

## NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Due to time restraints, the Secretary of State's Office will no longer edit the text of proposed rules. We will continue to make numbering and labeling changes as necessary.

Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

### NOTICE OF PROPOSED RULEMAKING

#### TITLE 4. PROFESSIONS AND OCCUPATIONS

#### CHAPTER 12. BOARD OF FUNERAL DIRECTORS AND EMBALMERS

#### PREAMBLE

**1. Sections Affected**

R4-12-101  
R4-12-106  
Table 1  
R4-12-108  
R4-12-201  
R4-12-201  
R4-12-202  
R4-12-203  
R4-12-204  
R4-12-205  
R4-12-206  
R4-12-207  
R4-12-208  
R4-12-209  
R4-12-211  
R4-12-531  
R4-12-601  
R4-12-611

**Rulemaking Action**

Amend  
New Section  
New Table  
Amend  
Repeal  
New Section  
Amend  
Amend  
Amend  
Amend  
Amend  
Amend  
Amend  
New Section  
Repeal  
Repeal  
Repeal  
Repeal

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

Authorizing statutes: A.R.S. §§ 32-1307(A)(5) and 32-1391.01

Implementing statutes: A.R.S. §§ 32-1309, 32-1321, 32-1322, 32-1323, 32-1325.01, 32-1327, 32-1328, 32-1329, 32-1331, 32-1335, 32-1339, 32-1383, 32-1386, 32-1388, 32-1391.02, 32-1391.12, 32-1391.14, 32-1391.16, 32-1395, 32-1396, and 41-1072 through 41-1079

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

Notice of Rulemaking Docket Opening: 6 A.A.R. 713, February 18, 2000

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

Name: Rodolfo R. Thomas, Executive Director  
Address: Board of Funeral Directors and Embalmers  
1400 West Washington, Room 230  
Phoenix, Arizona 85007  
Telephone: (602) 542-3095  
Fax: (602) 542-3093

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

As required by A.R.S. § 41-1072 through § 41-1078, the Board is establishing time-frames for each type of approval, license, endorsement, permit, or registration issued by the Board. The rules also set forth application requirements for each type of approval, license, endorsement, permit, or registration issued by the Board. The Board is adding the requirements for the annual intern, apprentice embalmer, or embalmer's assistant report, and the subjects tested on a state equivalent examination, including the requirement to work 40 hours each week during an apprenticeship or internship. The Board is repealing current definitions because they are not used in the rules and is providing new definitions to clarify terms used in the rules. The Board is also repealing the provisions labeled apprenticeship requirements for embalmer's license, apprenticeship time criteria, background checks, processing application, funeral directors' examination, examinations, oral examinations, exception to written examination, application for funeral establishment license, salesperson registration application, crematory definitions and registration of crematory authority. The Board is repealing its fees because they are already stated in A.R.S. § 32-1309, but is retaining the fees for copying, the information pamphlet, and annual report according to A.R.S. § 32-1391.06.

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

Not applicable

**7. A reference to any study the agency relied 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

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

The Board will incur moderate costs to promulgate the rules and to notify interested parties of the new rules after the rules are approved. The Board should incur moderate costs to implement and enforce the rules. The costs for notification of incompleteness should be minimal. An apprentice or intern should incur minimal costs because of the requirement to work 40 hours each week during an apprenticeship or internship. All applicants and the Board should benefit because of the increased consistency and efficiency in the application process. There are no other expected costs on other government entities or the public.

**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: Rodolfo R. Thomas, Executive Director  
Address: Board of Funeral Directors and Embalmers  
1400 West Washington, Room 230  
Phoenix, Arizona 85007  
Telephone: (602) 542-3095  
Fax: (602) 542-3093

**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:**

Oral proceedings will be conducted by the Board at the following locations in the state for the purpose of taking oral and written testimony on the proposed rule from members of the public.

Date: September 26, 2000  
Time: 11:00 a.m.  
Location: 1400 West Washington, B-1 Conference Room  
Phoenix, Arizona 85007

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Date: September 29, 2000  
Time: 11:00 a.m.  
Location: 400 West Congress, Room 222  
Tucson, Arizona 85701

Date: October 4, 2000  
Time: 12:00 p.m.  
Time: Coconino Public Library  
300 West Aspen  
Flagstaff, Arizona 86001

The public record on the proposed rulemaking will close at 5:00 p.m., October 4, 2000.

**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. Incorporation by reference and their location in the rules:**

None

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

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 12. BOARD OF FUNERAL DIRECTORS AND EMBALMERS**

**ARTICLE 1. GENERAL PROVISIONS**

Sections

R4-12-101. Definitions  
R4-12-106. Time-frames for Board Approvals  
Table 1. Time-frames (in days)  
R4-12-108. Fees

**ARTICLE 2. LICENSING PROVISIONS**

Sections

~~R4-12-201. Apprenticeship requirements for embalmer's license~~ Repealed  
R4-12-201. Application for a State Equivalent Examination  
~~R4-12-202. Apprenticeship time criteria~~ Application for an Intern, an Embalmer, or a Funeral Director License  
~~R4-12-203. Background checks~~ Application for an Embalmer's Assistant Registration  
~~R4-12-204. Processing application~~ Application for a Funeral Establishment License or an Interim Funeral Establishment Permit  
~~R4-12-205. Funeral directors' examination~~ Application for a Prearranged Funeral Sales Endorsement  
~~R4-12-206. Examinations~~ Application for a Prearranged Funeral Salesperson Registration  
~~R4-12-207. Oral examinations~~ Application for a Crematory License  
~~R4-12-208. Exception to written examination~~ Annual Intern, Apprentice Embalmer, or Embalmer's Assistant Report  
R4-12-209. State Equivalent Examination  
~~R4-12-211. Application for funeral establishment license~~ Repealed

**ARTICLE 5. PREARRANGED FUNERAL AGREEMENTS**

Section

~~R4-12-531. Salesperson registration application~~ Repealed

**ARTICLE 6. CREMATORY AND CREMATION REGULATION**

Sections

~~R4-12-601. Definitions~~ Repealed  
~~R4-12-611. Crematory authority; registration~~ Repealed

**ARTICLE 1. GENERAL PROVISIONS**

**R4-12-101. Definitions**

1. ~~“Board” means the Arizona State Board of Funeral Directors and Embalmers.~~
2. ~~“Cash advance item” means any item of service or merchandise described to a purchaser as a “cash advance”, “accommodation”, “cash disbursement”, or similar term. A cash advance item is also any item obtained from a third party and paid for by the funeral establishment on the purchaser’s behalf. Cash advance items may include, but are not limited to, the following items, cemetery or crematory charges, pallbearers, public transportation, clergy Honoraria, flowers, motorcycle escorts, musicians or singers, hair dressers, barbers, nurses, obituary notices, gratuities and death certificates.~~
3. ~~“Conviction” means a judgment of conviction by any state or federal court of competent jurisdiction in a criminal cause, regardless of whether an appeal is pending or could be taken, and includes any judgment or order based on a plea of no contest.~~
4. ~~“Direct cremation” means cremation of human remains without a ceremony, formal viewing or visitation of the human remains excluding an identification of the human remains.~~
5. ~~The terms “fraudulent”, “misleading”, “misrepresentation”, “deceive”, “deception”, “deceptive”, or “false” as used in connection with statements or activities of licensees with respect to transactions with funeral services consumers are defined and interpreted as provided in A.R.S. § 44-1522.~~
6. ~~“Funeral services consumer” or “purchaser” means any person, entity or agency which purchases or requests funeral merchandise or services from a funeral establishment in connection with or in preparation for funeral arrangements, transportation or disposition of human remains.~~
7. ~~“Immediate burial” means a disposition of human remains by burial, without formal viewing, visitation or ceremony with the body present.~~
8. ~~“Inexpensive caskets” means the least expensive adult caskets held for sale by the establishment to funeral services consumers.~~
9. ~~“Licensee” means any person or enterprise issued a licenses, certificate of qualification or registration, permit or similar authority or to provide any other services or funeral merchandise pursuant to Title 32, Chapter 12, A.R.S.~~
10. ~~“Unfinished wood box” means an unornamented casket made of wood or wood products which does not have a fixed interior lining.~~
1. “Applicant” means:
  - a. An individual requesting to take a state equivalent examination;
  - b. An individual requesting an initial license or registration issued by the Board; or
  - c. The following if requesting a funeral establishment license, a crematory license, an interim permit, or a prearranged funeral sales endorsement:
    - i. The individual, if a sole proprietorship;
    - ii. Any 2 of the corporation’s officers, if a corporation;
    - iii. The managing partner; if a partnership or limited liability partnership; or
    - iv. The designated manager, or if no manager is designated, any 2 members of the limited liability company, if a limited liability company.
2. “Application packet” means the fee, documents, forms, and additional information the Board requires to be submitted by the applicant or on the applicant’s behalf.
3. “Board” means the same as the definition in A.R.S. § 32-1301.
4. “Burial” means a disposition of human remains, other than direct cremation.
5. “Cash advance item” means any service or merchandise such as: pallbearers, transportation, clergy, flowers, motorcycle escorts, hair dressers, barbers, nurses, obituary notices, or death certificates, which is paid for by a funeral establishment on behalf of a purchaser and charged to the purchaser at the same amount as originally purchased.
6. “Cremation” means the same as the definition in A.R.S. 32-1301.
7. “Days” means calendar days.
8. “Designated funeral director” has the same meaning as responsible funeral director in A.R.S. § 32-1301.
9. “Direct cremation” means cremation of human remains without a formal viewing, ceremony; or visitation of the human remains except for identification purposes.
10. “Endorsement” means the written authorization issued by the Board to a funeral establishment to offer or sell prearranged funeral agreements under 4 A.A.C. 12, Article 5.
11. “Fraud”, “misleading”, or “false” means the actions described in A.R.S. § 44-1522.

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12. “Immediate burial” means a disposition of human remains, other than direct cremation, without a formal viewing, visitation, or ceremony.
13. “Manager” means an individual who manages according to A.R.S. § 32-1301.
14. “Previous owner” means the person who owned 10% or more of funeral establishment immediately before the current owner.
15. “Unfinished wood box” means an unornamented receptacle or casket for human remains.
16. “Week” means the time beginning on Sunday at 12:01 a.m., and ending at 12:00 p.m., the following Saturday.

**R4-12-106. Time-frames for Board Approvals**

- A.** The overall time-frame described in A.R.S. § 41-1072(2) for each type of approval granted by the Board is set forth in Table 1. The applicant and the Executive Director of the Board may agree in writing to extend the overall time-frame. The substantive time-frame may not be extended by more than 25% of the overall time-frame.
- B.** The administrative completeness review time-frame described in A.R.S. § 41-1072(1) for each type of approval granted by the Board is set forth in Table 1.
  1. The administrative completeness review time-frame begins:
    - a. For approval to take a state equivalent examination, when the Board receives an application packet required in R4-12-201;
    - b. For approval or denial of a license, when the Board receives an application packet; or
    - c. For approval or denial of an endorsement, a registration, or a permit, when the Board receives an application packet.
  2. If the application packet is incomplete, the Board shall send to the applicant a written notice specifying the missing document or incomplete information.
    - a. The administrative completeness review time-frame and the overall time-frame are suspended from the postmark date of the notice until the date the Board receives a complete application packet from the applicant.
    - b. An applicant who disagrees with the Board’s statement of deficiencies may request a hearing.
  3. When an application packet is complete, the Board shall send a written notice of administrative completeness to the applicant.
  4. If the Board grants a license, a registration, an endorsement, or an approval during the time provided to assess administrative completeness, the Board shall not issue a separate written notice of administrative completeness.
- C.** The substantive review time-frame described in A.R.S. § 41-1072(3) is set forth in Table 1 and begins on the postmark date of the notice of administrative completeness.
  1. As part of the substantive review for a funeral establishment license, the Board shall conduct an inspection of a funeral establishment that may require more than 1 visit.
  2. During the substantive review time-frame, the Board may make 1 comprehensive written request for additional information or documentation. The time-frame for the Board to complete the substantive review is suspended from the postmark date of the comprehensive written request for additional information or documentation until the Board receives the additional information or documentation.
  3. The Board shall send a written notice of approval to an applicant who meets the qualifications in A.R.S. Title 32, Chapter 13 and this Chapter.
  4. The Board shall send a written notice of denial to an applicant who fails to meet the qualifications in A.R.S. Title 32, Chapter 13 and this Chapter.
- D.** The Board shall consider an application withdrawn if within 360 days from the application submission date the applicant fails to:
  1. Supply the missing information under subsection (B)(2) or (C)(2); or
  2. Take a national board, state equivalent, or state laws, and rules examination.
- E.** An applicant who does not wish an application withdrawn may request a denial in writing within 360 days from the application submission date.
- F.** If a time-frame’s last day falls on a Saturday, Sunday, or an official state holiday, the Board shall consider the next business day as the time-frame’s last day.

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**Table 1. Time-frames (in days)**

<u>Type of Approval</u>	<u>Statutory Authority</u>	<u>Overall Time-frame</u>	<u>Administrative Completeness Time-frame</u>	<u>Substantive Review Time-frame</u>
<u>Application for a state equivalent examination</u> <u>R4-12-201</u>	<u>A.R.S. §§ 32-1327, 32-1328, 32-1329</u>	<u>50</u>	<u>20</u>	<u>30</u>
<u>Application for an Embalmer Assistant Practical Examination</u>	<u>A.R.S. § 32-1325.01</u>	<u>50</u>	<u>20</u>	<u>30</u>
<u>Application for an intern, an embalmer or a funeral director license</u> <u>R4-12-202</u>	<u>A.R.S. §§ 32-1309, 32-1321, 32-1322, 32-1323, 32-1337</u>	<u>110</u>	<u>20</u>	<u>90</u>
<u>Application for an embalmer or funeral director license by an applicant who holds an out-of-state license</u> <u>R4-12-202(D)</u>	<u>A.R.S. § 32-1335</u>	<u>110</u>	<u>20</u>	<u>90</u>
<u>Application for a multiple funeral director license</u> <u>R4-12-202(E)</u>	<u>A.R.S. § 32-1384</u>	<u>110</u>	<u>20</u>	<u>90</u>
<u>Application for an embalmer's assistant registration</u> <u>R4-12-203</u>	<u>A.R.S. § 32-1325.01</u>	<u>110</u>	<u>20</u>	<u>90</u>
<u>Application for a funeral establishment license</u> <u>R4-12-204</u>	<u>A.R.S. § 32-1383</u>	<u>110</u>	<u>20</u>	<u>90</u>
<u>Application for a prearranged funeral sales establishment endorsement</u> <u>R4-12-205</u>	<u>A.R.S. § 32-1391.12</u>	<u>60</u>	<u>20</u>	<u>40</u>
<u>Application for a prearranged funeral salesperson registration</u> <u>R4-12-207</u>	<u>A.R.S. § 32-1391.14</u>	<u>110</u>	<u>20</u>	<u>90</u>
<u>Application for crematory license</u> <u>R4-12-208</u>	<u>A.R.S. § 32-1395</u>	<u>110</u>	<u>20</u>	<u>90</u>

**R4-12-108. Fees**

**A.** The Board will charge the following fees concerning funeral directors applications and renewals:

1. Application for examination, \$150.00;
2. Application for oral re-examination, \$20.00;
3. Application for out of state license, \$200.00;
4. Biennial renewal of each license, \$140.00;
5. Reinstatement for each license, \$20.00;
6. Issuance of license, prorated quarterly until the next biennial renewal date, \$140.00.

**B.** The Board will charge the following fees concerning embalmer's applications and renewals:

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1. Application for examination, \$150.00;
  2. Application for oral re-examination, \$20.00;
  3. Application for out of state license, \$200.00;
  4. Biennial renewal of license, \$120.00;
  5. Reinstatement for each license, \$20.00;
  6. Issuance of license, prorated quarterly until the next biennial renewal date, \$120.00.
- C.** The Board will charge the following fees concerning assistant funeral directors' applications and renewals:
1. Application for registration, \$65.00;
  2. Application for transfer, \$10.00;
  3. Annual renewal of registration, \$65.00;
  4. Reinstatement of registration, \$10.00 per year;
  5. Issuance of registration, prorated quarterly until the next annual renewal date, \$64.00.
- D.** The Board will charge the following fees concerning apprentice embalmers' applications and renewals:
1. Application for registration, \$50.00;
  2. Reinstatement after lapse of registration:
    - a. If actively employed during lapse of registration, \$10.00 for the first year and \$50.00 per year thereafter;
    - b. If inactive during lapse and within two years of lapse date, \$10.00;
  3. Annual renewal of registration, \$50.00;
  4. Issuance of registration, prorated quarterly until the next annual renewal date, \$52.00.
- E.** The Board will charge the following fees for the applications and renewals of funeral establishments:
1. Application for license, \$300.00;
  2. Application for change of ownership, \$300.00;
  3. Application for change in location, \$250.00;
  4. Application for change in name, \$50.00;
  5. Biennial renewal of license shall be based on the number of final dispositions of human remains performed by the establishment during the immediately preceding calendar year as follows:
    - a. Those establishments which perform from zero to 50 final dispositions, \$200.00;
    - b. Those establishments which perform from 51 to 300 final dispositions, \$350.00;
    - c. Those establishments which perform 301 or more final dispositions, \$400.00.
  6. Reinstatement for each license, \$50.00 per year;
  7. Issuance of license, prorated quarterly until the next biennial renewal date, \$340.00. This fee shall not be imposed on licenses for change of ownership, location or name if the previous license has not elapsed.
- F.** The Board will charge the following fees concerning prearranged funeral sales:
1. Application for sales endorsement, \$150.00;
  2. Application for sales person registration, \$80.00;
  3. Annual renewal of sales endorsement, \$140.00;
  4. Annual renewal of salesperson registration, \$60.00;
  5. Reinstatement of sales endorsement, \$50.00;
  6. Reinstatement of salesperson registration:
    - a. If actively selling during lapse, \$20.00 per year;
    - b. If inactive during lapse, \$10.00 for each reinstatement.
  7. Issuance of sales endorsement, prorated quarterly until the next annual renewal date, \$140.00;
  8. Issuance of salesperson registration, prorated quarterly until the next annual renewal date, \$60.00;
  9. Examination fee for salesperson registration, \$70.00;
  10. Filing of annual report:
    - a. For each establishment which has a prearranged funeral trust account and files in the time and manner required by A.R.S. § 32-1391.15 and R4-12-561, \$150.00;
    - b. For each establishment which has a prearranged funeral trust account and files late, incomplete or otherwise inconsistent with A.R.S. § 32-1391.15 and R4-12-561, \$200.00;
    - c. For each establishment which does not have a prearranged funeral trust account established after January 1, 1985 but has contractual prearranged funeral agreements, fixed or non fixed, established prior to that date and files timely and complete, \$100.00;
    - d. For each establishment which meets the criteria in subparagraph (c) but files late, incomplete or otherwise inconsistent with A.R.S. § 32-1391.15 and R4-12-561, \$150.00;
    - e. For each establishment which has no contractual prearranged funeral agreements and files in a timely manner, no charge;
    - f. For each establishment which has no contractual prearranged funeral agreements but files late, \$100.00.

