

NOTICES OF FINAL RULEMAKING

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

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

PREAMBLE

- 1. Sections Affected**

	<u>Rulemaking Action</u>
R4-23-901	Amend
R4-23-1001	Repeal
R4-23-1003	Amend
R4-23-1005	Amend
R4-23-1006	Amend
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statutes: A.R.S. §§ 32-1904(A)(1), 32-1904(B)(14), and 36-2521
Implementing statutes: A.R.S. §§ 36-2512(B), 36-2513(B), 36-2514(B), 36-2515(B), and 36-2523(A) and (B)
- 3. The effective date of the rules:**

August 3, 2000
- 4. A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 6 A.A.R. 922, March 3, 2000
Notice of Proposed Rulemaking: 6 A.A.R. 1202, April 7, 2000
- 5. The name and address of agency personnel with whom persons may communicate regarding the rule:**

Name: Dean Wright, Compliance Officer
Address: Board of Pharmacy
5060 North 19th Ave., Suite 101
Phoenix, Arizona 85015
Telephone: (602) 255-5125, Ext. 131
Fax: (602) 255-5740
E-Mail: rxcop@uswest.net
- 6. An explanation of the rule, including the agency's reasons for initiating the rule:**

During the 5-year rule review in 1997, the Board identified these Sections of rule for amendment to improve clarity, conciseness, and understandability. In addition, subsection R4-23-1003(A) needed additional language to clarify the recordkeeping requirements for a controlled substance inventory.

Section R4-23-901 is amended to include proper citations and remove outdated terminology. Section R4-23-1001 is repealed because the language is outdated and the provisions have not been used in over 14 years. Section R4-23-1003(A)(1) clarifies the controlled substance inventory requirements and the rest of the Section is amended for grammar, style, and format changes to produce a clear, concise, and understandable document. Section R4-23-1005 is amended to include incorporation by reference of relevant sections of the federal code and grammar, style, and format changes to produce a clear, concise, and understandable document. Section R4-23-1006 is amended for minor style changes and updated citations to produce a clear, concise, and understandable document.

The Board believes that making these rules benefits the public health and safety by establishing clear standards for controlled substances, drug offenses, and penalties.

- 7. A reference to any study that the agency relied on in its evaluation of or justification for the 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
- 8. 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
- 9. The summary of the economic, small business, and consumer impact:**
The rule will not have an economic impact except the cost to the Board of Pharmacy and the Secretary of State for writing and publishing the rule. The changes do not impose anything new. The rule clarifies existing requirements. The rule does not impose any new costs on small business or consumers.
- 10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**
There are no substantive changes. At the request of GRRC staff, a few minor style, grammar, and punctuation changes occur in the final rules.
- 11. A summary of the principal comments and the agency response to them:**
There were no comments.
- 12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**
Not applicable
- 13. Incorporations by reference and their location in the rules:**
21 C.F.R. § 1308.22 April 1, 1999, (and no future editions or amendments) located at A.A.C. R4-23-1005(A).
21 C.F.R. § 1308.24 April 1, 1999, (and no future editions or amendments) located at A.A.C. R4-23-1005(B).
21 C.F.R. § 1308.32 April 1, 1999, (and no future editions or amendments) located at A.A.C. R4-23-1005(C).
- 14. Was this rule previously approved as an emergency rule?**
No
- 15. The full text of the rules follows:**

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

ARTICLE 9. PENALTIES AND MISCELLANEOUS

Section

R4-23-901. Penalty for Violations

ARTICLE 10. UNIFORMED CONTROLLED SUBSTANCES AND DRUG OFFENSES

Sections

R4-23-1001. ~~Character and Fingerprint Identification Required~~ Repealed

R4-23-1003. Records and Order Forms

R4-23-1005. Substances Excepted from the Schedules of Controlled Substances

R4-23-1006. Substances Excepted from Drug Offenses

ARTICLE 9. PENALTIES AND MISCELLANEOUS

R4-23-901. Penalty for Violations

Any person, firm, or corporation violating any of the provisions of these regulations ~~4 A.A.C. 23 shall be~~ is subject to the penalties in A.R.S. § 32-1996, ~~as amended and effective August 11, 1970. In addition, persons licensed and a license or permits permit issued under the provisions of the Pharmacy Act shall be~~ A.R.S. Title 32, Chapter 18 is subject to suspension or revocation for ~~violations~~ violation of these regulations ~~4 A.A.C. 23.~~

