

Notice of Proposed Rulemaking Submitted to the Governor's Regulatory Review Council

Under the Administrative Procedure Act in effect before January 1, 1995 (A.R.S. § 41-1013), an agency must allow at least 30 days to elapse after the *Arizona Administrative Register* publication of the Notice of Proposed Rulemaking Submitted to the Governor's Regulatory Review Council before the Council can review the rules at the Council's regular monthly meeting.

**TITLE 4. COMMERCE, PROFESSIONS, AND OCCUPATIONS**

**CH. 14. DEPARTMENT OF INSURANCE**

The undersigned hereby gives notice that the following rules have been submitted to the Governor's Regulatory Review Council:

**Adopt:**

- Article 13. Retaliatory Taxation
- R4-4-1301. Retaliatory Taxation

**Summary**

The Department proposes to adopt the above rule to implement a portion of the retaliatory tax provisions established in A.R.S. § 20-230(A). The proposed rule establishes uniform methods, procedures, and formulas to be used by insurers and the Department to calculate retaliatory taxes.

**Governor's Regulatory Review Council**

The proposed rules will tentatively be heard by the Governor's Regulatory Review Council on March 7, 1995.

**Contact for further information:**

Contact: Gregory Y. Harris, Chief Administrative Law Judge, Department of Insurance, 2910 North 44th Street, Suite 210, Phoenix, Arizona 85018, (602) 912-8454.

Dated: December 30, 1994 /s/ Chris Herstam,  
Director  
Filed in the Office of the  
Secretary of State 1/3/95

**TITLE 4. COMMERCE, PROFESSIONS, AND OCCUPATIONS**

**CH. 40. ARIZONA VETERANS SERVICE COMMISSION**

**ARIZONA VETERANS HOME**

The undersigned hereby gives notice that the following rules have been submitted to the Governor's Regulatory Review Council:

**Adopt:**

- Article 1. Definitions
- R4-40-101. Definitions
- Article 2. Standards of Care
- R4-40-201. General Provisions
- R4-40-202. Limitations and Exclusions
- Article 3. Eligibility
- R4-40-301. General Provisions
- R4-40-302. Discrimination Prohibition and Equal Opportunity
- Article 4. Member Support
- R4-40-401. General Provisions
- R4-40-402. Payment Process
- R4-40-403. Overcharges
- Article 5. Application and Admission
- R4-40-501. Application
- R4-40-502. Application Process
- R4-40-503. Applicant's Responsibilities
- R4-40-504. Admission Process

- R4-40-505. Placement Changes
- Article 6. Grievance and Appeal Process
- R4-40-601. Applicant Grievance and Appeal Process
- R4-40-602. Member Grievance and Appeal Process
- Article 7. Member Responsibilities and Conduct
- R4-40-701. Member Responsibilities
- R4-40-702. Member Conduct
- Article 8. Member Trust Fund
- R4-40-801. General Provisions

**Summary**

The Commission is proposing to adopt the above rules governing the operation of the Arizona Veterans Home, a new 200-bed skilled nursing care facility scheduled to open mid-1995. The rules include the standards of care, eligibility member support, application and admission, grievance and appeal processes, member responsibilities and conduct, and member trust fund.

**Governor's Regulatory Review Council**

The proposed rules will tentatively be heard by the Governor's Regulatory Review Council on March 7, 1995.

**Contact for further information:**

Contact: Myrna Baron, Arizona Veterans Service Commission, 3225 North Central, Suite 910, Phoenix, Arizona 85012, (602) 255-3373.

Dated: December 29, 1994 /s/ Norman O. Gallion,  
Director  
Filed in the Office of the  
Secretary of State 1/3/95

**TITLE 5. CORRECTIONS**

**CH. 1. DEPARTMENT OF CORRECTIONS**

The undersigned hereby gives notice that the following rules have been submitted to the Governor's Regulatory Review Council:

**Adopt:**

- R5-1-901. Definitions
- R5-1-902. Notification Requirements
- R5-1-903. Notification Procedures
- R5-1-904. Notification of Escapes
- R5-1-1001. Definitions
- R5-1-1002. Mail Restrictions
- R5-1-1003. Obtaining Information about Items that May Be Sent to an Inmate
- R5-1-1004. Types of Items that May Be Sent to an Inmate
- R5-1-1005. Sending Mail to Inmates
- R5-1-1006. Improperly Addressed Mail
- R5-1-1007. Inspecting for Contraband
- R5-1-1008. Processing Legal Mail
- R5-1-1009. Mail from Inmates
- R5-1-1010. Abuse of Mail Procedures
- R5-1-1011. Disposition of Unauthorized, Unclaimed, or Forfeited Property

Notice of Proposed Rulemaking Submitted to the Governor's Regulatory Review Council

Summary

The Department proposes to adopt R5-1-901 through R5-1-904 regarding victim notification. The rules describe how the Department notifies victims of crimes who request to be notified when the inmate who victimized them is released from the Department's custody. The rules provide information about when notices are sent, who is notified, the confidentiality of victim information, and notification procedures.