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- ~~G. Except for inactive prearranges funeral sales persons and inactive apprentice embalmers, reinstatement fees are penalties for failure to renew a license or registration. Such fees are imposed in addition to the regular license or registration fee for each year or portion of a year from the time the renewal is due.~~
- ~~H. The Board will charge the following fees for the duplication or copying of public records:
  - 1. Noncommercial copy, 25¢ a page;
  - 2. Commercial copies requiring more than 15 minutes' search and copying time will be charged at the rate of \$5.00 for each additional 15-minute interval;
  - 3. Directories for noncommercial use, 5¢ per name and address; if printed on labels, 10¢ per name and address;
  - 4. Directories for commercial use, 25¢ per name and address; if printed on labels, 30¢ per name and address;
  - 5. The Board may waive the fees under this subsection for charitable organizations and governmental entities.~~
- ~~I. The Board will charge \$5.00 per copy of the funeral directors' laws and rules. Any licensee may request one free copy of this publication during each renewal period.~~
- ~~J. Federal Trade Commission rules and guidelines identified in rules R4-12-305 and R4-12-310 respectively, \$5.00 per copy.~~
- ~~K. The Board will charge each licensed funeral establishment the actual cost of production and handling of each consumer information pamphlet entitled Arizona Funerals Information which is published by the Board and distributed to the licensed establishments pursuant to R4-12-308.~~
- ~~L. Duplicate license, \$20.00.~~
- ~~A. Fees for filing an annual report under A.R.S. § 32-1391.06 are nonrefundable and are as follows:
  - 1. For each funeral establishment that has a prearranged funeral trust account and files the annual report in the time and manner required in A.R.S. § 32-1391.16, \$150.00.
  - 2. For each funeral establishment that has a prearranged funeral trust account and files the annual report late or incomplete, \$200.00.~~
- ~~B. Fees for the duplication or copying of public records under A.R.S. § 39-121.03 are nonrefundable and are as follows:

1. Noncommercial and commercial copy	25¢ per page
2. Copying requiring more than 15 minutes	\$5.00 for each 15-minute interval exceeding 15 minutes
3. Directories for noncommercial use	5¢ per name and address
4. Directories for noncommercial use printed on labels	10¢ per name and address
5. Directories for commercial use	25¢ per name and address
6. Directories for commercial use printed on labels	30¢ per name and address
7. A directory in (3),(4),(5), or (6) issued on a diskette	\$5.00 and the applicable name and address fee
- ~~C. The Board may waive any of the fees in subsection (B) for charitable organizations and governmental entities.~~
- ~~D. For the consumer information pamphlet, entitled Arizona Funerals Information, the Board shall charge a funeral establishment the Board's actual cost of publishing, distributing, and mailing the pamphlet.~~

**ARTICLE 2. LICENSING PROVISIONS**

**R4-12-201. Apprenticeship requirements for embalmer's license Repealed**

- ~~A. The Board will accept apprenticeship wherever served, provided the apprenticeship was:
  - 1. Registered with the state in which the apprenticeship was served, or
  - 2. Served under the auspices of a recognized agency of the federal government or in an area where it was impossible to register the apprenticeship, and
  - 3. Served under a qualified practicing embalmer.~~
- ~~B. The applicant shall provide:
  - 1. If applicable, a written explanation of the reasons why the apprenticeship was not registered.
  - 2. The names of the qualified practicing embalmers under which the apprenticeship was served, and
  - 3. Written documentation of the apprenticeship including the dates served and the number of bodies embalmed from either the association of group charged with certifying an apprenticeship in the area in which the apprenticeship was served, or from the funeral establishments or the agencies or the federal government in which the apprenticeship was served.~~
- ~~C. An apprentice does not quarry for examination until the apprentice has served one hundred and four weeks or twenty-four months of approved apprenticeship.~~

**R4-12-201. Application for a State Equivalent Examination or Embalmer Assistant Practical Examination**

An applicant for a state equivalent examination or embalmer assistant practical examination shall submit an application packet to the Board that contains the following:

- 1. An application form provided by the Board, signed and dated by the applicant, and notarized that contains:
  - a. The applicant's name, mailing address, telephone number, and social security number;
  - b. The applicant's date and place of birth; and
  - c. The applicant's height, weight, hair color, and eye color;
- 2. A photocopy of the applicant's high school diploma or general educational diploma issued in any state;

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3. If applying to take a state equivalent examination, a photocopy of the diploma issued to the applicant upon graduation from an accredited or provisionally accredited school of mortuary science;
4. Two passport photographs of the applicant, no larger than 1 ½ x 2 inches, taken not more than 60 days before the date of the application; and
5. The fee required by the Board.

**R4-12-202. Apprenticeship time criteria Application for an Intern, an Embalmer, or a Funeral Director License**

For the purposes of determining actual apprenticeship time served, the following criteria will be used:

1. At least 20 hours per calendar week will constitute one week of apprenticeship time, or
2. At least 86 hours per calendar month will constitute one month of apprenticeship time.

**A.** An applicant for an intern, an embalmer, or a funeral director license shall submit to the Board an application packet that contains the fee required by the Board, documents and information required in A.R.S. § 32-1323, and the following:

1. An application form provided by the Board, signed and dated by the applicant, and notarized that contains:
  - a. The applicant's name, mailing address, telephone number, and social security number;
  - b. The applicant's date and place of birth;
  - c. Any prior names or aliases of the applicant;
  - d. The name and address of the high school from which the applicant graduated and the graduation date or date applicant received a general equivalency diploma;
  - e. The name and address of the mortuary school from which the applicant graduated and graduation date;
  - f. The name, address, and telephone number of the funeral establishment employing the applicant;
  - g. Whether the applicant has ever been convicted of or entered into a plea of no contest to a class 1 or 2 felony, including the information in subsection (A)(1)(h)(i) through (A)(1)(h)(vi);
  - h. Whether the applicant, within 5 years from the date of the application, has been convicted of or entered into a plea of no contest to a felony or a misdemeanor that is reasonably related to the applicant's proposed area of licensure including the:
    - i. Charged felony or misdemeanor;
    - ii. Date of conviction;
    - iii. Court having jurisdiction over the felony or misdemeanor;
    - iv. Probation officer's name, address and telephone number, if applicable;
    - v. Notice of expungement, if applicable; and
    - vi. Notice of restoration of civil rights, if applicable;
  - i. Whether the applicant, within 5 years from the date of the application, has committed any act involving dishonesty, fraud, misrepresentation, breach of fiduciary duty, gross negligence or incompetence reasonably related to the applicant's proposed area of licensure;
  - j. Whether the applicant is currently incarcerated in or on community supervision after a period of imprisonment in a local, state, or federal penal institution or on criminal probation;
  - k. Whether the applicant, within 5 years from the date of the application, has had an application for a license, registration, certificate, or endorsement, denied or rejected by any state funeral licensing authority including the:
    - i. Reason for the denial or rejection;
    - ii. Date of the denial or rejection; and
    - iii. Name and address of the agency that denied or rejected the application;
  - l. Whether the applicant has, within 5 years from the date of the application, had a license, registration, certificate, or endorsement suspended or revoked by any state funeral licensing authority including the:
    - i. Reason for the suspension or revocation;
    - ii. Date of the suspension or revocation; and
    - iii. Name and address of the state licensing authority that suspended or revoked the license;
  - m. Whether the applicant has ever surrendered a license, registration, certificate, or endorsement to the Board or any state funeral licensing authority;
  - n. The dates the applicant served as an apprentice embalmer or intern, location of apprenticeship or internship, and the number of bodies embalmed, if applicable;
  - o. A statement of whether the applicant has passed a national board examination or state equivalent examination, if applicable; and
  - p. A notarized statement by the applicant verifying the information on the application is true and correct;
2. A copy of the applicant's high school or general equivalency diploma; and
3. A copy of the transcript from each mortuary college attended by the applicant and diploma issued to the applicant;

**B.** In addition to the requirements in subsection (A), an applicant for an intern license shall submit on the application form:

1. The name of the embalmer who will be supervising the applicant; and
2. A notarized statement from the embalmer who will be supervising the applicant; and:
  - a. Attests to the applicant's good character, reputation and professional ability; and

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- b. Recommends approval of the applicant.
- C.** In addition to the requirements in subsection (A), an applicant for an embalmer license shall submit to the Board:
  - 1. On the application form:
    - a. Whether the applicant has embalmed 25 or more dead human bodies;
    - b. Apprenticeship or internship information including:
      - i. Commencement and conclusion dates,
      - ii. The state in which the apprenticeship or internship was served,
      - iii. The applicant's state registration number and date of issuance, and
      - iv. The number of dead human bodies embalmed by the applicant during the apprenticeship or internship;
    - c. The following information:
      - i. The name of each state in which the applicant has been licensed or registered as an embalmer or funeral director,
      - ii. The date of issuance of each funeral director or embalmer license or registration, and
      - iii. The license or registration number in each state in which the applicant is or has been licensed or registered as an embalmer or funeral director.
    - d. The name of each mortuary at which the applicant has practiced as an embalmer or funeral director for 5 years immediately before the application date, commencement and conclusion dates of the practice, and a description of the practice, if applicable;
    - e. A notarized statement from a funeral director licensed or registered in any state that contains the funeral director's:
      - i. State in which licensed;
      - ii. License number and issuance date;
      - iii. Statement of length of time that the funeral director has known the applicant;
      - iv. Statement attesting to the applicant's good character, reputation and professional ability; and
      - v. Recommendation for the Board's approval of the applicant;
  - 2. A report of apprenticeship or internship containing:
    - a. The applicant's name;
    - b. The name of the funeral establishment in which the apprenticeship or internship was served;
    - c. The name of the embalmer supervising the applicant;
    - d. The beginning and ending dates covered in the report;
    - e. The number of hours worked each month during the apprenticeship or internship;
    - f. The number of dead human bodies embalmed each month during the apprenticeship or internship;
    - g. For each dead human body embalmed:
      - i. The name of the deceased,
      - ii. The date of death,
      - iii. A statement of whether an autopsy was performed,
      - iv. The supervising embalmer's signature and license number, and
      - v. The signature of the responsible funeral director,
- D.** In addition to the requirements in subsection (A), an applicant for a funeral director license shall submit to the Board a report containing:
  - 1. The applicant's name;
  - 2. The name of the funeral establishment in which 1 year of funeral directing experience was obtained;
  - 3. The name of the responsible funeral director;
  - 4. The beginning and ending dates covered in the report;
  - 5. For each burial, immediate burial, or direct cremation conducted by the applicant:
    - a. The name of the deceased;
    - b. The date of the burial, immediate burial, or direct cremation;
    - c. A statement of whether the applicant conducted a burial, immediate burial, or direct cremation; and
    - d. The supervising funeral director's signature.
- E.** In addition to the requirements in subsection (A), an applicant for an embalmer or funeral director license who holds an out-of-state embalmer or funeral director license shall:
  - 1. Submit on the application form, the name of each state in which the applicant is licensed or registered as an embalmer or funeral director; and
  - 2. Arrange for the out-of-state licensing authority to complete the following on the application form:
    - a. Certification of current licensure of the applicant;
    - b. Type of license, license number, and date license was issued;
    - c. A statement of whether the applicant qualified by examination or by being licensed by another state;
    - d. A statement of whether the licensing authority has ever suspended, revoked or taken any other agency action against the applicant's license; and

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- e. Notarized signature and title of agency official;
- E.** An applicant for a multiple funeral director license shall submit an application form that is signed and dated by the applicant, and notarized that includes the information in subsection (A)(1)(a) through (A)(1)(c) and:
  - 1. The name and address of the funeral establishment for which the applicant:
    - a. Currently is the responsible funeral director; and
    - b. Is applying to act as the responsible funeral director;
  - 2. The distance, stated in miles, between the current funeral establishment and the funeral establishment for which the application is being made;
  - 3. For the funeral establishment for which application is being made and for 12 months immediately preceding the application, the number of:
    - a. Funerals and cremations of human remains that were conducted at the funeral establishment; and
    - b. Transportations of human remains that were arranged through the funeral establishment;
  - 4. Fee required by the Board; and
  - 5. Other information required by the Board.

**R4-12-203. Background checks Application for an Embalmer's Assistant Registration**

**A.** Except for apprentice registration, each application for a license shall be accompanied by a completed fingerprint card and the fee prescribed by and made payable to the Arizona Department of Public Safety.

**B.** If an applicant has previously submitted legible fingerprints to the Board, this requirement is waived.

An applicant for an embalmer's assistant registration shall submit to the Board an application packet that contains the following:

- 1. An application form that contains:
  - a. The applicant's name, mailing address, telephone number, and social security number;
  - b. The applicant's date and place of birth;
  - c. Any prior names or aliases of the applicant;
  - d. The name and address of the high school from which the applicant graduated and the graduation date or date applicant received a general equivalency diploma.
  - e. The name and address of each mortuary college attended by the applicant;
  - f. The name and address of the mortuary college from which the applicant graduated and graduation date;
  - g. The name, address, and telephone number of the funeral establishment employing the applicant;
  - h. Whether the applicant, within 5 years from the date of the application, has had an application for a license, registration, certificate, or endorsement, denied or rejected by any state funeral licensing authority including the:
    - i. Reason for the denial or rejection,
    - ii. Date of the denial or rejection, and
    - iii. Name and address of the agency that denied or rejected the application.
  - i. Whether the applicant, within 5 years from the date of the application, has had a license, registration, certificate, or endorsement suspended or revoked by any state funeral licensing authority including the:
    - i. Reason for the suspension or revocation;
    - ii. Date of the suspension or revocation; and
    - iii. Name and address of the state licensing authority that suspended or revoked the license;
  - j. Whether the applicant, within 5 years from the date of the application, has ever surrendered a license, registration, certificate, or endorsement to the Board or any state funeral licensing authority;
  - k. The name of the applicant's current supervising embalmer;
  - l. If applicable, the commencement and conclusion dates the applicant served as an apprentice embalmer, the applicant's registration number and date of issuance, and the number of bodies embalmed and date of each embalming;
  - m. A notarized statement by the applicant verifying the information on the application is true and correct;
  - n. A notarized statement from the supervising embalmer who:
    - i. Vouches for the applicant's good character, reputation and professional ability; and
    - ii. Recommends approval of the applicant;
- 2. A copy of the applicant's high school or general equivalency diploma;
- 3. A copy of the transcript and diploma from the mortuary college attended by the applicant;
- 4. A report of apprenticeship containing:
  - a. The applicant's name;
  - b. The name of the funeral establishment in which the apprenticeship was completed;
  - c. The name of the supervising embalmer;
  - d. The beginning and ending dates covered in the report;
  - e. The number of clock hours worked each month during the 2 most recent consecutive years of apprenticeship;

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- f. The number of dead human bodies embalmed by the applicant or in which the applicant assisted in the embalming for each month during the apprenticeship;
- g. For each dead human body embalmed by the applicant or in which the applicant assisted in embalming for the 2 most recent consecutive years of the apprenticeship:
  - i. The name of the deceased;
  - ii. The date of death;
  - iii. The cause of death;
  - iv. A statement of whether an autopsy was performed;
  - v. The supervising embalmer's signature and license number; and
  - vi. The applicant's and supervising embalmer's signatures.
- 5. A completed and legible fingerprint card; and
- 6. The fee required by the Board.

**R4-12-204. Processing applications Application for a Funeral Establishment License or Interim Funeral Establishment Permit**

- A.** The Board will notify the applicant as follows:
- 1. If eligible to take the examination, the applicant will be notified of the place and time of the examination.
  - 2. If the Board determines that the applicant is not qualified or has cause to believe that the applicant has made substantial false or misleading statements on the application, it will deny the application and the applicant will be notified of the reasons for the denial.
- B.** If the only reason for denial is failure to meet the apprenticeship or embalmer time requirements and such requirements can be met within one year of the Board's decision, the application will be held pending completion of the time requirements but not longer than 15 months and no additional application fee will be charged for the examination.
- C.** Application fees are not refundable. Application fees will not be applied toward a future examination if the applicant fails to appear at the examination for which he applied, except as provided in subsection (B) or under one of the following conditions:
- 1. A serious accident or severe illness to the applicant or a member of the applicant's immediate family which can be documented.
  - 2. A death or extreme emergency involving a member of the applicant's immediate family which can be documented.
- D.** The Board will approve an application subject to receipt of required materials, but no license will be issued until all requirements for licensure have been satisfied.
- A.** An applicant for a funeral establishment license shall submit to the Board an application packet that contains the fee required by the Board, the documents and information required in A.R.S. § 32-1383, and an application form that contains:
- 1. The funeral establishment's current and previous name, if any;
  - 2. The address of the physical location and telephone number of the funeral establishment;
  - 3. The responsible funeral director's name and license number;
  - 4. The name of the funeral establishment's current and previous owner;
  - 5. A statement of whether the applicant is a corporation or a subsidiary of a corporation, partnership, or proprietorship;
  - 6. If the previous owner was a corporation, the name of the corporation;
  - 7. The name and address of each person owning 10% or more of the establishment or corporation common stock;
  - 8. If a corporation, the state and date of incorporation, name and address of the Arizona statutory agent, and each officer's and director's name, address, and title;
  - 9. Whether the applicant has ever been convicted of or entered into a plea of no contest to a class 1 or 2 felony, including the information in subsection (A)(10)(a) through (A)(10)(f);
  - 10. Whether the applicant, within 5 years from the date of the application, has been convicted of or entered into a plea of no contest to a felony or a misdemeanor that is reasonably related to the applicant's proposed area of licensure including the:
    - a. Charged felony or misdemeanor;
    - b. Date of conviction;
    - c. Court having jurisdiction over the felony or misdemeanor;
    - d. Probation officer's name, address and telephone number, if applicable;
    - e. Notice of expungement; if applicable; and
    - f. Notice of restoration of civil rights, if applicable;
  - 11. Whether the applicant, within 5 years from the date of the application, has committed any act involving dishonesty, fraud, misrepresentation, breach of fiduciary duty, gross negligence or incompetence reasonably related to the applicant's proposed area of licensure;
  - 12. Whether the applicant is currently incarcerated in or on community supervision after a period of imprisonment in a local, state, or federal penal institution or on criminal probation;

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13. Whether the applicant, within 5 years from the date of the application, has had an application for a license, registration, certificate, or endorsement, denied or rejected by any state funeral licensing authority including the:
  - a. Reason for the denial or rejection;
  - b. Date of the denial or rejection; and
  - c. Name and address of the agency that denied or rejected the application;
14. Whether the applicant has, within 5 years from the date of the application, had a license, registration, certificate, or endorsement suspended or revoked by any state funeral licensing authority including the:
  - a. Reason for the suspension or revocation;
  - b. Date of the suspension or revocation; and
  - c. Name and address of the state licensing authority that suspended or revoked the license;
15. Whether the applicant has ever surrendered a license, registration, certificate, or endorsement to the Board or any state funeral licensing authority;
16. A statement, signed by the responsible funeral director and notarized, affirming licensure in Arizona and confirming responsibility for the funeral establishment's compliance with Arizona state laws and rules; and
17. The applicant's signature.

