIES**

PREAMBLE

<u>1. Sections Affected</u>	<u>Rulemaking Action</u>
R14-2-201	Amend
R14-2-202	Amend
R14-2-203	Amend
R14-2-204	Amend
R14-2-205	Amend
R14-2-206	Amend
R14-2-207	Amend
R14-2-208	Amend
R14-2-210	Amend
R14-2-212	Amend
R14-2-1601	Amend
R14-2-1602	Repeal
R14-2-1602	New Section
R14-2-1603	Amend
R14-2-1604	Amend
R14-2-1605	Amend
R14-2-1606	Amend

Arizona Administrative Register
Notices of Proposed Rulemaking

R14-2-1607	Amend
R14-2-1608	Amend
R14-2-1609	Repeal
R14-2-1609	Renumber
R14-2-1609	Amend
R14-2-1610	Renumber
R14-2-1610	Amend
R14-2-1611	Renumber
R14-2-1611	Amend
R14-2-1612	Renumber
R14-2-1612	Amend
R14-2-1613	Renumber
R14-2-1613	Amend
R14-2-1614	Renumber
R14-2-1614	Amend
R14-2-1615	Renumber
R14-2-1615	Amend
R14-2-1616	Renumber
R14-2-1616	New Section
R14-2-1617	Repeal
R14-2-1617	Renumber
R14-2-1617	Amend
R14-2-1618	Renumber

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

Authorizing statute: Arizona Constitution Article XV, A.R.S. §§ 40-202, 40-203, 40-250, 40-321, 40-322, 40-331, 40-332, 40-336, 40-361, 40-365, 40-367, and under the Arizona Revised Statutes, Title 40, generally.

Implementing statute: Not applicable.

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

Notice of Rulemaking Docket Opening: 5 A.A.R. 1319, May 14, 1999.

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

Name: Ray T. Williamson, Acting Director, Utilities Division

Address: Arizona Corporation Commission
1200 W. Washington
Phoenix, Arizona 85007

Telephone: (602) 542-0745

Fax: (602) 542-2129

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

On December 26, 1996, in Decision No. 59943 the Commission adopted rules which provided the framework for the introduction of retail electric competition in Arizona. These rules are codified at A.A.C. R14-2-1601 et seq. On August 10, 1998, in Decision No. 61071 the Commission adopted certain modifications to the Retail Electric Competition Rules and conforming changes to R14-2-203, R14-2-204, and R14-2-208 through R14-2-211, on an emergency basis. The Commission adopted the emergency rules on a permanent basis on December 11, 1998, in Decision No. 61272.

On January 11, 1999, the Commission issued Decision No. 61311 which stayed the effectiveness of the rules and related Decisions and ordered the Commission's Hearing Division to issue a Procedural Order to begin consideration of further comment and actions in this docket. Interested parties were given several opportunities to file comments, proposed rule changes and exceptions to the rule amendment recommendations subsequently proposed by the Hearing Division on January 26, 1999, and March 12, 1999. Because there are substantive changes being proposed, the Commission, at a special open meeting on April 14, 1999, ordered that the following proposed rules be forwarded to the Office of the Secretary of State for publication of this Notice of Proposed Rulemaking.

Some of the significant changes to the Rules are as follows:

Arizona Administrative Register
Notices of Proposed Rulemaking

R14-2-201 et seq. contain various conforming changes to the existing rules necessitated by the revisions to Article 16.

R14-2-1601 sets forth definitions necessitated under the rules. The definitions were revised based on the comments of the parties and based on changes made to other rules.

R14-2-1602 is a complete replacement of the prior section and establishes the mechanism and timing for opening an Affected Utility's service territory to competition. To bring the benefits of electric competition to the citizens of Arizona as quickly as possible, R14-2-1602 provides that the Commission will set the date for competition to begin in an Affected Utility's service territory upon the resolution of its Stranded Cost and Unbundled Tariffs by final Commission Order. In the event an Affected Utility's service territory is opened for competition prior to January 1, 2001, its customers will be eligible to receive competitive generation in accordance with the phase-in provisions set forth in R14-2-1604. R14-2-1602 further provides that a competitive electric affiliate of an Affected Utility will not be permitted to compete in the service territory of another Affected Utility until its own affiliated Affected Utility's service territory is opened to competition.

R14-2-1603 establishes which entities are required to apply to the Commission for a Certificate of Convenience and Necessity and what information must accompany the application.

R14-2-1604 establishes the timetable for implementation of retail electric competition for the various classes of customers. This rule provides that upon the opening of its service territory to competition, an Affected Utility shall make 20% of its 1995 system retail peak demand available for competitive generation supply on a first-come-first-served basis. As part of the 20%, each Affected Utility is required to reserve an increasing percentage for residential customers according to a set schedule. All customers shall be eligible for competitive services after January 1, 2001. The rule requires Affected Utilities to report to the Commission on possible mechanisms, including rate reduction, to provide benefits to those customers not eligible for competitive electric services during the transition period.

R14-2-1605 establishes that all providers of Competitive Services require a Certificate of Convenience and Necessity. Although this section has been substantially revised for clarity by moving its definitions into the definition section of the Rules, R14-2-1601, the changes have not substantially changed the effect of this section. The revisions to the rules have eliminated reference to the concept of self-aggregation as all Aggregators must be ESPs. Competitive Services are all aspects of retail electric service except Distribution Service, Standard Offer Service, transmission and FERC-required ancillary services, Must-Run Generating Units Services, provision of customer demand and energy data by Affected Utilities and Utility Distribution Companies ("UDCs") to Electric Service Providers ("ESPs"), and those aspects of metering service set forth in renumbered section 1612(K).

R14-2-1606 requires UDCs to offer Standard Offer Service after all retail customers are eligible for competitive services in 2001, and establishes those companies as Providers of Last Resort. The definition in R14-2-1601 of Provider of Last Resort was modified to conform with the requirements in HB 2663. To add clarity, the rule was modified to refer to defined terms rather than redefining those terms. The rule is revised to require investor-owned UDCs providing Standard Offer Service to purchase power through the open market as opposed to competitive bid. The revisions eliminate the requirement that UDCs' power contracts in excess of 12 months contain ratchet down provisions. This section also establishes the requirements for Standard Offer Service tariffs and access to distribution systems, and provides for Commission review and approval of Competitive and Noncompetitive Service rates.

R14-2-1607 establishes the criteria the Commission will consider in determining Stranded Cost recovery. This rule would allow, but not guarantee, Affected Utilities a reasonable opportunity to recover unmitigated Stranded Cost. The revisions to this rule permit the possibility of recovering market transformation costs incurred after December 1996 and the customer option of an exit fee.

R14-2-1608, as revised, requires that a System Benefits Charge be paid by all customers. The Affected Utilities or UDCs must file for review of the System Benefits Charge at least every 3 years. The revisions to the definition of System Benefits add Consumer Education to those charges that may be included in the System Benefits Charge and delete reference to market transformation costs, which are more properly considered as Stranded Cost.

Former R14-2-1609, which had established a solar portfolio, has been eliminated, as such a program as contemplated in the rules is prohibitively expensive and would hinder competition in Arizona. All subsequent rules have been renumbered accordingly.

Renumbered R14-2-1609 requires that Affected Utilities provide nondiscriminatory access to transmission and distribution facilities. It contains a policy statement that the Commission supports the development of an Independent System Operator or, at a minimum, an Independent System Administrator. The revisions include a new subsection that clarifies that UDCs will retain their obligation to assure adequate transmission import capability to meet the load requirements of all their distribution customers. Another new subsection directs the Arizona Independent Scheduling Administrator to identify statewide services to be settled on and to develop fair and reasonable pricing and settlement

Arizona Administrative Register
Notices of Proposed Rulemaking

mechanisms for services from Must-Run Generating Units.

Renumbered R14-2-1610 provides that the service territories of Arizona electric utilities that are not Affected Utilities or Public Power Entities are not open to competition and that those non-Affected Utilities are not eligible to compete for customers in the service territories of Affected Utilities or Public Power Entities. However, a non-Affected Utility may compete in the service territories of Affected Utilities or Public Power Entities if the non-Affected Utility allows reciprocity and opens its service territory to competition.

Renumbered R14-2-1611 sets forth the parameters of allowable rates for Competitive Services and requires that tariffs containing the rates be filed with and approved by the Commission. The rates may be set at a maximum level, subject to discount. Rates cannot be discounted below cost. Increases in maximum rates must be approved by the Commission. This rule was not substantially changed.

Renumbered R14-2-1612 provides consumer protections against the unauthorized changing of providers and establishes billing requirements. All providers of electric service are required to meet all applicable reliability standards, and any Electric Service Provider is required to provide at least 45 days notice of its intent to cease providing service to a given customer. This rule also sets forth the various metering protocols and requires the Director, Utilities Division to issue operating procedures and standards by May 1, 1999.

Renumbered R14-2-1613 lists the reports Affected Utilities, UDCs and ESPs must file with the Commission.

Renumbered R14-2-1614 contains a new subsection requiring the Director, Utilities Division to implement a Consumer Education program as approved by the Commission, but otherwise was not changed substantially.

Renumbered R14-2-1615 requires competitive generation assets to be separated from an Affected Utility by January 1, 2001. An Affected Utility may transfer its competitive generation assets or services either to an affiliate or to an unaffiliated 3rd party. This section was revised substantially to clarify that an Affected Utility or UDC may not provide Competitive Services beginning January 1, 2001. Language was added to make generation cooperatives subject to the same limitations as their member cooperatives, and language was added to clarify services that an Affected Utility or UDC may continue to provide.

Renumbered R14-2-1616 was substantially revised and now requires that Affected Utilities that provide Noncompetitive Services and Competitive Services through a competitive electric affiliate file a Code of Conduct to prevent cross-subsidization of services and other anti-competitive practices. The Code of Conduct is subject to Commission approval.

Renumbered R14-2-1617 requires that Load-Serving Entities provide customers with certain information so that they can make comparisons among competing suppliers and decide which supplier's product best meets their needs. This rule also requires that each entity prepare a statement of its terms and conditions of service and requires that certain basic information be included. Revisions to the rule require information concerning the resource portfolio to be provided upon request, if reasonably known.

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:

Not applicable.

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:

End users of competitive electricity services may benefit from greater choices of service options and rates because full competition will occur as soon as possible after resolving issues Of Stranded Cost And Unbundled Tariffs. Some consumers may not participate in the competitive market as quickly as under the current rules if their affected utility has not resolved its Stranded Cost Or Unbundled Tariff issues.

Requirements for consumer information disclosure and unbundled bills will provide information that consumers can use to make informed choices regarding the selection of electric service providers. This will reduce the costs of searching for information.

Consumers would also benefit from protections in the proposed rule amendments regarding "slamming", notification of outages, and metering standards.

Affected Utilities And Electric Service Providers may incur additional costs resulting from additional reporting, billing, and consumer disclosure requirements and from negotiating service acquisition agreements. Affected Utilities

Arizona Administrative Register
Notices of Proposed Rulemaking

may also incur additional costs associated with preparing and filing residential phase-in program proposals, compliance plans, reports, and audits and in separating monopoly and competitive services and maintaining the separation.

Separating utility monopoly and competitive services mitigates the potential for anti-competitive cross-subsidization that could harm consumers of monopoly services.

Manufacturers of solar electric generation equipment may not directly benefit from increased sales after the elimination of the solar portfolio standard.

Public entities would not benefit from the implementation of the Solar Electric Fund. Probable costs to the Commission include costs associated with new tasks, such as reviewing service acquisition agreements, reviewing utility filings of residential phase-in program proposals and quarterly reports, reviewing utility filings of reports detailing possible mechanisms to provide benefits to Standard Offer customers, reviewing protocols regarding Must-Run Generating Units, reviewing reports of "slamming" violations, approving requirements regarding metering and meter reading, reviewing utility filings of compliance plans, reviewing utility performance audits, and developing the format of a consumer information label.

Adoption of the proposed rule amendments would allow the Commission to more effectively implement the restructuring of the retail electric market.

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: Barbara Keene, Economist III
Address: Arizona Corporation Commission
1200 W. Washington
Phoenix, Arizona 85007
Telephone: (602) 542-0853
Fax: (602) 542-4251

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:

Date: June 14, 1999
Time: 10 a.m.
Location: Hearing Room 1
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007
Nature: Oral Proceeding
Date: June 17, 1999
Time: 10 a.m.
Location: Hearing Room 222
400 W. Congress Street
Tucson, Arizona 85701
Nature: Oral Proceeding

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:

1997 ANSI C2 (National Electrical Safety Code) incorporated in R14-2-207 (E)(3)(c) and R14-2-208(F)(1); 1995 ANSI B31.1 (ASME Code for Pressure Piping) incorporated in R14-2-208(F)(1); 1989 ANSI C84.1 (American National Standard for Electric Power Systems and Equipment-Voltage Ratings [60Hz]) incorporated in R14-2-208 (F)(2).

13. The full text of the rules follows:

**TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS; SECURITIES
REGULATION**

**CHAPTER 2. CORPORATION COMMISSION
FIXED UTILITIES**

ARTICLE 2. ELECTRIC UTILITIES

Section

- R14-2-201. Definitions
- R14-2-202. Certificate of Convenience and Necessity for electric utilities; filing requirements on certain new plants
- R14-2-203. Establishment of service
- R14-2-204. Minimum customer information requirements
- R14-2-205. Master metering
- R14-2-206. Service lines and establishments
- R14-2-207. Line Extensions
- R14-2-208. Provision of service
- R14-2-210. Billing and collection
- R14-2-212. Administrative and hearing requirements

ARTICLE 16. RETAIL ELECTRIC COMPETITION

- R14-2-1601. Definitions
- R14-2-1602. Commencement of Competition
- R14-2-1602. ~~Filing of Tariffs by Affected Utilities Repealed~~
- R14-2-1603. Certificates of Convenience and Necessity
- R14-2-1604. Competitive Phases
- R14-2-1605. Competitive Services
- R14-2-1606. Services Required to be Made Available
- R14-2-1607. Recovery of Stranded Cost of Affected Utilities
- R14-2-1608. System Benefits Charges
- R14-2-1609. ~~Solar Portfolio Standard Repealed~~
- ~~R14-2-1609~~, ~~R14-2-1610~~: Transmission and Distribution Access
- ~~R14-2-1610~~, ~~R14-2-1611~~: In-state Reciprocity
- ~~R14-2-1611~~, ~~R14-2-1612~~: Rates
- ~~R14-2-1612~~, ~~R14-2-1613~~: Service Quality, Consumer Protection, Safety, and Billing Requirements
- ~~R14-2-1613~~, ~~R14-2-1614~~: Reporting Requirements
- ~~R14-2-1614~~, ~~R14-2-1615~~: Administrative Requirements
- ~~R14-2-1615~~, ~~R14-2-1616~~: Separation of Monopoly and Competitive Services
- ~~R14-2-1616~~, ~~R14-2-1617~~: Code of Conduct
- R14-2-1617. ~~Affiliate Transactions Repealed~~
- ~~R14-2-1617~~, ~~R14-2-1618~~: Disclosure of Information

ARTICLE 2. ELECTRIC UTILITIES

R14-2-201. Definitions

In this Article, unless the context otherwise requires, the following definitions shall apply. In addition, the definitions contained in Article 16, Retail Electric Competition shall apply in this Article unless the context otherwise requires.

1. "Advance in aid of construction". Funds provided to the utility by the applicant under the terms of a line extension agreement the value of which may be refundable.
2. "Applicant". A person requesting the utility to supply electric service.
3. "Application". A request to the utility for electric service, as distinguished from an inquiry as to the availability or charges for such service.
4. "Arizona Corporation Commission". The regulatory authority of the state of Arizona having jurisdiction over public service corporations operating in Arizona.
5. "Billing month". The period between any 2 regular readings of the utility's meters at approximately 30-day intervals.
6. "Billing period". The time interval between 2 consecutive meter readings that are taken for billing purposes.
7. "Contributions in aid of construction". Funds provided to the utility by the applicant under the terms of a line extension agreement ~~and/or~~ service connection tariff the value of which is not refundable.
8. "Curtailed priority". The order in which electric service is to be curtailed to various classifications of customers, as set forth in the utility's filed tariffs.

9. "Customer". The person or entity in whose name service is rendered, as evidenced by the signature on the application or contract for that service, or by the receipt or payment of bills regularly issued in his name regardless of the identity of the actual user of the service.
10. "Customer charge". The amount the customers must pay the utility for the availability of electric service, excluding any electricity used, as specified in the utility's tariffs.
11. "Day". Calendar day.
12. "Demand". The rate at which power is delivered during any specified period of time. Demand may be expressed in kilowatts, kilovolt-amperes, or other suitable units.
13. "Distribution lines". The utility lines operated at distribution voltage which are constructed along public roadways or other bona fide rights-of-way, including easements on customer's property.
14. "Elderly". A person who is 62 years of age or older.
15. "Energy". Electric energy, expressed in kilowatt-hours.
16. "Handicapped". A person with a physical or mental condition which substantially contributes to the person's inability to manage ~~his or her~~ their own resources, carry out activities of daily living, or protect oneself from neglect or hazardous situations without assistance from others.
17. "Illness". A medical ailment or sickness for which a residential customer obtains a verified document from a licensed medical physician stating the nature of the illness and that discontinuance of service would be especially dangerous to the customer's health.
18. "Inability to pay". Circumstances where a residential customer:
 - a. Is not gainfully employed and unable to pay, or
 - b. Qualifies for government welfare assistance, but has not begun to receive assistance on the date that he receives his bill and can obtain verification of that fact from the government welfare assistance agency.
 - c. Has an annual income below the published federal poverty level and can produce evidence of this, and
 - d. Signs a declaration verifying that the customer meets 1 of the above criteria and is either elderly, handicapped, or suffers from illness.
19. "Interruptible electric service". Electric service that is subject to interruption as specified in the utility's tariff.
20. "Kilowatt (kw)". A unit of power equal to 1,000 watts.
21. "Kilowatt-hour (kwh)". Electric energy equivalent to the amount of electric energy delivered in 1 hour when delivery is at a constant rate of 1 kilowatt.
22. "Line extension". The lines and equipment necessary to extend the electric distribution system of the utility to provide service to additional customers.
23. "Master meter". A meter for measuring or recording the flow of electricity that has passed through it at a single location where said electricity is distributed to tenants or occupants for their individual usage.
24. "Megawatt (Mw)". A unit of power equal to 1,000,000 watts.
25. "Meter". The instrument for measuring and indicating or recording the flow of electricity that has passed through it.
26. "Meter tampering". A situation where a meter has been illegally altered. Common examples are meter bypassing, use of magnets to slow the meter recording, and broken meter seals.
27. "Minimum charge". The amount the customer must pay for the availability of electric service, including an amount of usage, as specified in the utility's tariffs.
28. "Permanent customer". A customer who is a tenant or owner of a service location who applies for and receives permanent electric service.
29. "Permanent service". Service which, in the opinion of the utility, is of a permanent and established character. The use of electricity may be continuous, intermittent, or seasonal in nature.
30. "Person". Any individual, partnership, corporation, governmental agency, or other organization operating as a single entity.
31. "Point of delivery". The point where facilities owned, leased, or under license by a customer connects to the utility's facilities.
32. "Power". The rate of generating, transferring ~~and~~ or using electric energy, usually expressed in kilowatts.
33. "Premises". All of the real property and apparatus employed in a single enterprise on an integral parcel of land undivided by public streets, alleys or railways.
34. "Residential subdivision development". Any tract of land which has been divided into 4 or more contiguous lots with an average size of 1 acre or less for use for the construction of residential buildings or permanent mobile homes for either single or multiple occupancy.
35. "Residential use". Service to customers using electricity for domestic purposes such as space heating, air conditioning, water heating, cooking, clothes drying, and other residential uses and includes use in apartment buildings, mobile home parks, and other multiunit residential buildings.
36. "Service area". The territory in which the utility has been granted a Certificate of Convenience and Necessity and is authorized by the Commission to provide electric service.

Arizona Administrative Register
Notices of Proposed Rulemaking

37. "Service establishment charge". The charge as specified in the utility's tariffs which covers the cost of establishing a new account.
38. "Service line". The line extending from a distribution line or transformer to the customer's premises or point of delivery.
39. "Service reconnect charge". The charge as specified in the utility's tariffs which must be paid by the customer prior to reestablishment of electric service each time the electricity is disconnected for nonpayment or whenever service is discontinued for failure otherwise to comply with the utility's tariffs.
40. "Service reestablishment charge". A charge as specified in the utility's tariffs for service at the same location where the same customer had ordered a service disconnection within the preceding 12-month period.
41. "Single family dwelling". A house, an apartment, a mobile home permanently affixed to a lot, or any other permanent residential unit which is used as a permanent home.
42. "Tariffs". The documents filed with the Commission which list the services and products offered by the utility and which set forth the terms and conditions and a schedule of the rates and charges, for those services and products.
43. "Temporary service". Service to premises or enterprises which are temporary in character, or where it is known in advance that the service will be of limited duration. Service which, in the opinion of the utility, is for operations of a speculative character is also considered temporary service.
44. "Third-party notification". A notice sent to an individual or a public entity willing to receive notification of the pending discontinuance of service of a customer of record in order to make arrangements on behalf of said customer satisfactory to the utility.
45. "Utility". The public service corporation providing electric service to the public in compliance with state law.
46. "Weather especially dangerous to health". That period of time commencing with the scheduled termination date when the local weather forecast, as predicted by the National Oceanographic and Administration Service, indicates that the temperature will not exceed 32° Fahrenheit for the next day's forecast. The Commission may determine that other weather conditions are especially dangerous to health as the need arises.

R14-2-202. Certificate of Convenience and Necessity for electric utilities; filing requirements on certain new plants

A. Application for new Certificate of Convenience and Necessity

1. Six copies of each application for a new Certificate of Convenience and Necessity shall be submitted in a form prescribed by the Commission and shall include, at a minimum, the following information:
 - a. The proper name and correct address of the proposed utility company and its owner, if a sole proprietorship, each partner, if a partnership, or the President and Secretary if a corporation.
 - b. The rates proposed to be charged for the service that will be rendered.
 - c. A financial statement setting forth the financial condition of the applicant.
 - d. Maps of the proposed service area and/or a description of the area proposed to be served.
 - e. Appropriate city, county and/or state agency approvals, where appropriate.
 - f. The actual number of customers within the service area as of the time of filing and the estimated number of customers to be served for each of the first 5 five years of operation.
 - g. Such other information as the Commission by order or the staff of the Utilities Division by written directive may request.

~~B. Filing requirements on certain new plants~~

- ~~1. Any utility proposing to construct a generating facility of over eighty Mw capacity shall, at least 180 days prior to commencement of construction, file with the Commission the following information:
 - a. The proposed site of such plant.
 - b. The approximate generating capacity of such plant and the number of generating units proposed for each plant site.
 - c. The type of fuel proposed to be used in each plant.
 - d. The proposed source of fuel and water for each plant.
 - e. The estimated date by which such plant will be in operation.
 - f. The load forecasting data available to such utility which, in its opinion, justifies the need for construction of such proposed generating facility.
 - g. The method and timing of financing the proposed plant.
 - h. Such further information as the Commission may, by special order, or the staff of the Utilities Division may, by written directive, require.~~
- ~~2. The utility shall update the information required to be filed on not less than an annual basis by January 31 of each year following the original filing until construction has been completed.~~

~~B.C. Application for discontinuance or abandonment of utility service~~

- ~~1. Any utility proposing to discontinue or abandon utility service currently in use by the public shall prior to such action obtain authority therefor from the Commission.~~
- ~~2. The utility shall include in the application, studies of past, present and prospective customer use of the subject service, plant or facility as is necessary to support the application.~~

Arizona Administrative Register
Notices of Proposed Rulemaking

3. An application shall not be required to remove individual facilities where a customer has requested service discontinuance.

R14-2-203. Establishment of service

A. Information from new applicants

1. A utility may obtain the following minimum information from each new applicant for service:
 - a. Name or names of applicant(s) or applicants;
 - b. Service address or location and telephone number;
 - c. Billing address/telephone number, if different than service address;
 - d. Address where service was provided previously;
 - e. Date applicant will be ready for service;
 - f. Indication of whether premises have been supplied with utility service previously;
 - g. Purpose for which service is to be used;
 - h. Indication of whether applicant is owner or tenant of or agent for the premises;
 - i. Information concerning the energy and demand requirements of the customer; and
 - j. Type and kind of life-support equipment, if any, used by the customer.
2. A utility may require a new applicant for service to appear at the utility's designated place of business to produce proof of identity and sign the utility's application form.
3. Where service is requested by 2 or more individuals the utility shall have the right to collect the full amount owed to the utility from any 1 of the applicants.

B. Deposits

1. A utility shall not require a deposit from a new applicant for residential service if the applicant is able to meet any of the following requirements:
 - a. The applicant has had service of a comparable nature with the utility within the past 2 years and was not delinquent in payment more than twice during the last 12 consecutive months or disconnected for nonpayment.
 - b. The applicant can produce a letter regarding credit or verification from an electric utility where service of a comparable nature was last received which states applicant had a timely payment history at time of service discontinuance.
 - c. In lieu of a deposit, a new applicant may provide a Letter of Guarantee from a governmental or non-profit entity or a surety bond as security for the utility.
2. The utility may shall issue a nonnegotiable receipt to the applicant for the deposit. The inability of the customer to produce such a receipt shall in no way impair his right to receive a refund of the deposit which is reflected on the utility's records.
3. Deposits shall be interest bearing; the interest rate and method of calculation shall be filed with and approved by the Commission in a tariff proceeding.
4. Each utility shall file a deposit refund procedure with the Commission, subject to Commission review and approval during a tariff proceeding. However, each utility's refund policy shall include provisions for residential deposits and accrued interest to be refunded or letters of guarantee or surety bonds to expire after 12 months of service if the customer has not been delinquent more than twice in the payment of utility bills.
5. A utility may require a residential customer to establish or reestablish a deposit if the customer becomes delinquent in the payment of 2 bills within a 12-consecutive-month period or has been disconnected for service during the last 12 months.
6. The amount of a deposit required by the utility shall be determined according to the following terms:
 - a. Residential customer deposits shall not exceed 2 times that customer's estimated average monthly bill.
 - b. Nonresidential customer deposits shall not exceed 2 ½ times that customer's estimated maximum monthly bill.
7. The utility may review the customer's usage after service has been connected and adjust the deposit amount based upon the customer's actual usage.
8. A separate deposit may be required for each meter installed.
9. If a Utility Distribution Company's customer with an established deposit elects to take competitive services from an Electric Service Provider, and is not currently delinquent in payments to the Utility Distribution Company, the Utility Distribution Company will refund a portion of the customer's deposit in proportion to the expected decrease in monthly billing. A customer returning to Standard Offer Service may be required to increase an established deposit in proportion to the expected increase in monthly billing.

C. Grounds for refusal of service

1. A utility may refuse to establish service if any of the following conditions exist:
 - a. The applicant has an outstanding amount due for the same class of utility service with the utility, and the applicant is unwilling to make arrangements with the utility for payment.
 - b. A condition exists which in the utility's judgment is unsafe or hazardous to the applicant, the general population, or the utility's personnel or facilities.

Arizona Administrative Register
Notices of Proposed Rulemaking

- c. Refusal by the applicant to provide the utility with a deposit when the customer has failed to meet the credit criteria for waiver of deposit requirements.
- d. Customer is known to be in violation of the utility's tariffs filed with the Commission.
- e. Failure of the customer to furnish such funds, service, equipment, and/or rights-of-way necessary to serve the customer and which have been specified by the utility as a condition for providing service.
- f. Applicant falsifies ~~his or her~~ their identity for the purpose of obtaining service.

D. Service establishments, reestablishments or reconnection charge

- 1. Each utility may make a charge as approved by the Commission for the establishment, reestablishment, or reconnection of utility services, including transfers between Electric Service Providers.
- 2. Should service be established during a period other than regular working hours at the customer's request, the customer may be required to pay an after-hour charge for the service connection. Where the utility scheduling will not permit service establishment on the same day requested, the customer can elect to pay the after-hour charge for establishment that day or ~~his~~ the customer's service will be established on the next available normal working day.
- 3. For the purpose of this rule, the definition of service establishments are where the customer's facilities are ready and acceptable to the utility and the utility needs only to install a meter, read a meter, or turn the service on.
- 4. Service establishments with an Electric Service Provider will be scheduled for the next regular meter read date if the direct access service request is processed 15 calendar days prior to that date and appropriate metering equipment is in place. If a direct access service request is made in less than 15 days prior to the next regular read date, service will be established at the next regular meter read date thereafter. The utility may offer after-hours or earlier service for a fee. This section shall not apply to the establishment of new service, but is limited to a change of providers of existing electric service.

E. Temporary service

- 1. Applicants for temporary service may be required to pay the utility, in advance of service establishment, the estimated cost of installing and removing the facilities necessary for furnishing the desired service.
- 2. Where the duration of service is to be less than 1 month, the applicant may also be required to advance a sum of money equal to the estimated bill for service.
- 3. Where the duration of service is to exceed 1 month, the applicant may also be required to meet the deposit requirements of the utility.
- 4. If at any time during the term of the agreement for services the character of a temporary customer's operations changes so that in the opinion of the utility the customer is classified as permanent, the terms of the utility's line extension rules shall apply.

R14-2-204. Minimum customer information requirements

A. Information for residential customers

- 1. A utility shall make available upon customer request not later than ~~15~~ 60 days from the date of request a concise summary of the rate schedule applied for by such customer. The summary shall include the following:
 - a. The monthly minimum or customer charge, identifying the amount of the charge and the specific amount of usage included in the minimum charge, where applicable.
 - b. Rate blocks, where applicable.
 - c. Any adjustment factor and method of calculation.
- 2. The utility shall to the extent practical identify its tariff that is most advantageous to the customer and notify the customer of such prior to service commencement.
- 3. In addition, a utility shall make available upon customer request, not later than 60 days from date of service commencement, a concise summary of the utility's tariffs or the Commission's rules and regulations concerning:
 - a. Deposits
 - b. Termination of service
 - c. Billing and collection
 - d. Complaint handling.
- 4. Each utility upon request of a customer shall transmit a written statement of actual consumption by such customer for each billing period during the prior 12 months unless such data is not reasonably ascertainable.
- 5. Each utility shall inform all new customers of their right to obtain the information specified above.