ARTICLE 10. UNIFORMED CONTROLLED SUBSTANCES AND DRUG OFFENSES

R4-23-1001. ~~Character and Fingerprint Identification Required~~ Repealed

~~Information concerning character and fingerprint identification shall be furnished At the request of the Board, for persons responsible for ordering, storing, handling, distributing, or directly dispensing controlled substances to show that each is of good moral character and has not violated laws and regulations pertaining to drugs or devices.~~

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R4-23-1003. Records and Order Forms

A. Records

1. ~~Inventory upon change of pharmacist-in-charge. An inventory of all controlled substances shall be taken by a pharmacist-in-charge. If the pharmacist-in-charge of a pharmacy is replaced by another pharmacist-in-charge, the new pharmacist-in-charge shall complete an inventory of all controlled substances in the pharmacy within ten 10 days of assuming such the responsibility. This inventory and any other required controlled substance inventory shall:~~
 - a. Include an exact count of all CII controlled substances;
 - b. Include an exact count of all CIII through CV controlled substances or an estimated count if the stock container contains fewer than 1001 units;
 - c. Indicate the date the inventory is taken and whether the inventory is taken before opening of business or after close of business for the pharmacy;
 - d. Be signed by:
 - i. The pharmacist-in-charge; or
 - ii. For other required inventories, the pharmacist who does the inventory;
 - e. Be kept separately from all other records; and
 - f. Be available in the pharmacy for inspection by the Board or its designee for not less than 3 years.
2. ~~Reporting losses of controlled substances. Losses~~ A loss of a controlled substances shall be reported;
 - a. Within ten 10 days of discovery.
 - b. On a DEA form 106.
 - c. By the pharmacist-in-charge of a pharmacy or manufacturer.
 - d. By the permittee or manager of a full-service wholesaler, and
 - e. To the federal Drug Enforcement Administration (DEA), the Narcotic Division of the Department of Public Safety (DPS), and the Board of Pharmacy. A copy of the report DEA form 106 shall be kept on file by the registrant pharmacy permittee. The report DEA form 106 shall show state whether the police investigated the loss.
3. ~~Records of receipts and disposal of controlled substances.~~
 - a. ~~Every person manufacturing any controlled substances~~ substance, including the repackaging and or relabeling thereof, shall prepare record and retain the date of manufacture manufacturing, repackaging, or relabeling date for each drug-manufactured controlled substance.
4. ~~b. Every person receiving, selling, delivering, or otherwise disposing of any controlled substance shall prepare or obtain record and retain for not less than three 3 years the following information:~~
 - a. ~~i. An adequate record of The kind name, strength, dosage form, and quantity of each drug controlled substance received, sold, delivered, or otherwise disposed of;~~
 - b. ~~ii. The name, and address, and DEA registration number of the person from whom it was each controlled substance is received;~~
 - c. ~~iii. The name, and address, and DEA registration number of the person to whom it was each controlled substance is sold, or delivered or otherwise disposed of who disposes of each controlled substance; and~~
 - d. ~~iv. The date of each transaction.~~

B. Order form. For purposes of A.R.S. § 36-2524, "Order Form" means DEA Form 222c.

R4-23-1005. Substances Excepted from the Schedules of Controlled Substances

- ~~A. Excepted over the counter drugs. A list of All over-the-counter non-narcotic substances containing limited amounts of controlled substances which are excepted from prescription requirements and which that are excluded from all controlled substance schedules by 21 C.F.R. § 1308.22 April 1, 1999, (and no future editions or amendments) incorporated by reference and on file with the Board and may be obtained from the Office of the Arizona State Board of Pharmacy and is on file in the Office of the Secretary of State are excluded from all controlled substance schedules in Arizona.~~
- B. Excepted chemical preparations.** A chemical preparation or mixture meeting the following requirements is excepted from all schedules:
 1. ~~It is intended for accredited laboratory, industrial, educational, or special research purposes and is not intended for general administration to a human being or other animal, and which:~~
 - a. ~~Contains No narcotic controlled substance and is packaged in such a form or concentration that the package quantity does not present any significant potential for abuse; or~~
 - b. ~~Contains Either a narcotic or non-narcotic controlled substance and one or more adulterating or denaturing agents in such a manner, combination, quantity, proportion, or concentration, that the preparations or mixtures do not present any potential for abuse, and the narcotic substances cannot in practice be removed; and~~
 2. Are exempt by federal law. All chemical preparations or mixtures containing 1 or more controlled substances listed in any schedule that are exempted from all controlled substance schedules by 21 C.F.R. § 1308.24 April 1, 1999, (and no future editions or amendments) incorporated by reference and on file with the Board and the Office of the Secretary of State are exempted from all controlled substance schedules in Arizona.