**B.** An applicant for an interim funeral establishment permit shall submit to the Board an application packet that contains the documents and information required in A.R.S. § 32-1388 and an application form that contains:

1. The funeral establishment's current and previous name, if any;
2. The address of the physical location and telephone number of the funeral establishment;
3. The name of the funeral establishment's current and previous owner;
4. The responsible funeral director's name and license number;
5. Whether the applicant is a corporation or a subsidiary of a corporation, partnership, or proprietorship;
6. If the previous owner was a corporation, the name of the corporation;
7. The name and address of each person owning 10% or more of the establishment or corporation common stock;
8. If a corporation, the state and date of incorporation, name and address of the Arizona statutory agent, and each officer's and director's name, address, and title;
9. The name of the previous licensed owner;
10. A statement, signed by the responsible funeral director and notarized, affirming licensure in Arizona and confirming responsibility for the funeral establishment's compliance with Arizona state laws and rules; and
11. The applicant's signature.

**R4-12-205. Funeral directors' examination Application for a Prearranged Funeral Sales Endorsement**

~~The examination for a funeral director's certificate shall consist of not less than seventy written questions upon the following subjects: funeral directing, proper embalming practices and procedures; methods of determining whether proper embalming practices and procedures are being, or have been, followed for preservation of the dead human body and prevention of the spread of disease; the laws and regulations and approved practices governing the preparation, burial, and disposal of dead human bodies, and the shipment of bodies dying from infectious or contagious diseases.~~

An owner and the owner's responsible funeral director applying for a prearranged funeral sales endorsement for a funeral establishment shall submit to the Board an application packet that contains the fee required by the Board, documents and information required in A.R.S. § 32-1391.12, and an application form that contains:

1. The funeral establishment's name, mailing address, and telephone number;
2. The funeral establishment's designated funeral director's, manager's, corporate officers', owner's, trustee's, or any controlling person's:
  - a. Current name and any prior names or alias;
  - b. Current address, telephone number, and social security number;
  - c. Date and place of birth; and
  - d. Former addresses, including dates of residence, for 7 years immediately preceding the date of the application;
3. The total amount of trust funds, including accrued interest, for 12 months immediately preceding the application date;
4. The total number of currently existing prearranged funeral agreements entered into before January 1, 1985;
5. The total number of prearranged funeral agreements sold by the funeral establishment for the calendar year immediately preceding the date of the application;
6. Whether the designated funeral director, a manager, a corporate officer, a trustee, or an owner, within 7 years preceding the date of application, in any state or federal jurisdiction, has:
  - a. Been convicted of or entered into a plea of no contest to a felony or any misdemeanor involving dishonesty, fraud, deception, misrepresentation, embezzlement, or breach of fiduciary duty; or
  - b. Been issued a judgment or consent order for consumer fraud or securities violation or civil racketeering;

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7. The names, addresses, aliases, and telephone number of each individual named in subsection (6) and the following:
  - a. The charged felony;
  - b. Date of conviction or judgment;
  - c. Court having jurisdiction over the felony;
  - d. Probation officer's name, address and telephone number, if applicable; and
  - e. Notice of restoration of civil rights, if applicable; and
8. A notarized statement signed by the owner and designated funeral director verifying the information on the application is true and correct;

**R4-12-206. Examinations Application for a Prearranged Funeral Salesperson Registration**

- ~~A. Written examinations for embalmer and funeral director licensing will be given at least twice each year.~~
  - ~~B. While an examination is in progress, examinees shall not leave the room nor communicate with any other person without the permission of an attending proctor.~~
  - ~~C. An examinee who creates any disturbance which interferes with the maintenance of order during an examination may be ejected from the room; and, if ejected, will be considered to have failed the examination and shall forfeit all application fees.~~
  - ~~D. At the completion of the written examination, all examination questions and answers shall be delivered to the proctor.~~
- An applicant for a prearranged funeral salesperson registration shall submit an application packet to the Board that contains the fee required by the Board, documents and information required in A.R.S. § 32-1391.14, and an application form that contains:
1. The applicant's telephone number, and social security number;
  2. A statement of whether the applicant is a funeral director or embalmer licensed in Arizona;
  3. Whether the applicant has ever been convicted of or entered into a plea of no contest to a felony or a misdemeanor involving dishonesty, fraud, deception, misrepresentation, embezzlement or breach of fiduciary duty in any state or federal court within 7 years preceding the date of application including the:
    - a. Charged felony or misdemeanor;
    - b. Date of conviction;
    - c. Court having jurisdiction over the felony or misdemeanor;
    - d. Probation officer's name, address and telephone number, if applicable;
    - e. Notice of expungement, if applicable; and
    - f. Notice of restoration of civil rights, if applicable.
  4. Whether the applicant, within 7 years preceding the date of the application, has ever had an application for a license or certificate, other than a driver's license, denied or rejected by any state funeral licensing authority including the:
    - a. Reason for the denial or rejection,
    - b. Date of the denial or rejection, and
    - c. Name and address of the agency that denied or rejected the application.
  5. Whether the applicant, within 7 years preceding the date of the application, has ever had a license, certificate, or registration, other than a driver's license, suspended or revoked by any state funeral licensing authority including the:
    - a. Reason for the suspension or revocation,
    - b. Date of the suspension or revocation, and
    - c. Name and address of the agency that suspended or revoked the license; and
  6. A notarized statement signed by the applicant verifying the information on the application is true and correct; and
  7. A notarized statement signed by the responsible funeral director verifying the applicant will be employed by the responsible funeral director upon issuance of the registration by the Board.

**R4-12-207. Oral Examinations Application for a Crematory License**

- ~~A. An oral examination shall consist of at least twenty five questions on the laws of Arizona pertaining to the Funeral Directors Act, A.R.S. § 32-1301 et seq., these rules, and the Department of Health Services rules (A.A.C.) R9-19-301 et seq. as appropriate.~~
- ~~B. Oral examination questions appropriate to the type of license or registration applied for shall be constructed and approved by the Board prior to the examination date.~~
- ~~C. The passing grade for an oral examination shall be a score of 75% or more. The Board may weight questions according to their importance in determining the competency of the applicant.~~
- ~~D. The Board may determine that the applicant may read the questions propounded, but all answers will be given verbally unless a physical handicap prevents a verbal response.~~
- ~~E. The Board shall attempt to accommodate handicapped applicants insofar as it is able to without jeopardizing the validity of the examination.~~
- ~~F. An oral examination given pursuant to A.R.S. § 32-1323, to be taken in conjunction with a written examination, may be given at a different place and time if it is mutually agreeable to the applicant and the Board's administrator.~~

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~~C.~~ Oral examinations given pursuant to A.R.S. § 32-1333 (out of state applicant) or A.A.C. R4-12-208 (waiver of written examination) will be given by individual appointment at a time and place mutually convenient to the applicant and the Board's administrator and may be given prior to the Board's approval of application and license but, in no case, will a license be issued without prior approval of the Board and payment of the license fee.

An applicant for a crematory license shall submit to the Board an application packet that contains the fee required by the Board, documents and information required in A.R.S. § 32-1395, and the following:

1. An application form that contains:
  - a. The name of the crematory;
  - b. The address of the physical location and telephone number of the crematory;
  - c. A statement of whether the applicant is a corporation or a subsidiary of a corporation, partnership, or proprietorship;
  - d. The name and license number of the responsible funeral director or cremationist;
  - e. The name and address of each person owning 10% or more of the establishment or corporation common stock;
  - f. A statement, signed by the responsible funeral director or cremationist and notarized, affirming licensure in Arizona and confirming responsibility for the funeral establishment's compliance with Arizona state laws and rules;
  - g. If a corporation, the state and date of incorporation, name and address of the Arizona statutory agent, and each officer's and director's name, address, and title;
  - h. Whether the applicant has ever been convicted of or entered into a plea of no contest to a class 1 or 2 felony, including the information in subsection (1)(i)(i) through (1)(i)(vi);
  - i. Whether the applicant, within 5 years from the date of the application, has been convicted of or entered into a plea of no contest to a felony or a misdemeanor that is reasonably related to the applicant's proposed area of licensure including the:
    - i. Charged felony or misdemeanor;
    - ii. Date of conviction;
    - iii. Court having jurisdiction over the felony or misdemeanor;
    - iv. Probation officer's name, address and telephone number, if applicable;
    - v. Notice of expungement; if applicable; and
    - vi. Notice of restoration of civil rights, if applicable;
  - j. Whether the applicant, within 5 years from the date of the application, has committed any act involving dishonesty, fraud, misrepresentation, breach of fiduciary duty, gross negligence or incompetence reasonably related to the applicant's proposed area of licensure;
  - k. Whether the applicant is currently incarcerated in or on community supervision after a period of imprisonment in a local, state, or federal penal institution or on criminal probation;
  - l. Whether the applicant, within 5 years from the date of the application, has had an application for a license, registration, certificate, or endorsement, denied or rejected by any state funeral licensing authority including the:
    - i. Reason for the denial or rejection;
    - ii. Date of the denial or rejection; and
    - iii. Name and address of the agency that denied or rejected the application;
  - m. Whether the applicant has, within 5 years from the date of the application, had a license, registration, certificate, or endorsement suspended or revoked by any state funeral licensing authority including the:
    - i. Reason for the suspension or revocation;
    - ii. Date of the suspension or revocation; and
    - iii. Name and address of the state licensing authority that suspended or revoked the license;
  - n. Whether the applicant has ever surrendered a license, registration, certificate, or endorsement to the Board or any state funeral licensing authority; and
  - p. The applicant's signature.
2. A copy of a funeral establishment license or crematory authority certificate issued by the Arizona Department of Real Estate to a cemetery that operates a crematory;

**R4-12-208. ~~Exception to written examination~~ Annual Intern, Apprentice Embalmer, or Embalmer's Assistant Report**

~~A.~~ The Board shall accept a certificate issued by the Conference of Funeral Service Examining Boards in lieu of the written portion of the embalmer's or funeral director's examination provided such examination was successfully completed within five years of application or the applicant has legally practiced the art of embalming or the profession of funeral directing, as appropriate applicable to the application, within the last five years.

~~B.~~ This exception does not apply to the oral examination.

A. To meet the requirements in A.R.S. §§ 32-1322(A)(4), 32-1324 or 32-1325.01(B)(2), an intern, apprentice embalmer, or embalmer's assistant is required to work a minimum of 40 hours each week and a minimum of 160 hours each month during an internship or apprenticeship.

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- B.** As required in A.R.S. § 32-1330, an intern, an apprentice embalmer, or an embalmer's assistant shall submit the following on a form provided by the Board:
1. The name of the licensee or registrant;
  2. The name of the funeral establishment employing the applicant;
  3. The supervising embalmer's name and license number;
  4. The beginning and ending dates being covered by the report;
  5. The number of hours worked each week at the employing funeral establishment;
  6. For each body embalmed:
    - a. The name of the deceased;
    - b. The date of death;
    - c. The cause of death;
    - d. A statement of whether an autopsy was performed; and
    - e. The supervising embalmer's signature and license number;
  7. A statement signed by the intern, apprentice embalmer, or embalmer's assistant verifying the information on the application is true and correct;
  8. A statement signed by the responsible funeral director verifying the intern, apprentice embalmer, or embalmer's assistant has been employed by the responsible funeral director; and
  9. A statement signed by the supervising embalmer verifying supervision of the intern, apprentice embalmer, or embalmer's assistant.

**R4-12-209. State Equivalent Examination**

- A.** The funeral service science section of the state equivalent examination shall consist of not less than 70 written questions covering the following subjects:
1. Embalming practices and procedures;
  2. Methods of determining whether proper embalming practices and procedures are being or have been followed for the preservation of the dead human body and prevention of the spread of disease;
  3. The laws and regulations and approved practices governing the preparation, burial, and disposal of dead human bodies; and
  4. The shipment of human remains when the cause of death was an infectious or a contagious disease.
- B.** The funeral services arts section of the state equivalent examination shall consist of not less than 70 written questions covering the following subjects:
1. Funeral directing,
  2. Funeral service law,
  3. Funeral merchandising,
  4. Business law,
  5. Accounting,
  6. Sociology,
  7. Accounting, and
  8. Psychology.

**R4-12-211. Application for funeral establishment license Repealed**

- A.** ~~Each application shall meet the requirements of R4 12 203 pertaining to background checks for each owner, trustee, receiver or other person desiring a funeral establishment license.~~
- B.** ~~The responsible funeral director of the establishment shall certify on the application that the establishment will be equipped and maintained in accordance with this Chapter.~~
- C.** ~~If an application is for change of owner, the location or the name of the establishment, the license previously issued to the establishment shall be surrendered with the application for an establishment license.~~
- D.** ~~A license surrendered with a timely application will remain in effect until a new license is issued or denied.~~

**ARTICLE 5. PREARRANGED FUNERAL AGREEMENTS**

**R4-12-531. Salesperson registration application Repealed**

~~The application for prearranged funeral salesperson shall be signed and dated by the applicant and sworn to before a notary public. The responsible funeral director shall verify on the application that he will employ the applicant as a prearranged funeral salesperson if the registration is issued. The application and verification shall be dated no more than 30 days before the application is filed with the Board. The written examination shall be taken by an applicant for registration within 30 days after the application is filed.~~

**ARTICLE 6. CREMATORY AND CREMATION REGULATION**

**R4-12-601. Definitions Repealed**

In A.R.S. § Title 32, Chapter 12, Article 6, and this Article, the following definitions of terms shall apply:

1. "Commissioner" means the Real Estate Commissioner.
2. "Cremation container" means a rigid, combustible, closed container into which the body of a deceased person is put for subsequent placement in the cremation chamber for a cremation.
3. "Licensing authority" means the Board for funeral establishments licensed under this Chapter or the Commissioner for owners or operators holding a certificate of authority to operate a cemetery.
4. "Violation or offense" means each incident, action or failure to act which violates any provision of A.R.S. § Title 32, Chapters 12 or 20, or rules adopted pursuant to those chapters.

**R4-12-611. Crematory authority, registration Repealed**

- ~~**A.** A person desiring to operate a crematory in Arizona for the cremation of human remains shall register with the Board as a crematory authority.~~
- ~~**B.** The application for registration shall contain the following information and shall be executed under oath or affirmation by the crematory authority's responsible funeral director or cemetery operator:~~
- ~~1. Name and location of the crematory.~~
  - ~~2. License number and name of the funeral establishment or the cemetery authority under which the crematory authority desires to register.~~
  - ~~3. Statement as to whether the crematory is a sole proprietorship, partnership, or a corporation.~~
  - ~~4. Name of each person owning ten percent or more of the crematory, or, if a corporation, the name of each person owning ten percent or more of the capital units or shares in the corporation.~~
- ~~**C.** The application for registration also shall contain the following information:~~
- ~~1. Mailing address and telephone number of the crematory.~~
  - ~~2. Name, address and telephone number of the crematory authority's responsible funeral director or cemetery operator.~~
  - ~~3. Address and telephone number of each person named in subsection (B)(4), and, if a corporation, the names, addresses and telephone numbers of the officers and statutory agent of the corporation.~~
  - ~~4. Photocopy of the funeral establishment license or cemetery certificate of authority under which the crematory will be registered.~~
- ~~**D.** The application for registration shall be accompanied by a fee of \$25. The certificate of registration issued by the Board shall be in the name of the funeral establishment or cemetery operator.~~
- ~~**E.** Upon request of the crematory authority and for an additional fee of \$25, the Board also may issue a certificate of registration in the name of the crematory.~~
- ~~**F.** If the information provided pursuant to subsection (B) changes in any way, a new application and fee for registration shall be submitted to the Board within 30 days after the change.~~
- ~~**G.** If the owner of the crematory authority intends to close the crematory, the owner shall notify the Board at least 30 days prior to closing. If the crematory is closed unexpectedly, the owner shall advise the Board immediately.~~
- ~~**H.** A duplicate funeral establishment license or cemetery certificate of authority and the certificate of registration shall be prominently displayed in the crematory.~~

**NOTICE OF PROPOSED RULEMAKING**

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

**CHAPTER 2. CORPORATION COMMISSION - FIXED UTILITIES**

**PREAMBLE**

**1. Sections Affected**

**Rulemaking Action**

R14-2-201	Amend
R14-2-202	Amend
R14-2-203	Amend
R14-2-206	Amend
R14-2-207	Amend
R14-2-208	Amend
R14-2-209	Amend
R14-2-211	Amend
R14-2-212	Amend
R14-2-213	Amend
R14-2-1601	Amend
R14-2-1603	Amend
R14-2-1604	Amend
R14-2-1606	Amend
R14-2-1607	Amend
R14-2-1608	Amend
R14-2-1609	Amend
R14-2-1610	Amend
R14-2-1611	Amend
R14-2-1612	Amend
R14-2-1613	Amend
R14-2-1614	Amend
R14-2-1616	Amend
R14-2-1617	Amend

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

Authorizing statutes: 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:**

None

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

Name: Deborah R. Scott  
Director, Utilities Division

Address: Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

Telephone: (602) 542-0745

Fax: (602) 542-2129

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

On September 29, 1999, in Decision No. 61969, the Commission adopted the Retail Electric Competition Rules (A.A.C. R14-2-1601, et seq.) along with modifications to the Electric Utilities Rules (A.A.C. R14-2-201, et seq.) These rules provided the framework for the introduction of retail competition to the electric industry in Arizona. However, Commission staff has determined that there is a need to make clarifying revisions to the rules before the onset of full competition scheduled for January 1, 2001.

**Some of the significant changes to the rules are as follows:**

- A. Definitions of some terms have been expanded.
- B. Locations within the Commission for filing required documents have been specified.
- C. The requirement that utilities have to file with the Commission copies of reports required by the Securities and Exchange Commission has been removed.
- D. A statement restricting the release of customer-specific information has been added.
- E. Corrections have been made to the timeliness in the application processes for Certificates of Convenience and Necessity (CC&N). In addition, a clarification in the process for a competitive CC&N has been made in regard to the timing of providing written notice to the Commission of notification to incumbent utilities.
- F. References to Regional Transmission Organization (RTO) have been added where appropriate in response to federal support for such an organization. In addition, clarification has been made regarding the functions of an RTO or Independent System Operator (ISO) in the absence of an Arizona Independent Scheduling Administrator (AISA).
- G. A clarification of holidays in regard to meter data has been added.
- H. A provision has been added to allow Electric Service Providers who provide separate bills to competitive customers to not be required to list billing cost elements for services they do not provide.
- I. In regard to the semi-annual and annual reports filed under the Retail Electric Competition Rules, the number of categories in reporting the number of retail customers has been reduced. In addition, these reports would no longer be required to be filed in both written and electronic forms.

**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:**

Anyone who reads the revised rules would benefit from improved definitions of terms and from corrections in spelling, grammar and punctuation.

Specification in the rules of where to file required documents would save employee time for both Utilities and Electric Service Providers because they would not have to contact the Commission for that information. It would also benefit Commission staff who would no longer have to search in various places for filed materials. Commission staff would also benefit by clarifying timeline issues in the application process for a Certificate of Convenience and Necessity.

Utilities would benefit from no longer being required to file copies of reports required by the Securities and Exchange Commission. Affected Utilities and Electric Service Providers would benefit from not being required to file their semi-annual and annual reports in both written and electronic formats.