B. Information required due to changes in tariffs

- 1. Each utility shall transmit to affected customers a concise summary of any change in the utility's tariffs affecting those customers.
- 2. This information shall be transmitted to the affected customer within 60 days of the effective date of the change.

R14-2-205. Master metering

A. Mobile home parks -- new construction/expansion

- 1. A utility shall refuse service to all new construction ~~and/or~~ expansion of existing permanent residential mobile home parks unless the construction ~~and/or~~ expansion is individually metered by the utility. Line extensions and service con-

Arizona Administrative Register
Notices of Proposed Rulemaking

nections to serve such expansion shall be governed by the line extension and service connection tariff of the appropriate utility.

2. Permanent residential mobile home parks for the purpose of this rule shall mean mobile home parks where, in the opinion of the utility, the average length of stay for an occupant is a minimum of 6 months.
3. For the purpose of this rule, expansion means the acquisition of additional real property for permanent residential spaces in excess of that existing at the effective date of this rule.

B. Residential apartment complexes, condominiums, and other multiunit residential buildings

1. Master metering shall not be allowed for new construction of apartment complexes and condominiums unless the building~~(s)~~ or buildings will be served by a centralized heating, ventilation ~~and~~ or air conditioning system and the contractor can provide to the utility an analysis demonstrating that the central unit will result in a favorable cost/benefit relationship.
2. At a minimum, the cost/benefit analysis should consider the following elements for a central unit as compared to individual units:
 - a. Equipment and labor costs,
 - b. Financing costs,
 - c. Maintenance costs,
 - d. Estimated kwh usage,
 - e. Estimated kw demand on a coincident demand and noncoincident demand basis (for individual units),
 - f. Cost of meters and installation, and
 - g. Customer accounting cost (1 account vs. several accounts).

R14-2-206. Service Lines and Establishments

A. Priority and timing of service establishments

1. After an applicant has complied with the utility's application and deposit requirements and has been accepted for service by the utility, the utility shall schedule that customer for service establishment.
2. Service establishments shall be scheduled for completion within 5 working days of the date the customer has been accepted for service, except in those instances when the customer requests service establishment beyond the 5-working-day limitation.
3. When a utility has made arrangements to meet with a customer for service establishment purposes and the utility or the customer cannot make the appointment during the prearranged time, the utility shall reschedule the service establishment to the satisfaction of both parties.
4. A utility shall schedule service establishment appointments within a maximum range of 4 hours during normal working hours, unless another time-frame is mutually acceptable to the utility and the customer.
5. Service establishments shall be made only by qualified utility service personnel.
6. For the purposes of this rule, service establishments are where the customer's facilities are ready and acceptable to the utility and the utility needs only to install or read a meter or turn the service on.

B. Service lines

1. Customer provided facilities
 - a. Each applicant for services shall be responsible for all inside wiring including the service entrance and meter socket.
 - b. Meters and service switches in conjunction with the meter shall be installed in a location where the meters will be readily and safely accessible for reading, testing and inspection and where such activities will cause the least interference and inconvenience to the customer. However, the meter locations shall not be on the front exterior wall of the home; or in the carport or garage, unless mutually agreed to between the home builder or customer and the utility. The customer shall provide, without cost to the utility, at a suitable and easily accessible location, sufficient and proper space for installation of meters.
 - c. Where the meter or service line location on the customer's premises is changed at the request of the customer or due to alterations on the customer's premises, the customer shall provide and have installed at his expense all wiring and equipment necessary for relocating the meter and service line connection and the utility may make a charge for moving the meter ~~and~~ or service line.
2. Company provided facilities
 - a. Each utility shall file for Commission approval, a service line tariff which defines the maximum footage ~~and~~ or equipment allowance to be provided by the utility at no charge. The maximum footage ~~and~~ or equipment allowance may be differentiated by customer class.
 - b. The cost of any service line in excess of that allowed at no charge shall be paid for by the customer as a contribution in aid of construction.
 - c. A customer requesting an underground service line in an area served by overhead facilities shall pay for the difference between an overhead service connection and the actual cost of the underground connection as a nonrefundable contribution.

C. Easements and rights-of-way

Arizona Administrative Register
Notices of Proposed Rulemaking

1. Each customer shall grant adequate easement and right-of-way satisfactory to the utility to ensure that customer's proper service connection. Failure on the part of the customer to grant adequate easement and right-of-way shall be grounds for the utility to refuse service.
2. When a utility discovers that a customer or ~~his~~ customer's agent is performing work or has constructed facilities adjacent to or within an easement or right-of-way and such work, construction or facility poses a hazard or is in violation of federal, state or local laws, ordinances, statutes, rules or regulations, or significantly interferes with the utility's access to equipment, the utility shall notify the customer or ~~his~~ customer's agent and shall take whatever actions are necessary to eliminate the hazard, obstruction or violation at the customer's expense.

R14-2-207. Line Extensions

A. General requirements

1. Each utility shall file for Commission approval a line extension tariff which incorporates the provisions of this rule and specifically defines the conditions governing line extensions.
2. Upon request by an applicant for a line extension, the utility shall prepare, without charge, a preliminary sketch and rough estimate of the cost of installation to be paid by said applicant.
3. Any applicant for a line extension requesting the utility to prepare detailed plans, specifications, or cost estimates may be required to deposit with the utility an amount equal to the estimated cost of preparation. The utility shall, upon request, make available within 90 days after receipt of the deposit referred to above, such plans, specifications, or cost estimates of the proposed line extension. Where the applicant authorizes the utility to proceed with construction of the extension, the deposit shall be credited to the cost of construction; otherwise the deposit shall be nonrefundable. If the extension is to include oversizing of facilities to be done at the utility's expense, appropriate details shall be set forth in the plans, specifications and cost estimates. Subdivisions providing the utility with approved plans shall be provided with plans, specifications, or cost estimates within 45 days after receipt of the deposit referred to above.
4. Where the utility requires an applicant to advance funds for a line extension, the utility shall furnish the applicant with a copy of the line extension tariff of the appropriate utility prior to the applicant's acceptance of the utility's extension agreement.
5. All line extension agreements requiring payment by the applicant shall be in writing and signed by each party.
6. The provisions of this rule apply only to those applicants who in the utility's judgment will be permanent customers of the utility. Applications for temporary service shall be governed by the Commission's rules concerning temporary service applications.

B. Minimum written agreement requirements

1. Each line extension agreement shall, at a minimum, include the following information:
 - a. Name and address of applicant~~s~~ or applicants;
 - b. Proposed service address or location;
 - c. Description of requested service;
 - d. Description and sketch of the requested line extension;
 - e. A cost estimate to include materials, labor, and other costs as necessary;
 - f. Payment terms;
 - g. A concise explanation of any refunding provisions, if applicable;
 - h. The utility's estimated start date and completion date for construction of the line extension; and
 - i. A summary of the results of the economic feasibility analysis performed by the utility to determine the amount of advance required from the applicant for the proposed line extension.
2. Each applicant shall be provided with a copy of the written line extension agreement.

C. Line extension requirements

1. Each line extension tariff shall include the following provisions:
 - a. A maximum footage ~~and~~ or equipment allowance to be provided by the utility at no charge. The maximum footage ~~and~~ or equipment allowance may be differentiated by customer class.
 - b. An economic feasibility analysis for those extensions which exceed the maximum footage ~~and~~ or equipment allowance. Such economic feasibility analysis shall consider the incremental revenues and costs associated with the line extension. In those instances where the requested line extension does not meet the economic feasibility criteria established by the utility, the utility may require the customer to provide funds to the utility, which will make the line extension economically feasible. The methodology employed by the utility in determining economic feasibility shall be applied uniformly and consistently to each applicant requiring a line extension.
 - c. The timing and methodology by which the utility will refund any advances in aid of construction as additional customers are served off the line extension. The customer may request an annual survey to determine if additional customers have been connected to and are using service from the extension. In no case shall the amount of the refund exceed the amount originally advanced.
 - d. All advances in aid of construction shall be noninterest bearing.

Arizona Administrative Register
Notices of Proposed Rulemaking

- e. If after ~~5~~ five years from the utility's receipt of the advance, the advance has not been totally refunded, the advance shall be considered a contribution in aid of construction and shall no longer be refundable.
- D. Residential subdivision development and permanent mobile home parks. Each utility shall submit as a part of its line extension tariff separate provisions for residential subdivision developments and permanent mobile home parks.
- E. Single phase underground extensions in subdivision developments
 1. Extensions of single phase electric lines necessary to furnish permanent electric service to new residential buildings or mobile homes within a subdivision, in which facilities for electric service have not been constructed, for which applications are made by a developer shall be installed underground in accordance with the provisions set forth in this regulation except where it is not feasible from an engineering, operational, or economic standpoint.
 2. Rights-of-way easements
 - a. The utility shall construct or cause to be constructed and shall own, operate and maintain all underground electric distribution and service lines along public streets, roads and highways and on public lands and private property which the utility has the legal right to occupy.
 - b. Rights-of-way and easements suitable to the utility must be furnished by the developer at no cost to the utility and in reasonable time to meet service requirements. No underground electric facilities shall be installed by a utility until the final grades have been established and furnished to the utility. In addition, the easement strips, alleys and streets must be graded to within 6 inches of final grade by the developer before the utility will commence construction. Such clearance and grading must be maintained by the developer during construction by the utility.
 - c. If, subsequent to construction, the clearance or grade is changed in such a way as to require relocation of the underground facilities or results in damage to such facilities, the cost of such relocation ~~and~~ or resulting repairs shall be borne by the developer.
 3. Installation of single phase underground electric lines within a subdivision
 - a. The developer shall provide the trenching, backfill (including any imported backfill required), compaction, repaving, and any earthwork for pull boxes and transformer pad sites required to install the underground electric system all in accordance with the specifications and schedules of the utility.
 - b. Each utility shall inspect the trenching provided by the developer within 24 hours after a mutually agreed upon trench opening date, and allow for phased inspection of trenching as mutually agreed upon by the developer and utility. In all cases, the utility shall make every effort to expedite the inspection of developer provided trenching. The utility shall assume responsibility for the trench within 3 working days after the utility has inspected and approved the trenching.
 - c. The utility shall install or cause to be installed underground electric lines and related equipment in accordance with the applicable provisions of the 1997 edition (and no future editions) of ANSI C2 (National Electrical Safety Code) with sufficient capacity and suitable materials which shall assure adequate and reasonable electric service in the foreseeable future. ANSI C2 is incorporated by reference, and on file with the Office of the Secretary of State. Copies are available from the Institute of Electrical and Electronic Engineers, Inc., 345 East 47th Street, New York, New York 10017.
 - d. Underground service lines from underground residential distribution systems shall be owned, operated and maintained by the utility, and shall be installed pursuant to its effective underground line extension and service connection tariffs on file with the Commission.
 4. Special conditions
 - a. When the application of any of the provisions of R14-2-207(E) appears to either party not to be feasible from an engineering, operational or economic standpoint, the utility or the developer may refer the matter to the Commission for a determination as to whether an exception to the underground policy expressed within the provisions of this regulation is warranted. Interested 3rd parties may present their views to the Commission in conjunction with such referrals.
 - b. Notwithstanding any provision of this regulation to the contrary, no utility shall construct overhead single phase electric lines in any new subdivision to which this regulation is applicable and which is contiguous to another subdivision in which electric service is furnished underground without the approval of the Commission.
 - c. Underground service lines installed pursuant to this rule (R14-2-207(E)) and accepted by the utility shall not be replaced with an overhead distribution pole line except upon a verified application of the utility, as stated in R14-2-207(E)(4)(a).
 5. Nonapplicability
 - a. Any underground electric distribution system requiring more than single phase service is not covered by this regulation and shall be constructed pursuant to the effective line extension rules and regulations or policies of the affected utility on file with the Commission.
 - b. If there ~~are 1 or more~~ is an existing distribution pole ~~lines~~ line(s) on or across a recorded subdivision at the time of the application for electrical service for the subdivision and the line will be utilized in the subdivision. (This

Arizona Administrative Register
Notices of Proposed Rulemaking

would not apply if the pole line were serving a building or groups of buildings or any other type of service which would be removed before construction is finished.)

- c. A distribution pole line that parallels a boundary of a subdivision and this line can serve lots within the subdivision.
- d. Subdivisions recorded prior to the effective date of this rule shall be governed by the terms and conditions of R14-2-207(E).

F. Ownership of facilities

1. Any facilities installed hereunder shall be the sole property of the utility.

R14-2-208. Provision of Service

A. Utility responsibility

1. Each utility shall be responsible for the safe transmission and ~~for~~ distribution of electricity until it passes the point of delivery to the customer.
2. The entity having control of the meter shall be responsible for maintaining in safe operating condition all meters, equipment and fixtures installed on the customer's premises by the entity for the purposes of delivering electric service to the customer.
3. The Utility Distribution Company may, at its option, refuse service until the customer has obtained all required permits and ~~for~~ inspections indicating that the customer's facilities comply with local construction and safety standards.

B. Customer responsibility

1. Each customer shall be responsible for maintaining all customer facilities on the customer's side of the point of delivery in safe operating condition.
2. Each customer shall be responsible for safeguarding all utility property installed in or on the customer's premises for the purpose of supplying utility service to that customer.
3. Each customer shall exercise all reasonable care to prevent loss or damage to utility property, excluding ordinary wear and tear. The customer shall be responsible for loss of or damage to utility property on the customer's premises arising from neglect, carelessness, or misuse and shall reimburse the utility for the cost of necessary repairs or replacements.
4. Each customer shall be responsible for payment for any equipment damage and ~~for~~ estimated unmetered usage resulting from unauthorized breaking of seals, interfering, tampering or bypassing the utility meter.
5. Each customer shall be responsible for notifying the utility of any equipment failure identified in the utility's equipment.

C. Continuity of service. Each utility shall make reasonable efforts to supply a satisfactory and continuous level of service. However, no utility shall be responsible for any damage or claim of damage attributable to any interruption or discontinuation of service resulting from:

- a. Any cause against which the utility could not have reasonably foreseen or made provision for, that is, force majeure.
- b. Intentional service interruptions to make repairs or perform routine maintenance.
- c. Curtailment.

D. Service interruptions

1. Each utility shall make reasonable efforts to reestablish service within the shortest possible time when service interruptions occur.
2. Each utility shall make reasonable provisions to meet emergencies resulting from failure of service, and each utility shall issue instructions to its employees covering procedures to be followed in the event of emergency in order to prevent or mitigate interruption or impairment of service.
3. In the event of a national emergency or local disaster resulting in disruption of normal service, the utility may, in the public interest, interrupt service to other customers to provide necessary service to civil defense or other emergency service agencies on a temporary basis until normal service to these agencies can be restored.
4. When a utility plans to interrupt service for more than 4 hours to perform necessary repairs or maintenance, the utility shall attempt to inform affected customers at least 24 hours in advance of the scheduled date and estimated duration of the service interruption. Such repairs shall be completed in the shortest possible time to minimize the inconvenience to the customers of the utility.
5. The Commission shall be notified of interruption in service affecting the entire system or any significant portion thereof. The interruption of service and cause shall be reported by telephone to the Commission within 2 hours after the responsible representative of the utility becomes aware of said interruption and followed by a written report to the Commission.

E. Curtailment. Each utility shall file with the Commission as a part of its general tariffs a procedural plan for handling severe supply shortages or service curtailments. The plan shall provide for equitable treatment of individual customer classes in the most reasonable and effective manner given the existing circumstances. When the availability of service is so restricted that the reduction of service on a proportionate basis to all customer classes will not maintain the integrity of

Arizona Administrative Register
Notices of Proposed Rulemaking

the total system, the utility shall develop procedures to curtail service giving service priority to those customers and/or customer classes where health, safety and welfare would be adversely affected.

F. Construction standard and safety

1. Each utility shall construct all facilities in accordance with the provisions of the 1997 edition (and no future editions) of ANSI C2 (National Electrical Safety Code, incorporated by reference and on file with the Office of the Secretary of State, and the 1995 edition (and no future editions) of ANSI B31.1 (ASME Code for Pressure Piping), incorporated by reference and on file with the Office of the Secretary of State. Copies of the National Electrical Safety Code are available from the Institute of Electrical and Electronic Engineers, Inc., 345 East 47th Street, New York, New York 10017. Copies of the ASME Code for Pressure Piping are available from the American Society of Mechanical Engineers, 345 East 47th Street, New York, New York 10017.
2. Each utility shall adopt a standard alternating nominal voltage or standard alternating nominal voltages (as may be required by its distribution system) for its entire service area or for each of the several districts into which the system may be divided, which standard voltage or voltages shall be stated in the rules and regulations of each utility and shall be measured at the customer's service entrance. Each utility shall, under normal operating conditions, maintain its standard voltage within the limits of the 1989 edition (and no future editions) of ANSI C84.1 (American National Standard for Electric Power Systems and Equipment-Voltage Ratings [60Hz]), incorporated by reference and on file with the Office of the Secretary of State. Copies are available from the American National Standards Institute, 1430 Broadway, New York, New York 10018.

R14-2-210. Billing and collection

A. Frequency and estimated bills

1. Unless otherwise approved by the Commission, the utility or billing entity shall render a bill for each billing period to every customer in accordance with its applicable rate schedule and may offer billing options for the services rendered. Meter readings shall be scheduled for periods of not less than 25 days or more than 35 days without customer authorization. If the utility or Meter Reading Service Provider changes a meter reading route or schedule resulting in a significant alteration of billing cycles, notice shall be given to the affected customers.
2. Each billing statement rendered by the utility or billing entity shall be computed on the actual usage during the billing period. If the utility or Meter Reading Service Provider is unable to obtain an actual reading, the utility or billing entity may estimate the consumption for the billing period giving consideration to the following factors where applicable:
 - a. The customer's usage during the same month of the previous year, and
 - b. The amount of usage during the preceding month.
3. Estimated bills will be issued only under the following conditions unless otherwise approved by the Commission:
 - a. When extreme weather conditions, emergencies, or work stoppages prevent actual meter readings.
 - b. Failure of a customer who reads their own meter to deliver their meter reading to the utility or Meter Reading Service Provider in accordance with the requirements of the utility or Meter Reading Service Provider billing cycle.
 - c. When the utility or Meter Reading Service Provider is unable to obtain access to the customer's premises for the purpose of reading the meter, or in situations where the customer makes it unnecessarily difficult to gain access to the meter, that is, locked gates, blocked meters, vicious or dangerous animals, etc. If the utility or Meter Reading Service Provider is unable to obtain an actual reading for these reasons, it shall undertake reasonable alternatives to obtain a customer reading of the meter.
 - d. Due to customer equipment failure, a 1-month estimation will be allowed. Failure to remedy the customer equipment condition will result in penalties for Meter Service Providers as imposed by the Commission.
 - e. To facilitate timely billing for customers using load profiles.
4. After the 3rd consecutive month of estimating the customer's bill due to lack of meter access, the utility or Meter Reading Service Provider will attempt to secure an accurate reading of the meter. Failure on the part of the customer to comply with a reasonable request for meter access may lead to discontinuance of service.
5. A utility or billing entity may not render a bill based on estimated usage if:
 - a. The estimating procedures employed by the utility or billing entity have not been approved by the Commission.
 - b. The billing would be the customer's 1st or final bill for service.
 - c. The customer is a direct access customer requiring load data.
 - d. The utility can obtain customer supplied meter readings to determine usage.
6. When a utility or billing entity renders an estimated bill in accordance with these rules, it shall:
 - a. Maintain accurate records of the reasons therefore and efforts made to secure an actual reading, and
 - b. Clearly and conspicuously indicate that it is an estimated bill and note the reason for its estimation.

B. Combining meters, minimum bill information

1. Each meter at a customer's premise will be considered separately for billing purposes, and the readings of 2 or more meters will not be combined unless otherwise provided for in the utility's tariffs. This provision does not apply in the case of aggregation of competitive services as described in A.A.C. R14-2-1601.

Arizona Administrative Register
Notices of Proposed Rulemaking

2. Each bill for residential service will contain the following minimum information:
 - a. The beginning and ending meter readings of the billing period, the dates thereof, and the number of days in the billing period;
 - b. The date when the bill will be considered due and the date when it will be delinquent, if not the same;
 - c. Billing usage, demand, (if measured), basic monthly service charge and total amount due;
 - d. Rate schedule number or service offer;
 - e. Customer's name and service account number;
 - f. Any previous balance;
 - g. Fuel adjustment cost, where applicable;
 - h. License, occupation, gross receipts, franchise and sales taxes;
 - i. The address and telephone numbers of the Electric Service Provider, and the Utility Distribution Company designating where the customer may initiate an inquiry or complaint concerning the bill or services rendered;
 - j. The Arizona Corporation Commission address and toll free telephone numbers;
 - k. Other unbundled rates and charges.
- C. Billing terms**
1. All bills for utility services are due and payable no later than 15 days from the date of the bill. Any payment not received within this time-frame shall be considered delinquent and could incur a late payment charge.
 2. For purposes of this rule, the date a bill is rendered may be evidenced by:
 - a. The postmark date;
 - b. The mailing date;
 - c. The billing date shown on the bill (however, the billing date shall not differ from the postmark or mailing date by more than 2 days); and
 - d. The transmission date for electronic bills.
 3. All delinquent bills shall be subject to the provisions of the utility's termination procedures.
 4. All payments shall be made at or mailed to the office of the utility or to the utility's authorized payment agency or the office of the billing entity. The date on which the utility actually receives the customer's remittance is considered the payment date.
- D. Applicable tariffs, prepayment, failure to receive, commencement date, taxes**
1. Each customer shall be billed under the applicable tariff indicated in the customer's application for service.
 2. Each utility or billing entity shall make provisions for advance payment of utility services.
 3. Failure to receive bills or notices which have been properly placed in the United States mail shall not prevent such bills from becoming delinquent nor relieve the customer of their obligations therein.
 4. Charges for electric service commence when the service is actually installed and connection made, whether used or not. A minimum 1-month billing period is established on the date the service is installed (excluding landlord/utility special agreements).
 5. Charges for services disconnected after 1 month shall be prorated back to the customer of record.
- E. Meter error corrections**
1. ~~The utility or Meter Service Provider shall test a meter upon customer or the customer's Electric Service Provider, Utility Distribution company (as defined in A.A.C. R14-2-1601) or billing entity request and each utility or billing entity shall be authorized to charge the customer for such meter test according to the tariff on file approved by the Commission. However, if the meter is found to be in error by more than 3%, no meter testing fee may be charged to the customer. If the If a tested meter is found to be more than 3% in error, either fast or slow, the correction of previous bills will be made under the following terms allowing the utility or billing entity to recover or refund the difference:~~
 - a. If the date of the meter error can be definitely fixed, the utility or billing entity shall adjust the customer's billings back to that date. If the customer has been underbilled, the utility or billing entity will allow the customer to repay this difference over an equal length of time that the underbillings occurred. The customer may be allowed to pay the backbill without late payment penalties, unless there is evidence of meter tampering or energy diversion.
 - b. If it is determined that the customer has been overbilled and there is no evidence of meter tampering or energy diversion, the utility or billing entity will make prompt refunds in the difference between the original billing and the corrected billing within the next billing cycle.
 2. No adjustment shall be made by the utility except to the customer last served by the meter tested.
 3. Any underbilling resulting from a stopped or slow meter, utility or Meter Reading Service Provider meter reading error, or a billing calculation shall be limited to 3 months for residential customers and 6 months for nonresidential customers. However, if an underbilling by the utility occurs due to inaccurate, false or estimated information from a 3rd party, then that utility will have a right to back bill that 3rd party to the point in time that may be definitely fixed, or 12 months. No such limitation will apply to overbillings.
- F. Insufficient funds (NSF) or returned checks**

1. A utility or billing entity shall be allowed to recover a fee, as approved by the Commission in a tariff proceeding, for each instance where a customer tenders payment for electric service with a check or other financial instrument which is returned by the customer's bank or other financial institution.
2. When the utility or billing entity is notified by the customer's bank or other financial institution that the check or financial instrument tendered for utility service will not clear, the utility or billing entity may require the customer to make payment in cash, by money order, certified check, or other means to guarantee the customer's payment.
3. A customer who tenders such a check or financial instrument shall in no way be relieved of the obligation to render payment to the utility or billing entity under the original terms of the bill nor defer the utility's provision of termination of service for nonpayment of bills.

G. Levelized billing plan

1. Each utility may, at its option, offer its residential customers a levelized billing plan.
2. Each utility offering a levelized billing plan shall develop, upon customer request, an estimate of the customer's levelized billing for a 12-month period based upon:
 - a. Customer's actual consumption history, which may be adjusted for abnormal conditions such as weather variations.
 - b. For new customers, the utility will estimate consumption based on the customer's anticipated load requirements.
 - c. The utility's tariff schedules approved by the Commission applicable to that customer's class of service.
3. The utility shall provide the customer a concise explanation of how the levelized billing estimate was developed, the impact of levelized billing on a customer's monthly utility bill, and the utility's right to adjust the customer's billing for any variation between the utility's estimated billing and actual billing.
4. For those customers being billed under a levelized billing plan, the utility shall show, at a minimum, the following information on their monthly bill:
 - a. Actual consumption,
 - b. Dollar amount due for actual consumption,
 - c. Levelized billing amount due, and
 - d. Accumulated variation in actual versus levelized billing amount.
5. The utility may adjust the customer's levelized billing in the event the utility's estimate of the customer's usage or cost should vary significantly from the customer's actual usage or cost; such review to adjust the amount of the levelized billing may be initiated by the utility or upon customer request.

H. Deferred payment plan

1. Each utility may, prior to termination, offer to qualifying residential customers a deferred payment plan for the customer to retire unpaid bills for utility service.
2. Each deferred payment agreement entered into by the utility and the customer shall provide that service will not be discontinued if:
 - a. Customer agrees to pay a reasonable amount of the outstanding bill at the time the parties enter into the deferred payment agreement.
 - b. Customer agrees to pay all future bills for utility service in accordance with the billing and collection tariffs of the utility.
 - c. Customer agrees to pay a reasonable portion of the remaining outstanding balance in installments over a period not to exceed 6 months.
3. For the purposes of determining a reasonable installment payment schedule under these rules, the utility and the customer shall give consideration to the following conditions:
 - a. Size of the delinquent account,
 - b. Customer's ability to pay,
 - c. Customer's payment history,
 - d. Length of time that the debt has been outstanding,
 - e. Circumstances which resulted in the debt being outstanding, and
 - f. Any other relevant factors related to the circumstances of the customer.
4. Any customer who desires to enter into a deferred payment agreement shall establish such agreement prior to the utility's scheduled termination date for nonpayment of bills. The customer's failure to execute such an agreement prior to the termination date will not prevent the utility from disconnecting service for nonpayment.
5. Deferred payment agreements may be in writing and may be signed by the customer and an authorized utility representative.
6. A deferred payment agreement may include a finance charge as approved by the Commission in a tariff proceeding.
7. If a customer has not fulfilled the terms of a deferred payment agreement, the utility shall have the right to disconnect service pursuant to the utility's termination of service rules. Under such circumstances, it shall not be required to offer subsequent negotiation of a deferred payment agreement prior to disconnection.

I. Change of occupancy

Arizona Administrative Register
Notices of Proposed Rulemaking

1. To order service discontinued or to change occupancy, the customer must give the utility at least 3 working days advance notice in person, in writing, or by telephone.
2. The outgoing customer shall be responsible for all utility services provided or consumed up to the scheduled turnoff date.
3. The outgoing customer is responsible for providing access to the meter so that the utility may obtain a final meter reading.

R14-2-212. Administrative and hearing requirements

A. Customer service complaints

1. Each utility shall make a full and prompt investigation of all service complaints made by its customers, either directly or through the Commission.
2. The utility shall respond to the complainant and/or the Commission representative within 5 ~~five~~ working days as to the status of the utility investigation of the complaint.
3. The utility shall notify the complainant and/or the Commission representative of the final disposition of each complaint. Upon request of the complainant or the Commission representative, the utility shall report the findings of its investigation in writing.
4. The utility shall inform the customer of their right of appeal to the Commission.
5. Each utility shall keep a record of all written service complaints received which shall contain, at a minimum, the following data:
 - a. Name and address of the complainant;
 - b. Date and nature of the complaint;
 - c. Disposition of the complaint; and
 - d. A copy of any correspondence between the utility, the customer, and/or the Commission. This record shall be maintained for a minimum period of 1 ~~one~~ year and shall be available for inspection by the Commission.

B. Customer bill disputes

1. Any utility customer who disputes a portion of a bill rendered for utility service shall pay the undisputed portion of the bill and notify the utility's designated representative that such unpaid amount is in dispute prior to the delinquent date of the bill.
2. Upon receipt of the customer notice of dispute, the utility shall:
 - a. Notify the customer within 5 ~~five~~ working days of the receipt of a written dispute notice.
 - b. Initiate a prompt investigation as to the source of the dispute.
 - c. Withhold disconnection of service until the investigation is completed and the customer is informed of the results. Upon request of the customer the utility shall report the results of the investigation in writing.
 - d. Inform the customer of their right of appeal to the Commission.
3. Once the customer has received the results of the utility's investigation, the customer shall submit payment within 5 ~~five~~ working days to the utility for any disputed amounts. Failure to make full payment shall be grounds for termination of service.