C. ~~Excepted prescription only drugs.~~ All prescription-only drugs ~~which have been~~ that are exempted by 21 C.F.R. § 1308.32 April 1, 1999, ~~(and no future editions or amendments)~~ incorporated by reference and on file with the Board and the Office of the Secretary of State are ~~hereby excepted~~ exempted from all controlled substance schedules ~~of controlled substances in Arizona.~~

R4-23-1006. Substances Excepted from Drug Offenses

The following materials, compounds, mixtures, or preparations containing any stimulant or depressant substance included in A.R.S. §§ 13-3401(6)(b) or 13-3401(6)(c) are excepted from the definition of dangerous drugs under the authority of A.R.S. § 32-1904(B)(~~4214~~):

1. ~~The~~ Over-the-counter drugs excepted in ~~A.C.R.R.~~ A.A.C. R4-23-1005(A).
2. ~~The~~ Chemical preparations excepted in ~~A.C.R.R.~~ A.A.C. R4-23-1005(B).
3. ~~The~~ Prescription-only drugs excepted in ~~A.C.R.R.~~ A.A.C. R4-23-1005(C).

NOTICE OF FINAL RULEMAKING

TITLE 12. NATURAL RESOURCES

CHAPTER 5. LAND DEPARTMENT

PREAMBLE

1. Sections Affected

Rulemaking Action

R12-5-1701	Repeal
R12-5-1702	Repeal
R12-5-1703	Repeal
R12-5-1704	Repeal
R12-5-1705	Repeal
R12-5-1706	Repeal
R12-5-1708	Repeal
R12-5-1709	Repeal
R12-5-1710	Repeal
R12-5-1711	Repeal
R12-5-1712	Repeal
R12-5-1713	Repeal
R12-5-1714	Repeal
R12-5-1715	Repeal
R12-5-1716	Repeal
R12-5-1717	Repeal
R12-5-1718	Repeal
R12-5-1719	Repeal
R12-5-1720	Repeal
R12-5-1721	Repeal
R12-5-1722	Repeal
R12-5-1723	Repeal
R12-5-1724	Repeal

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. § 37-132(A)(1)

Implementing statutes: A.R.S. §§ 37-1001, 37-1002; 37-1011 through 37-1014; 37-1031 through 37-1040; 37-1051 through 37-1057; and 16-101

3. The effective date of the rules:

August 1, 2000

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

Notice of Rulemaking Docket Opening: 5 A.A.R. 4582, December 10, 1999

Notice of Rulemaking Docket Opening: 5 A.A.R. 4661, December 17, 1999

Notice of Proposed Rulemaking: 6 A.A.R. 528, February 4, 2000

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

Name: Richard B. Oxford, Director
Operations Division

Address: Arizona State Land Department
1616 West Adams
Phoenix, Arizona 85007

Telephone: (602) 542-4602

Fax: (602) 542-5223

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

The Arizona State Land Department ("the Department") manages approximately 9.3 million acres of State Trust land. The Trust lands were granted to the State of Arizona under the provisions of the federal Enabling Act (Sections 24-30), (Act of June 20, 1910, Ch. 310, 36 U.S. Stat. 557, 568-579) that provided for Arizona's statehood in 1912. The Trust lands and their natural resources are managed to earn revenues for 14 public institutional beneficiaries of which the common schools receive the greatest benefit.

In addition to managing the State's Trust land, the State Land Commissioner serves as the State's Natural Resource Conservation Commissioner and is responsible for administration of the State's Natural Resource Conservation District program. The purpose of the program is to provide for the restoration and conservation of land, soil and natural resources through the state's 31 Natural Resource Conservation Districts.

Natural Resource Conservation Districts, formerly known as Soil Conservation Districts, were created to provide for the restoration and conservation of agricultural lands and soil resources damaged during the prolonged drought conditions that persisted during the "Dust Bowl" era of the 1930's. In 1941, the Arizona legislature established the State's Soil Conservation District program (Laws 1941, Ch. 43, §§ 16) which was renamed "Natural Resource Conservation District" program in 1972 (Laws 1972, Ch. 28, § 16, March 24, 1972). The Districts are political subdivisions of the state and serve in partnership with the U.S. Department of Agriculture, Natural Resources Conservation Service to provide federal and technical assistance to private landowners for various natural resource conservation practices. Most of the 31 Districts were formed in the 1940's and 1950's.