The Department proposes to adopt R5-1-1001 through R5-1-1011 to inform the public of the guidelines and procedures required to exchange mail or property with an inmate, including information such as restrictions, screening of mail and packages, and items allowable.

Governor's Regulatory Review Council

The proposed rules will tentatively be heard by the Governor's Regulatory Review Council on March 7, 1995.

Contact for further information:

Contact: Ann B. Roblyer, Department of Corrections, 1601 West Jefferson, Phoenix, Arizona 85007, (602) 542-3691.

Dated: December 29, 1994 /s/ Samuel A. Lewis,  
Director

Filed in the Office of the  
Secretary of State 1/3/95

TITLE 6. ECONOMIC SECURITY

CH. 3. DEPARTMENT OF ECONOMIC SECURITY  
INCOME MAINTENANCE

The undersigned hereby gives notice that the following rules have been submitted to the Governor's Regulatory Review Council:

Repeal:

- R6-3-1301. Definition of terms
- R6-3-1724. Sick pay
- R6-3-1802. Claims for benefits for unemployment
- R6-3-5470. Citizenship or residence requirements
- R6-3-5475. Claims and registration

Adopt:

- R6-3-1301. Definitions
- R6-3-1401. Policy of Nondiscrimination
- R6-3-1813. Overpayment Deduction Percentage
- R6-3-5475. Claims and Registration

Amend:

- R6-3-1401. Employer Elections to Cover Multi-state Workers
- R6-3-1403. Disclosure of Information and Confidentiality
- R6-3-1502. Appeals Process, General
- R6-3-1503. Proceedings Before an Appeal Tribunal
- R6-3-1504. Review of Appeal Tribunal Decisions
- R6-3-1506. Contribution Cases
- R6-3-1507. Appeals from Labor Dispute Determinations
- R6-3-1701. Identification of Workers Covered by Employment Security Law of Arizona
- R6-3-1709. Part-time Employment - Employer Responsibilities

- R6-3-1712. Joint, Multiple, and Combined Employer Experience Rating Accounts
- R6-3-1718. Employer Refunds
- R6-3-1720. Exempting Certain Direct Sellers and Income Tax Preparers
- R6-3-1803. Determination of Benefit Rights
- R6-3-50150. Distance to Work
- R6-3-5105. General (Misconduct)
- R6-3-51140. Dishonesty

Renumber:

- R6-3-1401 to R6-3-1406. Employer Elections to Cover Multi-state Workers

Summary

The Department proposes to amend the above rules concerning unemployment insurance. Many of the proposed amendments are nonsubstantive changes designed to bring the rules into conformity with current format and style requirements for rules. These changes include deletion of language which merely quotes or paraphrases statutory text, consolidation of defined terms that apply to all unemployment insurance rules into one Section (R6-3-1301), placement of all defined terms into numbered alphabetical order, and elimination of gender-specific terminology.

The Department is also making other changes to reflect recent statutory changes and court decisions and to better conform to controlling federal and state law. These changes include:

- Adopting a rule stating the Department's policy not to discriminate in administration of the unemployment insurance program;
- Amending the rules on hearings and appeals of unemployment insurance cases to reflect recent statutory changes about certified mailing and attorneys' fees, and to limit the number of times a person may obtain a hearing on a request to reopen a case;
- Amending rules affecting unemployment insurance tax activities by adding "fixtures" to the definition of consumer goods; adding "delinquency, deficiency, or jeopardy assessment" as issues for which a petition for review may be filed; providing a reimbursement employer credit for benefit overpayments attributable to Department error; defining "to the same extent" for the purposes of A.R.S. § 23-727(E); and eliminating a sick pay rule which duplicates statutory text;
- Repealing R6-3-1802 and amending R6-3-5475 to eliminate internal inconsistency and to clarify the requirements for filing claims for unemployment insurance benefits;
- Adopting R6-3-1813 to define "no reasonable attempt" as used in A.R.S. § 23-787(D);
- Amending R6-3-50150 to better define "beyond reasonable commuting distance" and conform the rule to statutory text; and
- Amending R6-3-51140 concerning "dishonesty" to better conform to the statutory definition in A.R.S. § 23-619.01.

Governor's Regulatory Review Council

The proposed rules will tentatively be heard by the Governor's Regulatory Review Council on March 7, 1995.

**Notice of Proposed Rulemaking Submitted to the Governor's Regulatory Review Council**

**Contact for further information:**

Contact: Vista Thompson Brown, Department of Economic Security, Site Code 837A, 1789 West Jefferson, Phoenix 85007, (602) 542-6555.