C. Commission resolution of service and/or bill disputes

1. In the event a customer and utility cannot resolve a service and/or bill dispute, the customer shall file a written statement of dissatisfaction with the Commission; by submitting such notice to the Commission, the customer shall be deemed to have filed an informal complaint against the utility.
2. Within 30 days of the receipt of a written statement of customer dissatisfaction related to a service or bill dispute, a designated representative of the Commission shall endeavor to resolve the dispute by correspondence and/or telephone with the utility and the customer. If resolution of the dispute is not achieved within 20 days of the Commission representative's initial effort, the Commission shall hold an informal hearing to arbitrate the resolution of the dispute. The informal hearing shall be governed by the following rules:
 - a. Each party may be represented by legal counsel, if desired.
 - b. All such informal hearings may be recorded or held in the presence of a stenographer.
 - c. All parties will have the opportunity to present written or oral evidentiary material to support the positions of the individual parties.
 - d. All parties and the Commission's representative shall be given the opportunity for cross-examination of the various parties.
 - e. The Commission's representative will render a written decision to all parties within 5 ~~five~~ working days after the date of the informal hearing. Such written decision of the arbitrator is not binding on any of the parties and the parties will still have the right to make a formal complaint to the Commission.
3. The utility may implement normal termination procedures if the customer fails to pay all bills rendered during the resolution of the dispute by the Commission.
4. Each utility shall maintain a record of written statements of dissatisfaction and their resolution for a minimum of 1 ~~one~~ year and make such records available for Commission inspection.

D. Notice by utility of responsible officer or agent

Arizona Administrative Register
Notices of Proposed Rulemaking

1. Each utility shall file with the Commission a written statement containing the name, address (business, residence and post office) and telephone numbers (business and residence) of at least ~~1 one~~ officer, agent or employee responsible for the general management of its operations as a utility in Arizona.
 2. Each utility shall give notice, by filing a written statement with the Commission, of any change in the information required herein within ~~5 five~~ days from the date of any such change.
- E. Time-frames for processing applications for Certificates of Convenience and Necessity**
1. This rule prescribes time-frames for the processing of any application for a Certificate of Convenience and Necessity issued by the Arizona Corporation Commission pursuant to this Article. These time-frames shall apply to applications filed on or after the effective date of this rule.
 2. Within 120 calendar days after receipt of an application for a new Certificate of Convenience and Necessity, or to amend or change the status of any existing Certificate of Convenience and Necessity, staff shall notify the applicant, in writing, that the application is either administratively complete or deficient. If the application is deficient, the notice shall specify all deficiencies.
 3. Staff may terminate an application if the applicant does not remedy all deficiencies within 60 calendar days of the notice of deficiency.
 4. After receipt of a corrected application, staff shall notify the applicant within 30 calendar days if the corrected application is either administratively complete or deficient. The time-frame for administrative completeness review shall be suspended from the time the notice of deficiency is issued until staff determines that the application is complete.
 5. With 150 days after an application is deemed administratively complete, the Commission shall approve or reject the application.
 6. For purposes of A.R.S. '41-1072, et seq., the Commission has established the following time-frames:
 - a. Administrative completeness review time-frame: 120 calendar days;
 - b. Substantive review time-frame: 150 calendar days; and
 - c. Overall time-frame: 270 calendar days.
 7. If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled from the date of the request during the duration of the extension or continuance.
 8. During the substantive review time-frame, the Commission may, upon its own motion or that of any interested party to the proceeding, request a suspension of the time-frame rules.
- F. Filing of tariffs**
1. Each utility shall file with the Commission tariffs which are in compliance with the rules and regulations promulgated by the Arizona Corporation Commission within 120 days of the effective date of such rules.
 2. Each utility shall file with the Commission any proposed changes to the tariffs on file with the Commission; such proposed changes shall be accompanied by a statement of justification supporting the proposed tariff change.
 3. Any proposed change to the tariffs on file with the Commission shall not be effective until reviewed and approved by the Commission.
- G. Accounts and records**
1. Each utility shall keep general and auxiliary accounting records reflecting the cost of its properties, operating income and expense, assets and liabilities, and all other accounting and statistical data necessary to give complete and authentic information as to its properties and operations.
 2. Each utility shall maintain its books and records in conformity with the Uniform Systems of Accounts for Class A, B, C and D Electric Utilities as adopted and amended by the Federal Energy Regulatory Commission or, for electric cooperatives, as promulgated by the Rural Electrification Administration.
 3. A utility shall produce or deliver in this state any or all of its formal accounting records and related documents requested by the Commission. It may, at its option, provide verified copies of original records and documents.
 4. All utilities shall submit an annual report to the Commission on a form prescribed by it. The annual report shall be filed on or before the 15th day of April for the preceding calendar year. Reports prepared by a certified or licensed public accountant on the utility, if any, shall accompany the annual report.
 5. All utilities shall file with the Commission a copy of all reports required by the Securities and Exchange Commission.
 6. All utilities shall file with the Commission a copy of all annual reports required by the Federal Energy Regulatory Commission and in addition, for electric cooperatives, annual reports required by the Rural Electrification Administration.
- H. Maps.** All utilities shall file with the Commission a map or maps clearly setting forth the location and extent of the area or areas they hold under approved certificates of convenience and necessity, in accordance with the Cadastral (Rectangular) Survey of the United States Bureau of Land Management, or by metes and bounds with a starting point determined by the aforesaid Cadastral Survey.
- I. Variations, exemptions of Commission rules and regulations.** Variations or exemptions from the terms and requirements of any of the rules included herein (Title 14, Chapter 2, Article 2) shall be considered upon the verified application of an affected party to the Commission setting forth the circumstances whereby the public interest requires such variation or exemption from the Commission rules and regulations. Such application will be subject to the review of the Commission,

Arizona Administrative Register
Notices of Proposed Rulemaking

and any variation or exemption granted shall require an order of the Commission. In case of conflict between these rules and regulations and an approved tariff or order of the Commission, the provisions of the tariff or order shall apply.

- J. Prior agreements. The adoption of these rules by the Commission shall not affect any agreements entered into between the utility and customers or other parties who, pursuant to such contracts, arranged for the extension of facilities in a provision of service prior to the effective date of these rules.

ARTICLE 16. RETAIL ELECTRIC COMPETITION

R14-2-1601. Definitions

In this Article, unless the context otherwise requires:

1. "Affected Utilities" means the following public service corporations providing electric service:
Tucson Electric Power Company, Arizona Public Service Company, Citizens Utilities Company, Arizona Electric Power Cooperative, Trico Electric Cooperative, Duncan Valley Electric Cooperative, Graham County Electric Cooperative, Mohave Electric Cooperative, Sulphur Springs Valley Electric Cooperative, Navopache Electric Cooperative, Ajo Improvement Company, and Morenci Water and Electric Company.
2. "Aggregator" means an Electric Service Provider that combines retail electric customers into a purchasing group.
3. "Bundled Service" means electric service provided as a package to the consumer including all generation, transmission, distribution, ancillary and other services necessary to deliver and measure useful electric energy and power to consumers.
4. ~~"Buy-through" refers to a purchase of electricity by a Load-Serving Entity at wholesale for a particular retail consumer or aggregate of consumers or at the direction of a particular retail consumer or aggregate of consumers.~~
- 4.5. "Competition Transition Charge" (CTC) is a means of recovering Stranded Costs ~~from the customers of competitive services.~~
- 5.6. "Competitive Services" means all aspects of retail electric service except those services specifically defined as "Non-competitive Services" ~~"noncompetitive services"~~ pursuant to R14-2-1601(27) ~~(29)~~ or noncompetitive services as defined by the Federal Energy Regulatory Commission.
- 6.7. "Control Area Operator" is the operator of an electric system or systems, bounded by interconnection metering and telemetry, capable of controlling generation to maintain its interchange schedule with other such systems and contributing to frequency regulation of the interconnection.
- 7.8. "~~Consumer Education Information~~" is the provision of impartial information provided to consumers about competition or Competitive and Noncompetitive Services ~~competitive and noncompetitive services~~ and is distinct from advertising and marketing.
- 8.9. "Current Transformer" (CT) is an electrical device used in conjunction with an electric meter to provide a measurement of energy consumption for metering purposes.
- 9.10. "Direct Access Service Request" (DASR) means a form that contains all necessary billing and metering information to allow customers to switch electric service providers. This form must be submitted to the Utility Distribution Company by the customer's Electric Service Provider ~~or the customer.~~
- 10.11. "~~Delinquent Accounts~~" means customer accounts with outstanding past due payment obligations that remain unpaid after the due date.
- 11.12. "Distribution Primary Voltage" is voltage as defined under the Affected Utility's Federal Energy Regulatory Commission (FERC) Open Access Transmission Tariff, except for Meter Service Providers, for which Distribution Primary Voltage is voltage at or above 600 volts (600V) through and including 25 kilovolts (25 kV).
- 12.13. "Distribution Service" means the delivery of electricity to a retail consumer through wires, transformers, and other devices that are not classified as transmission services subject to the jurisdiction of the Federal Energy Regulatory Commission; Distribution Service excludes Metering Services, Meter Reading Services, and billing and collection services, as those terms are used herein.
- 13.14. "Electronic Data Interchange" (EDI) is the computer-to-computer electronic exchange of business documents using standard formats which are recognized both nationally and internationally.
- 14.15. "Electric Service Provider" (ESP) means a company supplying, marketing, or brokering at retail any Competitive Services ~~of the competitive services described in R14-2-1605 or R14-2-1606~~, pursuant to a Certificate of Convenience and Necessity.
- 15.16. "Electric Service Provider Service Acquisition Agreement" or "Service Acquisition Agreement" means a contract between an Electric Service Provider and a Utility Distribution Company to deliver power to retail end users or between an Electric Service Provider and a Scheduling Coordinator to schedule transmission service.
- 16.17. "Generation" means the production of electric power or contract rights to the receipt of wholesale electric power.
- 17.18. "Green Pricing" means a program offered by an Electric Service Provider where customers elect to pay a rate premium for ~~solar-generated~~ electricity generated by renewable resources.
- 18.19. "Independent Scheduling Administrator" (ISA) is ~~an a-proposed~~ entity, independent of transmission owning organizations, intended to facilitate nondiscriminatory retail direct access using the transmission system in Arizona.

Arizona Administrative Register
Notices of Proposed Rulemaking

- ~~19.20.~~ “Independent System Operator” (ISO) is an independent organization whose objective is to provide nondiscriminatory and open transmission access to the interconnected transmission grid under its jurisdiction, in accordance with the Federal Energy Regulatory Commission principles of independent system operation.
- ~~20.21.~~ “Load Profiling” is a process of estimating a customer’s hourly energy consumption based on measurements of similar customers.
- ~~21.22.~~ “Load-Serving Entity” means an Electric Service Provider, Affected Utility or Utility Distribution Company, excluding a Meter Service Provider, and Meter Reading Service Provider ~~or Aggregators~~.
- ~~22.23.~~ “Meter Reading Service” means all functions related to the collection and storage of consumption data.
- ~~23.24.~~ “Meter Reading Service Provider” (MRSP) means an entity providing Meter Reading Service, as that term is defined herein and that reads meters, performs validation, editing, and estimation on raw meter data to create billing-ready meter data; translates billing-ready data to an approved format; posts this data to a server for retrieval by billing agents; manages the server; exchanges data with market participants; and stores meter data for problem resolution.
- ~~24.25.~~ “Meter Service Provider” (MSP) means an entity providing Metering Service, as that term is defined herein.
- ~~25.26.~~ “Metering and Metering Service” means all functions related to measuring electricity consumption.
- ~~26.27.~~ “Must-Run Generating Units” are those local generating units that are required to run to maintain distribution system reliability and to meet load requirements in times of congestion on certain portions of the interconnected transmission grid.
- ~~28.~~ “Net Metering” or “Net Billing” is a method by which customers can use electricity from customer-sited solar electric generators to offset electricity purchased from an Electric Service Provider. The customer only pays for the “Net” electricity purchased.
- ~~27.29.~~ “Noncompetitive Services” means Distribution Service, ~~distribution service~~, Standard Offer Service, ~~service~~ transmission and ~~Federal Energy Regulatory Commission required~~ any ancillary services deemed to be noncompetitive by the Federal Energy Regulatory Commission, Must-Run Generating Units services, provision of customer demand and energy data by an Affected Utility or Utility Distribution Company to Electric Service Providers, and those these aspects of Metering Service set forth in R14-2-1612(K), R14-2-1613.K. ~~All components of Standard Offer service shall be deemed noncompetitive as long as those components are provided in a bundled transaction pursuant to R14-2-1606(A).~~
- ~~28.30.~~ “OASIS” is Open Access Same-Time Information System, which is an electronic bulletin board where transmission-related information is posted for all interested parties to access via the Internet to enable parties to engage in transmission transactions.
- ~~29.31.~~ “Operating Reserve” means the generation capability above firm system demand used to provide for regulation, load forecasting error, equipment forced and scheduled outages, and local area protection to provide system reliability.
- ~~30.32.~~ “Potential Transformer” (PT) is an electrical device used to step down primary voltages to 120V for metering purposes.
- ~~31.33.~~ “Provider of Last Resort” means a provider of Standard Offer Service to customers within the provider’s certificated area whose annual usage is 100,000 kWh or less and who are not buying competitive services.
- ~~32.34.~~ “Retail Electric Customer” means the person or entity in whose name service is rendered.
- ~~33.35.~~ “Scheduling Coordinator” means an entity that provides schedules for power transactions over transmission or distribution systems to the party responsible for the operation and control of the transmission grid, such as a Control Area Operator, Arizona Independent Scheduling Administrator or Independent System Operator.
- ~~36.~~ “Self Aggregation” is the action of a retail electric customer that ~~combines its own metered loads into a single purchase block.~~
- ~~37.~~ “Solar Electric Fund” is the ~~funding mechanism established by this Article through which deficiency payments are collected and solar energy projects are funded in accordance with this Article.~~
- ~~34.38.~~ “Standard Offer Service” means Bundled Service offered by the Affected Utility or Utility Distribution Company to all consumers in the Affected Utility’s or Utility Distribution Company’s service territory at regulated rates including metering, meter reading, billing, and collection services, demand side management services including but not limited to time-of-use, and other consumer information services. All components of Standard Offer Service shall be deemed noncompetitive as long as those components are provided in a bundled transaction pursuant to R14-2-1606(A).
- ~~35.39.~~ “Stranded Cost” includes:
- a. The verifiable net difference between:
 - i. The net original cost value of all the prudent jurisdictional assets and obligations necessary to furnish electricity (such as generating plants, purchased power contracts, fuel contracts, and regulatory assets), acquired or entered into prior to December 26, 1996, under traditional regulation of Affected Utilities; and
 - ii. The market value of those assets and obligations directly attributable to the introduction of competition under this Article.
 - b. Reasonable costs necessarily incurred by an Affected Utility to effectuate divestiture of its generation assets;

Arizona Administrative Register
Notices of Proposed Rulemaking

- c. Reasonable employee severance and retraining costs necessitated by electric competition, where not otherwise provided; and
 - d. Other transition and restructuring costs as approved by the Commission as part of the Affected Utility's Stranded Cost determination pursuant to R14-2-1607.
- 36.40. "System Benefits" means Commission-approved utility low income, demand side management, Consumer Education, market transformation, environmental, renewables, long-term public benefit research and development and nuclear fuel disposal and nuclear power plant decommissioning programs, and other programs that may be approved by the Commission from time to time.
- 37.41. "Transmission Primary Voltage" is voltage above 25 kV as it relates to metering transformers.
- 38.42. "Transmission Service" refers to the transmission of electricity to retail electric customers or to electric distribution facilities and that is so classified by the Federal Energy Regulatory Commission or, to the extent permitted by law, so classified by the Arizona Corporation Commission.
- 39.43. "Unbundled Service" means electric service elements provided and priced separately, including, but not limited to, such service elements as generation, transmission, distribution, Must Run Generation, metering, meter reading, billing and collection and ancillary services. Unbundled Service may be sold to consumers or to other Electric Service Providers.
- 40.44. "Utility Distribution Company" (UDC) means the electric utility entity regulated by the Commission that operates constructs and maintains the distribution system for the delivery of power to the end user point of delivery on the distribution system.
- 41.45. "Utility Industry Group" (UIG) refers to a utility industry association that establishes national standards for data formats.
- 42.46. "Universal Node Identifier" is a unique, permanent, identification number assigned to each service delivery point.

R14-2-1602. Commencement of Competition Filing of Tariffs by Affected Utilities

Each Affected Utility shall file tariffs consistent with this Article by December 31, 1997.

- A.** An Affected Utility's customers will be eligible for competitive electric services, subject to the phase-in schedule in R14-2-1604, on the date set by Commission Order in each Affected Utility's Stranded Cost and Unbundled Tariff proceeding.
- B.** An Affected Utility's competitive electric affiliates or an affiliate of which it is a member shall not be permitted to offer Competitive Services in any other Affected Utility's service territory until the Commission has ordered the service area of the potential competitor's affiliated Affected Utility opened to competition.

R14-2-1603. Certificates of Convenience and Necessity

- A.** Any Electric Service Provider intending to supply Competitive Services ~~services described in R14-2-1605 or R-14-2-1606, other than services subject to federal jurisdiction,~~ shall obtain a Certificate of Convenience and Necessity from the Commission pursuant to this Article. ~~A Certificate is not required to offer information services, billing and collection services, or self-aggregation. However, aggregators as defined in R14-2-1601 are required to obtain a Certificate of Convenience and Necessity and Self Aggregators are required to negotiate a Service Acquisition Agreement consistent with subsection G(6).~~ An Affected Utility need not apply for a Certificate of Convenience and Necessity to continue to provide electric service in its service area during the transition period set forth in R14-2-1604. A Utility Distribution Company providing Affected Utility providing distribution and Standard Offer Service ~~service~~ after January 1, 2001 need not apply for a Certificate of Convenience and Necessity. All other Affected Utility affiliates created in compliance with R14-2-1615(A) R14-2-1616(A) shall be required to apply for appropriate Certificates of Convenience and Necessity.
- B.** Any company desiring such a Certificate of Convenience and Necessity shall file with the Docket Control Center the required number of copies of an application. In support of the request for a Certificate of Convenience and Necessity, the following information must be provided:
 - 1. A description of the electric services which the applicant intends to offer;
 - 2. The proper name and correct address of the applicant; and
 - a. The full name of the owner if a sole proprietorship,
 - b. The full name of each partner if a partnership,
 - c. A full list of officers and directors if a corporation, or
 - d. A full list of the members if a limited liability corporation;
 - 3. A tariff for each service to be provided that states the maximum rate and terms and conditions that will apply to the provision of the service;
 - 4. A description of the applicant's technical ability to obtain and deliver electricity if appropriate and to provide any other proposed services;
 - 5. Documentation of the financial capability of the applicant to provide the proposed services, including the most recent income statement and balance sheet, the most recent projected income statement, and other pertinent financial information. Audited information shall be provided if available;
 - 6. A description of the form of ownership (for example, partnership, corporation);

Arizona Administrative Register
Notices of Proposed Rulemaking

7. An explanation of how the applicant intends to comply with the requirements of R14-2-1616, or a request for waiver or modification thereof with an accompanying justification for any such requested waiver or modification.
- 8.7. Such other information as the Commission or the staff may request.
- C. The applicant shall report in a timely manner during the application process any change~~(s)~~ changes in the information initially reported to the Commission in the application for a Certificate of Convenience and Necessity.
- D. The applicant shall provide public notice of the application as required by the Commission.
- E. At the time of filing for a Certificate of Convenience and Necessity, each applicant shall notify the Affected Utilities, Utility Distribution Companies or an electric utility not subject to the jurisdiction of the Arizona Corporation Commission in whose service territories it wishes to offer service of the application by providing a copy serving notification of the application ~~to~~ on the Affected Utilities, Utility Distribution Companies or an electric utility not subject to the jurisdiction of the Arizona Corporation Commission. Prior to Commission action, each applicant shall provide written notice to the Commission that it has provided notification to each of the respective Affected Utilities, Utility Distribution Companies or an electric utility not subject to the jurisdiction of the Arizona Corporation Commission. The attachment to the CC&N application should include a listing of the names and addresses of the notified Affected Utilities, Utility Distribution Companies or an electric utility not subject to the jurisdiction of the Arizona Corporation Commission.
- F. The Commission may issue a Certificate of Convenience and Necessity that is effective for a specified period of time if the applicant has limited or no experience in providing the retail electric service that is being requested. An applicant receiving such approval shall have the responsibility to apply for appropriate extensions.
- G. The Commission may deny certification to any applicant who:
1. Does not provide the information required by this Article;
 2. Does not possess adequate technical or financial capabilities to provide the proposed services;
 3. Seeks certification as a Load-Serving Entity and does ~~Does~~ not have an Electric Service Provider Service Acquisition Agreement with a Utility Distribution Company and Scheduling Coordinator, if the applicant is not its own Scheduling Coordinator;
 4. Fails to provide a performance bond, if required;
 5. Fails to demonstrate that its certification will serve the public interest;
 6. Seeks certification as a Load-Serving Entity and fails ~~Fails~~ to submit an executed Service Acquisition Agreement with a Utility Distribution Company or a Scheduling Coordinator for approval by the Director, Utilities Division prior to the offering of service to potential customers.
- H. A Request for approval of an executed Service Acquisition Agreement may be included with an application for a Certificate of Convenience and Necessity. In all negotiations relative to Service Acquisition Agreements ~~service acquisition agreements~~ Affected Utilities or their successor entities are required to negotiate in good faith.
- I. Every Electric Service Provider obtaining a Certificate of Convenience and Necessity under this Article shall obtain certification subject to the following conditions:
1. The Electric Service Provider shall comply with all Commission rules, orders, and other requirements relevant to the provision of electric service ~~and relevant to resource planning~~;
 2. The Electric Service Provider shall maintain accounts and records as required by the Commission;
 3. The Electric Service Provider shall file with the Director, Utilities Division all financial and other reports that the Commission may require and in a form and at such times as the Commission may designate;
 4. The Electric Service Provider shall maintain on file with the Commission all current tariffs and any service standards that the Commission shall require;
 5. The Electric Service Provider shall cooperate with any Commission investigation of customer complaints;
 6. The Electric Service Provider shall obtain all necessary permits and licenses including relevant tax licenses.
 7. The Electric Service Provider shall comply with all disclosure requirements pursuant to R14-2-1617 ~~R14-2-1618~~;
 8. Failure to comply with any of the above conditions may result in rescission of the Electric Service Provider's Certificate of Convenience and Necessity.
- J. Time-frames for processing applications for Certificates of Convenience and Necessity
1. This rule prescribes time-frames for the processing of any application for a Certificate of Convenience and Necessity issued by the Arizona Corporation Commission pursuant to this Article. These time-frames shall apply to applications filed on or after the effective date of this rule.
 2. Within 120 calendar days after receipt of an application for a new Certificate of Convenience and Necessity, or to amend or change the status of any existing Certificate of Convenience and Necessity, staff shall notify the applicant, in writing, that the application is either administratively complete or deficient. If the application is deficient, the notice shall specify all deficiencies.
 3. Staff may terminate an application if the applicant does not remedy all deficiencies within 60 calendar days of the notice of deficiency.
 4. After receipt of a corrected application, staff shall notify the applicant within 30 calendar days if the corrected application is either administratively complete or deficient. The time-frame for administrative completeness review shall be suspended from the time the notice of deficiency is issued until staff determines that the application is complete.

Arizona Administrative Register
Notices of Proposed Rulemaking

5. Within 180 calendar days after an application is deemed administratively complete, the Commission shall approve or reject the application.
 6. For purposes of A.R.S. § 41-1072, et seq., the Commission has established the following time-frames:
 - a. Administrative completeness review time-frame: 120 calendar days;
 - b. Substantive review time-frame: 180 calendar days;
 - c. Overall time-frame: 300 calendar days.
 7. If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled from the date of the request during the duration of the extension or continuance.
 8. During the substantive review time-frame, the Commission may, upon its own motion or that of any interested party to the proceeding, request a suspension of the time-frame rules.
- K.** In appropriate circumstances, the Commission may require, as a precondition to certification, the procurement of a performance bond sufficient to cover any advances or deposits the applicant may collect from its customers, or order that such advances or deposits be held in escrow or trust.

R14-2-1604. Competitive Phases

- A.** ~~At the date established pursuant to R14-2-1602(A), each~~ ~~Each~~ Affected Utility shall make available at least 20% of its 1995 system retail peak demand for competitive generation supply on a first-come, first-served basis as further described in this rule. First-come, first-served for the purpose of this rule, shall be determined for nonresidential customers by the date and time of an Electric Service Provider's filing of a Direct Access Service Request with the Affected Utility or Utility Distribution Company. The effective date of the Direct Access Service Request must be within ~~60~~~~180~~ days of the filing date of the Direct Access Service Request. Residential customer selection will be determined under approved residential phase-in programs as specified in R14-2-1604.B.4.
1. All Affected Utility customers with single premise noncoincident peak demand load of 1 MW or greater will be eligible for competitive electric services upon the commencement of competition. ~~no later than January 1, 1999~~. Customers meeting this requirement shall be eligible for competitive services until at least 20% of the Affected Utility's 1995 system peak demand is served by competition.
 2. During 1999 and 2000, an Affected Utility's customers with single premise noncoincident peak load demands of 40 kW or greater aggregated by an Electric Service Provider into a combined load of 1 MW or greater within the Affected Utility's service territory will be eligible for competitive electric services. ~~Self-aggregation is also allowed pursuant to the minimum and combined load demands set forth in this rule.~~ If peak load data are not available, the 40 kW criterion shall be determined to be met if the customer's usage exceeded 16,500 kWh in any month within the last 12 consecutive months. From the commencement of competition pursuant to R14-2-1602 ~~January 1, 1999~~, through December 31, 2000, aggregation of new competitive customers will be allowed until such time as at least 20% of the Affected Utility's 1995 system peak demand is served by competitors. At that point all additional aggregated customers must wait until January 1, 2001, to obtain competitive service.
 3. Affected Utilities shall notify customers eligible under this subsection of the terms of the subsection no later than 60 days prior to the start of competition within its service territory ~~October 31, 1998~~.
- B.** As part of the minimum 20% of 1995 system peak demand set forth in R14-2-1604(A), each Affected Utility shall reserve a residential phase-in program that provides an increasing minimum percentage of residential customers with access to competitive electric services according to the following schedule: with the following components:
- | | |
|---------------------------|-------------|
| 1. <u>January 1, 1999</u> | <u>1 ¼%</u> |
| <u>April 1, 1999</u> | <u>2 ½%</u> |
| <u>July 1, 1999</u> | <u>3 ¾%</u> |
| <u>October 1, 1999</u> | <u>5%</u> |
| <u>January 1, 2000</u> | <u>6 ¼%</u> |
| <u>April 1, 2000</u> | <u>7 ½%</u> |
| <u>July 1, 2000</u> | <u>8 ¾%</u> |
| <u>October 1, 2000</u> | <u>10%</u> |
1. ~~A minimum of 1¼% of residential customers as of January 1, 1999 will have access to competitive electric services on January 1, 1999. The number of customers eligible for the residential phase-in program shall increase by an additional 1¼% every quarter until January 1, 2001.~~
 2. Access to the residential phase-in program will be on a first-come, first-served basis. The Affected Utility shall create and maintain a waiting list to manage the residential phase-in program.
 3. Residential customers participating in the residential phase-in program shall be permitted to use load profiling to satisfy the requirements for hourly consumption data; however, they may choose other metering options offered by their Electric Service Provider consistent with the Commission's rules on Metering.
 4. ~~If not already done, each~~ ~~Each~~ Affected Utility shall file a residential phase-in program proposal to the Commission for approval by Director, Utilities Division by September 15, ~~1999~~, ~~1998~~. Interested parties will have until September ~~30, 1999~~, ~~29, 1998~~, to comment on any proposal. At a minimum, the residential phase-in program proposal will include specifics concerning the Affected Utility's proposed:

Arizona Administrative Register
Notices of Proposed Rulemaking

- a. Process for customer notification of residential phase-in program;
 - b. Selection and tracking mechanism for customers based on first-come, first-served method;
 - c. Customer notification process and other education and information services to be offered;
 - d. Load Profiling methodology and actual load profiles, if available; and
 - e. Method for calculation of reserved load.
5. ~~After the commencement of competition pursuant to R15-2-1602, each~~ Each Affected Utility shall file quarterly residential phase-in program reports within 45 days of the end of each quarter. The 1st such report shall be due within 45 days of the 1st quarter ending ~~after the start of the phase-in of competition for that Affected Utility. March 31, 1999.~~ The final report due under this rule shall be due within 45 days of the quarter ending December 31, 2002. As a minimum, these quarterly reports shall include:
- a. The number of customers and the load currently enrolled in residential phase-in program by Energy Service Provider; ~~energy service provider;~~
 - b. The number of customers currently on the waiting list;
 - c. A description and examples of all customer education programs and other information services including the goals of the education program and a discussion of the effectiveness of the programs; and
 - d. An overview of comments and survey results from participating residential customers.
- C. Each Affected Utility shall file a report by November 1, 1999, ~~September 15, 1998~~, detailing possible mechanisms to provide benefits, including ~~such as~~ rate reductions of 3% - 5%, to all Standard Offer customers.
- D. All customers shall be eligible to obtain competitive electric services no later than January 1, 2001, ~~at which time all customers shall be permitted to aggregate, including aggregation across service territories.~~
- ~~E.~~ Subject to the minimum 20% limitation described in subsection (A) of this Section, ~~all customers who produce or purchase at least 10% of their annual electricity consumption from photovoltaic or solar thermal electric resources installed in Arizona after January 1, 1997 shall be selected for participation in the competitive market if those customers apply for participation in the competitive market.~~
- ~~E.F.~~ Retail consumers served under existing contracts are eligible to participate in the competitive market prior to expiration of the existing contract only if the Affected Utility and the consumer agree that the retail consumer may participate in the competitive market.
- ~~G.~~ A Load-Serving Entity may, beginning January 1, 1999, engage in buy-throughs with individual or aggregated consumers. ~~Any buy through contract shall ensure that the consumer pays all non bypassable charges that would otherwise apply. Any contract for a buy through effective prior to January 1, 1999 must be approved by the Commission.~~
- ~~E.H.~~ Schedule Modifications for Cooperatives
1. An electric cooperative may request that the Commission modify the schedule described in R14-2-1604(A) through R14-2-1604(E) so as to preserve the tax exempt status of the cooperative or to allow time to modify contractual arrangements pertaining to delivery of power supplies and associated loans.
 2. As part of the request, the cooperative shall propose methods to enhance consumer choice among generation resources.
 3. The Commission shall consider whether the benefits of modifying the schedule exceed the costs of modifying the schedule.