Each District serves a geographically defined area, is governed by a Board of Supervisors, three of which are elected to staggered 6-year terms and 2 of which are appointed by biennially by the Commissioner, and provides technical and financial assistance to its District Cooperators. A District Cooperator is any person who has entered into a Cooperative Agreement with a Conservation District for the purpose of protecting, conserving and practicing wise use of natural resources.

District activities include:

- Working in unity as the Arizona Association of Conservation Districts to focus state and federal means on local and statewide natural resource concerns.
- Collaborate with citizens and state and federal agencies to prioritize the delivery of U.S. Department of Agriculture and other natural resource conservation programs to District Cooperators.
- Providing education and technical advice regarding soil, water and natural resource conservation.
- Promoting watershed management programs that address flood control, proper grazing management, and the conservation, enhancement and restoration of riparian areas.
- Protection of open space and farmland.
- Promoting responsible use of natural resources in outdoor recreation.
- Promoting integrated land use planning which improves water and air quality, enhances wildlife habitat, and minimizes impacts on threatened and endangered species and on historical and cultural resources.
- Providing conservation and environmental education to local school children and adults.

The Department proposes to repeal rules associated with the State's Natural Resource Conservation District program that are nonfunctional, confusing, incorrect, and for the most part are repetitive of statute. The rules are burdensome to the Natural Resource Conservation District program and impossible for the Department to enforce. The proposed action is deregulatory in nature by eliminating unnecessary rules.

7. 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

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8. 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

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

An economic, small business and consumer impact statement is not required under A.R.S. § 41-1055(D)(3).

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

Not applicable

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

In November 1999, and February 2000, the Department contacted the state's 31 Natural Resource Conservation Districts (NRCD) for review and comments regarding the proposed repeal of the rules.

Nine NRCDs responded in support of the proposed repeal action. The remaining 22 NRCDs did not respond.

As the comments received supported the Departments' proposal, no response was considered necessary.

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

Not applicable

13. Incorporations by reference and their location in the rules:

None

14. Was this rule previously adopted as an emergency rule?

No

15. The full text of the rules follows:

TITLE 12. NATURAL RESOURCES

CHAPTER 5. LAND DEPARTMENT

ARTICLE 17. NATURAL RESOURCE CONSERVATION DISTRICTS

Sections

- R12-5-1701. ~~Scope of Rules and Regulations Governing Natural Resource Conservation Districts~~ Repealed
- R12-5-1702. ~~General Policy of Rules and Regulations for Natural Resource Conservation Districts~~ Repealed
- R12-5-1703. ~~Petition for Natural Resource Conservation District~~ Repealed
- R12-5-1704. ~~Contents of Petition~~ Repealed
- R12-5-1705. ~~Qualifications for Acceptable Petition~~ Repealed
- R12-5-1706. ~~Hearing on Petition; Notice~~ Repealed
- R12-5-1708. ~~Determination by Commissioner~~ Repealed
- R12-5-1709. ~~Referendum; Election of Supervisors~~ Repealed
- R12-5-1710. ~~Proclamation of Result of Referendum~~ Repealed
- R12-5-1711. ~~Powers of District~~ Repealed
- R12-5-1712. ~~Limitation of Powers~~ Repealed
- R12-5-1713. ~~Proceedings to Organize Districts~~ Repealed
- R12-5-1714. ~~Certificate of Organization~~ Repealed
- R12-5-1715. ~~Certificate as Evidence of Legal Establishment~~ Repealed
- R12-5-1716. ~~State Financial Assistance to Natural Resource Conservation Districts; Application; Criteria~~ Repealed
- R12-5-1717. ~~Yearly Requirements for Districts~~ Repealed
- R12-5-1718. ~~Change in Boundaries; Combination or Division of Districts; Change in Name of District~~ Repealed
- R12-5-1719. ~~Dissolution of District~~ Repealed
- R12-5-1720. ~~District Supervisor; Terms of office; Biennial Election~~ Repealed
- R12-5-1721. ~~Power of the Commissioner to Remove District Supervisor~~ Repealed
- R12-5-1722. ~~Organization of Supervisors; Vacancies~~ Repealed
- R12-5-1723. ~~Powers and Duties of Supervisor~~ Repealed
- R12-5-1724. ~~Cooperation with State Agencies~~ Repealed

ARTICLE 17. NATURAL RESOURCE CONSERVATION DISTRICTS

R12-5-1701. Scope of Rules and Regulations Governing Natural Resource Conservation Districts Repealed

These rules and regulations shall supplement and implement Title 45, Chapter 8 of the Arizona Revised Statutes relating to natural resource conservation districts and they shall prevail over and supersede any existing policy or procedure of the Department to the extent that the policy rules or procedure are in conflict.