Dated: December 30, 1994 /s/ Kathy Waite for  
Linda J. Blessing,  
Director

Filed in the Office of the  
Secretary of State 1/3/95

**TITLE 6. ECONOMIC SECURITY**  
**CH. 5. DEPARTMENT OF ECONOMIC SECURITY**  
**SOCIAL SERVICES**

The undersigned hereby gives notice that the following rules have been submitted to the Governor's Regulatory Review Council:

**Repeal:**

- Article 65. Adoption Placement
- R6-5-6501. Goals
- R6-5-6502. Objective
- R6-5-6503. Authority
- R6-5-6504. Definitions
- R6-5-6505. Description of services
- R6-5-6506. Determining financial eligibility
- R6-5-6507. Determining the need
- R6-5-6508. Central Registry of Children
- R6-5-6509. Case management
- Article 66. Adoption Study
- R6-5-6601. Goal
- R6-5-6602. Objective
- R6-5-6603. Repealed
- R6-5-6604. Description of services
- R6-5-6605. Definitions
- R6-5-6606. Application to adopt
- R6-5-6607. Home study
- R6-5-6608. Fees
- R6-5-6609. Registry
- R6-5-6610. Case management
- Article 70. Adoption Agency Licensing Standards
- R6-5-7001. Definitions
- R6-5-7002. License application
- R6-5-7003. License fee
- R6-5-7004. License term
- R6-5-7005. License non-transferable
- R6-5-7006. License renewal
- R6-5-7007. License amendments
- R6-5-7008. Waiver of specific standards
- R6-5-7009. Denial, suspension or revocation of license
- R6-5-7010. Appeals
- R6-5-7011. Inspections and interviews
- R6-5-7012. Governing body
- R6-5-7013. Written fiscal plan
- R6-5-7014. Budget and financial reports
- R6-5-7015. Accounting procedures
- R6-5-7016. Insurance
- R6-5-7017. Adoption fees
- R6-5-7018. Operations manual
- R6-5-7019. Personnel records
- R6-5-7020. Adoption records
- R6-5-7021. Unusual incident reports
- R6-5-7022. Confidentiality
- R6-5-7023. Dissolution of the agency
- R6-5-7024. Personnel qualifications

- R6-5-7025. Staff training
- R6-5-7026. External professional services
- R6-5-7027. Volunteers
- R6-5-7028. Student field placement/internships
- R6-5-7029. Staff responsibilities and qualifications
- R6-5-7030. Administrator
- R6-5-7031. Social services director
- R6-5-7032. Social services workers
- R6-5-7033. Recruitment and orientation
- R6-5-7034. Adoption application
- R6-5-7035. Adoption study
- R6-5-7036. Payments to or for natural parents
- R6-5-7037. Services to natural parents
- R6-5-7038. Services to children
- R6-5-7039. Services to adoptive family
- R6-5-7040. International adoptions

**Adopt:**

- Article 65. Department Adoption Functions and Procedures for Providing Adoption Services
- R6-5-6501. Definitions
- R6-5-6502. Central Adoption Registry; Information Maintained; Confidentiality
- R6-5-6503. Department Review of Adoption Expenses
- R6-5-6504. Department Adoption Services
- R6-5-6505. Department Procedures for Processing Certification Applications
- R6-5-6506. Department Priorities for Receipt of Services
- R6-5-6507. Department Recruitment Efforts
- R6-5-6508. Referrals to Other Agencies
- R6-5-6509. Fees
- R6-5-6510. International Adoptions
- R6-5-6511. Termination of Services
- Article 66. Adoption Services
- R6-5-6601. Definitions
- R6-5-6602. Recruitment of Adoptive Parents
- R6-5-6603. Orientation: Persons Interested in Adoption
- R6-5-6604. Application for Certification; Fees; Waiver
- R6-5-6605. Certification Investigation
- R6-5-6606. Certification Report and Recommendation
- R6-5-6607. Renewal of Certification
- R6-5-6608. Communications with Certified Parents Awaiting Placement
- R6-5-6609. Prohibitions Regarding Birth Parents
- R6-5-6610. Information about Birth Parents
- R6-5-6611. Pre-consent Interviews with Birth Parents
- R6-5-6612. Consent to Adopt; Unknown Birth Father
- R6-5-6613. Adoptable Child: Assessment and Service Plan
- R6-5-6614. Placement Determination
- R6-5-6615. Provision of Information on Placed Child
- R6-5-6616. Transportation
- R6-5-6617. Placement Investigation and Report
- R6-5-6618. Placement Services
- R6-5-6619. Post-placement Supervision: Non-foster Parent Placements
- R6-5-6620. Post-placement Supervision: Foster Parent Placements
- R6-5-6621. Protracted Placements
- R6-5-6622. Finalizing the Placement
- R6-5-6623. Placement Disruption