Both Utility Distribution Companies and Electric Service Providers would benefit by holidays being standardized. In addition, Electric Service Providers would be able to reduce costs by eliminating billing cost elements from customer bills when the entities do not provide particular services and the entities bill separately. Customers would benefit by receiving less confusing bills.

Consumers would also benefit from clarification about when customer-specific information could be released. They would be assured that their privacy would be protected.

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Probable costs to the Commission of the proposed rule revisions would be minimal.

Adoption of the proposed permanent rule revisions 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: Deborah R. Scott  
Director, Utilities Division

Address: Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

Telephone: (602) 542-0745

Fax: (602) 542-2129

**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: September 15, 2000

Time: 10:00 a.m.

Location: Hearing Room  
Arizona Corporation Commission  
1200 W. Washington Street  
Phoenix, Arizona 85007

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. ARIZONA CORPORATION COMMISSION - FIXED UTILITIES**

**ARTICLE 2. ELECTRIC UTILITIES**

Sections

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

R14-2-206. Service Lines and Establishments

R14-2-207. Line Extensions

R14-2-208. Provision of Service

R14-2-209. Meter Reading

R14-2-211. Termination of Service

R14-2-212. Administrative and Hearing Requirements

R14-2-213. Conservation

**ARTICLE 16. RETAIL ELECTRIC COMPETITION**

Sections

- R14-2-1601. Definitions
- R14-2-1603. Certificates of Convenience and Necessity
- R14-2-1604. Competitive Phases
- 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. Transmission and Distribution Access
- R14-2-1610. In-state Reciprocity
- R14-2-1611. Rates
- R14-2-1612. Service Quality, Consumer Protection, Safety, and Billing Requirements
- R14-2-1613. Reporting Requirements
- R14-2-1614. Administrative Requirements
- R14-2-1616. Code of Conduct
- R14-2-1617. 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. No change.
2. No change.
3. No change.
4. No change.
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. No change.
14. No change.
15. No change.
16. No change.
17. No change.
18. No change.
19. No change.
20. No change.
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23. No change.
24. No change.
25. No change.
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27. No change.
28. No change.
29. No change.
30. No change.
31. No change.
32. No change.
33. No change.
34. No change.
35. No change.
36. No change.
37. No change.

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38. No change.
39. No change.
40. No change.
41. No change.
42. No change.
43. No change.
44. No change.
45. "Utility". The public service corporation providing electric service to the public in compliance with state law, except in those instances set forth in R14-2-1612 (A) and (B).
46. No change.

**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.

Six copies of each application for a new Certificate of Convenience and Necessity shall be submitted to the Commission, through Docket Control, in a form prescribed by the Commission and shall include, at a minimum, the following information:

1. 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.
2. The rates proposed to be charged for the service that will be rendered.
3. A financial statement setting forth the financial condition of the applicant.
4. Maps of the proposed service area or a description of the area proposed to be served.
5. Appropriate city, county and/or state agency approvals, where appropriate.
6. 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 1st 5 years of operation.
7. Such other information as the Commission by order or the staff of the Utilities Division by written directive may request.

**B.** No change.

**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 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.
  - j. Type and kind of life-support equipment, if any, used by the customer.
2. Customer-specific information shall not be released without specific prior written customer authorization unless the information is requested by a law enforcement or other public agency, or is requested by the Commission or its staff, or is reasonably required for legitimate account collection activities, or is necessary to provide safe and reliable service to the customer.
- ~~2-3.~~ 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.
- ~~3-4.~~ 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.

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- c. In lieu of a deposit, a new applicant may provide a Letter of Guarantee from a governmental or nonprofit entity or a surety bond as security for the utility.
  2. The utility may 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 or her 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, through Docket Control, 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 1/2 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. No change.  
D. No change.  
E. No change.

**R14-2-206. Service Lines and Establishments**

- A. No change.  
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 or service line.
  2. Company provided facilities
    - a. Each utility shall file, in Docket Control, for Commission approval, a service line tariff which defines the maximum footage or equipment allowance to be provided by the utility at no charge. The maximum footage 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 non-refundable contribution.
- C. No change.

**R14-2-207. Line Extensions**

- A. General requirements

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1. Each utility shall file, in Docket Control, 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. No change.
- C. No change.
- D. No change.
- E. No change.
- F. No change.

**R14-2-208. Provision of Service**

- A. No change.
- B. No change.
- C. No change.
- 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, Consumer Services Section, 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, through Docket Control, 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 the total system, the utility shall develop procedures to curtail service giving service priority to those customers and customer classes where health, safety and welfare would be adversely affected.

- F. No change.

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**R14-2-209. Meter Reading**

**A.** Company or customer meter reading

1. Each utility, billing entity or Meter Reading Service Provider may at its discretion allow for customer reading of meters.
2. It shall be the responsibility of the utility or Meter Reading Service Provider to inform the customer how to properly read his or her meter.
3. Where a customer reads his or her own meter, the utility or Meter Reading Service Provider will read the customer's meter at least once every 6 months.
4. The utility, billing entity, or Meter Reading Service Provider shall provide the customer with postage-paid cards or other methods to report the monthly reading.
5. Each utility or Meter Reading Service Provider shall specify the timing requirements for the customer to submit his or her monthly meter reading to conform with the utility's billing cycle.
6. Where the Electric Service Provider is responsible for meter reading, reads will be available for the Utility Distribution Company's or billing entity's billing cycle for that customer, or as otherwise agreed upon by the Electric Service Provider and the Utility Distribution Company or billing entity.
7. In the event the customer fails to submit the reading on time, the utility or billing entity may issue the customer an estimated bill.
8. In the event the Electric Service Provider responsible for meter reading fails to deliver reads to the Meter Reader Service Provider server within 3 days of the scheduled cycle read date, the Affected Utility may estimate the reads. In the event the Affected Utility responsible for meter reading fails to deliver reads to the Meter Reader Service Provider server within 3 days of the scheduled cycle read date, the Electric Service Provider may estimate the reads.
9. Meters shall be read monthly on as close to the same day as practical.

**B.** No change.

**C.** No change.

**D.** No change.

**E.** Meter testing and maintenance program.

1. Each utility shall file with the Commission, through the Compliance Section, a plan for the routine maintenance and replacement of meters which meets the requirements of the 1995 edition (and no future editions) of ANSI C12.1 (American National Standard Code for Electricity Metering), incorporated by reference and on file with the Office of the Secretary of State. Copies are available from the Institute of Electrical and Electronics Engineers, Inc., 345 East 47th Street, New York, New York 10017.
2. Each utility shall file an annual report with the Commission, through Docket Control, summarizing the results of the meter maintenance and testing program for that year. At a minimum, the report should include the following data:
  - a. Total number of meters tested, at company initiative or upon customer request.
  - b. Number of meters tested which were outside the acceptable error allowance of +3%.

**F.** No change.

**R14-2-211. Termination of Service**

**A.** Nonpermissible reasons to disconnect service. A utility may not disconnect service for any of the reasons stated below:

1. Delinquency in payment for services rendered to a prior customer at the premises where service is being provided, except in the instance where the prior customer continues to reside on the premises.
2. Failure of the customer to pay for services or equipment which are not regulated by the Commission.
3. Nonpayment of a bill related to another class of service.
4. Failure to pay for a bill to correct a previous underbilling due to an inaccurate meter or meter failure if the customer agrees to pay over a reasonable period of time.
5. A utility shall not terminate residential service where the customer has an inability to pay and:
  - a. The customer can establish through medical documentation that, in the opinion of a licensed medical physician, termination would be especially dangerous to the health of a customer's customer or a permanent resident residing on the customer's premises ~~health~~, or
  - b. Life supporting equipment used in the home that is dependent on utility service for operation of such apparatus, or
  - c. Where weather will be especially dangerous to health as defined herein or as determined by the Commission.
6. Residential service to ill, elderly, or handicapped persons who have an inability to pay will not be terminated until all of the following have been attempted:
  - a. The customer has been informed of the availability of funds from various government and social assistance agencies of which the utility is aware.
  - b. A 3rd party previously designated by the customer has been notified and has not made arrangements to pay the outstanding utility bill.

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7. A customer utilizing the provisions of subsection (4) or (5) above may be required to enter into a deferred payment agreement with the utility within 10 days after the scheduled termination date.
  8. Disputed bills where the customer has complied with the Commission's rules on customer bill disputes.
- B.** No change.  
**C.** No change.  
**D.** No change.  
**E.** No change.  
**F.** No change.

**R14-2-212. Administrative and Hearing Requirements**

- A.** No change.  
**B.** No change.  
**C.** No change.  
**D.** Notice by utility of responsible officer or agent
1. Each utility shall file with the Commission, through Docket Control, a written statement containing the name, address (business, residence and post office) and telephone numbers (business and residence) of at least 1 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, through Docket Control, of any change in the information required herein within 5 days from the date of any such change.
- E.** Timeframes 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~~ 90 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. Within 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, through Docket Control, 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, through Docket Control, 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~~ Utilities Service.

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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, through the Compliance Section, Utilities Division, 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.~~
  - ~~6-5.~~ All utilities shall file with the Commission, through the Compliance Section, Utilities Division, 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~~ Utilities Service.
- H.** Maps. All utilities shall file with the Commission, through Docket Control, 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.** No change.
- J.** No change.

**R14-2-213. Conservation**

Energy conservation plan

1. The Arizona Corporation Commission recognizes the need for conservation of energy resources in order to maintain an adequate and continuous supply of safe, dependable, and affordable energy. Therefore, in order to promote the state's economic development and the health and welfare of its citizenry, each class A and B electric utility shall file an energy conservation plan which encompasses at a minimum the following considerations:
  - a. Development of consumer education and assistance programs to aid the populace in reducing energy consumption and cost.
  - b. Participation in various energy conservation programs sponsored by other municipal, state or federal government entities having such jurisdiction.
2. Each utility shall file an energy conservation plan with the Commission, through the Compliance Section, Utilities Division, within 1 year of the effective date of these rules and annual updates thereafter when changes require such.

**ARTICLE 16. RETAIL ELECTRIC COMPETITION**

**R14-2-1601. Definitions**

In this Article, unless the context otherwise requires:

1. No change.
2. No change.
3. No change.
4. No change.
5. No change.
6. No change.
7. "Competitive Services" means all aspects of retail electric service except those services specifically defined as "Non-competitive Services" pursuant to ~~R14-2-1601(27)~~ R14-2-1601(29) or noncompetitive services as defined by the Federal Energy Regulatory Commission.
8. No change.
9. No change.
10. No change.
11. No change.
12. No change.
13. No change.
14. No change.
15. No change.
16. No change.
17. No change.
18. No change.
19. No change.
20. No change.
21. No change.
22. No change.
23. No change.
24. No change.

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- 25. No change.
- 26. No change.
- 27. No change.
- 28. No change.
- 29. No change.
- 30. No change.
- 31. No change.
- 32. “Potential Transformer (PT)/Voltage Transformer (VT)” is an electrical device used to step down primary voltages to 120V for metering purposes.
- 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~~ Competitive Services.
- 34. No change.
- 35. No change.
- 36. No change.
- 37. No change.
- 38. No change.
- 39. No change.
- 40. No change.
- 41. No change.
- 42. No change.
- 43. No change.
- 44. No change.
- 45. No change.
- 46. No change.

**R14-2-1603. Certificates of Convenience and Necessity**

- A. No change.
- B. No change.
- C. No change.
- D. No change.
- 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 of the application to the Affected Utilities, Utility Distribution Companies, or an electric utility not subject to the jurisdiction of the Arizona Corporation Commission. ~~Prior to Commission action~~ No later than 10 days after application is filed, each applicant shall provide written notice to the Commission, through Docket Control, 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. No change.
- 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 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 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. Agreements are to be filed with the Compliance Section, Utilities Division.
- H. No change.
- 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;
  - 2. The Electric Service Provider shall maintain accounts and records as required by the Commission;

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3. The Electric Service Provider shall file with the Director, Utilities Division, through the Compliance Section, 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;
8. Failure to comply with any of the above conditions may result in ~~rescission~~ rescission of the Electric Service Provider's Certificate of Convenience and Necessity.

**J.** No change.

**K.** 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~~ 90 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. 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.

**R14-2-1604. Competitive Phases**

**A.** No change.

**B.** As part of the minimum 20% of 1995 system peak demand set forth in subsection (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:

1. 

January 1, 1999	1 1/4%
April 1, 1999	2 1/2%
July 1, 1999	3 3/4%
October 1, 1999	5%
January 1, 2000	6 1/4%
April 1, 2000	7 1/2%
July 1, 2000	8 3/4%
October 1, 2000	10%
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, which list shall promptly be made available to any certificated Load-Serving Electric Service Provider upon request.
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 Affected Utility shall file a residential phase-in program proposal to the Commission, through Docket Control, for approval by Director, Utilities Division, by September 15, 1999. Interested parties will have until September 30, 1999, to comment on any proposal. At a minimum, the residential phase-in program proposal will include specifics concerning the Affected Utility's proposed:

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- 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 under R14-2-1602, each Affected Utility shall file quarterly residential phase-in program reports with the Compliance Section, Utilities Division, 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. 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,
  - 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.
6. Aggregation or Self-Aggregation of residential customers is allowed subject to the limitations of the phase-in percentages in this rule.
- C. No change.  
D. No change.  
E. No change.  
F. No change.

**R14-2-1606. Services Required to be Made Available**

- A. No change.  
B. No change.  
C. Standard Offer Tariffs
1. By July 1, 1999, or pursuant to Commission Order, whichever occurs first, each Affected Utility shall file proposed tariffs to provide Standard Offer Service. 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.
  2. Standard Offer Service tariffs shall include the following elements, each of which shall be clearly unbundled and identified in the filed tariffs:
    - a. Competitive Services:
      - i. Generation, which shall include all transaction costs and line losses;
      - ii. Competition Transition Charge, which shall include recovery of generation related regulatory assets;
      - iii. Generation-related billing and collection;
      - iv. Transmission Services;
      - v. Metering Services;
      - vi. Meter Reading Services; and
      - vii. Optional Ancillary Services, which shall include spinning reserve service, supplemental reserve, regulation and frequency response service, and energy imbalance service.
    - b. Non-Competitive Services:
      - i. Distribution services;
      - ii. Required Ancillary services, which shall include scheduling, system control and dispatch service, and reactive supply and voltage control from generation sources service;
      - iii. Must-Run Generating Units;
      - iv. System Benefit Charges; and
      - v. Distribution-related billing and collection.
  3. Affected Utilities and Utility Distribution Companies may file proposed revisions to such rates with the Commission through Docket Control. 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, which may be expedited at the discretion of the Utilities Division Director.
  4. Such rates shall reflect the costs of providing the service.
  5. Consumers receiving Standard Offer Service are eligible for potential future rate reductions as authorized by the Commission.
  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.

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- D. By the effective date of these rules, or pursuant to Commission Order, whichever occurs first, each Affected Utility or Utility Distribution Company shall file an Unbundled Service tariff that shall include a Noncompetitive Services tariff. The Unbundled Service tariff shall calculate the items listed in ~~R14-2-1602(C)(2)(b)~~ R14-2-1606(C)(2)(b) on the same basis as those items are calculated in the Standard Offer Service tariff.
- E. No change.
- F. No change.
- G. Customer Data
  1. Upon written authorization by the customer, a Load-Serving Entity shall release in a timely and useful manner that customer's billing demand and energy data, including consumption, demand, and power factor (if available), 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. No change.
- I. Electric Service Providers offering Competitive 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 as part of the supporting documentation.

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

- A. No change.
- B. No change.
- C. No change.
- D. No change.
- E. No change.
- F. No change.
- G. No change.
- H. No change.
- I. The Commission may, after notice and hearing, order regular revisions to estimates of the magnitude of Stranded Cost.

**R14-2-1608. System Benefits Charges**

- A. 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 service area. 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. Filings shall be made with the Commission through Docket Control.
- B. No change.
- C. No change.

**R14-2-1609. Transmission and Distribution Access**

- A. No change.
- B. No change.
- C. The Commission supports the development of ~~an~~ Federal Energy Regulatory Commission-approved Regional Transmission Organization (RTO), an Independent System Operator (ISO) or, absent a Regional Transmission Organization or an Independent System Operator, an Arizona Independent Scheduling Administrator (AISA). The Commission believes that such organizations are necessary in order to provide nondiscriminatory retail access and to facilitate a robust and efficient electricity market.
- D. ~~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, 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.

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2. The Arizona Independent Scheduling Administrator shall implement and oversee the nondiscriminatory 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, 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.** The Affected Utilities that own or operate Arizona transmission facilities shall file a proposed Arizona Independent Scheduling Administrator implementation plan with the Commission, through Docket Control, within 30 days of the Commission's adoption of final rules herein. 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 and proposed transition to a regional ~~ISO~~ Independent System Operator or Regional Transmission Organization; contingency plans to ensure that critical functionality is in place no later than 3 months following adoption of final rules herein by the Commission; and any other significant issues related to the timely and successful implementation of the Arizona Independent Scheduling Administrator.
- F.** Each of the Affected Utilities shall make good faith efforts to develop a regional, multi-state Independent System Operator or Regional Transmission Organization, to which the Arizona Independent Scheduling Administrator should transfer its relevant assets and functions and characteristics as specified in R14-2-1609(D) as the Independent System Operator or Regional Transmission Organization becomes able to carry out those functions. Absent Federal Energy Regulatory Commission approval of an Arizona Independent Scheduling Administrator, the functions and characteristics as specified in R14-2-1609(D) will be assumed by the Independent System Operator or Regional Transmission Organization.
- G.** 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 or Regional Transmission Organization, should be recovered from customers using the transmission system, including the Affected Utilities' wholesale customers, Standard Offer retail customers, and competitive retail customers on a nondiscriminatory 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 Commission through Docket Control. 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.** 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 or Regional Transmission Organization, at which time the schedules will be submitted to the Independent System Operator or Regional Transmission Organization. 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 or Regional Transmission Organization;
  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 or Regional Transmission Organization.

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- I. 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, the Affected Utilities and other stakeholders shall develop statewide protocols for pricing and availability of services from Must-Run Generating Units. These protocols shall be ~~presented to the Commission for~~ filed with Docket Control for Commission 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.
- J. No change.

**R14-2-1610. In-state Reciprocity**

- A. The service territories of Arizona electric utilities ~~which that~~ 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 that~~ 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 that~~ is not a Public Power Entity, may submit a statement to the Commission, through Docket Control, stating 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. No change.
- 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 nonaffected electric utility, submits a statement to the Commission, through Docket Control, 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. Rates**

- A. No change.
- B. No change.
- C. Prior to January 1, 2001, 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, through the Compliance Section, as soon as practicable. If a contract does not comply with the provisions of the Load Serving Entity's approved tariffs, it shall not become effective without a Commission order. The provisions of such contracts shall be kept confidential by the Commission.
- D. No change.
- E. No change.
- F. Requests for changes in maximum rates or changes in terms and conditions of previously approved tariffs may be filed with the Commission, through Docket Control. Such changes shall become effective only upon Commission approval.

**R14-2-1612. Service Quality, Consumer Protection, Safety, and Billing Requirements**

- A. No change.
- B. No change.