R12-5-1702. General Policy of Rules and Regulations for Natural Resource Conservation Districts Repealed

It is declared policy of the Legislature and the State Land Department to provide for the restoration and conservation of lands and soil resources of the state and the control and prevention of soil erosion and thereby to conserve natural resources, conserve wildlife, protect the tax base, protect public lands and in such manner to provide and promote the public health, safety and general welfare of the people.

R12-5-1703. Petition for Natural Resource Conservation District Repealed

Applications for natural resource conservation districts shall be made on petition forms which are, from time to time, prescribed by the state Natural Resource Conservation Commissioner. Forms for application shall be furnished by the Department.

R12-5-1704. Contents of Petition Repealed

Each petition for a natural resource conservation district shall contain:

1. The proposed name of the district.
2. A declaration that there is need, in the interest of preservation of property, health, safety and public welfare, for a district in the territory described.
3. A description of the exterior boundaries of the territory proposed to be organized.
4. A request that the Commissioner:
 - a. Determine that the district be created.
 - b. Define the boundaries of the proposed district.
 - c. Direct that a referendum be held within the territory so defined on the question of the creation of a district.

R12-5-1705. Qualifications for Acceptable Petition Repealed

Twenty five or more owners of land but not less than 25 percent of the owners of land lying within the limits of a proposed district, or if there are fewer than 25 owners of land in the proposed district, not less than 25 percent of all such owners may petition requesting that a district be organized.

R12-5-1706. Hearing on Petition; Notice Repealed

- A.** Within 90 days after a petition has been accepted by the Commissioner, notice shall be given by publication in at least two issues at intervals of not less than six days, of a newspaper of general circulation within the area affected, or if there is not such newspaper, a newspaper of general circulation within the county, of a hearing upon:
1. The desirability and necessity, in the interest of preservation of property, health, safety and public welfare, of the creation of such district.
 2. The appropriate boundaries to be assigned to the district.
 3. The property of the petition and other proceedings taken.
 4. All related questions.
- B.** All owners of land within the limits of the territory described in the petition and of lands within any territory considered for addition to the described territory, and all other interested parties, may attend and be heard at such hearing.
- C.** If it appears on the hearing that it is desirable to include within the proposed district territory outside the area described in the petition, the hearing shall be adjourned and notice of further hearing given, in the manner provided by this Section, in the entire area considered for inclusion in the district.

R12-5-1708. Determination by Commissioner Repealed

- A.** If, after final hearing upon a petition, the Commissioner determines upon the facts presented and other relevant information that a district within the territory considered is in the public interest, he shall record such determination and define the boundaries of the district. In defining the boundaries, he shall consider:
1. The topography of the area.
 2. The character of soils.
 3. The distribution of erosion.
 4. Prevailing land use practices.
 5. The desirability and necessity of including within the boundaries of the district the particular lands under consideration and the benefits to be received by such inclusion.
 6. The relation of the proposed area to existing watersheds and agricultural regions, and to other districts already organized or proposed for organization.
 7. Such other physical, geographical and economic factors as are relevant.

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- B.** In defining the boundaries of the district, the Commissioner shall not include therein any area, land or property of any person or persons who do not desire to have such area, land, or property included in such district. Notwithstanding any provision of this Chapter to the contrary, lands held under Certificate of Purchase or lease from the state shall not be included in any district if the holder or holders of Certificates of Purchase or the leases therefor do not desire such lands included.
- C.** If the Commissioner determines that it is not in the public interest for a district to function in the territory considered, he shall record such determination and deny the petition.
- D.** After expiration of 18 months from the date of entry of a determination by the Commissioner that operation of a proposed district is not administratively and economically feasible, a denial of a petition pursuant to that determination, petitions may again be filed and action taken in accordance with the provisions of this Chapter.