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- Article 70. Adoption Agency Licensing
- R6-5-7001. Definitions
- R6-5-7002. Who Shall Be Licensed
- R6-5-7003. Licensing: Initial Application; Fee
- R6-5-7004. Licensing: Out-of-state Agencies
- R6-5-7005. Department Procedures for Processing License Applications
- R6-5-7006. License: Issuance, Denial
- R6-5-7007. License: Term; Nontransferability
- R6-5-7008. Application for License Renewal; Fee
- R6-5-7009. Renewal License: Issuance
- R6-5-7010. Amended License
- R6-5-7011. Governing Body
- R6-5-7012. Agency Administrator
- R6-5-7013. Social Services Director
- R6-5-7014. Social Workers
- R6-5-7015. Agency Employees: Hiring; References; Fingerprinting
- R6-5-7016. Agency Volunteers; Interns
- R6-5-7017. Personnel Records
- R6-5-7018. Training Requirements
- R6-5-7019. Contracted Services
- R6-5-7020. Staffing Ratios
- R6-5-7021. Operations Manual
- R6-5-7022. Agency Operations Budget
- R6-5-7023. Annual Financial Audit
- R6-5-7024. Insurance Coverage
- R6-5-7025. Protecting Confidentiality of Adoption Records
- R6-5-7026. Recordkeeping Requirements: Adoptive Children
- R6-5-7027. Recordkeeping Requirements: Adoptive Parents
- R6-5-7028. Reporting Requirements: Abuse; Unauthorized Practice; Changes; Registry Information
- R6-5-7029. Birth Parent: Service Agreement; Prohibitions
- R6-5-7030. Recruitment; Certification Applications: Intake Limits
- R6-5-7031. Adoption Fees; Reasonableness
- R6-5-7032. Adoption Fee Agreement
- R6-5-7033. Monitoring: Inspections and Interviews; Compliance Audit
- R6-5-7034. Complaints; Investigations
- R6-5-7035. Noncompliance Status
- R6-5-7036. Suspension
- R6-5-7037. Revocation
- R6-5-7038. Adverse Action: Procedures
- R6-5-7039. Appeals

**Summary**

The Department is proposing the above rules to repeal the current rules governing the Department's procedures for adoption placement and study as well as the current rules setting licensing standards for adoption agencies. The Department proposes to adopt three new Articles of rules covering all aspects of adoption practice and licensing. The proposed rules reflect changes made to the adoption statutes since 1990.

Article 65 of the proposed new rules contain a comprehensive set of definitions applicable to all Articles of rules governing adoptions. These rules describe procedures for maintenance of the Central Adoption Registry and conditions for the release of information. The rules also describe procedures and standards for the Department's review of adoption expenses, as provided in A.R.S. § 8-114. In addition, the rules describe the Department's guidelines for accepting certifica-

tion applications and its procedures and fees for performing certification investigations and other adoption services.

Article 66 of the proposed new rules applies to private adoption agencies and the Department and establishes comprehensive requirements for the provision of all adoption services including: orientation, certification, services to birth parents, obtaining consents, communications with adoptive parents and birth parents, placement determinations and services, post-placement services and supervision, and finalization of the adoption.

Article 70 contains all procedures and standards for licensing, monitoring, and disciplining adoption agencies. The rules explain the license application and renewal process; list personnel, training, recordkeeping, reporting, operational, and financial standards an agency must meet to obtain and retain a license; establish procedures for monitoring of agencies, making complaints against agencies, and taking disciplinary action against a licensee; and describe procedures for adverse action and appeals.

**Governor's Regulatory Review Council**

The proposed rules will tentatively be heard by the Governor's Regulatory Review Council on March 7, 1995.

**Contact for further information:**

Contact: Vista Thompson Brown, Department of Economic Security, Site Code 837A, 1789 West Jefferson, Phoenix 85007, (602) 542-6555.

Dated: December 30, 1994      /s/ Kathy Waite for  
Linda J. Blessing,  
Director  
Filed in the Office of the  
Secretary of State 1/3/95

**TITLE 6. ECONOMIC SECURITY**

**CH. 6. DEPARTMENT OF ECONOMIC SECURITY  
DEVELOPMENTAL DISABILITIES**

The undersigned hereby gives notice that the following rules have been submitted to the Governor's Regulatory Review Council:

**Adopt:**

- R6-6-1501. Definitions
- R6-6-1502. Applicability
- R6-6-1503. Requirement for HCBS Certification
- R6-6-1504. Application for Initial HCBS Certification
- R6-6-1505. Fingerprinting Requirements
- R6-6-1506. Application for HCBS Certification Renewal
- R6-6-1507. Issuing HCBS Certification
- R6-6-1508. Duration of HCBS Certification
- R6-6-1509. Amending HCBS Certification
- R6-6-1510. Maintenance of HCBS Certification
- R6-6-1511. Compliance Audit of HCBS Providers
- R6-6-1512. Complaints
- R6-6-1513. Denial, Suspension, or Revocation of HCBS Certification
- R6-6-1514. Corrective Action Plan
- R6-6-1515. Appeals
- R6-6-1516. Reporting Obligations of HCBS Service Providers
- R6-6-1517. Rights of Clients
- R6-6-1518. Records
- R6-6-1519. Basic Qualifications, Training, and Responsibilities

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- R6-6-1520. Provisions for Attendant Care Services
R6-6-1521. Additional Qualifications for Day Treatment and Training Services
R6-6-1522. Additional Qualifications for Habilitation Services
R6-6-1523. Additional Qualifications for Home Health Aid Services
R6-6-1524. Additional Qualifications for Home Health Nurse Services
R6-6-1525. Additional Qualifications for Hospice Services
R6-6-1526. Additional Qualifications for House-keeping Services
R6-6-1527. Additional Qualifications for Non-emergency Transportation Services
R6-6-1528. Additional Qualifications for Occupational Therapy Services
R6-6-1529. Additional Qualifications for Personal Care Services
R6-6-1530. Additional Qualifications for Physical Therapy Services
R6-6-1531. Additional Qualifications for Respiratory Therapy Services
R6-6-1532. Additional Qualifications for Respite Services
R6-6-1533. Additional Qualifications for Speech/Hearing Therapy Services

Amend:

- R6-6-101. Definitions

Summary

The Department is proposing the above rules which govern the operation of the Department's Division of Developmental Disabilities (DDD) program for certification of Home and Community-based service providers. The rules define applicability and list the specific services which require a service provider to be certified before the service provider renders services to DDD clients.

Governor's Regulatory Review Council

The proposed rules will tentatively be heard by the Governor's Regulatory Review Council on March 7, 1995.

Contact for further information:

Contact: Vista Thompson Brown, Department of Economic Security, Site Code 837A, 1789 West Jefferson, Phoenix 85007, (602) 542-6555.

Dated: December 30, 1994 /s/ Kathy Waite for Linda J. Blessing, Director

Filed in the Office of the Secretary of State 1/3/95

TITLE 17. TRANSPORTATION
CH. 4. DEPARTMENT OF TRANSPORTATION
MOTOR VEHICLE DIVISION

The undersigned hereby gives notice that the following rules have been submitted to the Governor's Regulatory Review Council:

Repeal:

- R17-4-804. Employee Certification

Adopt:

- R17-4-414. Envelope Permit Point System
R17-4-501. Third-party Driver License Processor and Tester

Amend:

- R17-4-436. Hazardous Materials Transportation
R17-4-445. Motor Carrier Financial Responsibility
R17-4-448. Certification When Form E Not Required
R17-4-702. Fees for Copies of Public Records

Summary

The Department is proposing the above rules as follows:

R17-4-414 sets forth a system for determining if there have been such frequency of violations against traffic regulations by the holder of an envelope permit as to warrant suspension or revocation of the envelope permit.

R17-4-436 prescribes standards and procedures for the transportation of hazardous materials, hazardous substances, and hazardous waste by adopting enumerated federal regulations set forth in 49 CFR, dated October 1, 1993, as mandated by A.R.S. §§ 28-2401.01, 28-2402, and 28-2412.

R17-4-445 and R17-4-448 eliminate self-certification affidavits as acceptable proof of insurance for motor carriers and will instead require certificates of insurance as proof of coverage for those motor carriers encompassed by the rules.

R17-4-501 sets forth the requirements for a private entity to be authorized to administer driver license testing. The rule also establishes the application procedure, duties and responsibilities, audit procedures, and grounds for denial and revocation.

R17-4-702 establishes the fees that will be charged to subscribers for access to multiple or single driving records by electronic file transfer and increases the fee to obtain driving records by the computer tape-to-tape method.

R17-4-804, proposed for repeal, will require those persons initially applying for a commercial motor vehicle license to take a demonstration test. Driving experience can no longer be used in lieu of the demonstration test.

Governor's Regulatory Review Council

The proposed rules will tentatively be heard by the Governor's Regulatory Review Council on March 7, 1995.

Contact for further information:

Contact: Randall X. Ramsey or Glenn C. Johnson, Department of Transportation, Motor Vehicle Division, 4747 North Seventh Avenue, Phoenix, Arizona 85013-2401, (602) 255-7737.