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- C. No consumer shall be deemed to have changed providers of any service authorized in this Article (including changes from the Affected Utility to another provider) without written authorization by the consumer for service from the new provider. If a consumer is switched 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 new provider who switches a customer without written authorization shall also refund to the retail electricity customer the entire amount of the customer’s electricity charges attributable to the electric generation service from the new provider for 3 months, or the period of the unauthorized service, whichever is more. A Utility Distribution Company may request the Commission’s Consumer Services Section 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, through the Compliance Section, Utilities Division, 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. The following requirements and restrictions shall apply to the written authorization form requesting electric service from the new provider:
1. The authorization shall not contain any inducements;
  2. The authorization shall be in legible print with clear and plain language confirming the rates, terms, conditions and nature of the service to be provided;
  3. The authorization shall not state or suggest that the customer must take action to retain the customer’s current electricity supplier;
  4. The authorization shall be in the same language as any promotional or inducement materials provided to the retail electric customer; and
  5. No box or container may be used to collect entries for sweepstakes or a contest that, at the same time, is used to collect authorization by a retail electric customer to change their electricity supplier or to subscribe to other services.
- D. No change.
- E. Customer-specific information shall not be released without specific prior written customer authorization unless the information is requested by a law enforcement or other public agency, or is requested by the Commission or its Staff, or is reasonably required for legitimate account collection activities, or is necessary to provide safe and reliable service to the customer.
- ~~E.F.~~ 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.G.~~ Each Electric Service Provider shall provide at least 45 days’ written 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.H.~~ All Electric Service Providers rendering service under this Article shall submit accident reports, through the Compliance Section, as required in R14-2-101.
- ~~H.I.~~ 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.J.~~ Electric Service Providers shall give at least 5 days notice to their customer of scheduled return to Standard Offer Service. Electric Service Providers shall provide 15 calendar days’ notice prior to the next scheduled meter read date to the appropriate Utility Distribution Company regarding the intent to terminate a service agreement. Return of that customer to Standard Offer Service will be at the next regular billing cycle if appropriate metering equipment is in place and the request is provided 15 calendar days prior to the next regular meter read date. Responsibility for charges incurred between the notice and the next scheduled read date shall rest with the Electric Service Provider.
- ~~J.K.~~ 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 subsection (A).
- ~~K.L.~~ Additional Provisions for Metering and Meter Reading Services
1. When authorized by the consumer, an Electric Service Provider who provides metering or meter reading services pertaining to a particular consumer shall provide appropriate meter reading data via standardized ~~EDI~~ formats, approved by the Director, Utilities Division, to all applicable Electric Service Providers serving that same consumer.

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2. Any person or entity relying on metering information provided by an 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 point of delivery shall be assigned a Universal Node Identifier by the Affected Utility or the Utility Distribution Company whose distribution system serves the customer.
  4. Unless the Commission grants a specific waiver, 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) approved by the Director, Utilities Division,~~ that shall 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 Electronic Data Interchange Format~~ the standardized data exchange formats approved by the Director, Utilities Division, 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 Load-Serving Entity developing the load profile shall determine 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 the Affected Utility, Utility Distribution Company, or an Electric Service Provider.
  9. Maintenance and servicing of the metering equipment (including Current Transformers and Potential Transformers) 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. If a holiday officially occurs on a Saturday, the preceding Friday will be recognized as the date of the holiday. If a holiday officially occurs on a Sunday, the following Monday will be recognized as the date of the holiday.
  13. ~~By May 1, 1999, the~~ The Director, Utilities Division shall approve operating procedures to 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~~ The Director, Utilities Division shall approve operating procedures to be used by the Meter Reading Service Provider for validating, editing, and estimating metering data.
  15. ~~By May 1, 1999, the~~ The Director, Utilities Division shall approve performance metering specifications and standards to be used by all entities performing metering.
- 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.
- 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.** Billing Elements. After the commencement of competition within a service territory pursuant to R14-2-1602, all customer bills, including bills for Standard Offer Service customers within that service territory, will list, at a minimum, the following billing cost elements:
1. Competitive Services:
    - a. Generation, which shall include generation-related billing and collection;
    - b. Competition Transition Charge;
    - c. Transmission and Ancillary Services;
    - d. Metering Services; and
    - e. Meter Reading Services.
  2. Non-Competitive Services:
    - a. Distribution services, including distribution-related billing and collection, required Ancillary Services and Must-Run Generating Units; and
    - b. System Benefit Charges.
  3. Regulatory assessments; and

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4. Applicable taxes.
5. In cases where the Utility Distribution Company and the Electric Service Provider provide separate bills to customers, the Electric Service Provider is not required to list the billing cost elements for non-competitive services. In cases where the Utility Distribution Company and the Electric Service Provider provide separate bills to customers, the Utility Distribution Company is not required to list the billing cost elements for competitive services if the customer is obtaining competitive services from an Electric Service Provider.

~~Ø.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. Reporting Requirements**

- A. Reports covering the following items, as applicable, shall be submitted to the Director, Utilities Division, through the Compliance Section, 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. Revenues from sales by customer class (for example, residential, commercial, industrial);
  4. Number of retail customers disaggregated as follows: residential, commercial/industrial under ~~40~~ 21 kW, commercial/industrial ~~41~~ 21 to 999 kW, commercial/industrial 1000 kW or more, ~~industrial less than 1000 kW, industrial 1000 kW or more~~, agricultural (if not included in commercial), and other;
  5. 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. Amount of revenues from each type of Competitive Service, and, if applicable, each type of Noncompetitive Service provided [using breakdown from R14-2-1612(O)];
  7. Value of all assets used to serve Arizona customers and accumulated depreciation
  8. Tabulation of Arizona electric generation plants owned by the Electric Service Provider broken down by generation technology, fuel type, and generation capacity;
  9. The number of customers aggregated and the amount of aggregated load; and
  10. Other data requested by staff or the Commission;
- B. Reporting Schedule
  1. For the period through December 31, 2003, semi-annual reports shall be ~~due on~~ filed by 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~~ filed by 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. No change.
- D. Any Electric Service Provider, Affected Utility or Utility Distribution Company 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~~ file a request in Docket Control to discontinue 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, Affected Utilities and Utility Distribution Companies 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. Administrative Requirements**

- A. Any Electric Service Provider certificated under this Article may file with the Commission, through Docket Control, proposed additional tariffs for Competitive Services at any time which include a description of the service, maximum rates, terms, and conditions.
- B. No change.
- C. No change.
- D. No change.
- E. Prior to October 1, 1999, the Director, Utilities Division, shall implement a Consumer Education Program as approved by the Commission.

**R14-2-1616. Code of Conduct**

- A. No later than 90 days after adoption of these rules, each Affected Utility which plans to offer Noncompetitive Services and which plans to offer Competitive Services through its competitive electric affiliate shall propose a Code of Conduct to prevent anti-competitive activities. Each Affected Utility that is an electric cooperative, that plans to offer Noncompetitive Services, and that is a member of any electric cooperative that plans to offer Competitive Services shall also submit a Code of Conduct to prevent anti-competitive activities. All Codes of Conduct shall be filed in Docket Control and be subject to Commission approval after a hearing.
- B. No change.

**R14-2-1617. Disclosure of Information**

- A. No change.
- B. No change.
- C. No change.
- D. No change.
- E. No change.
- F. No change.
- 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,
  - 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~~ semi-annual and annual reports required by R14-2-1613.
  - 5. The information described in this subsection shall be posted on any electronic information medium of the Load-Serving Entities.
- H. No change.
- I. No change.

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 17. TRANSPORTATION**

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

**PREAMBLE**

- 1. Sections affected:** **Rulemaking Action:**  
R17-4-707 Amend
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statute: A.R.S. § 28-366  
Implementing statute: A.R.S. § 28-372
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**  
Notice of Rulemaking Docket Opening: 6 A.A.R. 2421, July 7, 2000
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: George R. Pavia, Administrative Rules Unit Supervisor  
Address: 3737 North Seventh Street, Suite 160  
Mail Drop 507M  
Phoenix, Arizona 85014-5017  
Telephone: (602) 712-8446  
Fax: (602) 241-1624  
E-Mail: gpavia@dot.state.az.us

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

The second regular session of Arizona's 44th legislature enacted a revision to A.R.S. § 28-372 to bring fees for dishonored payment instruments in line with provisions in A.R.S. § 44-6852. This rulemaking will amend the rule to increase check fees to the full amount authorized by the statutory revision, \$25.00 per dishonored instrument. The fee amount for a dishonored payment instrument plus actual financial institution charges also coincides with industry standard at the time of rulemaking.

**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 returned check fee under statute and rule prior to amendment has been \$10.00 per instrument. Current industry standard is \$25.00 per instrument. Raising the amount to industry standard allows banking industry business and ADOT to equalize cost and benefit in processing returned checks. The agency receives approximately 8,800 bad checks per year with a collection rate of 70%. At \$10.00 per returned check, the collected fees have averaged \$69,000.00. With the fee increase to \$25.00 per returned check, the agency anticipates recouped processing revenues of approximately \$103,000.00. To individual bad check writers, the cost of check fees would most likely be minimal. Collectively, the processing costs recouped by the banking industry and ADOT are substantial.

**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: George R. Pavia, Administrative Rules Unit Supervisor  
Address: 3737 North Seventh Street, Suite 160  
Mail Drop 507M  
Phoenix, Arizona 85014-5017  
Telephone: (602) 712-8446  
Fax: (602) 241-1624  
E-Mail: gpavia@dot.state.az.us

**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:**

Date: Monday, September 18, 2000  
Time: 2:00 p.m.  
Location: ADOT-MVD, Executive Hearing Office, Hearing Room 2  
3737 North Seventh Street, Suite 160  
Phoenix, Arizona 85014-5017  
Nature: Public Hearing

**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:**



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R18-5-114 R18-5-112  
R18-5-115 R18-5-113

Renumber  
Renumber

**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. §§ 49-104, 49-202, 49-203, 49-351, 49-352, 49-353, and 49-361

Implementing statute: A.R.S. § 49-352

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

Notice of Rulemaking Docket Opening: 6 A.A.R. 1441, April 14, 2000

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

Name: Margaret L. McClelland or Martha L. Seaman

Address: Arizona Department of Environmental Quality  
3033 North Central Avenue  
Phoenix, Arizona 85012

Telephone: (602) 207-2224

Fax: (602) 207-2251

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

A. Background for These Proposed Rules

On February 6, 1999, the EPA finalized the "Guidelines for the Certification and Recertification of the Operators of Community and Nontransient Noncommunity Public Water Systems." The Safe Drinking Water Act (SDWA) Amendments of 1996 require that these final guidelines be published in the *Federal Register* by February 6, 1999. These guidelines provide states with the minimum standards for the development, implementation and enforcement of operator certification programs for community and nontransient noncommunity public water systems. Beginning 2 years after publication, EPA must withhold 20% of a state's Drinking Water State Revolving Fund capitalization grant funds unless the State has adopted and is implementing an operator certification program that meets the requirements of these guidelines or submits its existing program that is substantially equivalent to these guidelines.

The primary purpose of the SDWA is to ensure that drinking water supplied to consumers by public water systems is safe to drink, does not exceed prescribed maximum contaminant levels (MCLs), that consumers are confident that their water is safe to drink and that public water system operators are trained and certified and that they have knowledge and understanding of the public health reasons for drinking water standards. Public water systems are required to have a remote or onsite certified operator to ensure that water is safely being supplied to the consumers. If an operator resigns or is relieved of his duties, it is the responsibility of the water supplier to take the necessary action to eliminate the operator vacancy.

ADEQ held 5 stakeholder meetings during April and May to discuss the proposed new rule to establish criteria for operator certification. Approximately 50 stakeholders attended the meetings and gave their input on the draft rules. ADEQ incorporated many of the suggestions by the stakeholder group. The rules establish the requirements for certification and classification, examinations, renewal of certificates, expired certificates, revocation, reciprocity for out-of-state applicants, experience and education. One major component of this rule is the repeal of the fees associated with examinations, certification and renewals. The rules also provide for the examinations for certification to be conducted by 3rd-party examiners. ADEQ will provide a list of examiners approved by ADEQ to give the certification examinations and applicants who wish to be tested will take the test from one of those examiners. The rules provide that ADEQ may contract with examiners to allow the examiner to be put on the list of approved examiners. There will be no money involved with the contract. This revision to the rules should increase flexibility for the public water systems because they may be able take examinations closer to the location of their operations. The rules should also allow applicants more flexibility when they take operator certification examinations. Instead of only having an opportunity to take the examination quarterly, as is currently the case, they may be able to take examinations on a walk-in basis or by appointment from an approved examiner.

Certified operators are an important element in achieving the public health protection goals of the SDWA. Once a water system has been designed and constructed, it is imperative that the system be operated correctly. Improper operation can result in public health threats. For example, many water systems apply chlorination as a disinfection agent to kill harmful bacteria and pathogens which may exist in water.

If the chlorination is not applied in the proper dose and the residual concentration is not properly measured, the chlorination may not kill the bacteria and pathogens in the water, or, when chlorine is applied in too high of a dose, other harmful contaminants may be formed from the chlorine's interaction with organics in the water. In order to first determine and then ensure the proper dose of chlorine is being applied, the system operator must have knowledge in mathematical equations to determine water volume and the ability to interpret water quality test results of raw water. Through this knowledge the proper dose which ensures adequate disinfection while minimizing the formation of other harmful contaminants is determined. A certification program provides testing and training requirements for persons who will be responsible for the operation of water systems. Through the certification program persons obtain and demonstrate their ability to safely operate drinking water systems.

Prior to this EPA action, some states did not have a program to certify operators of public water systems. In an effort to establish national baseline standards for the certification and recertification of public water system operators, EPA has developed "guidelines for the certification and recertification of the operators of community and nontransient noncommunity public water systems." These guidelines establish the minimum requirements for a program to be approved by EPA. Because the EPA guidelines represent only minimum standards, EPA expects that states whose current operator certification program requirements go beyond or exceed these minimum standards will not lower their operator certification program requirements. EPA will not approve the operator certification program of any state that reduces its standards below the level that existed on February 5, 1998.

Public water systems range from simple to complex to operate depending on the source water quality and system size. Generally, smaller water systems are less sophisticated and easier to operate than larger water systems. Because of this, it is not appropriate or economical to require small systems to have an operator of the same competence as a larger water system. As system size increases so does the complexity of the system. Because of this, it is necessary to devise a graduated system of classifying water systems. Arizona's current operator certification program provides for this graduated system classification system. This classification system has been enhanced and modified in response to the EPA guidelines. The proposed classification system now operates on a point system, where additional points are accrued as population and system sophistication increases.

The SDWA is one of the most complex regulatory protocols that exists. Additionally, the SDWA affects some of the smallest of regulated facilities. In Arizona, there are approximately 1700 regulated public water systems. Of those 1700 regulated water systems, 15% of the largest and most sophisticated systems provide water to approximately 90% of the Arizona population. The remaining 85% of water systems are small (serving between 3,300 to 10,000 persons) and very small (serving fewer than 3,300 persons) serving the remaining 10% of the Arizona population. The operator certification program ensures that water systems ranging from the very small to very large have adequate oversight commensurate with the sophistication of the system.

During a person's lifetime they will drink water from a variety of drinking water systems ranging in size and geographic location. By establishing minimum requirements and competency standards the operator certification program allows citizens to obtain drinking water from a variety of public water systems with confidence that the drinking water is safe.

**B. Section-by-Section explanation of the rules**

R18-5-101 sets forth definitions for this Article.

R18-5-102 establishes what facilities are exempt from the requirements of this Article.

R18-5-103 sets forth the requirements for the certification committee.

R18-5-104 sets forth general requirements for classifying a facility.

R18-5-105 sets forth the requirements for eligibility for certification

R18-5-106 sets forth requirements for taking an examination.

R18-5-107 sets forth the requirements for renewal of a certificate.

R18-5-108 sets forth the requirements for reinstatement and renewal of an expired certificate.

R18-5-109 sets forth requirements for revocation of a certificate.

R18-5-110 sets forth requirements for reciprocity for out-of-state certificate holders.

R18-5-111 sets forth requirements for the experience and education requirements for certification.

R18-5-112 sets forth requirements for how wastewater treatment plants and collection systems will be classified.

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R18-5-113 sets forth requirements for how water treatment plants and distribution systems will be classified.

Time-frames requirements in these rules that fall under the Licensing Time-frames rules will be included in the next amendment to the LTF rules.

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

None

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

None

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

A. Identification of Proposed Rulemaking

Title 18, Chapter 5, Article 1, "Classification of Treatment Plants and Certification of Operators."

ADEQ is requesting additional information about impacts to the various entities so that it can be included in the final EIS. Please respond to the contact person listed in part 9.

B. Background Information

The Environmental Protection Agency (EPA) has promulgated final guidelines, specifying minimum standards for certification and recertification of operators, in the *Federal Register* (vol. 64, No. 24, 5916-5921, pub. 2-05-99).<sup>1</sup> The effective date of the rules is February 5, 1999, with a compliance deadline of February 5, 2001. Unless a state has adopted and is implementing an operator certification program substantially equivalent to the published guidelines, EPA will withhold 20% of a state's Drinking Water State Revolving Fund capitalization grant funds.<sup>2</sup>

The development process involved 2 work groups: the State-EPA Work Group, composed of 7 states and 10 EPA representatives, and the Operator Certification Work Group of the National Drinking Water Advisory Council (also called the Partnership), composed of 23 members.<sup>3</sup> The 2 work groups achieved consensus on "baseline standards." The Partnership provided the National Drinking Water Advisory Council with the standards, and in October of 1997, the NDWAC formally recommended the baseline standards to EPA. Then, EPA incorporated recommendations of the NDWAC into draft guidelines published March 27, 1998. During the 90-day public comment period, over 90 parties submitted public comments.<sup>4</sup> The development of the guidelines enables states to have flexibility in implementing and enforcing their programs while ensuring protection of public health.

C. Proposed Changes and Potential Impacts

A major benefit of this rulemaking is better training for operators of small systems with indirect benefits of improved public health protection for consumers served by these public water systems. In addition, Congress established a provision for reimbursing small system operators for training and certification costs.

Although this rulemaking is expected to generate cost-saving benefits, ADEQ anticipates that the shift from Department-administered exams to a 3rd party (local entities qualified to administer the exams) will increase compliance costs for operators. An additional increase in costs is expected to occur due to increased training requirements. Additional information will be provided in the final EIS.

ADEQ expects that this rule will not negatively impact employment, revenues, payroll expenditures, or state revenues. Although the Department expects no direct impact to consumers or the general public, it could have an indirect positive impact due to improved public health.

These changes are expected to impact ADEQ minimally even though the repeal of the fees under this program will mean a loss of about \$20,000 annually. ADEQ will continue to issue certifications and renewals. Additional information will be provided in the final EIS.

D. Rule Impact Reduction on Small Businesses

State law requires agencies to reduce the impact of a rule on small businesses by using certain methods when they are legal and feasible in meeting the statutory objectives for the rule making. ADEQ considered each of the methods prescribed in A.R.S. §§ 41-1035 and 41-1055(B)(5)(c) for reducing the impact on small businesses.

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Methods that may be used include the following: (1) exempt them from any or all rule requirements, (2) establish performance standards which would replace any design or operational standards, or (3) institute reduced compliance or reporting requirements. An agency may accomplish the 3rd method by establishing less stringent requirements, consolidating or simplifying them, or setting less stringent schedules or deadlines.