R12-5-1709. Referendum; Election of Supervisors Repealed

- A.** Within a reasonable time after the Commissioner has recorded his determination that it is in the public interest that a district be organized and has defined the boundaries thereof, he shall hold a referendum within the proposed district upon the question of the creation of the district, and an election to elect three supervisors. He shall promulgate regulations for the conduct of such referendum and election and prescribe a procedure for the determination of persons eligible to vote. The referendum and election of supervisors shall be conducted by separate ballots.
- B.** The ballot for the referendum shall:
 - 1. Describe the boundaries of the proposed district as determined by the Commissioner.
 - 2. Contain the propositions: "For the creation of a district" and "against the creation of a district", with a square after each proposition.
 - 3. An instruction to mark an X in the square after the proposition for which the voter wishes to vote.
- C.** Only owners of land lying within the boundaries of the territory described shall be eligible to vote on the referendum, but any such owner who is not a qualified elector of the district, or any owner who is a qualified elector but is unable because of illness or absence from the district to appear at the polls, may appoint, in writing on a form prescribed by the Commissioner, a qualified elector of the district as his agent or proxy. The appointment of agent or proxy shall be presented to the board of election, and if it is found to be bona fide and in proper form, the holder thereof shall be allowed to vote in behalf of the owner executing the appointment on the question of creation of the district only. The appointment shall be filed with the ballots and other election returns.
- D.** Candidates for supervisor shall file nomination petitions with the Commissioner in the manner prescribed by the Commissioner. Any qualified elector of the proposed district may sign the petitions of not more than three candidates. The names of candidates shall appear on the election ballot in alphabetical order by surnames, with a square opposite each name, and an instruction to mark an X in the squares opposite the names of not more than three candidates for whom the voter wishes to vote.
- E.** No informality in the conduct of any referendum or election held under the provisions of this Chapter, or in any manner relating thereto, shall invalidate the result thereof if notice has been given substantially as prescribed in 45-2032, and the referendum and election has been fairly conducted. All expenses of a referendum and election shall be paid by the Commissioner.

R12-5-1710. Proclamation of Result of Referendum Repealed

If not less than 65 percent of the land owners voting at the referendum and the owners of not less than 50 percent of the land, other than publicly owned, lying within the proposed district, vote in favor of the creation thereof, the Commissioner shall declare the district organized, otherwise he shall declare the proposal defeated.

R12-5-1711. Powers of District Repealed

- A.** A district is empowered to:
 - 1. Conduct surveys, investigations and research relating to the character of the soil, soil erosion prevention within a farm or ranch, methods of cultivation, farm and range practices, seeding, eradication of noxious growths and such other measures as will aid farm and range operations, disseminate information pertaining thereto, and carry on research programs with or without the cooperation of the state, the United States or agencies thereof.
 - 2. Conduct demonstration projects within the district on lands owned or controlled by the state or any of its agencies with the consent and cooperation of the agency having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the owner thereof or the necessary rights or interests therein, in order to demonstrate by example the means, methods and measures by which soil and soil resources may be conserved, and soil erosion and soil washing prevented and controlled.
 - 3. Cooperate and enter into agreements with a landowner, operator or any agency or subdivision of the state or Federal Government to carry on programs of soil erosion prevention, methods of cultivation, cropping practices, land leveling and improvement on agricultural lands, and programs limited to methods of proper range use, reseeding and the eradication of noxious growth on grazing lands, all within the limits of an individual farm or ranch and subject to such conditions as the supervisors deem necessary.

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4. ~~Acquire by purchase, exchange, lease or otherwise, any property, real or personal, or rights or interest therein, maintain, administer and improve any properties acquired, receive income therefrom and expend it in carrying out the purposes of this Chapter, and sell, lease or otherwise dispose of any property or interest therein in furtherance of the purposes of this Chapter.~~
 5. ~~Make available on such terms as it prescribes to landowners within the district, agricultural and engineering machinery and equipment, fertilizer, seed and such other material or equipment as will assist the landowners to carry on operations upon their lands for the purposes and programs authorized by this Chapter.~~
 6. ~~Develop, publish and bring to the attention of owners of lands within the district, comprehensive plans for the conservation of soil resources within the district which shall specify in such detail as may be feasible the acts, procedures, performances and avoidances necessary or desirable for the effectuation of the plans.~~
 7. ~~Sue and be sued in the name of the district, have a seal, which shall be judicially noticed, have perpetual succession unless terminated as provided in this Chapter, make and execute contracts and other instruments necessary or convenient to the exercise of its powers, and make, amend and repeal rules and regulations not inconsistent with this Chapter to carry into effect its purposes and powers.~~
 8. ~~Accept donations, gifts and contributions in money, services, materials or otherwise, and use or expend them in carrying on its operations.~~
- ~~**B.** No provision of law with respect to the acquisition, operation or disposition of property by other public bodies shall be applicable to a district organized under this Chapter unless specifically stated therein.~~
- ~~**C.** After the formation of any district under the provisions of this Chapter, all participation thereunder shall be voluntary, notwithstanding any provision of this Chapter to the contrary.~~