Dated: December 30, 1994 /s/ Diane C. Minton for Thomas G. Schmitt, Division Director

Filed in the Office of the Secretary of State 1/3/95

**Proposed Rules**

Unless exempted by A.R.S. § 41-1055, each agency shall begin the rulemaking process by first filing a Notice of Proposed Rulemaking with the Governor's Regulatory Review Council as specified by A.R.S. § 41-1052. The agency shall also submit the text of the rules being proposed, an estimate of the economic impact, and a cost/benefit analysis of the proposed action. Following the Council's review and approval of the rule, the Council shall forward the rule to the Office of the Secretary of State for filing and publication in the *Arizona Administrative Register*.

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 and A.A.C. R1-2-202.

**TITLE 4. COMMERCE, PROFESSIONS AND PROFESSIONS**

**CH. 37. ARIZONA STATE LOTTERY COMMISSION**

The undersigned hereby gives notice that pursuant to the statutory authority of A.R.S. § 5-504(B), the following action is proposed:

**Adopt**

- R4-37-387. "Winning 20"
- R4-37-388. "Blackjack"
- R4-37-389. "Cash Splash"
- R4-37-390. "Fast Money"
- R4-37-391. "3's for the Dough"
- R4-37-392. "Double Dice"

**Summary**

The Commission is proposing to adopt the above new rules which set forth provisions unique to the Arizona Lottery's instant games #127, 128, 129, 130, 131, and 132. The rules contain definitions and determination of prize winners and will run concurrently with other regular games.

**Governor's Regulatory Review Council**

Not applicable.

**Opportunity for Public Comment**

Notice is given that any person may file written comments on the proposed rulemaking with the agency contact person on or before March 17, 1995.

Contact: Mr. Ralph W. E. Decker, Executive Director, Arizona State Lottery Commission, 4740 East University Drive, Phoenix, Arizona 85034, (602) 921-4400.

The Commission has scheduled oral proceedings to be held at the Arizona State Lottery, 4740 East University Drive, Phoenix, Arizona at the hour of 10:00 a.m. on the 17th day of March, 1995.

Dated: December 29, 1994 /s/ Sandy Williams,  
Deputy Director  
Filed in the Office of the  
Secretary of State 12/30/94

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

**CH. 2. CORPORATION COMMISSION FIXED UTILITIES**

The undersigned hereby gives notice that pursuant to the statutory authority of A.R.S. §§ 40-107, 40-202, 40-203, 40-204, 40-281, 40-282, 40-321, 40-322, 40-336, 40-361,

40-365, 40-421, and Arizona Constitution, Article 15, §§ 1, 2, 3, 4, 5, 6, 7, and 9, the following action is proposed:

**Adopt**

- Article 11. Competitive Telecommunications Services
- R14-2-1101. Application of Rules
- R14-2-1102. Definitions
- R14-2-1103. Certificate of Convenience and Necessity Required
- R14-2-1104. Expanded Certificates of Convenience and Necessity for Telecommunications Companies with Existing Certificates; Initial Tariffs
- R14-2-1105. Certificates of Convenience and Necessity for Telecommunications Companies Offering Competitive Services; Initial Tariffs
- R14-2-1106. Grant of Certificate of Convenience and Necessity
- R14-2-1107. Application to Discontinue or Abandon Local Exchange Service Area
- R14-2-1108. Determination of a Competitive Telecommunications Service
- R14-2-1109. Pricing of Competitive Telecommunications Services
- R14-2-1110. Competitive Telecommunications Services -- Procedures for Rate Change
- R14-2-1111. Requirement for IntraLATA Equal Access
- R14-2-1112. Interconnection Requirements
- R14-2-1113. Establishment of Universal Service Fund
- R14-2-1114. Service Quality Requirements for the Provision of Competitive Services
- R14-2-1115. Administrative Requirements

**Summary**

The Commission is proposing the above rules as specified below:

- R14-2-1101 sets forth the circumstances when these rules will apply. The Section also identifies the specific service providers for which these proposed rules shall not apply, namely to the provision of service by Customer-owned Pay Telephones (COPTs) and Alternative Operator Service (AOS) providers. Additionally, the provision of local exchange service is governed by Article 5 of this Chapter to the extent it is not inconsistent with these proposed rules.
- R14-2-1102 contains the definitions necessary to correctly interpret and follow the provisions in these rules.
- R14-2-1103 requires all telecommunications companies providing intrastate telecommunications services to obtain a Certificate of Convenience and Necessity from the Commission either under this

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Article if competitive services are to be provided or under Article 5.