As a result of providing increased flexibility, clarity, and improved efficiency, this rulemaking potentially could provide cost-saving benefits to small businesses. For example, small systems do not need to have a certified operator on-site full-time. This should reduce the financial burden on these small systems. Except what is built-into the federal minimum standards, ADEQ has been unable to incorporate other methods to further reduce the impact on small businesses.

E. Less Intrusive or Costly Methods

ADEQ could not find any alternative methods that would be less intrusive or less costly to implementing the rule objectives.

F. Endnotes for EIS

<sup>1</sup> The guidelines provide states with minimum standards for developing, implementing, and enforcing an operator certification program for community and nontransient noncommunity public water systems.

<sup>2</sup> To avoid this sanction, a state must be implementing an operator certification program that meets the EPA guidelines or it must submit an existing program that is substantially equivalent to the EPA guidelines. The compliance date for this requirement is 2-05-01. See The Safe drinking Water Act Amendments of 1996, § 1452 (Pub. L. 104-182).

<sup>3</sup> The members of the Partnership represented public water systems, environmental and public interest advocacy groups, state drinking water program representatives, EPA, U.S. Department of Agriculture, U.S. Public Health Service, Indian Health Service, and other interest groups.

<sup>4</sup> In August of 1998, both work groups, the State-EPA Work Group and the Operator Certification Work Group of the NDWAC (also called the Partnership), met to consider the public comments and to make recommendations. The recommendations were provided to the NDWAC for consideration. In November of 1998, the NSWAC formally provided EPA with its recommendations. EPA made changes based on public comments and on recommendations of its work groups and the NDWAC.

**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:	David H. Lillie, Economist
Address:	Arizona Department of Environmental Quality 3033 North Central (M0836A) Phoenix, Arizona 85012-2809
Telephone:	(602) 207-4436 (any extension may be reached in-state by dialing 1-800-234-5677, and asking for that extension)
Fax:	(602) 207-2251
E-Mail:	lillie.david@ev.state.az.us

**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:**

ADEQ will hold oral proceedings to receive public comments in accordance with A.R.S. § 41-1023. The time, place, and location of the hearings are listed below:

**SIERRA VISTA**

Date:	Monday, September 11, 2000
Time:	9:00 a.m.
Location:	Sierra Vista City Complex 911 North Coronado Drive Sierra Vista, Arizona

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**TUCSON**

Date: Monday, September 11, 2000  
Time: 3:00 p.m.  
Location: State Office Complex  
400 West Congress, Room 158  
Tucson, Arizona

**FLAGSTAFF**

Date: Thursday, September 14, 2000  
Time: 2:00 p.m.  
Location: Flagstaff City Hall, Council Chambers  
211 West Aspen Avenue  
Flagstaff, Arizona

**SHOW LOW**

Date: Friday, September 15, 2000  
Time: 9:00 a.m.  
Location: Show City Complex  
200 West Cooley  
Show Low, Arizona

**YUMA**

Date: Tuesday, September 19, 2000  
Time: 9:00 a.m.  
Location: Yuma City Public Works Department  
155 West 14th Street  
Yuma, Arizona

**PHOENIX**

Date: Thursday September 21, 2000  
Time: 1:00 p.m.  
Location: Arizona Department of Environmental Quality  
3033 North Central Avenue  
Phoenix, Arizona

**KINGMAN**

Date: Wednesday, September 27, 2000  
Time: 10:00 a.m.  
Location: Kingman City Complex, Council Chambers  
310 North 4th Street  
Kingman, Arizona

The record will close on October 4, 2000. ADEQ will accept written comments that are received at ADEQ by 5:00 p.m., October 4, 2000.

ADEQ is committed to complying with the Americans With Disabilities Act. If any individual with a disability needs any type of accommodation, please contact ADEQ at least 72 hours before the hearing.

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

None

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

None

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

**TITLE 18. ENVIRONMENTAL QUALITY**

**CHAPTER 5. DEPARTMENT OF ENVIRONMENTAL QUALITY  
ENVIRONMENTAL REVIEWS AND CERTIFICATION**

**ARTICLE 1. CLASSIFICATION OF TREATMENT PLANTS AND CERTIFICATION OF OPERATORS**

Sections

R18-5-101.	Definitions
R18-5-102.	Exemptions
R18-5-103.	Certification Committee
R18-5-104.	General Requirements
R18-5-105.	Certification
R18-5-106.	Examinations
R18-5-107.	Renewal of <del>Certificates</del> <u>A Certificate</u>
R18-5-108.	<del>Lapsed Certificates</del> <u>An Expired Certificate</u>
R18-5-109.	<del>Denial and</del> Revocation
R18-5-110.	Reciprocity
<del>R18-5-111.</del>	<del>Certification without Examination</del>
<del>R18-5-112.</del> R18-5-111.	<u>Experience and Education</u>
<del>R18-5-113.</del>	Fees
<del>R18-5-114.</del> R18-5-112.	Classification of Wastewater Treatment Plants and Collection Systems
<del>R18-5-115.</del> R18-5-113.	Classification of Water Treatment Plants and Distribution Systems

**ARTICLE 1. CLASSIFICATION OF TREATMENT PLANTS AND CERTIFICATION OF OPERATORS**

**R18-5-101. Definitions**

~~In this article unless otherwise specified~~ The terms in this Article have the following meanings:

1. "Certified operator" means an operator who holds a current certificate issued by the Department of Environmental Quality in the field of water treatment, wastewater treatment, distribution or collection.
2. "Collection system" means ~~pipelines or conduits, pumping stations, force mains, and all other devices, appurtenances and facilities~~ a pipeline or conduit, pumping station, force main or any other device, appurtenance or facility used for collecting and conducting wastewater to a central point for treatment and disposal.
3. "Department" means the Department of Environmental Quality or its designated representative.
4. "Director" means the Director of the Department of Environmental Quality or ~~his~~ the director's designated representative.
5. "Direct responsible charge" means day-to-day decision-making responsibility for a water or wastewater treatment plant, collection system, or distribution system, or a major portion of such a facility.
6. "Distribution system" means ~~the pipelines, appurtenances, devices and facilities~~ a pipeline, appurtenance, device or facility of a public water system which conduct that conducts water from a water source or treatment plant to consumers for ultimate domestic or potable use.
7. "Facility" means a water treatment plant, wastewater treatment plant, distribution system, or collection system.
8. "Industrial waste" means the liquid, gaseous, or solid waste produced ~~as a result of any~~ from industrial operation.
9. "On-site operator" means ~~an~~ a certified operator who visits a facility at least daily, for the purpose of ensuring that it is operating properly.  
"On-site representative" means a person located at a facility who monitors the daily operation at the facility and maintains contact with the remote operator regarding the facility.
10. "Operational experience" means skill or knowledge obtained ~~by full or part time~~ through employment in the operational control of all ~~or part of~~ a facility or portion thereof.

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11. “Operator” means a person who is ~~a certified operator~~ responsible for the ~~actual day-to-day operation~~ daily on-site operation or the remote operation from a central location of all or part of a facility or a portion thereof. This includes the operator of a remote control system in which the operator is in direct control of the entire system or a portion thereof from a central location. It also includes the chief operator who supervises the operation of the facility. The term operator includes both on-site and remote operators, as defined in this Article.
12. “Population equivalent” means the population ~~which that~~ would contribute an equal amount of biochemical oxygen demand (BOD) computed on the basis of 0.17 pounds of ~~five-day~~ 5-day, 20-degree centigrade BOD per capita per day.
13. “Public water system” has the meaning ascribed to it in A.A.C. R18-4-101.  
“Professional development hour” or “PDH” means 1 hour of participation in an organized continuing education experience related to engineering, biological or chemical sciences, or a closely related technical or scientific discipline.
14. “Qualifying experience” shall be considered as the total of operational experience, related experience, and supervisory experience ~~calculated on a monthly basis.~~
15. “Related experience” means ~~that skill or knowledge obtained in employment which can be applied directly in the operation of a facility.~~  
“Public water system” means a system for the distribution of water to the public for human consumption that serves 15 or more service connections or an average of at least 25 persons per day for at least 60 days a year.
- a. A public water system includes:
- i. Any collection, treatment, storage, and distribution facility under the control of the water supplier and used in connection with the system; and
- ii. Any collection or pretreatment storage facility not under the control of the water that is used in connection with the system.
- b. A public water system is either a community water system, or a noncommunity water system.
- “Qualifying experience” shall be considered as the total of means operational experience, related experience, and supervisory experience ~~calculated on a monthly basis.~~
- “Related experience” means ~~that the~~ skill or knowledge obtained in employment ~~which that~~ can be applied directly in the operation of a facility. ~~Related experience does not include such activities as bookkeeping or handling personnel matters.~~
16. “Remote operator” means ~~an~~ a certified operator who is not an on-site operator.
17. “Semipublic water system” is defined in A.A.C.
18. “Significant modification” means any alteration or expansion of a facility sufficient to require submission to the Department of plans for construction under the rules existing at the time of modification. ~~It does not include routine maintenance or replacement of a portion of a facility to improve the quality or reliability of service. It does include any change of process of water or wastewater treatment.~~
19. “Supervisory experience” means skill or knowledge obtained by employment ~~which that~~ includes responsible, technical, and operational direction of a facility or a portion thereof.
20. “Wastewater” means sewage, industrial waste, and all other waterborne wastes ~~which that~~ may pollute or tend to pollute any lands or waters of the state.
24. “Wastewater treatment plant” means ~~processes, devices and structures~~ a process, device or structure used for the purpose of treating or stabilizing wastewater or industrial waste and disposing of the effluent.
22. “Water treatment plant” means ~~processes, devices and structures which are~~ a process, device or structure that is used to improve the physical, chemical, or biological quality of water of a public water system.

**R18-5-102. Exemptions**

Owners of the following facilities ~~are~~ shall be exempt from the requirements of this Article:

- ~~1. Private or semipublic water systems.~~
- ~~2. Facilities described in A.A.C. R18-4-102(C). These are water systems which consist only of distribution and storage, obtain all water through closed conduit from systems governed by these rules but are not owned or operated by water systems to which these rules apply, do not sell water to any person, and are not carriers which convey passengers in interstate commerce.~~
  1. A public water system listed in R18-4-102(C).
  - ~~3.~~ 2. Septic tanks and collection systems discharging to septic tanks A septic tank or collection system that discharges to a septic tank.
  - ~~4.~~ 3. Any collection system serving a population of fewer than 2500 persons which discharges into a facility which A collection system that serves < 2,500 persons and discharges into a facility that is operated by a certified operator.

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- ~~5.4. Any collection system serving a nonresident population and discharging~~ A collection system that serves a nonresident population and discharges into a collection system operated by a certified operator.
- ~~6.5. Irrigation systems~~ An irrigation system, an industrial water facilities facility, or a similar facilities facility in which water is not used for domestic or drinking purposes.
- ~~7.6. Irrigation~~ An irrigation or industrial wastewater facilities facility used to treat, recycle, or impound industrial or agricultural wastes within the boundaries of the industrial or agricultural property.
- ~~8.7. Industrial~~ An industrial waste pretreatment facilities facility in which treated wastewater is released to a collection system or wastewater treatment plant ~~which that~~ is regulated by this Article.
- ~~9.8. Facilities~~ A facility for treating industrial wastes which are not treatable by biological means.
- ~~10.9. Facilities~~ A facility used to impound surface water before such waters are conducted to a water treatment plant.
- ~~11.10. Wastewater~~ A wastewater treatment devices device serving individual homes that serves a home.

**R18-5-103. Certification Committee**

- A. A certification committee shall be established by the ~~Department~~ Director to make recommendations and to provide the Department with technical advice and assistance as may be requested.
- B. The certification committee shall consist of ~~nine~~ 11 members as follows:
1. ~~One~~ 1 employee of the Department.
  2. ~~One~~ 1 currently employed wastewater treatment plant operator with Grade 4 certification.
  3. ~~One~~ 1 currently employed water treatment plant operator with Grade 4 certification.
  4. ~~One~~ 1 currently employed wastewater collection system certified operator with Grade 4 certification. ~~Any person appointed to this position after July 1, 1990, shall have Grade 4 collection~~
  5. ~~One~~ 1 currently employed water distribution system certified operator with Grade 4 certification. ~~Any person appointed to this position after July 1, 1990, shall have Grade 4 distribution system certification.~~
  6. ~~One~~ 1 faculty member teaching sanitary sciences at an Arizona university or community college.
  7. ~~One~~ 1 professional engineer registered and residing in Arizona engaged in consulting in the field of sanitary engineering.
  8. ~~One~~ 1 elected or appointed municipal official.
  9. ~~One~~ 1 representative of an investor owned water or wastewater facility.
  10. 1 representative of the small public water systems.
  11. 1 currently employed remote operator representative.
- C. The Director shall appoint ~~all each~~ certification committee ~~members~~ member.
- D. At the first meeting of each calendar year, the Committee shall select, from its membership, a ~~chairman~~ chairperson and such other officers as deemed necessary. The member of the Department shall be the executive secretary and shall keep records of all meetings.
- E. ~~The terms of the certification committee are subject to the following:~~ term of a certification committee member shall be 3 years.
1. ~~The terms of the members who were appointed pursuant to subsections (B)(2), (7), and (8) shall expire on December 31, 1987; the terms of the members appointed pursuant to subsections (B)(3), (4), and (9) shall expire on December 31, 1988; and the terms of members appointed pursuant to subsections (B)(5), and (6) shall expire on December 31, 1989.~~
  2. ~~The terms of the members appointed to the certification committee after the expiration of the terms described in subsection (E) shall be three years.~~
- F. A meeting quorum shall consist of the ~~chairman or his~~ chairperson or designated representative, executive secretary or ~~his~~ designated representative, and ~~three~~ 3 other members of the committee ~~at any meeting~~.
- G. In the event of a vacancy caused by death, resignation, or removal for cause, the Director shall appoint a successor for the unexpired term.
- H. ~~Certification~~ A certification committee ~~members~~ member may be reappointed, but no member may serve more than ~~three~~ 3 consecutive terms.

**R18-5-104. General Requirements**

- A. There are four types of facilities. They are: A facility shall be classified as 1 of the following types of facility:
1. ~~Water~~ A water treatment ~~plants, plant,~~
  2. ~~Distribution systems;~~ A water distribution system;
  3. ~~Wastewater~~ A wastewater treatment ~~plants, and plant; or~~
  4. ~~Collection systems~~ A wastewater collection system.
- ~~All facilities shall be classified according to type of facility population or population equivalent served and by complexity of treatment as described in these rules.~~

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- B. ~~The owner or the purveyor of services shall utilize the services of a certified operator of the required classification for each facility for the purpose of assuring that the facility is operating properly.~~ of a facility shall ensure that the person in direct responsible charge of the facility is a certified operator, certified at or above the grade of the facility. ~~The certified operator shall have direct responsible charge of the operation of the treatment plant, or the collection or distribution system. Any owner or purveyor who meets the requirements for certification may become certified as operator of the facility for which he has direct responsible charge. The chief operator or superintendent in direct responsible charge shall be certified at the grade of the facility. Shift foremen or other operators in charge of the facility in the absence of the chief operator or superintendent~~ A person in charge of a facility, in the absence of the principal certified operator, shall be certified at a grade no lower than ~~one~~ 1 grade below the grade of the facility. No person shall make a decision about process control or system integrity regarding water quality or water quantity that affects public health, unless that person is a certified operator. If a certified operator is in direct responsible charge of more than 1 facility the certified operator shall be certified at or above the grade of the facility with the highest grade.
- C. ~~It is the facility owner's responsibility to~~ The facility owner shall ensure that the name of the required current certified operator is on file at all times with the Department and that no person who replaces a certified operator begins operation of a facility prior to being certified. ~~If the owner of a facility replaces the designated operator with another operator, the new operator shall be properly certified at the time he begins operation of the facility. The owner shall notify the Department in writing within ~~ten~~ 10 days of the replacement. The certified operator shall notify the Department in writing within ~~ten~~ 10 days of the date he the certified operator ceases operation of a facility and within ~~ten~~ 10 days after he commences commencing operation of any other facility.~~
- D. ~~There are four~~ shall be 4 grades of classification, with Grade 4 being the classification for the most complex. ~~The Department may change the classification of a particular facility by reason of the incorporation in the facility of special features of design or characteristics more difficult to operate than usual, or by reason of water or wastewater unusually difficult to treat, or by reason of effluent reuse or other potential health factors. The Department may change the classification of a facility for any of the following reasons:~~
1. The facility has special features of design or characteristics of the facility make it more difficult to operate than usual;
  2. The water or wastewater is unusually difficult to treat;
  3. The facility uses effluent; or
  4. The facility poses potential risks to public health.
- ~~The Department shall notify the owner in writing of any change in classification. The owner may respond to any change in classification within 30 days of notification. In~~ For a multi-facility systems system, each facility shall be classified according to complexity and the total population or population equivalent served.
- E. ~~A person holding certification in any particular type and grade is permitted to~~ certified operator may operate all facilities in that particular any facility of the same type and grade and any or lower grade.
- F. ~~Except as provided in this subsection, each facility requires the services of an on-site operator certified at the grade of the facility~~ A Grade 3 or Grade 4 facility shall have an on-site operator certified at the grade of the facility. A ~~A certified operator may operate ~~one~~ 1 or more Grade 1 or Grade 2 facilities as a remote operator under if the following conditions requirements are met:~~
1. The remote operator is certified at or above the grade of the facility.
  2. ~~Each facility, except a Grade 1 facility, has an on-site operator certified at a level no lower than one grade below the grade of the facility. A Grade 1 facility requires an on-site representative, who is not required to be certified. A Grade 1 or Grade 2 facility may have an on-site representative on the premises who is not certified, but that facility shall have at least a remote operator who is certified.~~
  3. ~~The remote certified operator personally instructs~~ shall instruct the onsite operator or representative representative in proper operation and maintenance of each facility, provides him with provide written instructions, and assures ensure that adequate records are kept.
  4. ~~The remote operator provides~~ shall provide the onsite operator or representative representative with a telephone number or numbers at which he the remote operator can be reached at all times.
  5. ~~The remote operator resides~~ shall reside no more than three hours travel time 200 miles by ground travel from any facility which he serves as remote operator that the remote operator serves.
  6. ~~Any~~ The remote operator shall ensure that each facility operated by the remote operator is operated in compliance with all applicable state rules and federal regulations.
  7. ~~The remote operator shall personally inspects~~ inspect a facility as often as necessary to assure proper operation and maintenance, but in no case less than the following schedule:
    - a. Monthly for a Grade 1 water facilities consisting of that produces and distributes groundwater production and distribution with no treatment other than disinfection monthly.
    - b. Monthly for a Grade 2 water facilities consisting of groundwater production and distribution and serving facility that produces and distributes groundwater and serves fewer than 1000 people monthly.
    - c. Monthly for a Grade 1 wastewater treatment plants monthly plant.