R14-2-1605. Competitive Services

Competitive Services shall require a Certificate of Convenience and Necessity and a tariff as described in R14-2-1603. A properly certificated Electric Service Provider may offer Competitive Services ~~any of the following services~~ under bilateral or multilateral contracts with retail consumers:

- ~~A.~~ Generation of electricity from generators at any location whether owned by the Electric Service Provider or purchased from another generator or wholesaler of electric generation.
- ~~B.~~ Any service described in R14-2-1606, except Noncompetitive services as defined by R14-2-1601.29 or Noncompetitive services as defined by the Federal Energy Regulatory Commission. Billing and collection services, information services, and self-aggregation services do not require a Certificate of Convenience and Necessity. Aggregation of retail electric customers into a purchasing group is considered to be a competitive service.

R14-2-1606. Services Required To Be Made Available

- A. On the date its service area is open to competition pursuant to R14-2-1602, each ~~Each~~ Affected Utility or Utility Distribution Company shall make available ~~to all consumers in its service area, as defined on the date indicated in R14-2-1602,~~ Standard Offer Service and Noncompetitive Services ~~bundled generation, transmission, ancillary, distribution, and other necessary services~~ at regulated rates. After January 1, 2001, Standard Offer Service and Noncompetitive Services service shall be provided by Utility Distribution Companies who shall also act as Providers of Last Resort.
- B. After January 1, 2001, power purchased by a an investor owned Utility Distribution Company to provide serve Standard Offer Service ~~customers, except purchases made through spot markets,~~ shall be acquired through the open market, ~~competitive bid.~~ Any resulting contract in excess of 12 months shall contain provisions allowing the Utility Distribution Com-

Arizona Administrative Register
Notices of Proposed Rulemaking

pany to ratchet down its power purchases. A Utility Distribution Company may request that the Commission modify any provision of this subsection for good cause.

C. Standard Offer Tariffs

1. By July 1, 1999, or pursuant to Commission Order, whichever occurs 1st, the date indicated in R14-2-1602, each Affected Utility ~~shall~~ may file proposed tariffs to provide Standard Offer Service. ~~Bundled Service and Such~~ such rates shall not become effective until approved by the Commission. Any rate increase proposed by an Affected Utility or Utility Distribution Company for Standard Offer Service must be fully justified through a rate case proceeding. ~~If no such tariffs are filed, rates and services in existence as of the date in R14-2-1602 shall constitute the Standard Offer.~~

2. Standard Offer Service tariffs shall include the following elements:

a. Electricity:

i. Generation.

ii. Competition Transition Charge, and

iii. Must-Run Generating Units;

b. Delivery:

i. Distribution services,

ii. Transmission services, and

iii. Ancillary services;

c. Other:

i. Metering Service,

ii. Meter Reading Service, and

iii. Billing and collection.

d. System Benefits.

The Competition Transition Charge shall be included in the Standard Offer Service tariffs for the purpose of clearly showing that portion of Standard Offer Service charges being collected to pay Stranded Cost.

3.2. Affected Utilities and Utility Distribution Companies may file proposed revisions to such rates. It is the expectation of the Commission that the rates for Standard Offer service will not increase, relative to existing rates, as a result of allowing competition. ~~Any rate increase proposed by an Affected Utility or Utility Distribution Company for Standard Offer Service service must be fully justified through a rate case proceeding, which may be expedited at the discretion of the Utilities Division Director.~~

4.3. ~~Such rates shall reflect the costs of providing the service.~~

5.4. ~~Consumers receiving Standard Offer Service service are eligible for potential future rate reductions as authorized by the Commission, authorized by the Commission, such as reductions authorized in Decision No. 59601.~~

6. After January 2, 2001, tariffs for Standard Offer Service shall not include any special discounts or contracts with terms, or any tariff which prevents the customer from accessing a competitive option, other than time-of-use rates, interruptible rates or self-generation deferral rates.

D. By July 1, 1999, or pursuant to Commission Order, whichever occurs 1st, the date indicated in R14-2-1602, each Affected Utility or Utility Distribution Company shall file an Unbundled Service tariffs which shall include a Noncompetitive Services tariff, to provide the services listed below to the extent allowed by these rules to all eligible purchasers on a nondiscriminatory basis. Other entities seeking to provide any of these services must also file tariffs consistent with these rules:

1. ~~Distribution Service;~~

2. ~~Metering and Meter Reading Services;~~

3. ~~Billing and collection services;~~

4. ~~Open access transmission service (as approved by the Federal Energy Regulatory Commission, if applicable);~~

5. ~~Ancillary services in accordance with Federal Energy Regulatory Commission Order 888 (III FERC Stats. & Regs. paragraph 31,036, 1996) incorporated herein by reference;~~

6. ~~Information services such as provision of customer information to other Electric Service Providers;~~

7. ~~Other ancillary services necessary for safe and reliable system operation.~~

E. To manage its risks, an Affected Utility or Electric Service Provider may include in its tariffs deposit requirements and advance payment requirements for Unbundled Services.

F. Affected Utilities and Utility Distribution Companies must accept power and energy delivered to their distribution systems by other Load-Serving Entities and offer distribution and distribution-related ancillary services comparable to services they provide to themselves at their Noncompetitive Services tariffed rates. The Affected Utilities must provide transmission and ancillary services according to the following guidelines:

1. ~~Services must be provided consistent with applicable tariffs filed with the Federal Energy Regulatory Commission.~~

2. ~~Unless otherwise required by federal regulation, Affected Utilities must accept power and energy delivered to their transmission systems by others and offer transmission and related services comparable to services they provide to themselves.~~

G. Customer Data

Arizona Administrative Register
Notices of Proposed Rulemaking

1. Upon written authorization by the customer, a Load-Serving Entity shall release in a timely and useful manner that customer's demand and energy data for the most recent 12-month period to a customer-specified properly certificated Electric Service Provider.
2. The Electric Service Provider requesting such customer data shall provide an accurate account number for the customer.
3. The form of data shall be mutually agreed upon by the parties and such data shall not be unreasonably withheld.
4. Utility Distribution Companies shall be allowed access to the Meter Reading Service Provider server for customers served by the Utility Distribution Company's distribution system.

H. Rates for Unbundled Services

1. The Commission shall review and approve rates for Competitive Services and Noncompetitive Services subject to Commission services listed in R14-2-1606(D) and requirements listed in R14-2-1606(E), where it has jurisdiction, before such services can be offered.
2. Such rates shall reflect the costs of providing the services.
3. Such rates may be downwardly flexible if approved by the Commission.

- I. Electric Service Providers offering Competitive Services ~~services under this R14-2-1606~~ shall provide adequate supporting documentation for their proposed rates. Where rates are approved by another jurisdiction, such as the Federal Energy Regulatory Commission, those rates shall be provided to this Commission.**

R14-2-1607. Recovery of Stranded Cost of Affected Utilities

- A.** The Affected Utilities shall take every reasonable, cost-effective measure to mitigate or offset Stranded Cost by reducing costs, means such as expanding wholesale or retail markets, or offering a wider scope of permitted regulated utility services for profit, among others.
- B.** The Commission shall allow a reasonable opportunity for recovery of unmitigated Stranded Cost by Affected Utilities.
- C.** The Affected Utilities shall file estimates of unmitigated Stranded Cost on or before July 1, 1999, or pursuant to Commission Order, whichever occurs 1st. Such estimates shall be fully supported by analyses and by records of market transactions undertaken by willing buyers and willing sellers.
- D.** An Affected Utility shall request Commission approval, on or before July 1, 1999, or pursuant to Commission Order, whichever occurs 1st, August 21, 1998, of distribution charges or other means of recovering unmitigated Stranded Cost. The filing may include a discounted stranded cost exit methodology that a consumer may choose to use to determine an amount due the Affected Utility in lieu of making monthly distribution charge or other payments, from customers who reduce or terminate service from the Affected Utility as a direct result of competition governed by this Article, or who obtain lower rates from the Affected Utility as a direct result of the competition governed by this Article.
- E.** The Commission shall, after hearing and consideration of analyses and recommendations presented by the Affected Utilities, staff, and intervenors, determine for each Affected Utility the magnitude of Stranded Cost, and appropriate Stranded Cost recovery mechanisms and charges. In making its determination of mechanisms and charges, the Commission shall consider at least the following factors:
1. The impact of Stranded Cost recovery on the effectiveness of competition;
 2. The impact of Stranded Cost recovery on customers of the Affected Utility who do not participate in the competitive market;
 3. The impact, if any, on the Affected Utility's ability to meet debt obligations;
 4. The impact of Stranded Cost recovery on prices paid by consumers who participate in the competitive market;
 5. The degree to which the Affected Utility has mitigated or offset Stranded Cost;
 6. The degree to which some assets have values in excess of their book values;
 7. Appropriate treatment of negative Stranded Cost;
 8. The time period over which such Stranded Cost charges may be recovered. The Commission shall limit the application of such charges to a specified time period;
 - ~~9. The applicability of Stranded Cost to interruptible customers;~~
 - ~~9. The ease of determining the amount of Stranded Cost;~~
 - ~~11. The amount of electricity generated by renewable generating resources owned by the Affected Utility.~~
- F.** A Competition ~~Competitive~~ Transition Charge (CTC) may be assessed on all retail customers based on the amount of generation purchased from any supplier, only on customer purchases made in the competitive market using the provisions of this Article. Any reduction in electricity purchases from an Affected Utility resulting from self-generation, demand side management, or other demand reduction attributable to any cause other than the retail access provisions of this Article shall not be used to calculate or recover any Stranded Cost from a consumer.
- G.** Stranded Cost shall be recovered from customer classes in a manner consistent with the specific company's current rate treatment of the stranded asset, in order to effect a recovery of Stranded Cost that is in substantially the same proportion as the recovery of similar costs from customers or customer classes under current rates. In no event shall the Competition Transition Charge be utilized as a mechanism for double recovery of Stranded Cost from Standard Offer Service customers.

Arizona Administrative Register
Notices of Proposed Rulemaking

- ~~H.~~ The Commission may consider securitization as a financing method for recovery of Stranded Costs of the Affected Utility if the Commission finds that such method of financing will result in a lower cost alternative to customers.
- I. The Commission may after notice and hearing order regular revisions to estimates of the magnitude of Stranded Cost.
- ~~H.~~ The Commission may order an Affected Utility to file estimates of Stranded Cost and mechanisms to recover or, if negative, to refund Stranded Cost.

R14-2-1608. System Benefits Charges

- A. ~~Each~~ By the date indicated in R14-2-1602, each Affected Utility or Utility Distribution Company shall file for Commission review non-bypassable rates or related mechanisms to recover the applicable pro-rata costs of System Benefits from all consumers located in the Affected Utility's or Utility Distribution Company's ~~Companies'~~ service area, ~~who participate in the competitive market.~~ Affected Utilities or Utility Distribution Companies shall file for review of the Systems Benefits Charge at least every 3 years. The amount collected annually through the System Benefits charge shall be sufficient to fund the Affected Utilities' or Utility Distribution Companies' Commission-approved System Benefits, ~~low income, demand side management, market transformation, environmental, renewables, long term public benefit research and development, and nuclear fuel disposal and nuclear power plant decommissioning programs in effect from time to time.~~ ~~Now, the Commission will approve a solar water heater rebate program: \$200,000 to be allocated proportionally among the state's Utility Distribution Companies in 1999, \$400,000 in 2000, \$600,000 in 2001, \$800,000 in 2002, and \$1 million in 2003; the rebate will not be more than \$500 per system for Commission staff approved solar water heaters. After 2003, future Commissions may review this program for efficacy.~~
- B. Each Affected Utility or Utility Distribution Company shall provide adequate supporting documentation for its proposed rates for System Benefits.
- C. An Affected Utility or Utility Distribution Company shall recover the costs of System Benefits only upon hearing and approval by the Commission of the recovery charge and mechanism. The Commission may combine its review of System Benefits charges with its review of filings pursuant to R14-2-1606.

R14-2-1609. Solar Portfolio Standard Repealed

- ~~A.~~ Starting on January 1, 1999, any Electric Service Provider selling electricity or aggregating customers for the purpose of selling electricity under the provisions of this Article must derive at least .2% of the total retail energy sold competitively from new solar energy resources, whether that solar energy is purchased or generated by the seller. Solar resources include photovoltaic resources and solar thermal resources that generate electricity. New solar resources are those installed on or after January 1, 1997.
- ~~B.~~ Starting January 1 of each year from 2000 through 2003, the solar resource requirement shall increase by .2% with the result that starting January 1, 2003, any Electric Service Provider selling electricity or aggregating customers for the purpose of selling electricity under the provisions of this Article must derive at least 1.0% of the total retail energy sold competitively from new solar energy resources. The 1.0% requirement shall be in effect from January 1, 2003 through December 31, 2012.
- ~~C.~~ The solar portfolio requirement shall only apply to competitive retail electricity in the years 1999 and 2000 and shall apply to all retail electricity in the years 2001 and thereafter.
- ~~D.~~ Electric Service Providers shall be eligible for a number of extra credit multipliers that may be used to meet the solar portfolio standard requirements:

- 1. ~~Early Installation Extra Credit Multiplier: For new solar electric systems installed and operating prior to December 31, 2003, Electric Service Providers would qualify for multiple extra credits for kWh produced for 5 years following operational start-up of the solar electric system. The 5-year extra credit would vary depending upon the year in which the system started up, as follows:~~

YEAR	EXTRA CREDIT MULTIPLIER
1997	.5
1998	.5
1999	.5
2000	.4
2001	.3
2002	.2
2003	.1

~~The Early Installation Extra Credit Multiplier would end in 2003.~~

- 2. ~~Solar Economic Development Extra Credit Multipliers: There are 2 equal parts to this multiplier, an in-state installation credit and an in-state content multiplier.~~
 - a. ~~In-State Power Plant Installation Extra Credit Multiplier: Solar electric power plants installed in Arizona shall receive a .5 extra credit multiplier.~~
 - b. ~~In-State Manufacturing and Installation Content Extra Credit Multiplier: Solar electric power plants shall receive up to a .5 extra credit multiplier related to the manufacturing and installation content that comes from Arizona. The percentage of Arizona content of the total installed plant cost shall be multiplied by .5 to determine the~~

Arizona Administrative Register
Notices of Proposed Rulemaking

appropriate extra credit multiplier. So, for instance, if a solar installation included 80% Arizona content, the resulting extra credit multiplier would be .4 (which is .8 X .5).

3. Distributed Solar Electric Generator and Solar Incentive Program Extra Credit Multiplier: Any distributed solar electric generator that meets more than 1 of the eligibility conditions will be limited to only one .5 extra credit multiplier from this subsection. Appropriate meters will be attached to each solar electric generator and read at least once annually to verify solar performance.
 - a. Solar electric generators installed at or on the customer premises in Arizona. Eligible customer premises locations will include both grid-connected and remote, non-grid-connected locations. In order for Electric Service Providers to claim an extra credit multiplier, the Electric Service Provider must have contributed at least 10% of the total installed cost or have financed at least 80% of the total installed cost.
 - b. Solar electric generators located in Arizona that are included in any Electric Service Provider's Green Pricing program.
 - c. Solar electric generators located in Arizona that are included in any Electric Service Provider's Net Metering or Net Billing program.
 - d. Solar electric generators located in Arizona that are included in any Electric Service Provider's solar leasing program.
 - e. All Green Pricing, Net Metering, Net Billing, and Solar Leasing programs must have been reviewed and approved by the Director, Utilities Division in order for the Electric Service Provider to accrue extra credit multipliers from this subsection.
4. All multipliers are additive, allowing a maximum combined extra credit multiplier of 2.0 in years 1997-2003, for equipment installed and manufactured in Arizona and either installed at customer premises or participating in approved solar incentive programs. So, if an Electric Service Provider qualifies for a 2.0 extra credit multiplier and it produces 1 solar kWh, the Electric Service Provider would get credit for 3 solar kWh (1 produced plus 2 extra credit).
- E. Electric Service Providers selling electricity under the provisions of this Article shall provide reports on sales and solar power as required in this Article, clearly demonstrating the output of solar resources, the installation date of solar resources, and the transmission of energy from those solar resources to Arizona consumers. The Commission may conduct necessary monitoring to ensure the accuracy of these data.
- F. If an Electric Service Provider selling electricity under the provisions of this Article fails to meet the requirement in R14-2-1609(A) or (B) in any year, the Commission shall impose a penalty on that Electric Service Provider that the Electric Service Provider pay an amount equal to \$304 per kWh to the Solar Electric Fund for deficiencies in the provision of solar electricity. This Solar Electric Fund will be established and utilized to purchase solar electric generators or solar electricity in the following calendar year for the use by public entities in Arizona such as schools, cities, counties, or state agencies. Title to any equipment purchased by the Solar Electric Fund will be transferred to the public entity. In addition, if the provision of solar energy is consistently deficient, the Commission may void an Electric Service Provider's contracts negotiated under this Article.
 1. The Director, Utilities Division shall establish a Solar Electric Fund in 1999 to receive deficiency payments and finance solar electricity projects.
 2. The Director, Utilities Division shall select an independent administrator for the selection of projects to be financed by the Solar Electric Fund. A portion of the Solar Electric Fund shall be used for administration of the Fund and a designated portion of the Fund will be set aside for ongoing operation and maintenance of projects financed by the Fund.
- G. Photovoltaic or solar thermal electric resources that are located on the consumer's premises shall count toward the solar portfolio standard applicable to the current Electric Service Provider serving that consumer.
- H. Any solar electric generators installed by an Affected Utility to meet the solar portfolio standard shall be counted toward meeting renewable resource goals for Affected Utilities established in Decision No. 58643.
- I. Any Electric Service Provider or independent solar electric generator that produces or purchases any solar kWh in excess of its annual portfolio requirements may save or bank those excess solar kWh for use or sale in future years. Any eligible solar kWh produced subject to this rule may be sold or traded to any Electric Service Provider that is subject to this rule. Appropriate documentation, subject to Commission review, shall be given to the purchasing entity and shall be referenced in the reports of the Electric Service Provider that is using the purchased kWh to meet its portfolio requirements.
- J. Solar portfolio standard requirements shall be calculated on an annual basis, based upon electricity sold during the calendar year.
- K. An Electric Service Provider shall be entitled to receive a partial credit against the solar portfolio requirement if the Electric Service Provider or its affiliate owns or makes a significant investment in any solar electric manufacturing plant that is located in Arizona. The credit will be equal to the amount of the nameplate capacity of the solar electric generators produced in Arizona and sold in a calendar year times 2,190 hours (approximating a 25% capacity factor).
 1. The credit against the portfolio requirement shall be limited to the following percentages of the total portfolio requirement:

1999	Maximum of 50% of the portfolio requirement
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Arizona Administrative Register
Notices of Proposed Rulemaking

2000 Maximum of 50% of the portfolio requirement
2001 Maximum of 25% of the portfolio requirement
2002 Maximum of 25% of the portfolio requirement
2003 and on Maximum of 20% of the portfolio requirement

2. No extra credit multipliers will be allowed for this credit. In order to avoid double counting of the same equipment, solar electric generators that are used by other Electric Service Providers to meet their Arizona solar portfolio requirements will not be allowable for credits under this Section for the manufacturer/Electric Service Provider to meet its portfolio requirements.

L. The Director, Utilities Division shall develop appropriate safety, durability, reliability, and performance standards necessary for solar generating equipment to qualify for the solar portfolio standard. Standards requirements will apply only to facilities constructed or acquired after the standards are publicly issued.

R14-2-1609, R14-2-1610: Transmission and Distribution Access

A. The Affected Utilities shall provide nondiscriminatory open access to transmission and distribution facilities to serve all customers. No preference or priority shall be given to any distribution customer based on whether the customer is purchasing power under the Affected Utility's Standard Offer or in the competitive market. Any transmission capacity that is reserved for use by the retail customers of the Affected Utility's Utility Distribution Company shall be allocated among Standard Offer customers and competitive market customers on a pro-rata basis.

B. Utility Distribution Companies shall retain the obligation to assure that adequate transmission import capability is available to meet the load requirements of all distribution customers within their service areas.

~~**C.**~~ The Commission supports the development of an Independent System Operator (ISO) or, absent an Independent System Operator, an Arizona Independent Scheduling Administrator (AISA).

~~**D.**~~ ~~**C.**~~ The Commission believes that an Independent Scheduling Administrator is necessary in order to provide nondiscriminatory retail access and to facilitate a robust and efficient electricity market. Therefore, those Affected Utilities that own or operate Arizona transmission facilities shall form an Arizona Independent Scheduling Administrator which shall file with the Federal Energy Regulatory Commission within 60 days of this Commission's adoption of final rules herein, by October 31, 1998 for approval of an Independent Scheduling Administrator having the following characteristics:

1. The Arizona Independent Scheduling Administrator shall calculate Available Transmission Capacity (ATC) for Arizona transmission facilities that belong to the Affected Utilities or other Arizona Independent Scheduling Administrator participants, and shall develop and operate an overarching statewide OASIS.
2. The Arizona Independent Scheduling Administrator shall implement and oversee the non-discriminatory application of operating protocols to ensure statewide consistency for transmission access. These operating protocols shall include, but are not limited to, protocols for determining transmission system transfer capabilities, committed uses of the transmission system, available transfer capabilities, ~~and~~ Must-Run Generating Units, energy scheduling, and energy imbalances.
3. The Arizona Independent Scheduling Administrator shall provide dispute resolution processes that enable market participants to expeditiously resolve claims of discriminatory treatment in the reservation, scheduling, use and curtailment of transmission services.
4. All requests (wholesale, Standard Offer retail, and competitive retail) for reservation and scheduling of the use of Arizona transmission facilities that belong to the Affected Utilities or other Arizona Independent Scheduling Administrator participants shall be made to, or through, the Arizona Independent Scheduling Administrator using a single, standardized procedure.
5. The Arizona Independent Scheduling Administrator shall implement a transmission planning process that includes all Arizona Independent Scheduling Administrator participants and aids in identifying the timing and key characteristics of required reinforcements to Arizona transmission facilities to assure that the future load requirements of all participants will be met.

~~**E.**~~ ~~**D.**~~ The Affected Utilities that own or operate Arizona transmission facilities shall file a proposed Arizona Independent Scheduling Administrator implementation plan with the Commission within 30 days of the Commission's adoption of final rules herein, by September 1, 1998. The implementation plan shall address Arizona Independent Scheduling Administrator governance, incorporation, financing and staffing; the acquisition of physical facilities and staff by the Arizona Independent Scheduling Administrator; the schedule for the phased development of Arizona Independent Scheduling Administrator functionality; contingency plans to ensure that critical functionality is in place no later than 3 months following adoption of final rules herein by the Commission, by January 1, 1999; and any other significant issues related to the timely and successful implementation of the Arizona Independent Scheduling Administrator.

~~**F.**~~ ~~**E.**~~ Each of the Affected Utilities shall make good faith efforts to develop a regional, multi-state Independent System Operator, to which the Arizona Independent Scheduling Administrator should transfer its relevant assets and functions as the Independent System Operator becomes able to carry out those functions.

~~**G.**~~ ~~**F.**~~ It is the intent of the Commission that prudently-incurred costs incurred by the Affected Utilities in the establishment and operation of the Arizona Independent Scheduling Administrator, and subsequently the Independent System Operator, should be recovered from customers using the transmission system, including the Affected Utilities' wholesale customers,

Arizona Administrative Register
Notices of Proposed Rulemaking

Standard Offer retail customers, and competitive retail customers on a non-discriminatory basis through Federal Energy Regulatory Commission-regulated prices. Proposed rates for the recovery of such costs shall be filed with the Federal Energy Regulatory Commission and ~~this the~~ Commission. In the event that the Federal Energy Regulatory Commission does not permit recovery of prudently incurred Independent Scheduling Administrator costs within 90 days of the date of making an application with the Federal Energy Regulatory Commission, the Commission may authorize Affected Utilities to recover such costs through a distribution surcharge.

H.G. The Commission supports the use of "Scheduling Coordinators" to provide aggregation of customers' schedules to the Independent Scheduling Administrator and the respective Control Area Operators simultaneously until the implementation of a regional Independent System Operator, at which time the schedules will be submitted to the Independent System Operator. The primary duties of Scheduling Coordinators are to:

1. Forecast their customers' load requirements;
2. Submit balanced schedules (that is, schedules for which total generation is equal to total load of the Scheduling Coordinator's customers plus appropriate transmission and distribution line losses) and North American Electric Reliability Council/Western Systems Coordinating Council tags;
3. Arrange for the acquisition of the necessary transmission and ancillary services;
4. Respond to contingencies and curtailments as directed by the Control Area Operators, Arizona Independent Scheduling Administrator or Independent System Operator;
5. Actively participate in the schedule checkout process and the settlement processes of the Control Area Operators, Arizona Independent Scheduling Administrator or Independent System Operator.

L.H. The Affected Utilities and Utility Distribution Companies shall provide services from the Must-Run Generating Units to Standard Offer Service retail customers and competitive retail customers on a comparable, nondiscriminatory basis at regulated prices. The Affected Utilities shall specify the obligations of the Must-Run Generating Units in appropriate sales contracts prior to any divestiture. Under auspices of the Arizona Independent Scheduling Administrator, Electric System Reliability and Safety Working Group, the Affected Utilities and other stakeholders shall develop statewide protocols for pricing and availability of services from Must-Run Generating Units ~~with input from other stakeholders~~. These protocols shall be presented to the Commission for review and, when appropriate, approval, prior to being filed with the Federal Energy Regulatory Commission in conjunction with the Arizona Independent Scheduling Administrator tariff filing. Fixed Must-Run Generating Units costs are to be recovered through a regulated charge to end-use customers. This charge must be set by the Commission as part of the end-use customer distribution service charges, if necessary, by October 31, 1998.

J. The Affected Utilities and other stakeholders, under the auspices of the Arizona Independent Scheduling Administrator, shall identify statewide services to be settled on and develop fair and reasonable pricing mechanisms to assure a consistent and fair settlement process.

R14-2-1610, R14-2-1611. In-state Reciprocity

- A. The service territories of Arizona electric utilities which are not Affected Utilities or Public Power Entities shall not be open to competition under the provisions of this Article, nor shall Arizona electric utilities which are not Affected Utilities be able to compete for sales in the service territories of the Affected Utilities.
- B. An Arizona electric utility, subject to the jurisdiction of the Commission, which is not an Affected Utility or a Public Power Entity may voluntarily participate under the provisions of this Article if it makes its service territory available for competing sellers, if it agrees to all of the requirements of this Article, and if it obtains an appropriate Certificate of Convenience and Necessity.
- C. An Arizona electric utility, not subject to the jurisdiction of the Commission, and which is not a Public Power Entity, may submit a statement to the Commission that it voluntarily opens its service territory for competing sellers in a manner similar to the provisions of this Article. Such statement shall be accompanied by the electric utility's nondiscriminatory Standard Offer Tariff, electric supply tariffs, Unbundled Services rates, Stranded Cost charges, System Benefits charges, Distribution Services charges and any other applicable tariffs and policies for services the electric utility offers, for which these rules otherwise require compliance by Affected Utilities or Electric Service Providers. Such filings shall serve as authorization for such electric utility to utilize the Commission's Rules of Practice and Procedure and other applicable rules concerning any complaint that an Affected Utility or Electric Service Provider is violating any provision of this Article or is otherwise discriminating against the filing electric utility or failing to provide just and reasonable rates in tariffs filed under this Article.
- D. If an electric utility is an Arizona political subdivision or municipal corporation other than a Public Power Entity, then the existing service territory of such electric utility shall be deemed open to competition if the political subdivision or municipality has entered into an intergovernmental agreement with the Commission that establishes nondiscriminatory terms and conditions for Distribution Services and other Unbundled Services, provides a procedure for complaints arising therefrom, and provides for reciprocity with Affected Utilities or their affiliates. The Commission shall conduct a hearing to consider any such intergovernmental agreement.
- E. An affiliate of an Arizona electric utility which is not an Affected Utility or a Public Power Entity shall not be allowed to compete in the service territories of Affected Utilities unless the affiliate's parent company, the non-affected electric util-

Arizona Administrative Register
Notices of Proposed Rulemaking

ity, submits a statement to the Commission indicating that the parent company will voluntarily open its service territory for competing sellers in a manner similar to the provisions of this Article and the Commission makes a finding to that effect.