- R14-2-1104 requires every telecommunications company, except for a local exchange carrier, that has received a Certificate of Convenience and Necessity under Article 5 and that provides or intends to provide competitive, intraLATA telecommunications services, to file with the Commission's Docket Control Center an application to expand its existing Certificate of Convenience and Necessity to provide competitive, intraLATA telecommunications services. The application must also petition the Commission for a determination that the intraLATA services being provided or to be provided are competitive. This Section also requires the Commission to determine whether the rates, terms, and conditions for the services are reasonable, describes all the information that must be provided in the application, and establishes specific notice requirements.
- R14-2-1105 requires that, effective July 1, 1995, every telecommunications company, except a local exchange carrier, that has not received a Certificate of Convenience and Necessity and that provides or intends to provide competitive, intrastate telecommunications services, to file with the Commission's Docket Control Center an application for a Certificate of Convenience and Necessity to provide competitive telecommunications services. The application must also petition the Commission for a determination that the services being provided or to be provided are competitive. This Section also requires the Commission to determine whether the rates, terms, and conditions for the services are reasonable and describes all the information that must be provided in the application and establishes specific notice requirements.
- R14-2-1106 describes the circumstances under which the Commission may deny certification to any telecommunications company. This Section also establishes all the conditions that attach to the issuance of a Certificate of Convenience and Necessity pursuant to these proposed rules.
- R14-2-1107 identifies the procedure by which a telecommunications company providing competitive local exchange service may discontinue service or abandon all or a portion of its service area. Specific procedures to be followed before the Commission, as well as notice requirements, are set forth in this Section.
- R14-2-1108 establishes the procedure by which telecommunications companies may petition the Commission to classify a telecommunications service as competitive. This Section contains specific notice requirements, identifies the minimum information that must be contained in the petition, and places the burden of proof on the company requesting the competitive classification. Finally, this Section provides that a service classified by the Commission as competitive may subsequently be reclassified as noncompetitive if reclassification would protect the public interest.
- R14-2-1109 establishes specific pricing guidelines for competitive telecommunications services, identifies the parameters within which a telecommunications company may change a price for a competitive service, and contains a prohibition against

cross-subsidization of a competitive telecommunications service with noncompetitive services.

- R14-2-1110 establishes the procedures by which a telecommunications company governed by these rules may apply to the Commission for an increase in any maximum rate for a competitive service.
- R14-2-1111 requires local exchange carriers to provide 2-PIC intraLATA equal access under specific circumstances and within a specified period of time. This Section also allows local exchange carriers to apply for a waiver of the requirement to provide 2-PIC intraLATA equal access on the ground that compliance is not technically or economically feasible.
- R14-2-1112 requires local exchange carriers to provide appropriate interconnection arrangements with other telecommunications companies at reasonable prices and under reasonable terms and conditions that do not discriminate against or in favor of any provider, including the local exchange carrier. This Section also establishes a time frame for establishment of appropriate interconnection arrangements and specifies the form in which the interconnection arrangements must be memorialized and filed with the Commission.
- R14-2-1113 provides that the Commission shall establish an intrastate Universal Service Fund which shall assure the continued availability of basic telephone service at reasonable prices.
- R14-2-1114 imposes service quality requirements that apply to the following situations: denial of service to noncertificated companies, company responsibility, continuity of service, billing and collection, insufficient funds checks, deferred payment plans and late payment penalties, service interruptions, termination of service, and identification of responsible officer or agent.
- R14-2-1115 sets forth the procedures to be followed for customer service complaints and bill disputes and for the filing of tariffs and contracts. It also sets forth general requirements for the maintenance and production of accounts and records and for the provision of annual and other reports to the Commission.

Governor's Regulatory Review Council

Not applicable.

Opportunity for Public Comment

Notice is given that any person may file written comments on the proposed rulemaking with the agency contact person on or before February 20, 1995.

Contact: Elizabeth A. Kushibab, Staff Attorney, Arizona Corporation Commission, 1200 West Washington, Phoenix, Arizona 85007, (602) 542-3402.

The Commission has scheduled oral proceedings as follows:

March 7, 1995  
10:00 a.m.  
Corporation Commission  
1200 West Washington  
Phoenix

March 9, 1995  
10:00 a.m.  
402 West Congress  
Tucson

March 21, 1995  
11:00 a.m.  
Flagstaff City Hall  
Council Chambers  
211 West Aspen  
Flagstaff

Dated: December 30, 1994 /s/ James Matthews,  
Executive Secretary  
Filed in the Office of the  
Secretary of State 12/30/94

**TITLE 14. PUBLIC SERVICE CORPORATIONS;  
CORPORATIONS AND ASSOCIATIONS;  
SECURITIES REGULATION**  
**CH. 4. CORPORATION COMMISSION  
SECURITIES**

The undersigned hereby gives notice that pursuant to the statutory authority of A.R.S. §§ 44-1821 and 44-1845, the following action is proposed:

**Amend**  
R14-4-126. Limited Offerings

**Summary**

The Commission is proposing to amend the above rule, which generally track revisions made to Regulation D of the Securities Act of 1933, as specified below:

- Subsection (A)(2) is a new provision regarding securities offered and sold outside the United States in accordance with regulation S under the Securities Act of 1933.
- Subsection (A)(3) is a new subsection for all statutes, regulations, and forms incorporated by reference.
- Subsection (B)(1)(a) amends the definition of "accredited investor" to include any plan established and maintained by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions, for the benefit of its employees, if such plan has total assets in excess of \$5,000,000.
- Subsection (B)(3) includes a provision, within the definition of "Aggregate offering price", requiring cash received in a foreign currency to be translated into U.S. currency for the purpose of determining "aggregate offering price". In addition, a new requirements specifies that valuations of non-cash consideration must be made in accordance with generally accepted accounting principles and must be reasonable at the time made.
- Subsection (B)(4) corrects a typographical error.
- Subsections (B)(5)(b), (B)(8)(a)(ii), (B)(8)(a)(iii), and (B)(8)(d) have new clarifying clauses.
- Subsection (B)(8)(d) has a new Note 1 that clarifies that a person acting as a purchaser representative should consider the applicability of the registration and anti-fraud provisions of the Securities Exchange Act of 1934 and the Arizona Securities Act relating to broker-dealers, and the Investment Advisers Act of 1940 and the Investment Management Act relating to investment advisers.
- Subsection (C)(1) amends Note 1 to provide the factors to be considered in determining whether offers and sales should be integrated for purposes of the exemptions.

- Subsection (C)(2)(a)(ii) is amended and a note added to clarify information provision requirements.
- Subsection (C)(2)(b)(i) adds clarifying clauses.
- Subsections (C)(2)(b)(i)(1) and (2), (C)(2)(b)(ii)(1) and (2), and (C)(2)(b)(iii) reflect the change in the forms used federally to satisfy the limited offering informational requirements.
- Subsection (C)(2)(b)(i)(2)(d) is new and provides that if the issuer is a foreign private issuer eligible to use Form 20-F under the Securities Act of 1933, the issuer shall disclose the same kind of information required to be included in a registration statement filed under the Securities Act of 1933 on the form that the issuer would be entitled to use.
- Subsection (C)(2)(b)(ii) adds clarifying clauses.
- Subsection (C)(2)(b)(ii)(4) is new and states the type of information to be provided by foreign private issuers eligible to use Form 20-F under the Securities Act of 1933.
- Subsections (C)(2)(b)(iii) and (C)(2)(b)(iv) also add clarifying clauses.
- Subsection (C)(2)(b)(vi) is amended to include "exchange offers" and to clarify that the issuer must supply Form S-4 information plus certain additional information.
- Subsection (C)(2)(b)(vii) is new and requires that any non-accredited investor in a transaction under subsection (E) or (F) must be advised by the issuer at a reasonable time, before the sale of securities, of the limitations on resale.
- Subsection (C)(4)(c) has an added Note that provides that, while taking the actions provided in subsection (C)(4) will establish the requisite reasonable care, it is not the exclusive method to demonstrate such care.
- Subsection (D)(7) is new and references the fee provision in the Arizona Securities Act.
- Subsections (E)(2)(b) and (c) are deleted to provide uniformity and consistency with the federal standards.
- Subsections (E)(2)(d) is renumbered to (E)(2)(b) and the reference to a non-accredited investor limitation is deleted because it is inconsistent with federal standards.
- Subsection (E)(2)(e) is renumbered to (E)(2)(c) and a clarifying clause is added.
- Subsection (E)(2)(f) is deleted because the reference to a non-accredited investor limitation is inconsistent with federal standards.
- Subsections (E)(3)(b), (F), (F)(2)(a), and (F)(2)(b) are amended to add clarifying clauses.
- Subsection (E)(3)(f) is amended to conform to the disqualification provisions of recently amended R14-4-136.
- Subsection (G) is added to create a disqualifying provision relating to the exemptions available under subsections (E) and (F).
- Subsection (H) is added to provide that a failure to comply with a term, condition, or requirement of subsection (E) or (F) will not result in the loss of the exemption from the registration requirements of the Arizona Securities Act, provided that such failure did not pertain to a term, condition, or requirement directly intended to protect the purchaser, or that the failure to comply was insignificant with respect to the offering as a whole, or a good faith attempt to comply was made.



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Various other changes were made to citation references, relabeling of subsections, and rewording for clarity throughout the proposed amendments.

**Governor's Regulatory Review Council**

Not applicable.

**Opportunity for Public Comment**

Notice is given that any person may file written comments on the proposed rulemaking with the agency contact person on or before March 1, 1995.

Contact: Leslie Block, Arizona Corporation Commission, 1200 West Washington, 3rd Floor, Phoenix, Arizona 85007, (602) 542-4242.

The Commission has scheduled oral proceedings to be held at the Arizona Corporation Commission, 1200 West Washington, Phoenix, Arizona at the hour of 10:00 a.m. on the 2nd day of March, 1995.

Dated: December 27, 1994

/s/ James Matthews,  
Executive Secretary

Filed in the Office of the  
Secretary of State 12/27/94