R12-5-1712. Limitation of Powers Repealed

- ~~**A.** Nothing in this Chapter shall affect existing water rights or in any manner contravene the provisions of this Title.~~
- ~~**B.** No district or public body shall undertake or cooperate in the planning, construction, improvement or maintenance of any structure, dike or channel for the storage, spreading, diversion or conveyance of water resulting in the consumptive use of water, on any watershed or drainage area which supplies or contributes water for the irrigation of lands within any irrigation district or for the irrigation of other lands having established rights in such water, without first submitting the plans therefor to the governing body of such irrigation district or districts. Such governing body shall, within 45 days after receipt of such plans, either approve or reject them. The approval may be given for range lands soil conservation practices by agreement on an annual or continuing basis between the governing bodies of the affected irrigation districts and the supervisors of such natural resource conservation districts. If the governing body fails to approve or reject the plans within 45 days, it shall be deemed to have approved them. If the governing body rejects the plans, the district or public body proposing such plans may appeal to the Commissioner. The appeal shall be taken within 45 days after such decision. The Commissioner shall review the decision, and may approve the plans only if after investigation and hearing he finds that the work proposed to be done will not result in the consumptive use of water. An appeal from the decision of the Commissioner may be taken by either party pursuant to the provisions of § 37-214. The provisions of this subsection shall not preclude the use of any other legal remedy otherwise available to any person or interested party.~~
- ~~**C.** The diversion, application or use of water by means of any improvement constructed, maintained or operated under the provisions of this Chapter shall not be construed to be an appropriation of or vest any right to the use of public water.~~

R12-5-1713. Proceedings to Organize Districts Repealed

~~A district shall be organized and be a body corporate upon taking the following steps:~~

1. ~~The supervisors elected as provided in § 45-2035 shall present to the Secretary of State an application, signed and acknowledged by each supervisor, setting forth:
 - a. ~~That a petition for the creation of the district was approved by the Commissioner pursuant to the provisions of this Chapter.~~
 - b. ~~The name and official residence of each supervisor, and a certified copy of their notification of election.~~
 - c. ~~The name proposed for the district.~~
 - d. ~~The location of the proposed office of the supervisors of the district.~~~~
2. ~~The application shall be accompanied by a certificate of the Commissioner which shall set forth:
 - a. ~~The boundaries of the district as determined by him.~~
 - b. ~~That a petition was filed, notice issued and a hearing held as prescribed by law.~~
 - c. ~~That for a district to function in the proposed territory was determined by the Commissioner to be in the public interest.~~
 - d. ~~That notice was given and a referendum on the question of the creation of the district and an election of supervisors was held.~~
 - e. ~~That the results of the referendum showed not less than 65 percent of the votes cast, representing not less than 50 percent of the owners of land, to be in favor of the creation of the district.~~
 - f. ~~That the supervisors signing the application are the duly elected supervisors of the district.~~~~

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3. The Secretary of State shall examine the application and statement and, if he finds that the name proposed for the district is not identical with or so similar to that of any other district as to lead to confusion, he shall record them. If the name proposed is identical with or so similar to another district as to lead to confusion, he shall certify that fact to the Commissioner who shall submit another name. Upon receipt of a new name, free from defects, the Secretary of State shall record the application and the statement.
4. The Commissioner shall appoint two supervisors from a panel of candidates compiled by the elected supervisors and presented to the temporary chairman of the elected supervisors. Candidates for the office of appointed supervisors shall be qualified electors of the state. Appointed supervisors shall continue to serve until May 31 next even numbered year or until their successors are otherwise appointed.