R14-2-1611, R14-2-1612: Rates

- A. Market determined rates for Competitive Services, ~~competitively provided services~~ as defined in R14-2-1601, R14-2-1605 shall be deemed to be just and reasonable.
- B. Each Electric Service Provider selling services under this Article shall have on file with the Commission tariffs describing such services and maximum rates for those services, but the services may not be provided until the Commission has approved the tariffs.
- C. Prior to January 1, 2001, ~~the date indicated in R14-2-1604(D)~~, competitively negotiated contracts governed by this Article customized to individual customers which comply with approved tariffs do not require further Commission approval. However, all such contracts whose term is 1 year or more and for service of 1 MW or more must be filed with the Director, Utilities Division as soon as practicable. If a contract does not comply with the provisions of the Load Serving Entity's this Article and the Affected Utility's or Electric Service Provider's approved tariffs, it shall not become effective without a Commission order. ~~The terms of such~~ Such contracts shall be kept confidential by the Commission.
- D. Contracts entered into on or after January 1, 2001, ~~the date indicated in R14-2-1604(D)~~ which comply with approved tariffs need not be filed with the Director, Utilities Division. If a contract does not comply with the provisions of the Load Serving Entity's this Article and the Affected Utility's or the Electric Service Provider's approved tariffs it shall not become effective without a Commission order.
- E. An Electric Service Provider holding a Certificate pursuant to this Article may price its Competitive Services ~~competitive services, as defined in R14-2-1605~~, at or below the maximum rates specified in its filed tariff, provided that the price is not less than the marginal cost of providing the service.
- F. Requests for changes in maximum rates or changes in terms and conditions of previously approved tariffs may be filed. Such changes shall become effective only upon Commission approval.

R14-2-1612, R14-2-1613: Service Quality, Consumer Protection, Safety, and Billing Requirements

- A. Except as indicated elsewhere in this Article, R14-2-201 through R14-2-212, inclusive, are adopted in this Article by reference. However, where the term "utility" is used in R14-2-201 through R14-2-212, the term "utility" shall pertain to Electric Service Providers providing the services described in each paragraph of R14-2-201 through R14-2-212. R14-2-203(E) and R14-2-212(H) shall pertain only to Utility Distribution Companies.
- B. The following shall not apply to this Article:
 - 1. R14-2-202 in its entirety,
 - 2. R14-2-206 in its entirety,
 - 3. R14-2-207 in its entirety,
 - 4. R14-2-212(F)(1),
 - 5. R14-2-213,
 - 6. R14-2-208(E) and (F).
- C. No consumer shall be deemed to have changed providers of any service authorized in this Article (including changes from ~~supply by~~ the Affected Utility to another provider) without written authorization by the consumer for service from the new provider. If a consumer is switched ~~(or slammed)~~ to a different ("new") provider without such written authorization, the new provider shall cause service by the previous provider to be resumed and the new provider shall bear all costs associated with switching the consumer back to the previous provider. A Utility Distribution Company has the right to review or audit written authorizations to assure a customer switch was properly authorized. A written authorization that is obtained by deceit or deceptive practices shall not be deemed a valid written authorization. Electric Service Providers shall submit reports within 30 days of the end of each calendar quarter to the Commission itemizing the direct complaints filed by customers who have had their Electric Service Providers changed without their authorization. Violations of the Commission's rules concerning unauthorized changes of providers may result in penalties, or suspension or revocation of the provider's certificate.
- D. A residential customer ~~with an annual load of 100,000 kWh or less~~ may rescind its authorization to change providers of any service authorized in this Article within 3 business days, without penalty, by providing written notice to the provider.
- E. Each Electric Service Provider providing service governed by this Article shall be responsible for meeting applicable reliability standards and shall work cooperatively with other companies with whom it has interconnections, directly or indirectly, to ensure safe, reliable electric service. Utility Distribution Companies shall make reasonable efforts to notify customers of scheduled outages, and also provide notification to the Commission.
- F. Each Electric Service Provider shall provide at least 45 days notice to all of its affected consumers of its intent to cease providing generation, transmission, distribution, or ancillary services necessitating that the consumer obtain service from another supplier of generation, transmission, distribution, or ancillary services.
- G. All Electric Service Providers rendering service under this Article shall submit accident reports as required in R14-2-101.

Arizona Administrative Register
Notices of Proposed Rulemaking

- H. An Electric Service Provider providing firm electric service governed by this Article shall make reasonable efforts to reestablish service within the shortest possible time when service interruptions occur and shall work cooperatively with other companies to ensure timely restoration of service where facilities are not under the control of the Electric Service Provider.
- I. Electric Service Providers shall give at least 5 days notice to their customer and to the appropriate Utility Distribution Company of scheduled return to the Standard Offer Service, but that return of that customer to the Standard Offer Service would be at the next regular billing cycle if appropriate metering equipment is in place, and the request is processed 15 calendar days prior to the next regular read date. Responsibility for charges incurred between the notice and the next scheduled read date shall rest with the Electric Service Provider.
- J. Each Electric Service Provider shall ensure that bills rendered on its behalf include its address and toll free telephone numbers for billing, service, and safety inquiries. The bill must also include the address and toll free telephone numbers for the Phoenix and Tucson Consumer Service Sections of the Arizona Corporation Commission Utilities Division. Each Electric Service Provider shall ensure that billing and collections services rendered on its behalf comply with R14-2-1612(A). ~~R14-2-1613(A).~~
- K. Additional Provisions for Metering and Meter Reading Services
1. An Electric Service Provider who provides metering or meter reading services pertaining to a particular consumer shall provide access using EDI formats to meter reading data to other Electric Service Providers serving that same consumer when authorized by the consumer.
 2. Any person or entity relying on metering information provided by another Electric Service Provider may request a meter test according to the tariff on file and approved by the Commission. However, if the meter is found to be in error by more than 3%, no meter testing fee will be charged.
 3. Each competitive customer shall be assigned a Universal Node Identifier for each service delivery point by the Affected Utility or the Utility Distribution Company whose distribution system serves the customer.
 4. Unless the Commission grants a specific waiver, all ~~All~~ competitive metered and billing data shall be translated into consistent, statewide Electronic Data Interchange (EDI) formats based on standards approved by the Utility Industry Group (UIG) that can be used by the Affected Utility or the Utility Distribution Company and the Electric Service Provider.
 5. Unless the Commission grants a specific waiver, an ~~An~~ Electronic Data Interchange Format shall be used for all data exchange transactions from the Meter Reading Service Provider to the Electric Service Provider, Utility Distribution Company, and Schedule Coordinator. This data will be transferred via the Internet using a secure sockets layer or other secure electronic media.
 6. Minimum metering requirements for competitive customers over 20 kW, or 100,000 kWh annually, should consist of hourly consumption measurement meters or meter systems. Predictable loads will be permitted to use load profiles to satisfy the requirements for hourly consumption data. The Affected Utility or Electric Service Provider will make the determination if a load is predictable.
 7. Competitive customers with hourly loads of 20 kW (or 100,000 kWh annually) or less, will be permitted to use Load Profiling to satisfy the requirements for hourly consumption data: however, they may choose other metering options offered by their Electric Service Provider consistent with the Commission rules on Metering.
 8. Metering equipment ownership will be limited to the Affected Utility, Utility Distribution Company, and the Electric Service Provider or their representative, or the customer, who must obtain the metering equipment through ~~obtains the meter from~~ the Affected Utility, or Utility Distribution Company or an Electric Service Provider.
 9. Maintenance and servicing of the metering equipment will be limited to the Affected Utility, Utility Distribution Company and the Electric Service Provider or their representative.
 10. Distribution primary voltage Current Transformers and Potential Transformers may be owned by the Affected Utility, Utility Distribution Company or the Electric Service Provider or their representative.
 11. Transmission primary voltage Current Transformers and Potential Transformers may be owned by the Affected Utility or Utility Distribution Company only.
 12. North American Electric Reliability Council recognized holidays will be used in calculating "working days" for meter data timeliness requirements.
 13. By May 1, 1999, the Director, Utilities Division shall approve operating procedures to ~~The operating procedures approved by the Director, Utilities Division will~~ be used by the Utility Distribution Companies and the Meter Service Providers for performing work on primary metered customers.
 14. By May 1, 1999, the Director, Utilities Division shall approve operating procedures to ~~The rules approved by the Director, Utilities Division will~~ be used by the Meter Reading Service Provider for validating, editing, and estimating metering data.
 15. By May 1, 1999, the Director, Utilities Division shall approve performance metering specifications and standards to ~~The performance metering specifications and standards approved by the Director, Utilities Division will~~ be used by all entities performing metering.

Arizona Administrative Register
Notices of Proposed Rulemaking

~~**L.M.**~~ Electric Service Providers shall comply with applicable reliability standards and practices established by the Western Systems Coordinating Council and the North American Electric Reliability Council or successor organizations.

~~**L.**~~ **Working Group on System Reliability and Safety**

- ~~1. The Commission shall establish, by separate order, a working group to monitor and review system reliability and safety:
 - ~~a. The working group may establish technical advisory panels to assist it.~~
 - ~~b. Members of the working group shall include representatives of staff, consumers, the Residential Utility Consumer Office, utilities, other Electric Service Providers and organizations promoting energy efficiency. In addition, the Executive and Legislative Branches shall be invited to send representatives to be members of the working group.~~
 - ~~c. The working group shall be coordinated by the Director, Utilities Division of the Commission or by the Director's designee.~~~~
- ~~2. All Electric Service Providers governed by this Article shall cooperate and participate in any investigation conducted by the working group, including provision of data reasonably related to system reliability or safety.~~
- ~~3. The working group shall report to the Commission on system reliability and safety regularly, and shall make recommendations to the Commission regarding improvements to reliability or safety.~~

~~**M.N.**~~ Electric Service Providers shall provide notification and informational materials to consumers about competition and consumer choices, such as a standardized description of services, as ordered by the Commission.

~~**N.O.**~~ **Unbundled Billing Elements.** After the commencement of competition within a service territory pursuant to R14-2-1602, all customer bills, including bills for Standard Offer customers within that service territory, All customer bills after January 1, 1999 will list, at a minimum, the following billing cost elements:

1. Electricity Costs:
 - a. Generation,
 - b. Competition Transition Charge, and
 - c. Fuel or purchased power adjustor, if applicable;
2. Delivery costs:
 - a. Distribution services, and
 - b. Transmission services; and
 - e. ~~Ancillary services~~
3. Other Costs:
 - a. Metering Service,
 - b. Meter Reading Service,
 - c. Billing and collection, and
 - d. System Benefits charge.

~~**O.P.**~~ The operating procedures approved by the Director, Utilities Division will be used for Direct Access Service Requests as well as other billing and collection transactions.

~~**R14-2-1613, R14-2-1614.**~~ **Reporting Requirements**

~~**A.**~~ Reports covering the following items, as applicable, shall be submitted to the Director, Utilities Division by Affected Utilities or Utility Distribution Companies and all Electric Service Providers granted a Certificate of Convenience and Necessity pursuant to this Article. These reports shall include the following information pertaining to Competitive Service offerings, Unbundled Services, and Standard Offer services in Arizona:

- ~~1. Type of services offered;~~
- ~~2. kW and kWh sales to consumers, disaggregated by customer class (for example, residential, commercial, industrial);~~
- ~~3. Solar energy sales (kWh) and sources for grid connected solar resources; kW capacity for off-grid solar resources;~~
- ~~3.4. Revenues from sales by customer class (for example, residential, commercial, industrial);~~
- ~~4.5. Number of retail customers disaggregated as follows: residential, commercial under 40 kW, commercial 41 to 999 kW, commercial 1000 kW or more, industrial less than 1000 kW, industrial 1000 kW or more, agricultural (if not included in commercial), and other;~~
- ~~5.6. Retail kWh sales and revenues disaggregated by term of the contract (less than 1 year, 1 to 4 years, longer than 4 years), and by type of service (for example, firm, interruptible, other);~~
- ~~6.7. Amount of and revenues from each type of Competitive Service, service provided under R14-2-1605, and, if applicable, each type of Noncompetitive Service provided; R14-2-1606;~~
- ~~7.8. Value of all assets used to serve Arizona customers and accumulated depreciation;~~
- ~~8.9. Tabulation of Arizona electric generation plants owned by the Electric Service Provider broken down by generation technology, fuel type, and generation capacity;~~
- ~~9.10. The number of customers aggregated and the amount of aggregated load;~~
- ~~10.11. Other data requested by staff or the Commission;~~
- ~~12. In addition, prior to the date indicated in R14-2-1604(D), Affected Utilities shall provide data demonstrating compliance with the requirements of R14-2-1604.~~

Arizona Administrative Register
Notices of Proposed Rulemaking

A. Reporting Schedule

1. For the period through December 31, 2003, semi-annual reports shall be due on April 15 (covering the previous period of July through December) and October 15 (covering the previous period of January through June). The 1st such report shall cover the period January 1 through June 30, 1999.
 2. For the period after December 31, 2003, annual reports shall be due on April 15 (covering the previous period of January through December). The 1st such report shall cover the period January 1 through December 31, 2004.
- C.** The information listed above may, at the provider's option, be provided on a confidential basis. However, staff or the Commission may issue reports with aggregate statistics based on confidential information that do not disclose data pertaining to a particular seller or purchases by a particular buyer.
- D.** Any Electric Service Provider governed by this Article which fails to file the above data in a timely manner may be subject to a penalty imposed by the Commission or may have its Certificate rescinded by the Commission.
- E.** Any Electric Service Provider holding a Certificate pursuant to this Article shall report to the Director of the Utilities Division the discontinuation of any competitive tariff as soon as practicable after the decision to discontinue offering service is made.
- F.** In addition to the above reporting requirements, Electric Service Providers governed by this Article shall participate in Commission workshops or other forums whose purpose is to evaluate competition or assess market issues.
- G.** Reports filed under the provisions of this section shall be submitted in written format and in electronic format. Electric Service Providers shall coordinate with the Commission staff on formats.

R14-2-1614, R14-2-1615. Administrative Requirements

- A.** Any Electric Service Provider certificated under this Article may file proposed additional tariffs for Competitive Services at any time which include a description of the service, maximum rates, terms and conditions. ~~The proposed new service may not be provided until the Commission has approved the tariff.~~
- B.** Contracts filed pursuant to this Article shall not be open to public inspection or made public except on order of the Commission, or by the Commission or a Commissioner in the course of a hearing or proceeding.
- C.** The Commission may consider variations or exemptions from the terms or requirements of any of the rules in this Article upon the application of an affected party. The application must set forth the reasons why the public interest will be served by the variation or exemption from the Commission rules and regulations. Any variation or exemption granted shall require an order of the Commission. Where a conflict exists between these rules and an approved tariff or order of the Commission, the provisions of the approved tariff or order of the Commission shall apply.
- D.** The Commission may develop procedures for resolving disputes regarding implementation of retail electric competition.
- E.** Prior to October 1, 1999, the Director, Utilities Division shall implement a Consumer Education Program as approved by the Commission.

R14-2-1615, R14-2-1616. Separation of Monopoly and Competitive Services

- A.** All competitive generation assets and Competitive Services shall be separated from an Affected Utility prior to January 1, 2001. Such separation shall either be to an unaffiliated party or to a separate corporate affiliate or affiliates. If an Affected Utility chooses to transfer its competitive generation assets or Competitive Services to a competitive electric affiliate, such transfer shall be at a value determined by the Commission to be fair and reasonable.
- B.** ~~Beginning January 1, 2001, 1999, an Affected Utility or Utility Distribution Company shall not provide Competitive Services competitive services as defined in R14-2-1601. competitive services as defined herein, except as otherwise authorized by these rules or by the Commission. However, this rule does not preclude an Affected Utility's or Utility Distribution Company's affiliate from providing competitive services. Nor does this rule preclude an Affected Utility or Utility Distribution Company from billing its own customers for distribution service, or from providing billing services to Electric Service Providers in conjunction with its own billing or from providing meters for Load Profiled residential customers. Nor does this rule require an Affected Utility or Utility Distribution Company to separate such assets or services utilized in these circumstances. Affected Utilities and Utility Distribution Companies shall provide, if requested by an Electric Service Provider or customer, metering, meter reading, billing, and collection services within their service territories at tariffed rates to customers that do not have access to these services during the years 1999 and 2000, subject to the following limitations. The Affected Utilities and Utility Distribution Companies shall be allowed to continue to provide metering and meter reading services to competitive customers within their service territories at tariffed rates until such time as 2 or more competitive Electric Service Providers are offering such services to a particular customer class. When 2 competitive Electric Service Providers are providing such services to a particular customer class, the Affected Utilities and Utility Distribution Companies will no longer be allowed to offer the service to new competitive customers in that customer class, but may continue to offer the service through December 31, 2000, to the existing competitive customers signed up prior to the commencement of service by the 2 competitive Electric Service Providers.~~
1. This Section does not preclude an Affected Utility or Utility Distribution Company from billing its own customers for distribution service, or from providing billing services to Electric Service Providers in conjunction with its own billing, or from providing meters for Load Profiled residential customers. Nor does this Section preclude an Affected

Arizona Administrative Register
Notices of Proposed Rulemaking

Utility or Utility Distribution Company from providing billing and collections, Metering and Meter Reading Service as part of the Standard Offer Service tariff to Standard Offer Service customers.

2. This Section does not preclude an Affected Utility or Utility Distribution Company from owning distribution and transmission primary voltage Current Transformers and Potential Transformers.
- C. An Electric Distribution Cooperative is not subject to the provisions of R14-2-1615 R14-2-1616 unless except if it offers competitive electric services outside of the service territory it had as of the effective date of these rules. A Generation Cooperative shall be subject to the same limitations to which its member Distribution Cooperatives are subject.
- D. To meet the solar portfolio requirement in R14-2-1609, the Utility Distribution Company may purchase, install, and operate the solar electric systems or contract with an affiliate to meet the solar portfolio requirement.

R14-2-1616, R14-2-1617. Code of Conduct Affiliate Transactions

No later than 90 days after adoption of these Rules, each Affected Utility which plans to offer Noncompetitive Services and Competitive Services through its competitive electric affiliate shall propose a code of conduct to prevent anti-competitive activities. The code of conduct shall be subject to Commission approval.

R14-2-1617. Affiliate Transactions Repealed

A. Separation

~~An Affected Utility or Utility Distribution Company and its affiliates shall operate as separate corporate entities Books and records shall be kept separate, in accordance with applicable Uniform System of Accounts (USOA) and Generally Accepted Accounting Procedures (GAAP). The books and records of any Electric Service Provider that is an affiliate of an Affected Utility or Utility Distribution Company shall be open for examination by the Commission and its staff consistent with the provisions set forth in R14-2-1614. All proprietary information shall remain confidential.~~

- ~~1. An Affected Utility or Utility Distribution Company shall not share office space, equipment, services, and systems with its competitive electric affiliates, nor access any computer or information systems of one another, except to the extent appropriate to perform shared corporate support functions permitted under subsection (A)(2). An Affected Utility or Utility Distribution Company shall not share office space, equipment, services, and systems with its other affiliates without full compensation in accordance with subsection (A)(7).~~
- ~~2. An Affected Utility or Utility Distribution Company, its parent holding company, or a separate affiliate created solely for the purpose of corporate support functions, may share with its affiliates joint corporate oversight, governance, support systems and personnel. Any shared support shall be priced, reported and conducted in accordance with all applicable Commission pricing and reporting requirements. An Affected Utility or Utility Distribution Company shall not use shared corporate support functions as a means to transfer confidential information, allow preferential treatment, or create significant opportunities for cross-subsidization of its affiliates, and shall provide mechanisms and safeguards against such activity in its compliance plan.~~
- ~~3. An affiliate of an Affected Utility or Utility Distribution Company shall not trade, promote, or advertise its affiliation with the Affected Utility or Utility Distribution Company, nor use or make use of the Affected Utility's name or logo in any material circulated by the affiliate, unless it discloses in plain legible or audible language, on the first page or at the first instance the Affected Utility or Utility Distribution Company name or logo appears, that:
 - a. The affiliate is not the same company as the Affected Utility or Utility Distribution Company, and
 - b. Customers do not have to buy the affiliate product in order to continue to receive quality regulated services from the Affected Utility or Utility Distribution Company.~~
- ~~4. An Affected Utility or Utility Distribution Company shall not offer or provide to its affiliates advertising space in any customer written communication unless it provides access to all other unaffiliated service providers on the same terms and conditions.~~
- ~~5. An Affected Utility or Utility Distribution Company shall not participate in joint advertising, marketing or sales with its affiliates. Any joint communication and correspondence with an existing customer by an Affected Utility or Utility Distribution Company and its affiliate shall be limited to consolidated billing, when applicable, and in accordance with these rules.~~
- ~~6. Except as provided in subsection A(2), an Affected Utility or Utility Distribution Company and its affiliate shall not jointly employ the same employees. This rule applies to Board of Directors and corporate officers. However, any board member or corporate officer of a holding company may also serve in the same capacity with the Utility Distribution Company, or its affiliate, but not both. Where the Affected Utility is a multi-state utility, is not a member of a holding company structure, and assumes the corporate governance functions for its affiliates, the prohibition outlined in this section shall only apply to affiliates that operate within Arizona.~~
- ~~7. Transfer of Goods and Services: To the extent that these rules do not prohibit transfer of goods and services between an Affected Utility or Utility Distribution Company and its affiliates, all such transfers shall be subject to the following price provisions:
 - a. Goods and services provided by an Affected Utility or Utility Distribution Company to an affiliate shall be transferred at the price and under the terms and conditions specified in its tariff. If the goods or service to be transferred is a non-tariffed item, the transfer price shall be the higher of fully allocated cost or the market price.~~

Arizona Administrative Register
Notices of Proposed Rulemaking

~~Transfers from an affiliate to its affiliated Utility Distribution Company shall be priced at the lower of fully allocated cost or fair market value.—~~

- ~~b. Goods and services produced, purchased or developed for sale on the open market by the Affected Utility or Utility Distribution Company will be provided to its affiliates and unaffiliated companies on a nondiscriminatory basis, except as otherwise permitted by these rules or applicable law.~~
- ~~8. No Cross subsidization: A competitive affiliate of an Affected Utility or Utility Distribution Company shall not be subsidized by any rate or charge for any noncompetitive service, and shall not be provided access to confidential utility information.~~

B. Access to Information

~~As a general rule, an Affected Utility, Utility Distribution Company or Electric Service Provider shall provide customer information to its affiliates and nonaffiliates on a non-discriminatory basis, provided prior affirmative customer written consent is obtained. Any non customer specific non public information shall be made contemporaneously available by an Affected Utility, Utility Distribution Company or Electric Service Provider to its affiliates and all other service providers on the same terms and conditions.~~

C. An Affected Utility or Utility Distribution Company shall adhere to the following guidelines:

- ~~1. Any list of Electric Service Providers provided by an Affected Utility or Utility Distribution Company to its customers which includes or identifies the Affected Utility's or Utility Distribution Company's competitive electric affiliates must include or identify non-affiliated entities included on the list of those Electric Service Providers authorized by the Commission to provide service within the Affected Utility's or Utility Distribution Company's certificated area. The Commission shall maintain an updated list of such Electric Service Providers and make that list available to Affected Utilities or Utility Distribution Companies at no cost.~~
- ~~2. An Affected Utility or Utility Distribution Company may provide non-public supplier information and data, which it has received from unaffiliated suppliers, to its affiliates or nonaffiliated entities only if the Affected Utility or Utility Distribution Company receives prior authorization from the supplier.~~
- ~~3. Except as otherwise provided in these rules, an Affected Utility or Utility Distribution Company shall not offer or provide customers advice, which includes promoting, marketing or selling, about its affiliates or other service providers.—~~
- ~~4. An Affected Utility or Utility Distribution Company shall maintain contemporaneous records documenting all tariffed and nontariffed transactions with its affiliates, including but not limited to, all waivers of tariff or contract provisions and all discounts. These records shall be maintained for a period of 3 years, or longer if required by this Commission or another governmental agency.~~

D. Nondiscrimination

~~An Affected Utility, Utility Distribution Company, or their affiliates shall not represent that, as a result of the affiliation, customers of such affiliates will receive any treatment different from that provided to other, non-affiliated entities or their customers. An Affected Utility, Utility Distribution Company, or their affiliates shall not provide their affiliates, or customers of their affiliates, any preference over non-affiliated supplies or their customers in the provision of services. For example:~~

- ~~1. Except when made generally available by an Affected Utility, Utility Distribution Company or their affiliates, through an open competitive bidding process, if the Affected Utility, Utility Distribution Company or their affiliates offers a discount or waives all or any part of any charge or fee to its affiliates, or offers a discount or waiver for a transaction in which their affiliates are involved, the entity shall contemporaneously make such discount or waiver available to all.~~
- ~~2. If a tariff provision allows for discretion in its application, an Affected Utility or Utility Distribution Company shall apply that provision equally among its affiliates and all other market participants and their respective customers.~~
- ~~3. Requests from affiliates and non-affiliated entities and their customers for services provided by the Affected Utility or Utility Distribution Company shall be processed on a nondiscriminatory basis.~~
- ~~4. An Affected Utility or Utility Distribution Company shall not condition or otherwise tie the provision of any service provided, nor the availability of discounts of rates or other charges or fees, rebates or waivers of terms and conditions of any services, to the taking of any goods or services from its affiliates.~~
- ~~5. In the course of business development and customer relations, except as otherwise provided in these rules, an Affected Utility or Utility Distribution Company shall refrain from:
 - ~~a. Providing leads to its affiliates;~~
 - ~~b. Soliciting business on behalf of affiliates;~~
 - ~~c. Acquiring information on behalf of, or provide information to, its affiliates;~~
 - ~~d. Sharing market analysis reports or any non publicly available reports, including but not limited to market, forecast, planning or strategic reports, with its affiliates.~~~~

E. Compliance Plans

~~No later than December 31, 1998, each Affected Utility or Utility Distribution Company shall file a compliance plan demonstrating the procedures and mechanisms implemented to ensure that activity prohibited by these rules will not take place. The compliance plan shall be submitted to the Director, Utilities Division and shall be in effect until a determina-~~

Arizona Administrative Register
Notices of Proposed Rulemaking

tion is made regarding its compliance under these rules. The compliance plan shall thereafter be submitted annually to reflect any material changes. An Affected Utility or Utility Distribution Company shall have a performance audit prepared by an independent auditor in the 1st quarter after the end of each calendar year to examine compliance with the rules set forth herein, starting no later than the calendar year 1999, and every year thereafter until December 31, 2002. Such audits shall be filed with the Director, Utilities Division. After December 31, 2002 the Director, Utilities Division may request a Utility Distribution Company to conduct such an audit.

F. Waivers

1. Any affected entity may petition the Commission for a waiver by filing a verified application for waiver setting forth with specificity the circumstances whereby the public interest justifies a waiver from all or part of the provisions of this rule.
2. The Commission may grant such application upon a finding that a waiver is in the public interest.

R14-2-1617, R14-2-1618: Disclosure of Information

~~**A.** There are efforts under the auspices of the Western Conference of Public Service Commissioners to develop a tracking mechanism as to the source of electrons. To facilitate customer choice, the Commission intends to participate in developing this tracking mechanism and a side-by-side comparison for retail customers on price, price variability, fuel mix, and emissions of electricity offered for sale in Arizona and the West. Until this is accomplished, R14-2-1618 is a placeholder.~~

~~**A.B.** Each Load-Serving Entity shall prepare a consumer information label that sets forth the following information for customers with a demand of less than 1 MW:~~

1. Price to be charged for generation services,
2. Price variability information,
3. Customer service information, and
4. ~~Composition of resource portfolio,~~
5. ~~Fuel mix characteristics of the resource portfolio,~~
6. ~~Emissions characteristics of the resource portfolio,~~
- 4.7. Time period to which the reported information applies.

~~**B.** Each Load-Serving Entity shall provide, upon request, the following information (to the extent reasonably known):~~

1. ~~Composition of resource portfolio,~~
2. ~~Fuel mix characteristics of the resource portfolio, and~~
3. ~~Emissions characteristics of the resource portfolio.~~

~~**C.** The Director, Utilities Division shall develop the format and reporting requirements for the consumer information label to ensure that the information required by subsection (A) is appropriately and accurately reported and to ensure that customers can use the labels for comparisons among Load-Serving Entities. The format developed by the Director, Utilities Division shall be used by each Load-Serving Entity.~~

~~**D.** Each Load-Serving Entity shall include the information disclosure label in a prominent position in all written marketing materials, specifically target to Arizona. When a Load-Serving Entity advertises in non-print media, or in written materials not specifically target to Arizona, the marketing materials shall indicate that the Load-Serving Entity shall provide the consumer information label to the public upon request.~~

~~**E.** Each Load-Serving Entity shall prepare an annual disclosure report that aggregates the resource portfolios of the Load-Serving Entity and its affiliates.~~

~~**F.** Each Load-Serving Entity shall prepare a statement of its terms of service that sets forth the following information:~~

1. Actual pricing structure or rate design according to which the customer with a load of less than 1 MW will be billed, including an explanation of price variability and price level adjustments that may cause the price to vary;
2. Length and description of the applicable contract and provisions and conditions for early termination by either party;
3. Due date of bills and consequences of late payment;
4. Conditions under which a credit agency is contacted;
5. Deposit requirements and interest on deposits;
6. Limits on warranties and damages;
7. All charges, fees, and penalties;
8. Information on consumer rights pertaining to estimated bills, 3rd party billing, deferred payments, and rescission ~~recession~~ of supplier switches within 3 days of receipt of confirmation;
9. A toll-free telephone number for service complaints;
10. Low income programs and low income rate eligibility;
11. Provisions for default service;
12. Applicable provisions of state utility laws; and
13. Method whereby customers will be notified of changes to the terms of service.

~~**G.** The consumer information label, the disclosure report, and the terms of service shall be distributed in accordance with the following requirements:~~

1. Prior to the initiation of service for any retail customer,

Notices of Proposed Rulemaking

2. Prior to processing written authorization from a retail customer with a load of less than 1 MW to change Electric Service Providers,
 3. To any person upon request,
 4. Made a part of the annual report required to be filed with the Commission pursuant to law, and
 5. The information described in this subsection shall be posted on any electronic information medium of the Load-Serving Entities.
- H. Failure to comply with the rules on information disclosure or dissemination of inaccurate information may result in suspension or revocation of certification or other penalties as determined by the Commission.
- I. The Commission shall ~~may~~ establish a consumer information advisory panel to review the effectiveness of the provisions of this Section and to make recommendations for changes in the rules.