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- d. ~~Bimonthly for a~~ Collection systems serving collection system that serves fewer than ~~2500~~ 2,500 people - ~~bimonthly~~.
- e. ~~Weekly for a~~ Grade 2 wastewater treatment ~~plants serving that serves~~ less than 1000 people ~~weekly~~.
- 8. A remote operator may operate a Grade 1 water distribution system ~~serving that does not have an onsite representative if that water distribution system serves~~ fewer than 100 people ~~with no on-site representative under and~~ the following conditions are met:
  - a. ~~The name of the certified operator and telephone number at which he the remote operator can be reached shall be posted at the facility, enclosed with water bills, or otherwise made readily available to the water users. If the remote operator is to be absent for any reason such as illness or vacation, the name and telephone number of a substitute person certified operator shall be made available.~~
  - b. ~~The remote operator or substitute certified operator shall be able to reach the site within two hours reside no more than 200 miles by ground travel from the facility in case of emergency.~~
  - e. ~~The facility shall be operated in compliance with State rules and federal regulations.~~
  - d.c. ~~The certified operator shall inspect the facility weekly.~~
- G. ~~The owner or the purveyor of services for any of a facility is in violation of this Section if the facility is operated in a manner which clearly violates the Department's rules for the protection of water quality and the environment.~~

**R18-5-105. Certification**

To be eligible for operator certification ~~by the Department, each an~~ applicant shall:

- 1. ~~Submit an application obtained from the Department.~~
- 2. Meet the experience and educational requirements ~~set forth in R18-5-112~~ R18-5-111.
- 3. Pass a written examination for the grade for which application ~~was is~~ made.
- 4. ~~Pay any fees required by R18-5-113.~~

**R18-5-106. Examinations**

- A. ~~The Department shall conduct examinations provide a list of examiners who are approved by the Department to give the examination for certification of operators of water and wastewater treatment plants at least twice annually. The Department may contract with an examiner for the examiner to be included on the list of approved examiners. The list of approved examiners shall be available at the Department upon request.~~
- B. ~~By July 1, 1990, the Department shall begin conducting examinations for certification of operators of Grades 1, 2, 3, and 4 collection systems, as classified under R18-5-114 and the certification for operators of Grades 1, 2, 3, and 4 distribution systems as classified under R18-5-115. Thereafter, these examinations shall be conducted at least twice annually.~~
- B. The examiner shall grade and notify the applicant of the results within 30 days of completion of the examination.
- C. ~~Written examinations shall be used in determining knowledge, ability and judgment of the applicant.~~
- C. The Department shall not issue an initial certificate to an applicant who has not taken and passed the examination for certification.
- D. ~~Written examinations will be graded and the applicants notified of the results. Examinations will not be returned. An applicant may review his corrected examination in the Department office if he makes a written request for an appointment within 30 days of notification of examination results.~~
- E. ~~An applicant for examination shall submit his application by the closing date designated by the Department. An application submitted after the closing date shall not be accepted by the Department.~~
- F. ~~Applicants for certification as collection, distribution, water and wastewater facility operators shall pay the fees set forth in R18-5-113.~~

**R18-5-107. Renewal of ~~Certificates a~~ Certificate**

- A. ~~Until January 1, 1988, the following rules shall apply:~~
  - 1. ~~Holders of all renewable certificates are required to file applications for renewal annually before the expiration date.~~
  - 2. ~~Each holder of a certificate will be sent one renewal notice at least 30 days prior to the expiration date, mailed to his last address on record. Failure to receive such notice shall not relieve the holder of his responsibility to renew by the expiration date.~~
  - 3. ~~The Department shall mail a receipt to each certified operator indicating that his certificate has been renewed and is valid for the time period specified.~~
- A. If the Department renews a certificate, the certificate shall be renewed for a term of 3 years, unless the certified operator requests a shorter term in writing.
- B. ~~After January 1, 1988, the following rules shall apply:~~
  - 1. ~~Renewed certificates of operators whose last names begin with letters A through G shall expire on June 30, 1988. Certificates of operators whose last names begin with H through O shall expire on June 30, 1989, and certificates of operators with last names beginning with P through Z shall expire on June 30, 1990.~~
  - 2. ~~All certificates shall be renewed for three-year periods thereafter.~~

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3. Applicants for renewal of collection, distribution, water and wastewater operator certificates shall pay fees as specified at R18-5-113. Fees will be prorated based on three-year renewals.

- B.** To have a certification renewed, an operator shall maintain documentation and provide documentation to the Department upon request that verifies completion of at least 30 PDHs accumulated during a certification period. Documentation of PDHs shall be on a form provided by the Department. At least 10 of the PDHs shall be directly related to the specific job functions of the operator. If a certified operator holds multiple certificates, the required PDHs may be applied to all certificates if the PDHs are acquired within that certification period. Completion of each PDH shall be verified in writing by the operator's supervisor or the entity that provided the education or training.
- C.** A certified operator may renew a certificate by taking and passing an examination for the same grade and classification, in lieu of meeting the requirements of subsection (B).

**R18-5-108. ~~Lapsed Certificates~~ An Expired Certificate**

- A.** ~~Certificates which have not been renewed in accordance with R18-5-107 will be lapsed and invalid.~~
- B.** ~~Lapsed certificates may be reinstated without examination upon application within six months from the date of expiration.~~
- C.** ~~A lapsed certificate not renewed within six months of the date of expiration cannot be reinstated. It is necessary for the holder of such a certificate to reapply and be reexamined according to the rules for new applicants.~~
- D.** ~~Both renewal and late renewal fees shall be paid for reinstatement of lapsed collection, distribution, water, and wastewater facility operator certificates.~~
- A.** A certificate shall expire on the expiration date printed on the certificate. An expired certificate may be reinstated for the same grade without examination if the certificate holder files the appropriate application and documentation of completion of the required PDHs with the Department within 90 days from the date of expiration.
- B.** If an invalid certificate is not renewed within 90 days of the certificate expiration date, the certificate shall not be reinstated. The certificate holder shall re-apply and be re-examined according as a new applicant.

**R18-5-109. ~~Denial and Revocation~~**

- A.** ~~In the event of denial or revocation of a certificate or denial of application for examination, If the Department revokes a certificate, the Department shall notify the applicant or certified operator of the reasons reason for such denial revocation. Within 20 days of the receipt of the notice, the applicant or certified operator may request in writing that a hearing be held by the Director or his designated hearing officer to review the denial or revocation.~~
- B.** ~~The Director may revoke a certificate if any one or more of the following grounds are found to exist for any of the following reasons:~~
1. ~~The operator is operating operates~~ a facility in a manner ~~which that~~ violates Department rules relating to protection of water quality or the environment.
  2. ~~The operator has willfully neglected his duty~~ Willful neglect by the operator in supervising the operation of the facility.
  3. The operator has failed to comply with the lawful orders or rules of the Department.
  4. The operator has obtained a certificate through the use of fraud, deceit, or misrepresentation.
  5. The operator knowingly has prepared a false or fraudulent report or record regarding the operation or management of the facility.
- C.** ~~The Administrative Procedures Act (A.R.S. § 41-1001 et seq.) shall govern all hearings conducted by the Director under this rule. A hearing conducted by the Director under this Article shall be governed by the Administrative Procedures Act at A.R.S. § 41-1061 et seq.~~
- D.** ~~If an An operator whose certificate has been revoked desires to obtain a new certificate, he must shall comply with all of the requirements appropriate to his grade for the for a new certificate. Any A person whose certificate has been revoked shall be ineligible for admission to any examination for recertification for a period of not less than six 12 months from the date of notice of revocation, nor more than two years. The length of the period of ineligibility for recertification shall be determined by the Director.~~

**R18-5-110. ~~Reciprocity~~**

- A.** ~~The Department may issue certificates to applicants who hold valid certificates a certificate to an applicant who holds a valid certificate issued under laws of any other state, territory, or the District of Columbia, tribal government, federal entity or foreign country, if the out-of-state applicant has passed a written an examination approved by this the Department for the particular type and grade for which application is made. Experience and educational requirements for certification as set forth in these rules shall apply to all such applicants. The applicant shall meet the experience and educational requirements of R18-5-111.~~
- B.** ~~An applicant for certification as a collection, distribution, water, or wastewater facility operator shall pay the fees as set forth in R18-5-113 with his application.~~

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**~~R18-5-111.~~      Certification without Examination Repealed**

- ~~A.~~ Certificates issued without examination before November 1, 1979, for operation of a specific facility as it existed before March 13, 1973, are renewable as long as there is no significant modification of the facility.
- ~~B.~~ Holders of provisional certificates issued to operators of water facilities serving fewer than 50 people or to operators of collection systems serving fewer than 2000 people may obtain Grade 1 certification without examination.
- ~~C.~~ Holders of temporary Grade 1 or Grade 3 certificates may obtain renewable certificates of corresponding grade without reexamination.
- ~~D.~~ Beginning July 1, 1990, holders of water treatment certificates may obtain certificates for distribution certification of the corresponding grade without taking the distribution examination, and holders of wastewater treatment certificates may obtain certificates for collection certification at the corresponding grade without taking the collection system examination, provided that they show proof of one year's experience of the type for which application is made. An exception is made for holders of Grade 1 certificates, who are not required to have experience.
- ~~E.~~ All applicants for certification shall file applications and pay any required fees.
- ~~F.~~ Except as provided for in subsections (A) through (D), no renewable certificates may be issued without examination after January 1, 1988.

**~~R18-5-112.~~ R18-5-111.      Experience and Education**

- ~~A.~~ In determining whether an applicant has the experience required for certification in a particular grade, his years of acceptable experience in a lower grade, or acceptable experience obtained prior to the adoption of these rules, or in another jurisdiction, all shall be accumulated and credited toward the total experience required for certification in the particular grade for which application is made. At least six months of the required operational experience, however, shall have been acquired within the five year period preceding the date of application.
- ~~B.~~ An applicant cannot become certified at a grade more than one grade higher than the grade of the highest facility at which he has at least one year of experience.
- ~~C.~~ When education is required to be in a qualifying discipline by these rules, it shall be in engineering, biological or chemical sciences, or a closely related technical or scientific discipline. The Department may require transcripts for an operator to qualify on the basis of any post-secondary education
- A. To determine whether an applicant has the total experience required for certification in a particular grade, the Department shall consider the following:
  - 1. Years of experience at a lower grade.
  - 2. Previous experience, including experience in another jurisdiction or related field. The applicant shall have acquired at least 6 months of operational experience within the 5-year period preceding the date of application.
- B. The Department shall not certify an applicant at more than 1 grade higher than the grade of the highest grade facility at which the applicant has at least 1 year of experience.
- C. Education in a qualifying discipline shall be in engineering, biology, chemical sciences, or a closely related technical or scientific discipline. The Department may require that the applicant provide transcripts to verify completion of the educational requirements.
- ~~D.~~ ~~If Required~~ operational experience is required by these rules it shall be experience directly in the field for which application is made. The fields of operational experience ~~are~~ shall be water treatment, distribution, wastewater treatment, and collection.
- ~~E.~~ Requirements for the admission to the certification examinations are An applicant shall meet the following requirements for admission to a certification examination:
  - ~~1. For Grade 1: There are no minimum education or experience requirements for admission to the Grade 1 examination.,~~ high school graduation or equivalent.
  - ~~2. For Grade 2, at least:~~
    - ~~a. Two years qualifying experience, including High school graduation or the equivalent and one 1 year of operational qualifying experience as a Grade 1 certified operator; or~~
    - ~~b. High school graduation or the equivalent and one year of qualifying experience as a Grade 1 certified operator; or~~
    - ~~or~~
    - ~~eb. Two years of post-secondary education in a related technical field and one 1 year of qualifying experience, including six 6 months as a certified Grade 1 operator; or~~
    - ~~dc. A bachelor's degree in a qualifying discipline and six 6 months of qualifying experience.~~
  - ~~3. For Grade 3, at least:~~
    - ~~a. Four years of qualifying experience including High school graduation or the equivalent and two 2 years operational experience, with at least of qualifying experience, including one 1 of those years year of operational experience as a certified Grade 2 certified operator, or~~
    - ~~b. High School graduation or the equivalent and two years of qualifying experience including one year of operational experience as a certified Grade 2 operator, or~~

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- e.b. Two years of post-secondary education in a related technical field, and ~~one~~ 1 year and ~~six~~ 6 months qualifying experience as a ~~certified~~ Grade 2 certified operator, or
  - ~~d.c.~~ A bachelor's degree in a qualifying discipline and ~~one~~ 1 year qualifying experience including ~~six~~ 6 months as a ~~certified~~ Grade 2 certified operator.
4. For Grade 4, at least:
- a. High school graduation or the equivalent and ~~three~~ 3 years of qualifying experience, including ~~one~~ 1 year of operational experience as a ~~certified~~ Grade 3 certified operator, or
  - b. Two years of post-secondary education in a related technical field and ~~two~~ 2 years and ~~six~~ 6 months of qualifying experience, including ~~one~~ 1 year as a certified Grade 3 operator, or
  - c. A bachelor's degree in a qualifying discipline, and ~~one~~ 1 year of experience as a certified Grade 3 operator.

**~~R18-5-113.~~ Fees Repealed**

~~A. The fees required by this Article shall be as listed below. Fees shall be levied for application for collection, distribution, water, and wastewater treatment examinations, renewal of certificates and late application for renewal. Fees are not refundable.~~

~~B. Fee schedule:~~

	G1	G2	G3	G4
<del>Application for examination</del>	<del>10</del>	<del>10</del>	<del>25</del>	<del>25</del>
<del>Reciprocity</del>	<del>15</del>	<del>15</del>	<del>15</del>	<del>15</del>
<del>3-year certification</del>	<del>15</del>	<del>15</del>	<del>15</del>	<del>15</del>
<del>Renewal of 3-year certification</del>	<del>15</del>	<del>15</del>	<del>15</del>	<del>15</del>
<del>Add. charge for late renewal</del>	<del>10</del>	<del>10</del>	<del>10</del>	<del>10</del>

~~C. Certificates issued without examination for operation of a specific collection system, distribution system, water treatment facility, or wastewater treatment facility shall be renewed under the schedule prescribed in subsection (B).~~

**~~R18-5-114, R18-5-112.~~ Classification of Wastewater Treatment Plants and Collection Systems**

~~A. Treatment plants A treatment plant shall be classified by grade according to population equivalent served, degree of hazard to public health, type of facility, and degree of treatment, as specified in this Section. Until July 1, 1991, collection systems shall be classified as specified in subsection (A) of this rule. On July 1, 1991, collection systems shall be reclassified as specified in subsection (B) of this rule. follows:~~

- 1. Grade 1 includes:
  - a. ~~Stabilization pond serving~~ A stabilization pond that serves 2,000 or fewer than 2000 persons, or
  - b. ~~Any~~ A wastewater treatment facility not designated as Grade 2, 3, or 4.
- 2. Grade 2 includes:
  - a. ~~Stabilization ponds serving~~ A stabilization pond that serves more than 2000 2,000 persons, and;
  - b. ~~All An~~ an aerated lagoons lagoon, and;
  - c. ~~All facilities employing~~ A facility that employs biological treatment based upon the activated sludge principle, or trickling filters designed to serve a population equivalent fewer than 5,000 persons, except as provided in R18-5-114(A)(3)(e) subsection (3)(c) below.
- 3. Grade 3 includes:
  - a. ~~All facilities employing~~ A facility that employs biological treatment based upon the activated sludge principle designed to serve a population equivalent of 5,000 to 20,000 persons, and;
  - b. ~~All facilities employing~~ A facility that employs trickling filtration designed to serve a population equivalent of 5,000 to 25,000 persons.
  - c. ~~Variations of activated sludge requiring~~ A variation of activated sludge that requires specialized knowledge including, but not limited to, that includes contact stabilization serving any that serves a population equivalent up to 20,000 persons.
- 4. Grade 4 includes:
  - a. ~~All facilities employing~~ A facility that employs biological treatment based upon the activated sludge principle designed to serve a population equivalent greater than 20,000 persons, and.
  - b. ~~All facilities employing~~ A facility that employs trickling filtration designed to serve a population equivalent greater than 25,000 persons.
- 5. Ordinarily, collection systems are considered as a part of the treatment facility; however, where such a conveyance facility is separated from treatment, either in jurisdiction or in responsibility, the collection system is classified as Grade 1.

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**B.** ~~Classification of wastewater collection systems. Beginning on July 1, 1991, collection~~ A wastewater collection systems shall be classified by population served, as follows:

Grade	Population
1	0 - 2,500
2	2,501 - 10,000
3	10,001 - 25,000
4	More than 25,000-

**C.** ~~By July 1, 1991, each owner or a purveyor of services for a collection system shall have the services of an operator certified at the grade of the system as reclassified under these Rules.~~

**R18-5-115, R18-5-113. Classification of Water Treatment Plants and Distribution Systems**

**A.** ~~Until July 1, 1991, A water treatment plants and distribution systems are classified~~ plant shall be classified by grade according to total points for each system characteristic as follows:

TREATMENT OR DISTRIBUTION PROCESS	GRADE POPULATION				
	25- 500	501 2000	2001 5000	5001 10000	10000+
Coagulation-Sedimentation	3	3	3		3 4
Filtration (sand, gravity) <sup>2</sup>		2	3	3	4
Chemical Precipitation (Mn, Fe, softening)				3	3 3 4 4
Aeration	2	2	3	3	
Odor & Taste Control (activated carbon)				2	2 3 3 3
Chemical Addition, (stabilization) <sup>2</sup>			2	2	3 3
Pressure Filtration	2	2	2	3	
Ion Exchange (softening, flouride) <sup>2</sup>			2	2	3 3 3
Chlorination <sup>1</sup>	2	2	2	2	
Fluoridation <sup>2</sup>	2	2	2	2	
Distribution of Treated water <sup>1</sup>			2	2	2 2
Distribution of Chlorinated Groundwater				1	2 2 2 2
Distribution of unChlorinated Groundwater				1	2 2 2 2

**B.** ~~Beginning July 1, 1991, water treatment plants and distribution systems shall be classified separately as follows:~~

1) Water Treatment Plants

TREATMENT PROCESS	GRADE POPULATION			
	25- 500	501 5000	5001 20000	20000+
Coagulation-Sedimentation			2	2 3 4
Filtration		2	2	2 3
Chemical Precipitation (Mn, Fe, softening)				2 3 3 4
Odor & Taste (activated carbon)			2	2 3 3
Chemical Addition (stabilization)			2	2 2 3
Ion Exchange (softening) <sup>1</sup>			2	3 4
Disinfection	1	2	3	3
Fluoridation	2	2	3	4

2) Distribution Systems

Grade	Population
1	25—500
2	501—5,000
3	5,001—25,000
4	More than 25,000

**C.** ~~Distribution systems are classified according to population served. For the purpose of these Rules, disinfection and groundwater production are considered a part of distribution and shall require distribution certification.~~

**D.** ~~Treatment processes other than disinfection shall require the corresponding water treatment certificate. The disinfection process may be operated by a person with either a distribution or a water treatment certificate of appropriate grade, according to population served.~~

**E.** ~~By July 1, 1991, each owner or purveyor of services for a distribution system shall have the services of an operator certified at the grade of the facility as reclassified under these Rules.~~

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- F.** Each owner or purveyor of services for a water treatment plant shall have the services of an operator certified at the grade of the facility as reclassified pursuant to subsections (A) and (B).