NOTICE OF PROPOSED RULEMAKING

TITLE 15. REVENUE

CHAPTER 2. DEPARTMENT OF REVENUE
INCOME AND WITHHOLDING TAX SECTION

PREAMBLE

1. **Sections Affected**

	<u>Rulemaking Action</u>
R15-2-401	Amend
R15-2-403	Amend
R15-2-431	Repeal
R15-2-432	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. §§ 42-1005

Implementing statute: A.R.S. §§ 43-401, 43-403, and 43-432
3. **List of all previous notices appearing in the Register addressing the proposed rules:**

Notice of Rulemaking Docket Opening: 2 A.A.R. 4824, November 29, 1996.
4. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Ernest Powell, Supervisor

Address: Tax Research & Analysis Section
Arizona Department of Revenue
1600 W. Monroe
Phoenix, Arizona 85007

Telephone: (602) 542-4672

Fax: (602) 542-4680
5. **An explanation of the rule, including the agency's reasons for initiating the rule:**

The rules provide guidance regarding Arizona income tax withholding. The department is proposing to amend the rules to incorporate legislative changes, remove obsolete and repetitive language, and to conform to current rulemaking guidelines. In addition, the department is proposing to repeal R15-2-431, which is an obsolete reference to a rule that was previously repealed.
6. **Reference to any study that the agency proposes to rely on and its evaluation of or justification for 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:**

It is expected that the benefits of the rules will be greater than the costs. The amendment of these rules will benefit the

Arizona Administrative Register
Notices of Proposed Rulemaking

public by eliminating repetitive and obsolete language and by providing guidance regarding recent legislative changes. The repeal of R15-2-431 will benefit the public by eliminating a reference to a rule that was previously repealed. The department will incur the costs associated with the rulemaking process. Taxpayers are not expected to incur any expense in the repeal or amendment of these rules.

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: Ernest Powell
Address: Tax Research & Analysis Section
Arizona Department of Revenue
1600 W. Monroe
Phoenix, Arizona 85007
Telephone: (602) 542-4672
Fax: (602) 542-4680

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:

The department has not scheduled any oral proceedings. Written comments on the proposed rules or preliminary economic, small business, and consumer impact statements may be submitted to the person listed above. Pursuant to A.R.S. § 41-1023(C), the department will schedule oral proceedings if 1 or more people file written requests for oral proceedings within 30 days after the publication of this notice.

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 15. REVENUE

**CHAPTER 2. DEPARTMENT OF REVENUE
INCOME AND WITHHOLDING TAX SECTION**

ARTICLE 4. WITHHOLDING

Section

- R15-2-401. Payment Schedule; Rates; Election by Employee ~~Rates of withholding; election by employee~~
R15-2-403. Employment Excluded from Withholding ~~Excluded employment~~
R15-2-431. ~~Amounts withheld (reference R15-2-503)~~
R15-2-432. Refund of Excess Withholding ~~excess withholding~~

ARTICLE 4. WITHHOLDING

R15-2-401. Payment Schedule; Rates; Election by Employee ~~Rates of withholding; election by employee~~

- A. ~~At the end of each calendar quarter, the employer shall recompute its quarterly average and file according to the due dates established by law. An employer shall determine its Arizona withholding payment schedule for each calendar quarter by calculating the average amount of Arizona income taxes withheld in the 4 preceding calendar quarters. The employer shall calculate this average at the beginning of each calendar quarter by adding the actual amount withheld in each of the 4 preceding calendar quarters and then dividing that sum by 4.~~

1. If the average amount of Arizona income taxes withheld in the 4 preceding calendar quarters does not exceed \$1,500, the employer shall make its Arizona withholding payments on a quarterly basis.

Example:

An employer determines its Arizona withholding payment schedule for the 4th calendar quarter of 1999 as follows:

<u>3rd quarter of 1999 withholding</u>	<u>\$1,100</u>
<u>2nd quarter of 1999 withholding</u>	<u>1,600</u>
<u>1st quarter of 1999 withholding</u>	<u>1,000</u>
<u>4th quarter of 1998 withholding</u>	<u>1,200</u>

Arizona Administrative Register
Notices of Proposed Rulemaking

<u>Total withholding</u>	<u>\$4,900</u>
<u>Divide by</u>	<u>4</u>
<u>Average withholding</u>	<u>\$1,225</u>

The 4 quarter average of Arizona income taxes withheld does not exceed \$1,500. Therefore, the employer shall make its Arizona withholding payments on a quarterly basis.

2. If the average amount of Arizona income taxes withheld in the 4 preceding calendar quarters exceeds \$1,500, the employer shall make its Arizona withholding payments at the same time as the employer is required to make its federal withholding deposits.

Example:

An employer determines its Arizona withholding payment schedule for the 3rd calendar quarter of 1999 as follows:

<u>2nd quarter of 1999 withholding</u>	<u>\$1,800</u>
<u>1st quarter of 1999 withholding</u>	<u>1,400</u>
<u>4th quarter of 1998 withholding</u>	<u>1,900</u>
<u>3rd quarter of 1998 withholding</u>	<u>1,300</u>
<u>Total withholding</u>	<u>\$6,400</u>
<u>Divide by</u>	<u>4</u>
<u>Average withholding</u>	<u>\$1,600</u>

The 4 quarter average of Arizona income taxes withheld exceeds \$1,500. Therefore, the employer shall make its Arizona withholding payments at the same time as its federal withholding deposits.

- B.** An employer that purchases an existing business shall determine its Arizona withholding payment schedule for each calendar quarter by calculating the average amount withheld in the 4 preceding calendar quarters as follows:

1. For the 1st quarter of withholding, the employer shall calculate the previous owner's average amount of Arizona income taxes withheld in the 4 preceding calendar quarters.
2. For the 2nd through 4th quarters of withholding, the employer shall calculate the average amount withheld in the 4 preceding calendar quarters by combining its prior quarters of withholding with the previous owner's quarters of withholding.
3. For subsequent quarters of withholding, the employer shall add the amounts it withheld in the 4 preceding calendar quarters and then divide that sum by 4.

- C.** A newly formed business shall determine its Arizona withholding payment schedule as follows:

1. For the 1st quarter of withholding, the employer shall make its Arizona withholding payments on a quarterly basis.
2. For the 2nd quarter of withholding, the employer shall determine its Arizona withholding payment schedule based on the amount withheld in the 1st quarter of withholding.
3. For the 3rd quarter of withholding, the employer shall determine its Arizona withholding payment schedule by adding the amounts withheld in the 1st and 2nd quarters and dividing by 2.
4. For the 4th quarter of withholding, the employer shall determine its Arizona withholding payment schedule by adding the amounts withheld in the 1st, 2nd, and 3rd quarters and dividing by 3.
5. For subsequent quarters of withholding, the employer shall determine its Arizona withholding payment schedule by adding the amounts withheld in the 4 preceding calendar quarters and dividing by 4.

- B.** ~~If the employer has no historical data for four full consecutive quarters upon which to determine the lawful due dates of his payments, he shall determine the due dates for payments under this subsection. The due dates for the payments to the Department shall conform to the federal deposit requirements whenever the quarterly average for state withholding exceeds \$1500.~~

1. ~~Except as provided in R15-2-401(B)(5) a newly formed business or a new employer shall remit payment for the first quarter that it withholds taxes on or before the last day of the first month of the next calendar quarter.~~
2. ~~If the employer's first payment under R14-2-401(B)(1) does not represent a full quarter of withholding, the employer shall determine its quarterly average for the first full quarter by annualizing the amount withheld in the first partial quarter and dividing by four.~~
3. ~~During the second full quarter an employer shall consider the quarterly average to be the amount collected for the first full quarter of withholding. The employer shall determine the quarterly average in subsequent full quarters by adding the amounts withheld during the prior full quarters and dividing by the number of full quarters of withholding activity.~~

- D.4.** ~~If 2 two or more employers consolidate their business activities to form 1 entity, one enterprise, the new employer shall determine its Arizona withholding payment schedule based on the they shall use their combined withholding of the prior employers for the preceding 4 four full calendar quarters, to determine their quarterly average.~~

~~Any If one of the prior employer employers with has fewer than 4 four full calendar quarters of withholding activity, it shall annualize the amounts withheld, and divide by 4, four and The new employer shall determine its Arizona withholding payment schedule by combining this amount combine this quotient with the quarterly averages average of the other prior employers employer with 4 full quarters of withholding activity.~~

Arizona Administrative Register
Notices of Proposed Rulemaking

5. ~~An employer who purchases an existing business shall use the previous owner's quarterly average to determine the due dates for payments.~~

E.C. The employer shall complete submit the quarterly reconciliation required by pursuant to A.R.S. § 43-401 upon by filing the quarterly tax return reconciliation form prescribed supplied by the Department.

F. For calendar years beginning after December 31, 1997, an employer may make its Arizona withholding payments on an annual basis if all of the following conditions are met:

1. The employer has established a history of withholding activity by filing the quarterly tax return required by subsection (E) for at least the 4 preceding calendar quarters.
2. The employer's withholding liability was an amount greater than zero for at least 1 of the 4 preceding calendar quarters.
3. The average amount of Arizona income taxes withheld by the employer in the 4 preceding calendar quarters does not exceed \$200. The employer will meet this average withholding requirement if the total amount withheld in the 4 preceding calendar quarters is \$800 or less.
4. The employer has timely filed the quarterly tax return and has timely made its Arizona withholding payments for at least 3 of the 4 preceding calendar quarters.
5. The employer has filed the quarterly tax return for all preceding calendar quarters and does not have a balance due (tax, penalty, or interest) for any preceding calendar quarters.
6. The employer has filed the annual reconciliation tax return required by A.R.S. § 43-412 for all preceding calendar years and has timely filed the annual reconciliation tax return for the preceding calendar year.

G. An employer that makes its Arizona withholding payments on a annual basis pursuant to subsection (F), shall file the annual tax return required by A.R.S. § 43-401 on the form prescribed by the Department. The form shall contain all the information required by A.R.S. § 43-412. The employer shall make its annual Arizona withholding payment by February 28 of the year following the year for which the report was made.

H. An employer that makes its Arizona withholding payments on a annual basis pursuant to subsection (F), may continue to make its Arizona withholding payments on an annual basis for the succeeding calendar year if both of the following conditions are met:

1. The average amount of Arizona income taxes withheld by the employer in the 4 preceding calendar quarters does not exceed \$200.

Example 1:

An employer determines whether the average amount of Arizona income taxes withheld in the 4 preceding calendar quarters does not exceed \$200 as follows:

<u>4th quarter of 1999 withholding</u>	<u>\$200</u>
<u>3rd quarter of 1999 withholding</u>	<u>200</u>
<u>2nd quarter of 1999 withholding</u>	<u>250</u>
<u>1st quarter of 1999 withholding</u>	<u>150</u>
<u>Total withholding</u>	<u>\$800</u>
<u>Divide by</u>	<u>4</u>
<u>Average withholding</u>	<u>\$200</u>

The average amount of Arizona income taxes withheld in the 4 preceding calendar quarters does not exceed \$200. Therefore, the employer may make its Arizona withholding payments on an annual basis for the succeeding calendar year, if the employer also meets the condition stated in subsection (H)(2).

Example 2:

An employer determines whether the average amount of Arizona income taxes withheld in the 4 preceding calendar quarters does not exceed \$200 as follows:

<u>4th quarter of 1999 withholding</u>	<u>\$200</u>
<u>3rd quarter of 1999 withholding</u>	<u>400</u>
<u>2nd quarter of 1999 withholding</u>	<u>250</u>
<u>1st quarter of 1999 withholding</u>	<u>150</u>
<u>Total withholding</u>	<u>\$1,000</u>
<u>Divide by</u>	<u>4</u>
<u>Average withholding</u>	<u>\$250</u>

The average amount of Arizona income taxes withheld in the 4 preceding calendar quarters exceeds \$200. Therefore, the employer may not make its Arizona withholding payments on an annual basis for the succeeding calendar year.

2. The employer has timely filed the annual tax return and has timely made its annual Arizona withholding payment as prescribed by subsection (G) for the preceding calendar year.

I. If the employer does not meet the conditions prescribed by subsection (H):

1. The employer shall determine its Arizona withholding payment schedule for succeeding calendar quarters as prescribed by subsection (A); and
2. The employer shall file the quarterly tax return for succeeding calendar quarters as prescribed by subsection (E).

Arizona Administrative Register
Notices of Proposed Rulemaking

~~J.D.~~ An employer ~~Employers~~ shall determine the applicable rate ~~rates~~ of withholding for each employee as follows:

1. ~~If The election of a ten percent state withholding rate by an employee whose annual compensation is who earns a base salary of less than \$15,000 annually elects the minimum withholding rate, that rate shall apply govern the deduction for withholding until 1 one of the following situations occurs:~~
 - a. ~~Until the employee has 12 full months of work history with the employer, the employer shall determine the employee's annualized compensation at the end of each month. The employer may use any method of annualization which accurately reflects the employee's annual compensation. If the employer determines that the employee's annualized compensation is \$15,000 or more, the employer shall adjust the employee's rate of withholding beginning the next full pay period following the determination. The employer shall adjust the rate to the minimum rate prescribed by A.R.S. § 43-401, unless the employee elects a higher prescribed rate of withholding for the employee's annual compensation. The minimum rate of withholding shall apply until the employee has been employed for 12 full months, unless the employee elects a higher prescribed rate of withholding for the employee's annual compensation. After 12 full months of employment, the employer shall determine the rate under subsection (J)(1)(b);~~
 - ~~b.a.~~ If the employee has 12 full months of work history with the employer, the employer shall determine the employee's ~~his~~ total compensation for the 12-month period. If the records for that period show that the employee earned \$15,000 or more, the employer shall adjust the rate of withholding to 15 percent ~~to 15 percent~~ beginning the next full pay period following the determination. The employer shall adjust the rate to the minimum rate prescribed by A.R.S. § 43-401, unless the employee elects a higher prescribed rate of withholding for the employee's annual compensation. This rate of withholding shall apply continue through the end of the calendar year, unless the employee elects a higher prescribed rate of withholding for the employee's annual compensation. At the end of that calendar year and at the end of each succeeding calendar year, the employer shall redetermine the employee's total annual compensation. If the employee's annual compensation for the preceding year changes the employee's ~~his~~ rate of withholding, the rate change shall begin the next full pay period following the determination; or
 - b. ~~If the employee has less than 12 full months of work history with the employer, the employer shall determine the employee's annualized compensation at the end of the month. If the employer determines that the employee's annualized compensation is equal to or greater than \$15,000, the employer shall adjust the employee's rate of withholding to 15 percent beginning the next full pay period following the determination. The rate shall remain at 15 percent until the employee has been employed for 12 full months. After 12 full months of employment, the employer shall determine the rate in accordance with R15-2-401(D)(1)(a); or~~
 - c. ~~If the employee receives a salary increase that makes the employee's his annualized compensation equal to or greater than \$15,000 or more, the employer shall adjust the employee's rate of withholding to the minimum rate prescribed by A.R.S. § 43-401, 15 percent beginning the next full pay period following the receipt of the increase by the employee.~~
2. ~~An employee who has elected a to state withholding rate higher than the minimum prescribed withholding rate of 15 or 20 percent may later elect to reduce the rate to a lower prescribed rate for the employee's annual compensation, ten percent if his annual compensation is not equal to or greater than \$15,000.~~

R15-2-403. Employment Excluded from Withholding ~~Excluded employment~~

A. ~~An employer shall not withhold Arizona income taxes from: Section 43-403 excludes the following types of employment from the withholding provisions of the Act:~~

1. ~~Wages paid for active service in the military or naval forces of the United States.~~
- ~~1.2.~~ Wages paid to an employee ~~employees~~ of a common carrier when that employee is a nonresident ~~non-resident~~ of Arizona and regularly performs services inside and outside the state.
- ~~2.3~~ Wages paid for domestic service in a private home, house:

Generally, service of a household nature in or about a private home ~~house~~ includes services rendered by cooks, maids, butlers, valets, ~~laundresses, furnace men, housekeepers, gardeners, gardener, caretakers, footmen, companions, child-care providers (baby-sitter, governess, nanny), grooms, and chauffeurs of automobiles for family use.~~ If the home ~~house~~ is utilized primarily for the purpose of supplying board or lodging to the public as a business enterprise, it ceases to be a private home, house ~~and the remuneration paid for services performed is not expected.~~ The compensation remuneration paid for the services listed enumerated above is not exempt from withholding within the exception if performed in or about rooming or lodging houses, boarding houses, clubs, hotels, motels, bed-and-breakfasts, hospitals, charitable eleemosynary institutions, or commercial offices or establishments. Services that are not ordinarily part of household duties and that involve the use of skilled or specialized training are not domestic services. Compensation Remuneration paid for services performed as a private secretary even though performed in the employer's home house is not exempt from withholding, within the exception.
- ~~3.4~~ Wages paid by employers other than corporations for casual labor not in the course of the employer's trade or business.

Arizona Administrative Register
Notices of Proposed Rulemaking

“Casual labor not in the course of the employer's trade or business” means services that do not promote or advance the trade or business of the employer. The term does not include services performed for a corporation. For example, casual labor includes the labor performed by a carpenter employed by an individual to do incidental work on the individual's his house. If that However, if such an individual employed a carpenter to do incidental work in a factory operated by the an individual, the work would be in the course of the individual's trade or business. The compensation and the remuneration paid for that labor is not exempt from withholding. exempted. Seasonal employment of sales clerks during any peak sales periods of a business the Christmas rush for instance is not subject to withholding. exempted employment. Remuneration paid for casual labor performed for a corporation is deemed to be in the course of the trade or the business of the corporation and therefore, is subject to withholding.

4.5 Wages paid for part-time or seasonal Seasonal agricultural labor.

a. ~~Withholding tax is not required to be withheld on wages~~ Wages paid to part-time or seasonal employees whose services to the employer consist solely of labor in connection with the planting, cultivating, harvesting, or field packing of seasonal agricultural crops are not subject to withholding. except those Wages paid to employees whose principal duties are to operate any mechanically driven device in such operations are subject to withholding.

An employee is a part-time A “part-time” or seasonal agricultural employee if: is construed to mean

a. The employer hires the employee an individual hired to help assist in 1 of the steps in the development of a seasonal agricultural crop;

b. The employee does not perform any other services for not otherwise engaged by the same employer; and

c. The employee understands, at the date of employment, with the understanding that the employee's job will end his employment will be terminated on or before the completion of that step.

Withholding tax is required to be withheld on the entire wages paid to regular farm employees, and those whose principal duties are to operate mechanically driven devices, even though they are engaged in planting, cultivating, or harvesting crops as a part of their duties.

b. Withholding tax is required to be withheld on wages paid to seasonal employees in the activities of canning and other food processing, logging, sheep shearing, etc., as they are not exclusively in connection with seasonal agricultural crops.

e. Withholding tax is required to be withheld on wages paid in such agricultural activities as the care of poultry or livestock, dairy farming, etc., as they are not in connection with the planting, cultivating, or harvesting of seasonal agricultural crops.

6. The above enumerated exempt occupations are exclusive and all other payments of wages are subject to withholding. However, the withholding of the tax will never be required on the payment of wages to employees if federal income tax is not required to be withheld.

B. Wages paid to a nonresident of Arizona engaged in any phase of motion picture production are not subject to withholding if the employee qualifies for a credit for taxes paid to the employee's state of residency or domicile. Before the time of payment of such wages, the employer shall apply for an exemption by having the employee complete the withholding exemption certificate prescribed by the Department and submitting the completed certificate for each employee with the next quarterly return required by R15-2-401(E).

R15-2-431. Amounts withheld (reference R15-2-503)

R15-2-432. Refund of Excess Withholding excess withholding

If in the case of the death of a refund for an overpayment of income tax withheld is payable to a deceased taxpayer, husband or wife or both when a joint return has been filed for the taxable year, or of a single person, and a refund is claimed because of an overpayment of income tax withheld, it is necessary that the surviving spouse or other claimant shall attach the form prescribed by the Department a notarized statement to the deceased taxpayer's income tax return to establish the claimant's right to so that the refund. may be issued in the name of the claimant. The statement shall designate the name and date of death of the deceased taxpayer and the name and address of the claimant.

NOTICE OF PROPOSED RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 3. DEPARTMENT OF TRANSPORTATION

HIGHWAYS DIVISION

PREAMBLE

1. Sections Affected

R17-3-902

Rulemaking Action

Amend

Arizona Administrative Register
Notices of Proposed Rulemaking

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 statute: A.R.S. § 28-7311(C)

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

Notice of Rulemaking Docket Opening: 1 A.A.R. 394, April 28, 1995.

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

Name: Sue Landin, Rules Coordinator

Address: Arizona Department of Transportation
206 S. 17th Avenue, MD 102A
Phoenix, Arizona 85007

Telephone: (602) 712-8234

Fax: (602) 712-8315

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

Changing demographics, that is, the 1990 U.S. Census, have imposed changes in the boundaries of the existing logo sign program, which made it necessary for the Department of Transportation to amend this rule. The Department also initiated this rulemaking in order to include criteria for participation in a related Tourist Oriented signing program.

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, and analysis of the study and other supporting material:

Not applicable.

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:

Tourist-related activities may benefit from the amended logo sign rule by giving consumers increased information regarding the availability of services. This, in turn, may have a positive economic impact on the local economy.

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: Sue Landin, Rules Coordinator

Address: Arizona Department of Transportation
206 S. 17th Avenue, MD 102A
Phoenix, Arizona 85007

Telephone: (602) 712-8234

Fax: (602) 712-8315

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:

A hearing is not scheduled at this time unless a written request for an oral proceeding is submitted to the Rules Coordinator named in paragraph 4 within 30 days after the date of this publication. The Rules Coordinator named in question #4 will accept written comments for at least 30 days after the date of this publication.

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 follows:

TITLE 17. TRANSPORTATION

**CHAPTER 3. DEPARTMENT OF TRANSPORTATION
HIGHWAYS DIVISION**

ARTICLE 9. HIGHWAY TRAFFIC CONTROL DEVICES

R17-3-902. Logo Sign Program

A. Definitions. In this ~~section rule~~, unless the context otherwise requires:

1. "Business" means a commercial enterprise that provides fuel, food, lodging, camping facilities, or tourist activities at a location defined in this section.
21. "Calendar day" means a 24-hour period any day shown on the calendar beginning at midnight extending for a 24-hour period and ending at midnight.
3. "Community logo plan" means a design developed by ADOT and the community to place specific service information signs on rural state highways within cities and towns outside the Phoenix and Tucson urbanized areas.
42. "Contract" means a the written agreement between the Department and a the contractor that sets setting forth the obligations obligation of both the parties thereunder.
53. "Contractor" means a person or entity who enters an agreement contracts with the Department to operate for the purpose of operating a logo sign program and is responsible for the installation, maintenance and replacement of authorized to sign a lease agreement with a lessee to install, maintain, and administer specific service information signs sign in accordance with this section these rules.
64. "Department" means the Arizona Department of Transportation.
75. "Director" means the Director of the Department of Transportation.
86. "Exit gore" means the area immediately beyond the separation bifurcation of and bounded by the edges of a the through roadway and an the exit ramp, bounded by the edges of these roadways.
97. "Exit ramp" means a sloping an interconnecting roadway that connects 2 highways as defined at A.R.S. § 28-101, at of a traffic interchange or connects 2 any connection between highways at different levels, by on which a vehicle vehicles may leave a highway which has full control of access and grade separations at major intersections exit a designated roadway.
108. "Freeway" means a divided arterial highway for through traffic with full control of access and with grade separations at major intersections.
119. "Illegal outdoor advertising sign" means a sign which was erected, or maintained or erected and maintained in violation of state statute law or A.A.C. R17-3-701, or in violation of both state law and R17-3-701.
12. "Immediate area" means within a 20 mile radius from a center point.
1310. "Intersection" has the meaning set forth at A.R.S. § 28-601(7) means the general area where two or more highways join or cross, within which are included the roadway and roadside facilities for traffic movements in that area.
1411. "Interstate highway" means the routes comprising the National System of Interstate and Defense Highways.
1512. "Interstate logo sign program" means a system program to install and maintain specific services information signs, including also known as logo signs; on certain portions of the completed Interstate Highway System as provided in A.R.S. § 28-7311(A) 28-1875(A).
1613. "Lease agreement" means a the written contract between a the contractor and a lessee the responsible operator.
- 1714 "Lessee" means the owner or responsible operator or an authorized representative of the responsible operator of a motorist service business, or any person or entity who has authority to act on behalf of the owner or responsible operator who signs an has signed a lease agreement to lease for a logo sign.
1815. "Logo sign" means a lettered board that is attached to a separate separately attached business sign mounted on a rectangular sign panel and displays to show the identification brand, symbol, trademark, name, or combination of these, for a business that is motorist service available on a roadway crossroad near its intersection with an interstate highway or a rural state highway.
19. "Major decision point" means an intersection on a rural state highway that is within a city or town (except Phoenix and Tucson) and is either an intersection with another rural state highway or an intersection with a local road, which is determined by the Department to be the point at which a driver must make a decision whether to stay on the highway or turn off onto the other highway or local road.
2016. "Ramp terminal" means the general area where an exit a ramp intersects eonnects with a crossroad. another roadway.
2117. "Responsible operator" means a person or entity who complies with subsection B2. owns or operates a motorist service business, and who has authority to enter into agreements relevant to matters covered by these rules.

Arizona Administrative Register
Notices of Proposed Rulemaking

~~2248.~~ “Rural logo sign program” means a system program to install and maintain specific service services information signs, including also known as logo signs, on any class of state highway, as defined at A.R.S. § 28-101, other than a segment of the Interstate Highway System, that is located outside of an urbanized area with a population of 100,000 or more persons as provided in A.R.S. § 28-7311(B) 28-1875(B).

~~2349.~~ “Rural state highway” means any class of state highway, other than a segment of the Interstate Highway System, located outside of an urbanized area as defined in A.R.S. § 28-7311(B) with a population of 100,000 or more persons.

~~24.~~ “Specific service” means a business that provides fuel, food, lodging, camping services, or tourist activities to the general public at a location defined in this section.

~~2520.~~ “Specific service information sign” means a rectangular sign panel with:

- a. The words “FUEL” “GAS”, “FOOD”, “LODGING”, or “CAMPING”, or “TOURIST ACTIVITIES”;
- b. Directional information; and
- c. One or more logo signs.

~~26.~~ “Straight ahead sign” means a logo sign with a vertical directional arrow located at a major decision point on a rural state highway.

~~2724.~~ “Traffic interchange” means the point at which traffic on a system of interconnecting roadways that have 1 in con- junction with one or more grade separations, moves from 1 roadway to another at a providing for the interchange of traffic between two or more roadways or highways on different level levels.

~~28.~~ “Trailblazing sign” means a panel used to provide the direction to a business.

~~2922.~~ “Urbanized area” has the meaning set forth ~~means an area as defined in A.R.S. § 28-7311(D) 28-1875(D).~~

B. Selection of responsible operator.

~~1.~~ The Department may contract with a 3rd party to operate a logo sign program.

~~24.~~ To A responsible operator will be eligible to place for the placement of a logo sign, a responsible operator shall meet if it meets the conditions as set forth in this subsection and subsections (C), (D), and (E) (D).

~~32.~~ To obtain the Department’s approval of a lease agreement, Each a lessee identified on a specific service sign shall fur- nish have furnished a written and notarized certification to the Department, through the contractor, of its conformity with all applicable federal, state, and local laws, ordinances, rules and regulations, and shall not be in breach of that certification. Such certification shall be provided before the lease is approved.

~~43.~~ Except as provided in subsections (C)(8) and (C)(9), the Department shall select Eligible responsible operators eligi- ble to place a for logo sign on signs shall be selected by a first-come, first-served basis rule until the maximum number of permissible logo signs is allocated reached.

~~54.~~ The Department shall permit a Eligible responsible operator operators which have been selected to place a for logo sign signs shall be permitted to display their logos signs for the period covered by the lease agreement.

C. Location.

~~1.~~ A contractor shall place a logo sign only Logo signs are for use on an interstate highway highways in a non-urbanized area areas which are rural in character and or on a rural state highway highways. A contractor shall not place a logo sign in an Logo signs shall be excluded from urbanized area, areas which includes the following:

a. Phoenix:

I-10, Agua Fria River Bridge Litchfield Road to Gila River Indian Reservation Boundary (MP 161.68) Chandler Blvd.

I-17, Skunk Creek Bridge Happy Valley Road to Jct. I-10

SR 51, I-10 to SR 101L

US 60, Beardsley Canal Dysart Road to Ellsworth Road (MP 191.40) Goldfield Road

SR 85, 17th 494st Avenue to 15th 7th Avenue

SR 87, Chandler South City Limit (MP 162.82) Pinal County Line to Salt River Bridge West Bates Road

SR 88, US60 SR 360 to 200 feet north of Tomahawk Road (MP 197.50) Lost Dutchman Boulevard

SR 101L

SR 143

SR 153

SR 202L

SR 303L

SR 360, I-10 to Ellsworth Road

b. Tucson:

B I-10, Railroad Overpass (MP 243.33) Ina Road to MP 272.00 (between Kolb and Rita TI’s) Wilmot Road

B19, MP 59.00 (between Hughes Plant Road and Los Reales Road) to Jct. I-10

I-19, San Xavier Indian Reservation Boundary (MP 57.96) Valencia Road to Jct. I-10

SR 86, MP 167.83 (between Century Road and Old Ajo Way) Palo Verde Trail to SB19 US 89

SR 77, Jct. I-10 to Oro Valley North City Limit (MP 84.16) US 89, Pima Mine Road SR 210 to Milepost 79.5

c. Any other area with a population of 100,000 persons or more.

~~2.~~ Number of signs permitted.

Arizona Administrative Register
Notices of Proposed Rulemaking

- a. A maximum of 1 specific service information sign for each type of specific service shall be permitted on an intersection approach or interchange exit. Each specific service information sign may have a maximum of 6 logo signs.
 - b. If there are 3 or fewer specific service information signs on a rural state highway intersection approach, a specific service sign with the legend TOURIST ACTIVITIES may be installed.
 - c. Specific service information signs with the legend TOURIST ACTIVITIES shall not be installed on interstate highways.
32. Sign sequence and spacing. In the direction of travel, successive specific service signs shall be in Appendix A and Appendix B unless physical conditions or terrain preclude compliance, in which event the Department may authorize sign sequences which meet the logo sign objectives and which do not create a threat to highway safety as determined by the Department.
- a. A contractor shall install successive specific service information signs in the direction of travel as described in Appendix A and Appendix B, or as directed by the Department.
 - b. Unless a combination specific service information sign is erected, a contractor shall install successive specific service information signs in the direction of travel in the following order: (i) tourist activities, (ii) camping, (iii) lodging, (iv) food, and (v) fuel.
 - c. If an intersection approach or interchange exit has insufficient space in a single direction for 4 specific service information signs, or if an intersection approach or interchange exit has requests for all 5 types of specific service information signs, priority shall be in the following order: (i) fuel, (ii) food, (iii) lodging, (iv) camping and (v) tourist activities.
 - d. If 4 specific service information signs are installed on an intersection approach or non-interstate interchange exit, a sign for tourist activities may be combined with a sign for another specific service. Tourist activities shall be placed only in the bottom portion of a specific service information sign, when placed in combination with another specific service.
3. Number of signs permitted. The number of specific service signs permitted shall be limited to one for each type of service along an approach to an intersection or interchange exit. Each specific service sign may have up to six logos. A maximum of two different types of services may be combined on the same sign.
4. A contractor shall not preempt the location of regulatory, warning and or guide signs with a shall not be preempted by specific service information sign signs. A contractor shall not relocate an existing traffic control device to accommodate a specific service information sign without prior approval by the Department.
5. A contractor shall not locate a specific Specific service sign signs shall not be located so as to that obscures obscure or detracts detract from warning, regulatory or and guide signs.
6. A contractor shall not install a specific Specific service information sign on a rural state highway highways shall be located a minimum of less than 300 feet, as determined by an engineering study, before in advance of the intersection approach or interchange exit from which the services are available as determined on the basis of an engineering study.
7. The spacing between specific service services information signs on a rural state highway highways shall be determined on the basis of by an engineering study; however, the minimum spacing and shall be at least 200 feet.
8. The Department shall not permit a logo sign Logo signs shall not be displayed on a rural state highway for a business services that is are visible and recognized from a point on the rural state highway 300 feet from the intersection approach or on an interstate exit ramp 300 feet from the ramp terminal.
9. When more than 6 eligible businesses request space on 1 specific service sign panel, priority shall be given to businesses which do not have either an off-premise advertising sign or an official traffic control device which directs motorists to its business within 5 miles driving distance of the intersection or interchange where the logo sign is to be located.
- D. Community logo plan.**
1. The contractor will develop a community logo sign plan for cities and towns outside of the Phoenix and Tucson urbanized areas. A representative from the city or town's government or its designee, the contractor and the Department shall meet, review and agree to the plan prior to the marketing of any businesses.
 2. A community logo plan may include straight-ahead signs for businesses if:
 - a. The community has 2 or more intersecting rural state highways; or
 - b. A local road intersects with a rural state highway at a major decision point for motorists. Major decision points shall be approved by the Department.
 3. A specific service information sign may include the name or route number of the rural state highway, city street or county road on which a business is located either beneath each vertical, left, or right directional arrow or at the top of the specific service information sign.
 4. Services signs.
 - a. A contractor may install a specific service information sign that displays the legend "SERVICES" at an intersection approach on a rural state highway if:

Arizona Administrative Register
Notices of Proposed Rulemaking

- i. The number of types of specific services expected to lease a logo sign is 3 or more, and the total number of logo signs expected to be leased is not fewer than 3 and not more than 6; or
 - ii. All 5 types of specific services are expected to lease logo signs, and the total number of logo signs expected to be leased is 12 or fewer. (see appendix C)
 - b. A contractor shall install no more than 1 specific service sign that displays the legend "SERVICES" on an intersection approach or interchange exit.
 - c. A logo sign shall not be displayed on a specific service information sign that displays the legend "SERVICES" if a specific service information sign exists on the intersection approach or interchange exit for the specific type of service advertised by the logo sign.
5. Trailblazing signs.
- a. Trailblazing signs shall be installed along a highway for a business as part of the community logo plan if the business is not located on and is not visible from the crossroad to which the motorist was directed by the specific service information sign. Trailblazing signs may be located near all intersections where the direction of the route changes or where a motorist may be uncertain as to which highway to follow.
 - b. If a trailblazing sign is to be installed along a public highway that is not under the maintenance jurisdiction of the Department, the contractor shall obtain approval from the local authorities to install and maintain the trailblazing signs. A contractor shall not install a specific service information sign until all necessary trailblazing signs have been installed.
 - c. A trailblazing sign may either duplicate the legend on the specific service information sign, the logo sign or both, or the trailblazing sign may consist of 2 lines of text. A trailblazing sign shall indicate by arrow, the direction to the business. A trailblazing sign may include the type of specific service and distance to the business. A trailblazing sign shall be limited to 6 businesses.
6. Specific service information signs on rural state highways in cities and towns shall not be installed unless the local government agrees in writing to the community logo plan.

ED. Criteria for logo sign signing. Types of services:

1. Fuel Gas. To be eligible to place a logo sign, a fuel service facility shall:
 - a. Be A gasoline service facility shall be located within 3 three miles of an intersection or exit ramp terminal.; If if a qualifying responsible operator does not exist within the 1st 3 three miles; the distance requirement may be extended in 3-mile increments to a maximum of 15 miles, until a qualifying responsible operator is located. maximum of 15 miles is reached.
 - b. Provide A gasoline service facility shall provide the following:
 - i. Fuel Gasoline, oil, lubrication, and water for public purchase or use;
 - ii. Restroom facilities and drinking water;
 - iii. Services Be in continuous operation at least 12 hours per day, 7 seven days per week. A fuel service facility that is However, facilities which are in continuous operation 8 ten hours per day, 5 five consecutive days per week, however, may be considered for a logo sign signing where no other facilities are within 15 miles of the intersection or freeway exit ramp. Where facilities with reduced operations are approved, the hours and days of operation shall be displayed on the face of the logo sign signs.
 - iv. A telephone available for use by the public 24 hours per day.
 - e. Telephone.
2. If a fuel service facility that is in continuous operation 8 hours per day and 5 consecutive days per week is approved for a logo sign:
 - a. The hours and days of operation shall be displayed directly below the logo sign in 4-inch letters.
 - b. The facility shall be given a 1 year lease that cannot be renewed if an eligible fuel service facility that is open 12 hours per day, 7 days per week, and open no later than 8:30 a.m. applies, for the same sign space.
32. Food. To be eligible to place a logo sign, a A restaurant or other food facility shall:
 - a. Be located within 3 three miles of an intersection or exit ramp terminal.; If if a qualifying responsible operator does not exist within the 1st 3 three miles, the distance may be extended in 3-mile increments to a maximum of 15 miles, until a qualifying responsible operator is located. maximum of 15 miles is reached.
 - b. Be in continuous operation to serve 3 three meals per day; (breakfast, lunch and dinner), 6 seven days per week, and open no later than 7:00 a.m. A restaurant or food facility that is However, facilities which are in continuous operation to serve 2 three-meals per day; (either breakfast and lunch or lunch and dinner), a minimum of 5 five consecutive days per week may will be considered for a logo sign if; signing where no other facilities are within 15 miles. Where facilities with reduced operations are approved, the hours and days of operation shall be displayed on the face of the logo signs.
 - i. The hours and days of operation are displayed directly below the logo sign in 4 inch letters.
 - ii. The facility is given a 1-year lease that cannot be renewed if an eligible food facility that is in continuous operation to serve 3 meals per day, 6 7 days per week, applies for the same sign space.

Arizona Administrative Register
Notices of Proposed Rulemaking

- c. Provide minimum indoor seating capacity of 20. A food facility with an indoor seating capacity of fewer than 20 may be considered for logo sign if the food facility:
 - i. Is 2nd in priority to a food facility with an indoor seating capacity of 20 or more, and
 - ii. Is given a 1 year lease that cannot be renewed if an eligible food facility with a seating capacity of more than 20 applies for the same logo sign space.
- d. Provide restroom facilities for customers.
- e. Provide a telephone available to the public during hours of operation.
- f. Contain a minimum of 3 food facilities if located within a shopping mall and if:
 - i. The shopping mall is located within 3 miles of an intersection or exit ramp terminal. If a qualifying responsible operator does not exist within the 1st 3 miles, the distance may be extended in 3 mile increments to a maximum of 15 miles, until a qualifying responsible operator is located.
 - ii. The collective food facility exists in 1 contiguous area which is commonly called a food court.
 - iii. The collective food facility provides 3 meals per day, 6 days per week. A food court whose collective food facility provides 3 meals per day for 5 consecutive days per week may be considered for a logo sign if no other food facility is located within 15 miles and if the hours and days of operation are displayed directly below the logo sign in 4 inch letters.
 - iv. The collective food facility has clearly identifiable on-premise signing consistent with the logo sign and sufficient to guide motorists directly to the applicant's entrance of the collective food facility.
 - v. The collective food facility provides a minimum indoor seating capacity of 20, restroom facilities, and a telephone available to the public during hours of operation.
 - vi. The collective food facility is given a 1-year lease that cannot be renewed if an eligible collective food facility that is closer to the highway applies for the same logo sign space.
- 43. Lodging. To be eligible to place a logo sign, a lodging facility providing lodging shall:
 - a. Be located within ~~3 three~~ miles of an intersection or exit ramp terminal; ~~If if~~ a qualifying responsible operator does not exist within the 1st ~~3 three~~ miles, the distance may be extended in 3-mile increments to a maximum of 15 miles, until a qualifying responsible operator is located, ~~a maximum of 15 miles is reached.~~
 - b. Provide ~~5 five~~ or more units of sleeping accommodations, ~~are available.~~
 - c. Provide a telephone available for public use during hours the lobby is open for registration ~~24 hours a day.~~
- 54. Camping. To be eligible to place a logo sign, a facility providing camping sites shall:
 - a. Be located within ~~5 five~~ miles of an intersection or exit ramp terminal; ~~If if~~ a qualifying responsible operator does not exist within the 1st ~~5 five~~ miles, the distance may be extended in 5-mile increments to a maximum of 15 miles, until a qualifying responsible operator is located, ~~maximum of 15 miles is reached.~~
 - b. Be ~~able to accommodate~~ accessible to and capable of handling all common types of travel trailers and recreational vehicles.
 - c. Be equipped to handle a minimum of 15 vehicles.
 - d. Be available ~~on a the year-round year around~~ basis unless camping in the general area is of a seasonal nature, in which case the facilities in question ~~shall must~~ be open to the public the entire season. The facilities ~~shall must~~ be open to the public 24 hours per day, ~~7 seven~~ days per week during this period.
 - e. Provide drinking water and a sewer hook-up or dump station.
- 6. Tourist-oriented activities. To be eligible to place a logo sign, a tourist-oriented activity shall:
 - a. Be located within 3 miles of a rural state highway intersection. If a qualifying responsible operator does not exist within the 1st 3 miles, the distance may be extended in 3 mile increments to a maximum of 15 miles, until a qualifying responsible operator is located.
 - b. Be an activity or location that is deemed of interest to the traveling public and is 1 or more of the following:
 - i. Historic.
 - ii. Cultural.
 - iii. Scientific.
 - iv. Educational.
 - v. Recreational.
 - vi. Natural phenomena.
 - vii. Area of natural beauty.
 - viii. Area naturally suited for outdoor activity, or
 - ix. Unique commercial activity.
 - c. Derive less than 50% of its sales from the sale of alcohol consumed on the premises.
 - d. Derive more than 50% of its sales or visitors during the normal business season from motorists not residing in the immediate area of the business.
 - e. Provide at least 10 parking spaces.
 - f. Have the following:

Arizona Administrative Register
Notices of Proposed Rulemaking

- i. Restroom facilities and drinking water unless the eligible tourist oriented activity is an undeveloped cultural or historic feature.
 - ii. Continuous operation at least 6 hours per day, 6 days per week; and
 - iii. A proper license, if required.
 - g. Include an informational device to provide the public with knowledge of the activity or location's qualified cultural and historic features.
7. If a contractor is uncertain whether an applicant is eligible for a tourist-oriented logo sign, the Department shall determine whether the applicant is eligible for the logo sign.

FE. Lease administration.

1. There is an interstate logo sign program and a rural logo sign program; the Department may contract separately for each program. The Department shall use the Request For Proposal process, as provided in A.R.S. § 41-2534, to solicit interest in administering a logo sign program and to select a contractor.
 2. The Department shall approve the form and content of any lease agreement between ~~a the~~ contractor and ~~a the~~ responsible operator.
 3. ~~The Before approving the lease agreement, the~~ contractor shall review the responsible operator's qualifications for compliance with the criteria established in subsections (B), (C), ~~(D)~~ and ~~(E) (D)~~ and shall not approve the lease agreement if the criteria are not met.
 4. Upon approval of the lease agreement, the contractor shall transmit the signed lease agreement to the lessee. The lessee shall deliver the logo sign to the contractor for installation, or contract with the contractor to fabricate the logo sign to the lessee's ~~and the Department's~~ specifications.
 5. ~~A logo~~ Logo sign lease agreement agreements shall be valid for no more than 5 a period not to exceed five full years, beginning on the 1st day of the month following the installation of the lessee's logo sign.
 6. ~~After When a lessee meets the requirements established by subsections (B), (C), (D) and (E) (D) and pays a contractor, the required fees have been paid, the contractor shall install a the logo sign, within 30 calendar days If if a the specific service information sign has already been installed, the contractor shall install a logo sign within 30 calendar days of receipt of the logo sign. If or within 120 calendar days of receipt of the logo sign if a the specific service information sign has yet to be installed, a contractor shall install a logo sign within 120 calendar days of receipt of the logo sign.~~
 7. The lessee or ~~its~~ legal successor shall have the right ~~during the term of the agreement~~ to change the advertising copy on a logo sign during the term of the lease agreement, so long as the copy conforms to the requirements in this section rule. The lessee shall pay for any changes Cost of such changes in the copy or legend of to the logo sign shall be at the expense of the lessee. The ~~contractor~~ lessee may ~~charge the lessee be charged~~ an additional fee for each logo sign removed and remounted by the contractor at the request of the lessee.
 8. If a business does not have an official trademark or logo, the business may display on its logo sign the name indicated in its partnership agreement, incorporation documents, or other documentation.
 - a. Except as provided in subsection (F) (8) (b), descriptive advertising words, phrases, or slogans shall not be allowed on a logo sign signs.
 - b. Words to identify alternative fuel availability, including but not limited to, "diesel", "propane", "natural gas", and "alcohol" shall be permitted on a logo sign for a fuel facility.
 98. ~~If a business operates For businesses operated on a seasonal basis, the dates of operation contractor logo signs shall be displayed below cover or remove the business logo sign be covered or removed during the off season. The This work shall be done by the contractor may charge a reasonable fee for this additional display. An additional fee shall be paid for this work. The lessee It shall be the responsibility of the lessee to notify the contractor of the dates the business will be closed of nonavailability of a motorist service 30 calendar days before prior to closure or nonavailability of services.~~
 109. ~~When a Upon expiration of the logo sign lease agreement expires and failure to renew the agreement prior to expiration, the contractor shall remove the logo sign and shall inform the lessee in writing by certified U.S. mail how to obtain possession of the logo sign.~~
 110. ~~If When it is determined by the Department or the contractor determines that a previously qualified lessee has become becomes subsequently ineligible for a logo sign signs under this section rule, or a motorist service is no longer available, the contractor shall notify the lessee by certified U.S. mail that its logo sign will is to be removed and the reasons for the removal. The lessee shall have 10 ten calendar days to provide information in support of the continued display of its the logo sign. If the lessee fails to reply within 10 ten calendar days after notification, the contractor shall remove the logo sign within 20 calendar days after of the original notice to the lessee.~~
 121. ~~If for reasons caused by the Department or the contractor the lessee's logo sign is not erected for reasons caused by the Department or the contractor, the fee shall be returned.~~
- GF.** If the following circumstances occur, the Elimination from the logo sign program. The logo sign of a lessee shall be removed from a specific service information sign if the following circumstances occur:

Arizona Administrative Register
Notices of Proposed Rulemaking

1. The maximum number of responsible operators have signed lease agreements to display logo signs on the same specific service information sign, and are closer to the responsible operators' businesses are closer to the interchange or the intersection than the lessee's business; and there is a waiting-list of eligible businesses.
2. At least 1 year has elapsed since the lessee's logo sign was installed; or
- ~~3.~~ 2. The lessee's initial lease has expired.
4. The contractor program administrator shall select the most eligible business on top of the waiting-list to replace the lessee.

HG. Sign panels, supports, and materials. ~~All sign panels, supports, and materials shall conform to the Department design standards and specifications as provided in the contract.~~

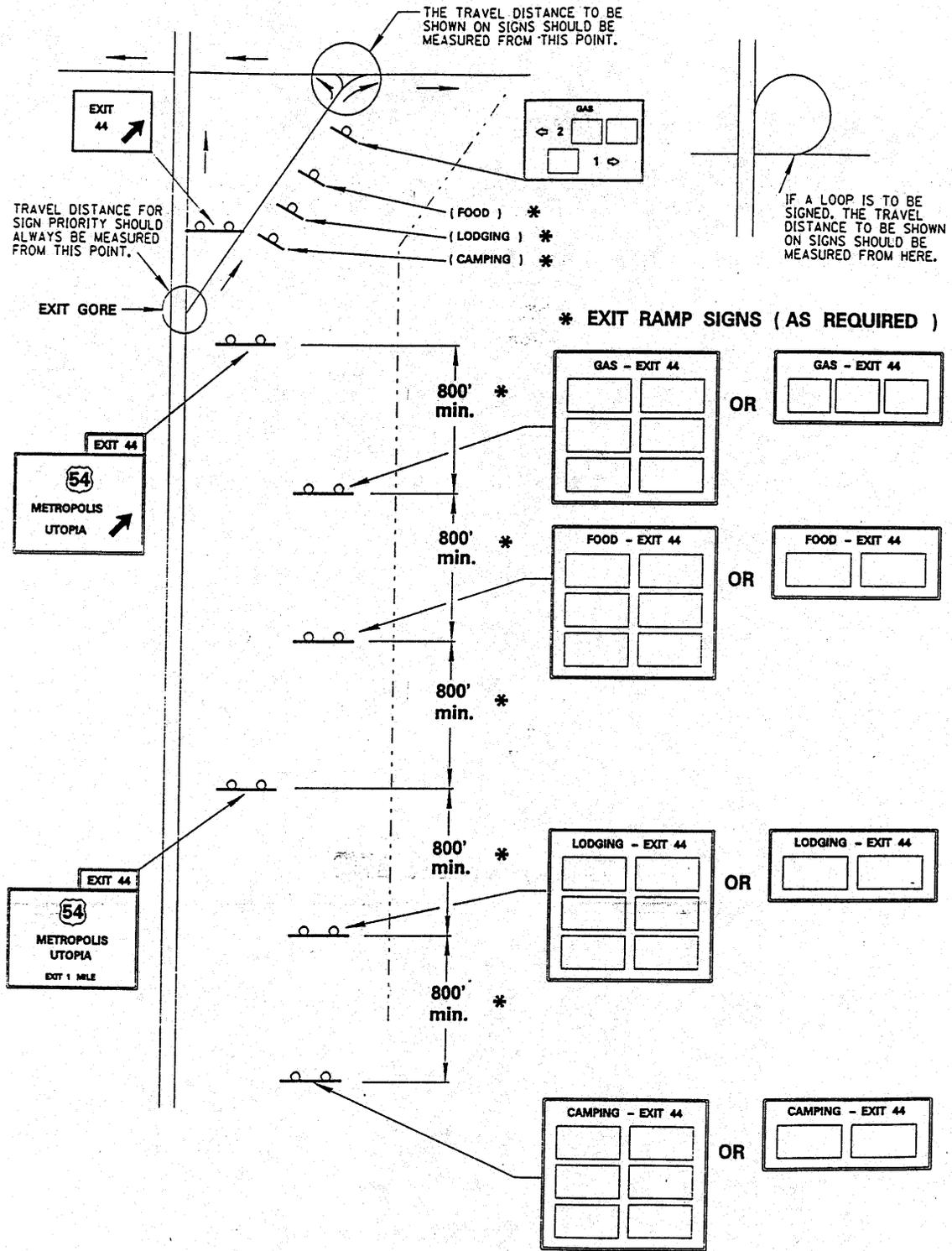
1. A contractor shall follow all Department design standards and specifications, as provided in the contract, for all sign panels, supports, and materials.
2. A trailblazing sign for a fuel service facility logo sign shall be a minimum of 18 inches by 24 inches. A trailblazing sign for a food, lodging, camping, or tourist activities logo sign shall be a minimum of 18 inches by 30 inches. A trailblazing sign containing 2 lines of text shall be a minimum 14 inches by 18 inches, with text that is a minimum of 4 inches in height.

IH. Termination of the logo sign signing program. ~~If the logo sign program is terminated, or the boundaries of an urbanized area, as identified in a subsequent decennial census, are relocated resulting in the circumstance where an intersection is no longer eligible for the rural logo sign program, the following actions shall be taken:~~

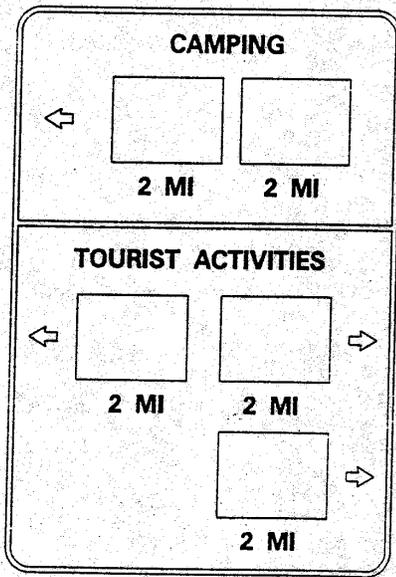
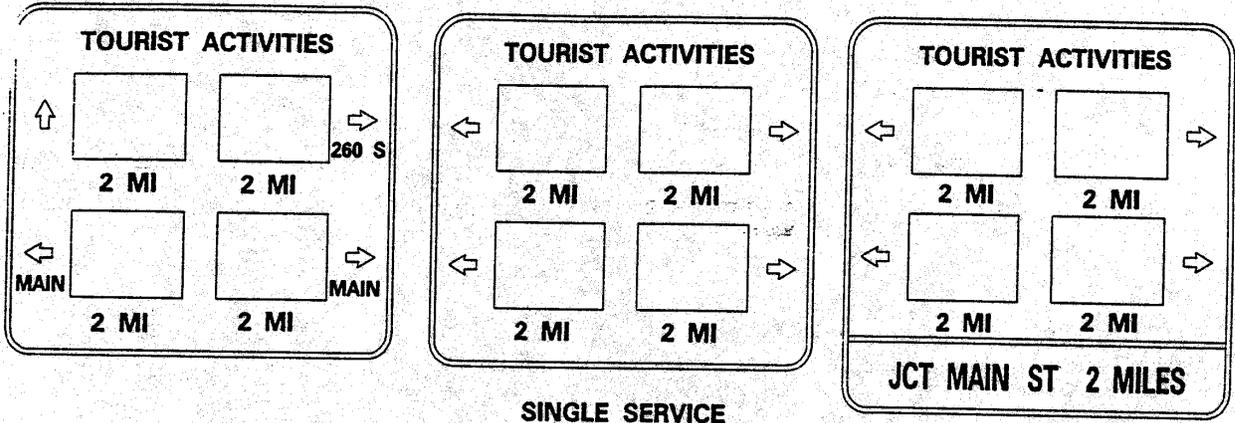
1. If the boundaries of an urbanized area, as identified in a subsequent decennial census, are relocated so that an intersection or interchange is no longer eligible for the logo sign program, the Department shall allow the logo signs within the revised urbanized boundaries to remain until the contractual obligations to the contractor have been fulfilled.
2. If the logo sign program is terminated, the following actions shall be taken:
 - a1. ~~The contractor~~ Each lessee shall be notified ~~notify a lessee~~ by certified U.S. mail of the termination and the location where the lessee ~~they~~ may claim its ~~their~~ logo signs ~~sign~~.
 - b2. ~~The contractor shall remove~~ The specific service information sign panels and supports shall be removed.
 - c3. ~~The contractor~~ Fees shall be ~~refund fees~~ refunded on a pro rated basis to the lessee.

Arizona Administrative Register
Notices of Proposed Rulemaking

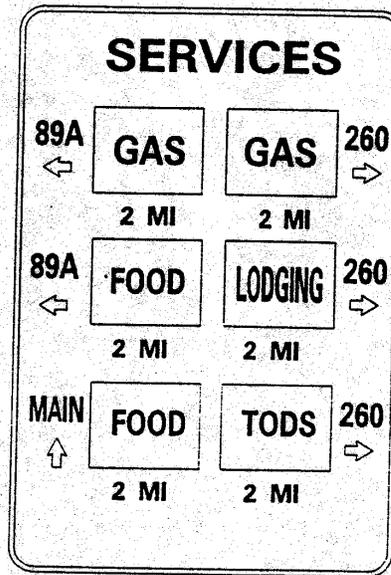
Appendix A. Typical Signing for Single Exit Interchanges



Appendix C. Typical Signing for Rural Logo Sign Panels



TWO COMBINED SERVICES



THREE OR MORE COMBINED SERVICES

Arizona Administrative Register
Notices of Proposed Rulemaking

NOTICE OF PROPOSED RULEMAKING

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 2. DEPARTMENT OF WEIGHTS AND MEASURES

PREAMBLE

1. Sections Affected

Rulemaking Action

R20-2-101	Amend
R20-2-702	Amend
R20-2-703	Amend
R20-2-704	Repeal
R20-2-704	Renumber
R20-2-704	Amend
R20-2-705	Renumber
R20-2-705	Amend
R20-2-706	Renumber
R20-2-706	Amend
R20-2-707	Renumber
R20-2-707	Amend
R20-2-708	Repeal
R20-2-708	Renumber
R20-2-708	Amend
R20-2-709	Renumber
R20-2-709	Amend
R20-2-710	Renumber
R20-2-710	Amend
R20-2-711	Renumber
R20-2-711	Amend
R20-2-712	Repeal
R20-2-712	Renumber
R20-2-712	Amend
R20-2-713	Renumber
R20-2-713	Amend
R20-2-714	Repeal
R20-2-714	Renumber
R20-2-714	Amend
R20-2-715	Renumber
R20-2-715	Amend
R20-2-716	Renumber
R20-2-716	Amend
R20-2-717	Renumber
R20-2-717	Amend
R20-2-718	Renumber
R20-2-718	Amend
R20-2-719	Repeal
R20-2-720	Renumber
R20-2-720	Amend
R20-2-721	Renumber
R20-2-721	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. § 41-2065(A)(4)

Implementing statutes: A.R.S. §§ 41-2051, 41-2065(A)(4), (14), (16), (25), (D), 41-2083(C), and 41-2122(A),(B),(D).

Arizona Administrative Register
Notices of Proposed Rulemaking

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

None.

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

Name: Dennis Ehrhart or Sandy Williams

Address: 9545 E. Doubletree Ranch Road
Scottsdale, Arizona 85258

Telephone: (602) 255-5211

Fax: (602) 255-1950

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

This proposed rule package is to update the date of all materials incorporated by reference, and to repeal, amend and renumber Article 7 sections to conform to changes in the law and in the industry. These changes will benefit the industry, the public, and the Department by being shorter and easier to understand. This package is related to ADEQ's rule package that includes R20-2-701 definitions and R20-2-750 through R20-2-762 governing cleaner burning gasoline.

6. A reference to any study that the agency proposed 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 the 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:

These are minor amendments that will have minimal, or no, impact because the rules are being clarified, are incorporating procedures that are already in place, or are being repealed.

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: Dennis Ehrhart or Sandy Williams

Address: 9545 E. Doubletree Ranch Road
Scottsdale, Arizona 85258

Telephone: (602) 255-5211

Fax: (602) 255-1950

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 rules:

Date: June 14, 1999

Time: 9 a.m.

Location: Department of Weights and Measures
9545 E. Doubletree Ranch Road
Scottsdale, Arizona 85258

Nature: Public Comment Hearing at which members of the public may appear and make comments regarding the rules and the economic, small business, and consumer impact statement. The Department will accept comments until the close of record, which will not be before June 7, 1999.

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:

R20-2-101: Definition of "Handbook 44" incorporates the United States Department of Commerce Technology Administration National Institute of Standards and Technology Handbook 44, *Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices*, 1999 Edition, Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, D.C. 20402-9328. Definition of "Handbook 130" incorporates the United States Department of Commerce Technology Administration National Institute of Standards and Technol-

Arizona Administrative Register
Notices of Proposed Rulemaking

ogy Handbook 130, *Uniform Laws and Regulations*, 1999 Edition, Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, D.C. 20402-9328.

R20-2-702 incorporates the following documents:

-16 CFR 306, *Automotive Fuel Ratings, Certification and Posting*, January 1, 1998 edition, Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

-ASTM D 975-97, *Standard Specifications for Diesel Fuel Oils*, Volume 05.01, 1998 edition, American Society for Testing and Materials, 1916 Race St., Philadelphia, PA 19103-1187.

-ASTM D 4814-97b, *Standard Specification of Automotive Spark-Ignition Engine Fuel*, Volume 05.03, 1998 edition, American Society for Testing and Materials, 1916 Race St., Philadelphia, PA 18103-1187.