<u>System Characteristics</u>	<u>Points</u>
<u>Population</u>	<u>1 per 5,000</u>
<u>Max. Design Cap.</u>	<u>1 per MGD up to 10</u>
<u>Groundwater Source</u>	<u>3</u>
<u>Surface or GUDI Source</u>	<u>5</u>
<u>O<sub>2</sub></u>	<u>2</u>
<u>pH Adjustment</u>	<u>3</u>
<u>Packed Tower Aeration</u>	<u>6</u>
<u>Air Stripping</u>	<u>6</u>
<u>Stability or Corrosion Control</u>	<u>3</u>
<u>Taste and Odor</u>	<u>8</u>
<u>Fe/Mn Removal</u>	<u>8</u>
<u>Ion Exchange Softening</u>	<u>10</u>
<u>Chemical Precipitation Softening</u>	<u>15</u>
<u>Coagulant Addition</u>	<u>6</u>
<u>Flocculation</u>	<u>4</u>
<u>Sedimentation</u>	<u>4</u>
<u>Upflow Clarification</u>	<u>2</u>
<u>Fluoridation</u>	<u>5</u>
<u>Activated Alumina</u>	<u>6</u>
<u>Blending</u>	<u>5</u>
<u>Residual Waste Stream</u>	<u>5</u>
<u>Control Systems Technology</u>	<u>2</u>
<u>Biologically Active Filter</u>	<u>20</u>
<u>Granular Media Filter</u>	<u>15</u>
<u>Pressure Filter</u>	<u>15</u>
<u>Gravity Sand Filter</u>	<u>10</u>
<u>Membrane Filtration</u>	<u>15</u>
<u>Chlorine Gas</u>	<u>6</u>
<u>Hypochlorite Liquid</u>	<u>2</u>
<u>Hypochlorite Solid</u>	<u>2</u>
<u>Chloramine</u>	<u>9</u>
<u>Chlorine Dioxide</u>	<u>9</u>
<u>Ozone</u>	<u>12</u>
<u>UV</u>	<u>3</u>

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**B.** The Department shall add points to determine the grade as follows:

<u>Grade</u>	<u>Point Range</u>
<u>Grade 1</u>	<u>1 - 25</u>
<u>Grade 2</u>	<u>26 - 50</u>
<u>Grade 3</u>	<u>51 - 70</u>
<u>Grade 4</u>	<u>&gt;=71</u>

**C.** A water distribution system shall be classified by grade according to total points for system characteristics as follows:

<u>System Characteristics</u>	<u>Points</u>
<u>Population</u>	<u>1 per 5,000</u>
<u>Max. Design Cap.</u>	<u>1 per MGD up to 10</u>
<u>Pressure Zones</u>	<u>5</u>
<u>Booster Stations</u>	<u>5</u>
<u>Storage Tanks</u>	<u>3</u>
<u>Blending</u>	<u>5</u>
<u>Fire Protection Systems</u>	<u>5</u>
<u>Cathodic Protection</u>	<u>3</u>
<u>Control System Technologies</u>	<u>2</u>
<u>Chlorine Gas</u>	<u>6</u>
<u>Hypochlorite Liquid</u>	<u>2</u>
<u>Hypochlorite Solid</u>	<u>2</u>
<u>Chloramine</u>	<u>9</u>
<u>Chlorine Dioxide</u>	<u>9</u>

**D.** The Department shall add points to determine the grade as follows:

<u>Grade</u>	<u>Point Range</u>
<u>Grade 1 (Small System Classification)</u>	<u>Criteria: &lt;500 Pop., GW only, Disinfection by chlorine gas or hypochlorite only, storage tanks.</u>
<u>Grade 2</u>	<u>1 - 20</u>
<u>Grade 3</u>	<u>21 - 35</u>
<u>Grade 4</u>	<u>&gt;=36</u>

**E.** A facility that disinfects or produces groundwater shall be certified for distribution.

**F.** A facility that engages in a treatment processes other than disinfection shall be certified for the appropriate water treatment.

**G.** The owner of a distribution system that is reclassified under this Article shall ensure that the facility is operated by a certified operator in compliance with this Article no later than 1 year from the effective date of this Article.

**H.** The owner of a water treatment plant that is reclassified under this Article shall ensure that the facility is operated by a certified operator in compliance with this Article no later than 1 year from the effective date of this Article.

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 20. COMMERCE, BANKING, AND INSURANCE**

**CHAPTER 4. BANKING DEPARTMENT**

**PREAMBLE**

- 1. Sections Affected**

R20-4-103 R20-4-104 R20-4-105	<b><u>Rulemaking Action</u></b> Amend Amend Amend
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- 2. The specific statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 6-123(2)  
Implementing statute: A.R.S. § 6-123(4)
  
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 6 A.A.R. 924, March 3, 2000
  
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	John P. Hudock
Address:	2910 North 44th Street, Suite 310 Phoenix, Arizona 85018
Telephone:	(602) 255-4421, Ext. 167
Fax:	(602) 381-1225
E-Mail:	jhudock@azbanking.com
  
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**

The rules in Article 1 of the *Administrative Code* have general application to all activities of the Superintendent and to the interpretation of all Arizona statutes and rules administered by the Superintendent. In particular, the rules listed in paragraph 1 of this notice concern fingerprints (R20-4-103), the use of other regulators' forms (R20-4-104), and procedures for making a claim against a deposit in lieu of a bond (R20-4-105).

The proposed amendments are to fulfill work scheduled in the Department's Five-Year-Rule-Review Report approved by the Governor's Regulatory Review Council in November, 1998. Regarding each of the amended rules, the revisions will remove passive constructions, improve the rules' clarity of expression, make them more readable, and bring them into conformity with modern rule writing standards. No change in the substantive requirements of these rules is intended by these revisions.
  
- 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:**

The Department does not propose to rely on any study as an evaluator or justification for the proposed rule.
  
- 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:**
  - A. The Banking Department**

The Department does not expect to experience any adverse economic impact. It will bear the administrative and human resources cost of this rulemaking. The amendment of these rules will not result in any significant cost savings for the Department. It will continue to bear the costs of enforcing the same requirements on its licensees. The increased clarity of the amended rules will make them marginally easier to understand and enforce.
  
  - B. Other Public Agencies**

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The state will incur normal publishing costs incident to rulemaking.

**C. Private Persons and Businesses Directly Affected**

Costs of services will not increase to any measurable degree. Nor should these revisions increase any licensee's cost of doing business in compliance with these rules.

**D. Consumers**

No measurable effect on consumers is expected.

**E. Private and Public Employment**

There is no measurable effect on private and public employment.

**F. State Revenues**

This rulemaking will not change state revenues.

**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: John P. Hudock  
Address: 2910 North 44th Street, Suite 310  
Phoenix, Arizona 85018  
Telephone: (602) 255-4421, Ext. 167  
Fax: (602) 381-1225  
E-Mail: jhudock@azbanking.com

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

No oral proceedings are scheduled. The Department will schedule an oral proceeding on the proposed rule if it receives a written request for a proceeding within 30 days after the publication date of this notice, under the provisions of A.R.S. § 41-1023(C). Send requests to the Department personnel listed in this preamble's questions 4 and 9. The Department invites and will accept written comments on the proposed rule or the preliminary economic, small business, and consumer impact statement. Submit comments during regular business hours, at the address listed in this preamble's question 9, until the close of the record for this proposed rulemaking. The record will close on the 31st day following publication of this notice, unless the Department schedules an 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:**

None

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

**TITLE 20. COMMERCE, BANKING, AND INSURANCE**

**CHAPTER 4. BANKING DEPARTMENT**

**ARTICLE 1. GENERAL**

Sections

R20-4-103. Fingerprints  
R20-4-104. Acceptance of Other Forms  
R20-4-105. Claims Against a Deposit in Lieu of Bond

**ARTICLE 1. GENERAL**

**R20-4-103. Fingerprints**

Whenever fingerprints are requested or required by the Superintendent, they shall be taken, signed and dated by a municipal police department, sheriff's office, or other law enforcement authority recognized by the Superintendent, on fingerprint cards provided by the Superintendent. The Superintendent shall not be responsible for any costs incurred in obtaining or submitting fingerprints.

- A.** A licensee or applicant shall deliver fingerprints requested or required by the Superintendent on fingerprint cards provided by the Superintendent.
- B.** A licensee or applicant shall bear any costs incurred in obtaining or submitting fingerprints.
- C.** A licensee or applicant shall arrange to have fingerprints taken, signed, and dated by:
  - 1. a municipal police department,
  - 2. a local sheriff's office, or
  - 3. another law enforcement authority recognized by the Superintendent.

**R20-4-104. Acceptance of Other Forms**

~~Notwithstanding any other rule, the Superintendent may accept application and other forms prescribed by federal or state financial institution or enterprise regulators in lieu of the Superintendent's forms, provided, however, that the foregoing shall not limit the Superintendent's power to require additional information concerning any application.~~

The Superintendent has the discretion to accept applications and forms from other entities, even if another provision of this Chapter requires a specific banking department form. The Superintendent's exercise of the discretion to accept alternative forms does not limit the Superintendent's power to require additional information necessary to complete an application or other form.

**R20-4-105. Claims Against a Deposit in Place Lieu of Bond**

- A.** As used in this ~~Section~~ rule:
  - 1. "Deposit" means cash or alternatives to cash deposited by a licensee with the Superintendent in place lieu of a bond.
  - 2. "Depositor" means a licensee or an employee of the licensee who makes ~~has made~~ a deposit with the Superintendent ~~and any employee of the licensee.~~
  - 3. "Verified claim" means a claim filed with the Superintendent under ~~pursuant to~~ subsection (C).
  - 4. "Award" means an amount of money granted under subsection (F).
- B.** ~~If a person is awarded a valid judgment in any court of competent jurisdiction against a depositor for injury caused by the wrongful act, default, fraud or misrepresentation of said depositor, such person may file a verified claim for recovery against the deposit with the Superintendent. Such verified claim shall include the following:~~
  - 1. ~~A certified copy of the complaint in the action;~~
  - 2. ~~A certified copy of the judgment in the action;~~
  - 3. ~~A statement that execution of the judgment has not been stayed, or an explanation of the terms and basis for any stay;~~
  - 4. ~~A statement of any amounts recovered on the judgment; and~~
  - 5. ~~A notarized statement under oath that the claim is true and correct to the best knowledge and belief of the claimant.~~
- B.** A person may file a claim against a deposit by delivering documentation of the claim to the Superintendent. The claim shall be based on a final judgment in favor of the claimant, entered by a court of competent jurisdiction. To support a claim, the judgment shall be:
  - 1. Against a depositor;
  - 2. For injury caused by the depositor's wrongful act, default, fraud, or misrepresentation committed in the course of the depositor's licensed business activity; and
  - 3. Documented by:
    - a. A certified copy of the complaint in the action;
    - b. A certified copy of the judgment in the action;
    - c. A statement that execution of the judgment has not been stayed, or an explanation of the terms and reason for any stay;
    - d. A statement of any amounts recovered on the judgment; and
    - e. A sworn and notarized statement that the claim is true and correct to the best of the claimant's knowledge and belief.
- C.** ~~A verified claim shall be considered a request for hearing under R20-4-1208. A verified claim shall be filed within six months following the entry of judgment or the lifting of any stay of execution of judgment, whichever is later.~~
- C.** A claimant shall file a verified claim, and all required supporting documentation, not more than 6 months after entry of the judgment asserted in the claim. However, if execution of the asserted judgment is stayed during the first 6 months after its entry the claimant may only file a verified claim 6 months after a stay is lifted. The Department processes a timely-filed verified claim as a request for hearing under R20-4-1208.

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- ~~D.~~ The depositor shall be notified of, and made a party to, any proceeding commenced under this rule. Such a proceeding shall be deemed to be a contested case and shall be governed by the rules regarding proceedings in R20-4-1202 et seq.
- ~~D.~~ The claimant shall notify the depositor of the filing of a verified claim under this Section, and make the depositor a party to all proceedings on the claim. To do so, the claimant shall send the depositor a copy of all documents filed under subsection (B). The claimant shall make this delivery no more than 10 days after the original filing with the Superintendent under subsection (B). The Department considers a proceeding on a verified claim to be a contested case, governed by the provisions of 20 A.A.C. 4, Article 12.
- ~~E.~~ A verified claim shall be denied by the Superintendent after a hearing if the Superintendent finds any of the following:
- ~~1.~~ The judgment is not based upon an injury caused by the wrongful act, default, fraud or misrepresentation of the depositor that made the deposit on which the claim is made. If the judgment was awarded by default, stipulation or consent, the judgment shall not be deemed to be based upon such an injury unless it is proven to the Superintendent that the injury was so caused.
  - ~~2.~~ Execution of the judgment is stayed for any reason.
  - ~~3.~~ The judgment was procured through fraud or collusion.
  - ~~4.~~ The judgment has been satisfied from other sources.
  - ~~5.~~ The action in which the judgment was rendered was commenced after the expiration of the time period limitations in the applicable statute.
- ~~E.~~ The Superintendent shall, after a hearing, deny a verified claim if the hearing produces evidence of any of the following circumstances:
- ~~1.~~ The judgment is not for an injury caused by the depositor and described in subsection (B)(2);
  - ~~2.~~ The judgment was awarded by default, stipulation, or consent, and no showing is made in the hearing of an injury caused by the depositor and described in subsection (B)(2);
  - ~~3.~~ The judgment's execution has been stayed for any reason;
  - ~~4.~~ The judgment was procured through fraud or collusion;
  - ~~5.~~ The judgment has been satisfied from other sources; or
  - ~~6.~~ The action that produced the judgment was barred by the applicable statute of limitations at the time it was commenced.
- ~~F.~~ If the Superintendent does not deny the verified claim, the Superintendent shall grant the verified claim in an amount equal to the amount of compensatory damages, exclusive of attorney's fees, awarded against the depositor for injury caused by the wrongful act, default, fraud or misrepresentation of the depositor, less any amount of satisfaction previously paid upon the judgment from other sources.
- ~~F.~~ When the Superintendent grants a verified claim, he shall do so in the amount of the compensatory damages awarded against the depositor in the judgment, exclusive of:
- ~~1.~~ Attorney's fees, and
  - ~~2.~~ Amounts previously paid on the judgment.
- ~~G.~~ If an injured person commences an action for a judgment for which a verified claim could be made under this rule, the injured person shall notify the Superintendent of the action in writing at the time of the commencement of the action, including a statement of the amount of compensatory damages sought from the depositor, and shall provide further information relating to the action to the Superintendent on request.
- ~~G.~~ A person injured by a depositor shall give the Superintendent written notice at the time of filing a civil action if the claims alleged could be made as a verified claim under this rule. The written notice shall include a statement of the amount of compensatory damages sought against a depositor. The injured person shall provide further information about the civil action to the Superintendent upon request.
- ~~H.~~ If the Superintendent decides that a verified claim shall be granted and has not received notice of any other actions against the same depositor, the Superintendent shall authorize the State Treasurer, in writing, to release the deposit in an amount equal to the verified claim as granted.
- ~~H.~~ The Superintendent shall authorize the State Treasurer, in writing, to release the deposit to the claimant in the amount stated in subsection (F), if the Superintendent has not received notice of other pending civil actions under subsection (G).
- ~~I.~~ If the Superintendent decides that a verified claim shall be granted and has received notice of any other action against the same depositor, the Superintendent shall determine whether the deposit is sufficient to satisfy the claim as granted plus the compensatory damages sought in all actions against the same depositor of which the Superintendent has received notice. If the deposit is sufficient, the Superintendent shall authorize its release as set forth in subsection (H) above. If the deposit is insufficient, the Superintendent shall determine the pro rata portion of the deposit payable on the verified claim in the ratio that the verified claim as granted bears to the aggregate of the verified claim as granted plus the compensatory damages sought in all actions against the same depositor of which the Superintendent has received notice. The Superintendent shall then authorize the State Treasurer to release the deposit in an amount equal to the pro rata portion of the deposit payable on the verified claim.

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- I.** The Superintendent shall determine, if given notice under subsection (G), whether the deposit is sufficient to satisfy all verified claims in full under subsection (F). The Superintendent shall then determine award amounts, and authorize payment, as follows:
1. If the deposit is sufficient to satisfy all claims under subsection (F), the Superintendent shall authorize its release as described in subsection (H).
  2. If the deposit is not sufficient to satisfy all claims under subsection (F), the Superintendent shall calculate the award on each claim as follows:
    - a. Each granted claim shall receive a pro rata share of the total deposit.
    - b. Each pro rata share shall be a dollar amount calculated by multiplying the total deposit by a fraction.
      1. The numerator of the fraction shall be the amount of the Superintendent's award for the verified claim.
      2. The denominator of the fraction shall be the sum of the amount of the Superintendent's award for the verified claim plus the total compensatory damages sought in all other civil actions against the same depositor disclosed to the Superintendent under subsection (G).
    - c. The Superintendent shall then authorize the State Treasurer to release the pro rata portion of the deposit calculated for each verified claim.
- J.** ~~Prior to the release of a deposit or any portion thereof to a depositor or former licensee under A.R.S. § 6-903(J), the Superintendent shall first determine whether there are any claims granted against said deposit under this rule which have not been fully satisfied due to an apportionment under subsection (I). If there are any such claims, the unpaid portion thereof shall be satisfied from the deposit of the depositor or former licensee. If insufficient funds remain to satisfy all claims granted under this rule, the remaining deposit shall be released to each claimant in the ratio which his verified claim as granted bears to the aggregate of all claims as granted.~~
- J.** A depositor or former licensee may request return of its deposit if it substitutes a bond for the deposit, or if its license is surrendered, revoked, or expired, and if all statutory conditions for release of the deposit have been satisfied. In any event, the Superintendent shall not release any part of a deposit to a depositor or former licensee unless he shall first determine whether there are any awards on verified claims unsatisfied because of an apportionment under subsection (I). The Superintendent shall pay any unsatisfied portion of those awards. If the deposit amount is not sufficient to pay in full all unsatisfied awards, the Superintendent will pay out the remaining amount of the deposit to claimants in the ratio their awards bear to the sum total of all awards granted against the deposit.
- K.** ~~If a depositor is placed into receivership, and the court supervising the receivership orders the release of the deposit to the receiver for distribution in the course of the receivership to persons injured by the wrongful act, default, fraud or misrepresentation of said depositor, the receiver shall deliver a copy of such order to the Superintendent. If the receiver is any person other than the Superintendent or other officer or agency of the state of Arizona, such copy of the order to release the deposit shall be certified. Upon receipt of such copy of an order to release the deposit, the Superintendent shall authorize the State Treasurer, in writing, to release the deposit to the receiver. After the deposit is released to the receiver, it shall be distributed according to the receivership, and not in accordance with these rules.~~
- K.** The court supervising a licensee in receivership may order the release of a deposit to persons injured by conduct described in subsection (B). In that event, the receiver shall deliver a certified copy of the court's order to the Superintendent. The copy may be uncertified if the receiver is the Superintendent or any other officer or agency of the state of Arizona. The Superintendent shall then authorize the State Treasurer, in writing, to release the deposit to the receiver. The receiver shall then distribute the deposit as ordered by the receivership court, and not under these rules.