-Waiver Requests under Section 211(f) of the Clean Air Act, January 28, 1992 edition, U.S. Environmental Protection Agency Fuels Section (EN-397F), Field Operations and Support Division, U.S. Environmental Protection Agency, 401 M. St. SW, Washington, D.C. 20460.

-Merck Index, 12th edition, 1996, Merck & Co., Inc., One Merck Drive, P.O. Box 100, Whitehouse Station, N.J. 08889-0100.

13. The full text of the rules follows:

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 2. DEPARTMENT OF WEIGHTS AND MEASURES

ARTICLE 1. ADMINISTRATION AND PROCEDURES

Section

R20-2-101. Definitions

ARTICLE 7. MOTOR FUELS AND PETROLEUM PRODUCTS

R20-2-702. Material Incorporated by Reference

R20-2-703. Volumetric Inspection of Motor Fuels and Motor Fuel Dispensers

R20-2-704. Diversion of Measured Liquid

~~R20-2-705-R20-2-704.~~ Price and Grade Posting on External Signs

~~R20-2-706-R20-2-705.~~ Price, and Octane, and Lead Substitute Notification on Dispensers

~~R20-2-707-R20-2-706.~~ Unattended Retail Dispensers

R20-2-708. ~~Money Value Computations~~

~~R20-2-709-R20-2-707.~~ Product Transfer Documentation and Record Retention for Motor Fuel other than Arizona CBG and AZRBOB Requirements for Service Stations and Fleet Owners

~~R20-2-710-R20-2-708.~~ Oxygenated Fuel Blends

~~R20-2-711-R20-2-709.~~ Retail Oxygenated Fuel Labeling

R20-2-712. ~~Distribution of Oxygenated Fuel~~

~~R20-2-713-R20-2-710.~~ Blending Requirements

R20-2-714. ~~Retail Oxygenated Fuel Marketing~~

~~R20-2-715-R20-2-711.~~ Alcohol-oxygenated Fuel Gasoline Storage Tank Requirements

~~R20-2-716-R20-2-712.~~ Water in Retail Gasoline Service Station Motor Fuel Storage Tanks

~~R20-2-717-R20-2-713.~~ Motor Fuel Storage Tank Labeling

~~R20-2-718-R20-2-714.~~ Requirements for Gasoline Products Outside the CBG Covered Area

R20-2-719. ~~Requirements for Diesel Fuel~~

~~R20-2-720-R20-2-715.~~ Motor Fuel Quality Testing Methods

~~R20-2-721-R20-2-716.~~ Sampling and Access to Records

ARTICLE 1. ADMINISTRATION AND PROCEDURES

R20-2-101. Definitions

The following definitions, and definitions in A.R.S. §§ 41-2051, 41-2121, and 41-2131 apply to this Chapter:

1. No change.
2. No change.
3. No change.
4. No change.

Arizona Administrative Register
Notices of Proposed Rulemaking

5. No change.
6. No change.
7. No change.
8. No change.
9. No change.
10. No change.
11. No change.
12. No change.
13. "Handbook 44" means the United States Department of Commerce Technology Administration National Institute of Standards and Technology (NIST) Handbook 44, entitled *Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices* published by the United States Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, D.C. 20402-9328 (~~1998~~ 1999 edition and no later editions or amendments), incorporated by reference herein and on file with the Secretary of State.
14. "Handbook 130" means the United States Department of Commerce Technology Administration National Institute of Standards and Technology (NIST) Handbook 130, entitled *Uniform Laws and Regulations*, published by the Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, D.C. 20402-9328 (~~1998~~ 1999 edition and no later editions or amendments), incorporated by reference herein and on file with the Secretary of State.
15. No change.
16. No change.
17. No change.
18. No change.
19. No change.
20. No change.
21. No change.
22. No change.
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34. No change.
35. No change.
36. No change.
37. No change.
38. No change.
39. No change.
40. No change.

ARTICLE 7. MOTOR FUELS AND PETROLEUM PRODUCTS

R20-2-702. Material Incorporated by Reference

The following documents are incorporated herein by reference and on file with the ~~Office of the~~ Secretary of State. These documents do not include any later amendments or editions. ~~Copies of each are available from the Department.~~

1. 16 CFR 306 - ~~Octane Posting and Certification~~ Automotive Fuel Ratings, Certification and Posting, published in the Code of Federal Regulations, revised as of January 1, 1991. 1998 edition ~~Copies are available from the~~ Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.
2. ASTM D ~~975-90~~ 975-97, Standard Specifications for Diesel Fuel Oils, published in the ~~1991 edition of Annual Book of ASTM Standards~~, Volume 05.01 (1998 edition). ~~Copies are available from the~~ American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103-1187.
3. ASTM D ~~4814-90~~ 4814-97b, Standard Specification of Automotive Spark-Ignition Engine Fuel, published in the ~~1991 edition of Annual Book of ASTM Standards~~, Volume 05.03 (1998 edition). ~~Copies are available from the~~ American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103-1187.

Arizona Administrative Register
Notices of Proposed Rulemaking

4. Waiver Requests under Section 211(f) of the Clean Air Act (~~revised January 28, 1992 edition~~), prepared by the United States Environmental Protection Agency and available from the Fuels Section (EN-397F), Field Operations and Support Division, U.S. Environmental Protection Agency, 401 M Street SW, Washington, D.C. 20460.
5. Merck Index, 1983 Edition. Copies of the Index are available from 12th edition, 1996, Merck & Co., Inc., W.B.S. 435, P.O. Box 2000, Rahway, N.J. 07065 One Merck Drive, P.O. Box 100, Whitehouse Station, N.J. 08889-0100.

R20-2-703. Volumetric Inspection of Motor Fuels and Motor Fuel Dispensers

- ~~A. The inspector shall not work under conditions deemed to be unsafe.~~
~~B. In no case shall the inspector climb a ladder to return the motor fuel to the storage tank.~~
~~C.A. Any After completing the inspection, the Department shall return all motor fuel which is to be returned to the licensee shall be returned to the owner or operator of the service station at the testing site where the Department collected the fuel.~~
~~D.B. In the event After completing the inspection, if a motor fuel cannot be returned to the storage tank owner or operator of the service station at the testing site where the Department collected the fuel, the Department may transport the motor fuel may be transported to another site of the licensee's owner or operator's choosing within a 20-mile radius of the inspection site.~~

R20-2-704. Diversion of Measured Liquid

No means shall be provided by which any measured liquid can be diverted from the measuring chamber of the meter or from the discharge lines leading from it. However, two delivery outlets may be installed on a motor fuel device used exclusively in the fueling of trucks, if safeguards are also installed, limiting access to only one vehicle being filled from the primary dispenser without the use of diversionary valves. In all cases, where safeguards are not installed, direct diversion valves shall be installed to allow delivery of motor fuel through only one outlet at any one time. This Section amends (S)(3)(1) of the section entitled "Liquid Measuring Devices" of Handbook 44.

~~R20-2-705.~~ **R20-2-704. Price and Grade Posting on External Signs**

The following shall govern the use and means of advertising the price and grade of all motor fuels on external signs at retail motor fuel establishments when external signs are used to advertise.

The owner or operator of a service station that has external signs shall ensure that the signs:

1. ~~External signs shall identify~~ Identify whether the type of sale is cash, ~~or credit, debit, or other specific type, if there is a difference in price card, and whether self service or full service. ;~~
2. Identify the self service and full service prices; and
3. ~~External signs shall identify~~ Identify the grade of gasoline motor fuel ~~. If abbreviations are used, they shall be as follows as:~~
 - a. ~~REG~~ Unl, unleaded, reg or regular for unleaded gasoline with an octane of at least 87 ;
 - e.b. ~~MHD~~ Mid or midgrade for midgrade, extra, plus, or any ~~other term used to identify~~ gasoline with an octane of at least 88 ~~or 89~~ ;
 - d.c. ~~PREM~~ Prem or premium for super, high performance, premium, or any ~~other term used to identify~~ gasoline with an octane of at least 90 or above ; and
 - d. No. 1, #1 diesel, No. 2, or #2 diesel; and
3. ~~External signs shall identify diesel fuel as either #1 diesel or #2 diesel.~~
4. ~~External signs advertising the price of motor fuels shall disclose~~ Disclose the full price including fractions of a cent and all federal and state taxes ~~, if the signs advertise the motor fuel price.~~
5. ~~External sign posting of grades, fractions of a cent, and conditions of sale shall be at least 20 percent~~ Letter height is 1/5th of the posted price size but not less than letter height or 2 1/2" in height, whichever is larger, and shall be is visible and readable from the road; except that such signs shall conform to the signage codes or ordinances of applicable county or municipality.
6. ~~If~~ State the terms of the condition if the price advertised is conditional upon the sale of another product or service, such condition shall be stated in compliance with ~~paragraph (4) above~~ subsection 5.

~~R20-2-706.~~ **R20-2-705. Price, and Octane, and Lead Substitute Notification on Dispensers**

- A. ~~The following shall govern the use and means of informative~~ A service station owner or operator shall ensure that pricing and motor fuel grade information posted or displayed on all service station motor fuel dispensers, used in retail trade, available to the general public at attended or unattended business locations. ;
1. ~~All required posting or displays shall:~~
 - a. ~~Be~~ Is clean, legible, and visible at all times;
 - b.2. ~~Be~~ Is displayed electronically or posted with a sign or label on the upper 50 percent 60% of the face of ~~the each~~ dispenser; and
 - e.3. ~~Disclose~~ Lists the full price including fractions of a cent and all federal and state taxes ;
 - 2.4. ~~When~~ Displays the highest price of the motor fuel being sold from a dispenser when a dispenser is capable of dispensing multiple grades of motor fuel but computing only 1 price, ~~that computed and displayed price shall be the highest~~

Arizona Administrative Register
Notices of Proposed Rulemaking

~~price of the product which is being sold from that dispenser. Any posting for discount for~~ A cash discount display shall be of lettering no less than 3/8" in height in letters at least 1/4" and be posted on the each face of the dispenser adjacent next to the price readout.

- ~~3.5. Electronic Displays both cash and credit prices on electronic dispensers: that are capable of electronically displaying cash and credit prices.~~
- ~~a. Capable of cash and credit card pricing displayed electronically at each dispenser shall display both the cash and credit card price.~~
 - ~~b. Preset by the cashier and unable to display electronically both credit card price and cash price at the same time shall have both cash and credit card prices posted on the dispenser.~~
6. Has both cash and credit prices posted on the face of each dispenser for electronic dispensers that are preset by the cashier and unable to electronically and simultaneously display both cash and credit prices.
- ~~4.7. Nonprice computing LPG Has a price-per-gallon sign next to or on the dispensing device for retail only liquefied petroleum gas motor fuel dispensing devices used in retail trade shall post a price-per-gallon sign adjacent to or on the dispensing device that do not compute the price. An exception is motor fuel dispensing devices that are used in retail trade that are keylock, limited access, nonprice computing.~~
8. Identifies the motor fuel grade as:
- a. Unl, unleaded, Reg. or regular for unleaded gasoline, with an octane of at least 87;
 - b. Mid or midgrade for midgrade, extra, plus, or any gasoline with an octane of at least 88;
 - c. Prem or premium for super, high performance, premium, or any gasoline with an octane of at least 90; and
 - d. No. 1, #1 diesel, No. 2, or #2 diesel.
- B. All gasoline dispensers which are utilized in the retail sale of gasoline to consumers shall post the The owner or operator of a service station shall ensure that:
- 1. The octane rating of each gasoline product is displayed on the upper 60% of each face of the dispenser, pursuant to 16 CFR 306 ; and
 - 2. The signage required by Handbook 130, for gasoline dispensers that dispense gasoline with a lead substitute, is displayed on the upper 60% of each face of the dispenser in letters at least 1/4" in height.

~~R20-2-707.~~R20-2-706. Unattended Retail Dispensers

~~Unattended retail motor fuel dispensing business locations~~ In addition to all posting requirements in this Article, the owner or operator of an unattended service station shall post on or adjacent next to the each motor fuel dispensers dispenser a sign or label, visible to the user, containing company in public view, that lists the owner or operator's name, address, and telephone number of the responsible party for the device.

~~R20-2-708. Money Value Computations Repealed~~

~~Handbook 44 notwithstanding, money value indication on retail motor fuel devices shall not differ from the mathematically computed money value (Quantity x Unit Price = Sales Price), for any delivered quantity, by an amount greater than one-half the value of the money value division.~~

~~R20-2-709.~~R20-2-707. Product Transfer Documentation and Record Retention for Motor Fuel other than Arizona CBG and AZRBOB Requirements for Service Stations and Fleet Owners

- A. If a person transfers custody or title to a motor fuel other than Arizona CBG or AZRBOB, other than when motor fuel is sold or dispensed at a service station or fleet vehicle fueling facility, the transferor shall provide to the transferee documents that include the following information: Service station operators and fleet owners shall retain, on the premises to which motor fuel has been delivered, written documentation of the quantity and identity of each grade of motor fuel delivered. The documentation shall be retained for at least the 3 most recent deliveries of each grade of motor fuel and shall, upon request, be presented to any Department official for review.
- 1. The name and address of the transferor;
 - 2. The name and address of the transferee;
 - 3. The grade of the motor fuel;
 - 4. The volume of each grade of motor fuel that is being transferred;
 - 5. The date of the transfer;
 - 6. Product transfer document number;
 - 7. For conventional gasoline, the minimum octane rating of each grade;
 - 8. For conventional gasoline, the type and maximum volume of oxygenate contained in each grade of the motor fuel;
 - 9. For conventional gasoline that is transported in the CBG covered area, the statement, "This gasoline is not intended for sale inside Maricopa County or area A;" and
 - 10. Whether a lead substitute is present and the type of lead substitute used.
- B. A registered supplier, 3rd-party terminal, or pipeline may comply with this requirement by using standardized product codes on pipeline tickets. For all motor fuels other than Arizona CBG, the documentation shall be on a bill of lading, loading ticket, manifest, delivery receipt, invoice, or other documentation used in customary business practice of the petroleum industry and shall provide the following information:

Arizona Administrative Register
Notices of Proposed Rulemaking

1. Vendor's name;
 2. Point of origin;
 3. Manifest or loading ticket number;
 4. Date of delivery;
 5. Quantity of each grade of product;
 6. For gasoline, the octane rating of the product, and
 7. For gasoline, type of oxygenate and volume of oxygenate as a percent of the total blend under R20-2-712.
 8. For gasoline in area A, beginning on May 1, 1999, the statement "This gasoline is not intended for sale in area A."
- C. A person identified in subsection (A) Service station operators and fleet owners in area A shall retain product transfer documents as provided in R20-2-757 for each shipment of gasoline delivered during the 12 months preceding that shipment. The documentation for the transfers or deliveries made during the preceding 30-day period, involving any person other than a service station or fleet owner, shall be maintained at the business address listed on the product transfer document. The documentation for the 3 most recent deliveries of each grade of motor fuel shall be maintained on the service station or fleet owners' owner's premises and shall be available to the Department for review. Documentation for the remainder of all deliveries for the same 12 months shall be available within 2 working days from the time of the Department's request by the Director.
- D. The Department shall accept a legible photocopy of a product transfer document in lieu of the original. All documents requested for review by a Department official, upon request, shall be presented to the Department. Legible photocopies shall be acceptable.
- E. A person transferring custody or title of Arizona CBG or AZRBOB shall comply with R20-2-757.

R20-2-710-R20-2-708. Oxygenated Fuel Blends

- A. The A person who has custody of gasoline with an oxygenate blend shall ensure that the amount of any oxygenate in an unleaded gasoline blend shall does not exceed the volume allowed by EPA waivers. The amount of any oxygenate in a leaded gasoline blend shall not exceed the volume allowed by EPA waivers for unleaded gasoline blends. Except as provided by EPA waivers, leaded or unleaded gasolines blended with ethanol or methanol shall contain a corrosive corrosion inhibitor in an amount specified by the manufacturer of the inhibitor. Any gasoline blend containing methanol shall contain a co-solvent in an amount equal to or greater than the amount required by EPA waivers for unleaded gasolines within the oxygen limits allowed.
- B. Reporting requirements
1. Any A person who blends gasoline with an oxygenate, or combination of oxygenates, which that results in a motor fuel blend containing 1.8 percent 1.5% or more by weight of oxygen, shall file a report with the Department prior to the initial sale or use of such the blend. In addition, a person who blends gasoline with methanol resulting in a motor fuel blend containing 0.15% or more by weight shall file a report with the Department before the initial sale or use of the blend. If only one oxygenate is being blended into a motor fuel, a report shall be submitted if the percent by volume is:
 - a.1. More than 2.45 percent 0.3% by volume of methanol, or
 - b.2. More than 5.1 percent 4.3% by volume of ethanol, or
 - e.3. More than 9.6 percent 8.3% by volume of MTBE, or
 - d.4. Any other oxygenate or combination of oxygenates at a level that requires an EPA waiver.
2. C. The report, which shall remain confidential; and shall contain the following:
 - a.1. The name of the person blending oxygenates with gasoline and the person's address and telephone number;
 - b.2. The name, address, telephone number, and signature of the person preparing the report;
 - e.3. The date the report was prepared;
 - d.4. The type and maximum volume of each oxygenate as a percent of the total blend; and
 - e.5. The amount of co-solvent contained in methanol-gasoline blends.

R20-2-711-R20-2-709. Retail Oxygenated Fuel Labeling

- A. All A service station owner of operator shall ensure that service station dispensers shall be labeled when offering that offer gasoline containing an oxygenate, or combination of oxygenates, which results that result in a motor fuel gasoline blend containing 1.8 percent 1.5% or more by weight of oxygen are so labeled. If only 1 oxygenate is being blended into a motor fuel gasoline, dispensers shall be so labeled if the percent by volume is:
 1. More than 2.45 percent 0.3% by volume of methanol, or
 2. More than 5.1 percent 4.3% by volume of ethanol, or
 3. More than 9.6 percent 8.3% by volume of MTBE, or
 4. Any other oxygenate or combination of oxygenates at a level that would require a waiver from the EPA.
- B. Where labeling is A service station owner or operator shall ensure that labels required under subsection (A) above, identification shall be accomplished by posting, are posted on the upper 50 percent 60% of the each face of the dispenser, the appropriate following The label indicating the maximum percent by volume of each oxygenate contained in the oxygenated fuel shall state:

Arizona Administrative Register
Notices of Proposed Rulemaking

1. Contains up to _____% ethanol;
 2. Contains up to _____% methanol and _____% co-solvent; ~~or~~
 3. Contains up to _____% ether (MTBE); ~~;~~ or
 4. Contains up to _____% other (specify name of oxygenate).
- C. ~~Labels in the CBG covered area and area B, a service station owner or operator shall ensure that labels posted on service station dispensers located in Area A shall comply with subsection (B) above and shall also contain the following statement: this~~ "This gasoline is oxygenated and will reduce carbon monoxide emissions from motor vehicles". The statement may be printed on the same label required in subsection (B) ~~above~~ or on a separate label. If a separate label is used, it shall be posted ~~adjacent~~ next to the label required in subsection (B) ~~above~~.
- D. ~~Any~~ A service station owner or operator shall ensure that any other oxygenate blended with gasoline ~~shall be~~ is disclosed in the format as set forth in subsections (B) and (C) ~~above~~.
- E. ~~The label and printing shall be resistant to all petroleum products and weather conditions. The~~ A service station owner or operator shall ensure that:
1. ~~A label shall be~~ is clean, legible, and visible at all times; ~~Other information may be placed on the label provided the label remains in compliance with this Section.~~
 2. ~~Labels shall be~~ A label is printed in black or white block letters on a sharply contrasting background; ~~and;~~
 - 1-3. Lettering on labels required by subsection (B) ~~above shall be~~ is no less than $\frac{1}{2}$ " 1/4" in height; ~~;~~ and
 - 2-4. Lettering for the statement required by subsection (C) ~~above shall be~~ is no less than 1/4" in height.
- F. A service station owner or operator may place other information on a label that conforms to the requirements in this Section.

R20-2-712. Distribution of Oxygenated Fuel

- A. ~~Any person distributing gasoline containing an oxygenate, or combination of oxygenates, which results in a motor fuel blend containing 1.8 percent or more by weight of oxygen on a wholesale basis shall provide the buyer with documentation verifying the type of each oxygenate and the volume of each oxygenate as a percent of the total blend. If only one oxygenate is being blended into a motor fuel, the documentation shall be provided when gasoline contains:~~
1. ~~More than 2.45 percent by volume of methanol, or~~
 2. ~~More than 5.1 percent by volume of ethanol, or~~
 3. ~~More than 9.6 percent by volume of MTBE, or~~
 4. ~~Any other oxygenate at a level that would require a waiver from the EPA.~~
- B. ~~The documentation required in subsection (A) above shall be provided on the bill of lading, loading ticket, manifest, delivery receipt, invoices, or other documentation used in customary business practice.~~
- C. ~~The weight oxygen content shall be calculated by the Department by using the prescribed percent volume to percent oxygen formula as described in the definition for oxygen content contained in R20-2-701.~~

~~R20-2-713.~~ **R20-2-710. Blending Requirements**

- A. To enable adjustments in noncompliance inventory and to preclude ~~A person who has custody or transports gasoline with an oxygenate blend shall ensure that no neat oxygenate blending occurs at the retail~~ a service station or fleet location, no motor fuel shall be introduced into a retail or fleet motor fuel storage tank that contains more than 20% by volume of any oxygenate. No motor fuel in the retail or fleet motor fuel storage tank shall contain concentrations of oxygenates in excess of EPA waiver specifications.
- B. When a service station storage tank contains an oxygenated gasoline blend that does not contain the required amount of oxygen, the service station owner or operator shall do one of the following to correct the oxygenate blend:
1. Introduce gasoline that contains no more than 20% by volume of any oxygenate.
 2. Introduce a gasoline blend that will dilute the oxygenated gasoline blend to the required level of oxygen content, or
 3. Empty the storage tank and replace the gasoline with a legal oxygenate blend.

R20-2-714. Retail Oxygenated Fuel Marketing

In any area with a mandatory minimum oxygen level during any specific period of time the weight oxygen content of oxygenated fuel being dispensed from any dispenser shall be calculated by the Department by using the prescribed percent volume to percent oxygen formula as described in the definition for oxygen content in this Chapter.

~~R20-2-715.~~ **R20-2-711. Alcohol-oxygenated Fuel Gasoline Storage Tank Requirements**

- A. ~~Prior to the introduction of any~~ Before a person introduces an alcohol-oxygenated fuel gasoline into a motor fuel storage tank, the following procedures shall be followed person shall:
1. ~~The tank shall be tested~~ Test the tank for the presence of water and, if any water is detected, ~~it shall be removed~~ remove it from the tank; ~~;~~ and
 2. ~~Fuel~~ Install fuel filters designed for use with alcohol-oxygenated fuels gasoline shall be installed in the fuel line of all dispensers that will dispense alcohol blends.
- B. If standing water or an alcohol/water mixture is detected in alcohol-oxygenated fuel gasoline at any time, the owner or operator shall remove the entire contents ~~shall be removed from the tank of the motor fuel storage tank.~~

Arizona Administrative Register
Notices of Proposed Rulemaking

~~R20-2-716~~R20-2-712. Water in ~~Retail Gasoline~~ Service Station Motor Fuel Storage Tanks

~~Water~~ A service station owner or operator shall ensure that water in retail a service station storage tanks of regulated products, tank containing motor fuel other than alcohol-oxygenated fuel an alcohol-gasoline blend, shall does not exceed one inch 1" in depth when measured from the bottom through the fill pipe. Water The owner or operator shall be removed remove water from the tank prior to the delivery and subsequent selling of additional product from such storage tank before delivery or sale of motor fuel from that tank.

~~R20-2-717~~R20-2-713. Motor Fuel Storage Tank Labeling

- A. ~~All~~ A service station owner or operator shall ensure that all motor fuel storage tank fill pipes and gasoline vapor return lines located at retail motor fuel service stations shall have a label affixed are labeled to properly accurately identify one of the following the contents as:
- ~~1. Leaded gasoline,~~
 - ~~2.1. Unleaded gasoline,~~
 2. Unleaded midgrade gasoline,
 - ~~3. Unleaded premium gasoline,~~
 - ~~4. Leaded gasoline with oxygenate,~~
 - ~~5. Unleaded gasoline with oxygenate,~~
 - ~~6. Unleaded premium gasoline with oxygenate,~~
 - ~~7.4. No. 1 or #1 Diesel diesel fuel,~~
 - ~~8.5. No. 2 or #2 Diesel diesel fuel, or~~
 - ~~9.6. Gasoline vapor return line.~~
- B. ~~The~~ An owner or operator shall ensure that labels shall be no less than are at least 1 1/2"x 5" displaying with at least 1/4" black or white block lettering of not less than 1/4" in height on a sharply contrasting background. The label and printing shall be resistant to all petroleum products, all weather conditions, and securely affixed to the fill pipe by wire or other substantial means. The and that the label shall be is clean, visible, and legible at all times.
- C. ~~Other information may be displayed on the reverse side of the label as desired. An owner or operator may display other information on the reverse side of the label.~~
- D. ~~Fuel shall not be introduced into storage tanks unless the proper label is affixed. An owner or operator shall not introduce motor fuel into storage tanks without attaching the proper label.~~

~~R20-2-718~~R20-2-714. Requirements for Gasoline Products Outside the CBG Covered Area

- A. ~~Gasoline~~ A service station owner or operator shall ensure that gasoline and gasoline-oxygenate blends provided at service stations outside of the CBG covered area shall meet all the ASTM D-4814 requirements of ASTM D-4814 except:
- ~~1. The minimum vapor pressure allowed shall be four 6.4 pounds per square inch;~~
 - ~~2. From May 1 through September 15 30 maximum vapor pressures pressure in pounds per square inch shall be as follows 9.0, and other volatilities shall be consistent with the corresponding volatility classes established by ASTM D 4814;~~
- | Area A | Remainder of State |
|-----------------------------|--------------------|
| a. May 9.0 | 9.0 |
| b. June 7.8 | 9.0 |
| e. July 7.8 | 9.0 |
| d. August 7.8 | 9.0 |
| e. September 7.8 | 9.0 |
- ~~3. From October 1 through March 31, in Area A, the maximum vapor pressure shall be ten pounds per square inch pursuant to A.R.S. § 41-2083(E), and other volatilities shall be consistent with the corresponding volatility class established by ASTM D 4814.~~
 - ~~4.3.~~ For gasoline-ethanol blends, the vapor pressure may be up to one 1 pound per square inch higher than the vapor pressures established by ASTM D 4814 or, if applicable, the exceptions listed in paragraphs (2) and (3) above; during:
 - a. May 1 through September 15 if the base fuel meets the requirements of ASTM D 4814, the volatility requirements of R20-2-718(A)(2) subsection (A)(2) and the final gasoline-ethanol blend contains at least nine percent 9% ethanol by volume but does not exceed EPA waivers; and
 - b. September 16 through April 30, except in Area A during October 1 through March 31, if the base fuel meets the requirements of ASTM D 4814 and the final gasoline-ethanol blend contains any amount 1.5% or more by weight of ethanol but does not exceed EPA waivers.
 - e. October 1 through March 31, in Area A, if the base fuel meets the requirements of ASTM D 4814, the volatility requirements of R20-2-718(A)(3) and the final gasoline-ethanol blend contains at least 7.3 percent ethanol by volume but does not exceed EPA waivers.

Notices of Proposed Rulemaking

- B. ~~The~~ A service station owner or operator shall ensure that the finished gasoline shall be is visually free of undissolved water, sediment, and suspended matter, and ~~shall be is~~ clear and bright at the ambient temperature or ~~705 F (215 C)~~ 70 degrees Fahrenheit (21 degrees Celsius), whichever is higher.
- C. ~~Minimum~~ A service station owner or operator shall ensure that the minimum octane rating as determined by (R+M)/2 method shall be the resultant arithmetic test average of ASTM D2699 and ASTM D2700 is:
1. ~~87 for leaded~~ unleaded or regular;
 2. ~~87 for unleaded~~ 88 for mid, midgrade, extra, or any other gasoline with an octane rating of at least 88; and
 3. ~~90 for super, high performance, premium, or any other term used to identify higher octane~~ gasoline with an octane rating of at least 90.

R20-2-719. Requirements for Diesel Fuel

All #1 and #2 Diesel fuel shall meet all of the requirements of ASTM D 975.

~~R20-2-720~~R20-2-715. Motor Fuel Quality Testing Methods

- A. ~~The~~ A person testing gasoline blends shall use the test methods of tests for gasoline blends shall be the methods established by ASTM D 4814 for gasoline and oxygenated fuel and D 975 for diesel fuel.
- B. A person testing #1 and #2 diesel fuel shall use the test methods for #1 and #2 diesel fuel established by ASTM D 975.

~~R20-2-721~~R20-2-716. Sampling and Access to Records

- A. ~~Samples of~~ The Department shall obtain motor fuel samples for testing shall be obtained by the Department or its authorized agents from:
1. The same dispensing device used for sales to customers,
 2. The same dispensing device used for dispensing motor fuel into fleet vehicles,
 3. ~~Any~~ A bulk storage facility,
 4. ~~Any~~ A common carrier having custody of motor fuel, including Arizona CBG,
 5. ~~Any~~ A transporter of Arizona CBG or AZRBOB,
 6. ~~Any~~ A final distribution facility,
 7. ~~Any~~ A 3rd-party terminal having custody of Arizona CBG or AZRBOB, or
 8. ~~Any~~ An oxygenate blender or registered supplier.
- B. ~~Records~~ A person who is required by this Article to maintain records relating to the production, importation, blending, transport, distribution and delivery of Arizona CBG and AZRBOB required by this Article shall be ensure that the records are available for Department inspection at any reasonable time by the Department or its authorized agents.