R12-5-1714. Certificate of Organization Repealed

The Secretary of State shall issue to the supervisors a certificate, under the seal of the state, certifying the organization of the district, and record the certificate with the application and statement. The district shall include the territory as determined by the Commissioner, but it shall not include any area within the boundaries of another district, nor shall it include any area, land or property of or lands held under Certificate of Purchase or lease from the state by any person or persons, which area, land, property or leaseholds lie within the geographical limits of such district but the owners or holders of Certificates of Purchase of leases of which do not desire to come within the district.

R12-5-1715. Certificate as Evidence of Legal Establishment Repealed

In any action or proceeding involving the validity or enforcement of, or relating to, any contract, proceeding or action of the district, the district shall be deemed to have been established in accordance with the provisions of this Chapter upon proof of the issuance of the certificate of organization by the Secretary of State. A copy of the certificate certified by the Secretary of State shall be admissible in evidence in any action or proceeding, and shall be proof of the filing and contents thereof. In like manner, any district combined and consolidated with an adjacent district or districts and reorganized and renamed prior to the date of this Section shall be deemed to have been established upon proof of certifications and official maps filed with the Secretary of State by the division of natural resource conservation of the State Land Department.

R12-5-1716. State Financial Assistance to Natural Resource Conservation Districts; Application; Criteria Repealed

- A.** The Commissioner shall include in his annual State Land Department budget request a sum not to exceed the total of \$3,000.00 each for distribution by the Commissioner of natural resource conservation to those natural resource conservation districts which have applied for, have met the criteria for and have been approved for receiving state financial assistance for the next ensuing fiscal year, as provided in this Section.
- B.** Any natural resource conservation district desiring to receive state financial assistance for the next ensuing fiscal year shall make application therefor to the Commissioner not later than July 20, on a form supplied by the division of natural resource conservation. Each application shall include, but not be limited to:
 1. The number of acres of land lying within the district.
 2. The extent of conservation programs proposed to be undertaken during the fiscal year for which the financial assistance is being requested.
- C.** Upon receipt of the application, the Commissioner shall determine whether or not such funds for the district will be included in the budget request for the State Land Department for the next ensuing fiscal year and shall promptly notify the district of his determination.

R12-5-1717. Yearly Requirement for Districts Repealed

The Commissioner, after a district is formed, shall require the supervisors of each district to file with the Department annually, the records of operation of the district for the preceding year in such form and detail as he prescribes.

R12-5-1718. Change in Boundaries; Combination or Division of Districts; Change in Name of Districts Repealed

- A.** Petitions for a change in the boundaries of existing districts, or the combination of two or more existing districts may be filed with the Commissioner by a majority of supervisors of the board or boards of supervisors of the district or districts to be affected. In the case of a proposed combination of two or more existing districts, the petition shall state the proposed boundaries of the new combined district, the proposed name, and shall propose a method, which has been mutually agreed upon by all boards of supervisors of affected districts, as to the future terms of office of existing district supervisors, and how such terms will be determined. The Commissioner may require such hearings as he deems appropriate to enable him to make a determination as to the desirability of the proposed changes. If the Commissioner makes a determination in favor of the changes, he shall certify the fact of such change to the Secretary of State and shall notify the board of supervisors of the district, or districts, setting out in such notice the new boundaries and the name of the district and confirmation of terms of the supervisors. The Secretary of State shall make and issue a corrected certificate of organization upon receipt of such certification from the Commissioner.

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- ~~B.~~ The board of supervisors of any one or more districts organized under the provisions of this Section may submit to the Commissioner a petition signed by a majority of the members of the board of supervisors of each district affected requesting a division of a district, a combination of two or more districts, or a transfer of land from one district to another. The Commissioner shall make a determination as to the practicability and feasibility of the proposed change, giving due regard to the same considerations as provided in this Section for changes in district boundaries by other methods. If the Commissioner determines that the proposed change of district boundaries is not administratively practicable and feasible, he shall record such determination and proceed with the reorganization of the district or districts affected in the same manner as provided in this Section for changes in district boundaries by other methods.
- ~~C.~~ Petitions for a change in the name of a district may be submitted to the Commissioner by a majority of supervisors of the board of supervisors of a district. If the Commissioner approves the change of name, he shall certify the fact of such change of name to the Secretary of State and shall notify the board of supervisors of the district of such change, setting out in such notice the new name of the district. The Secretary of State shall make and issue a corrected certificate of organization upon receipt of such certification from the Commissioner.

R12-5-1719. Dissolution of District Repealed

- ~~A.~~ At any time after five years following the organization of a district, any 25 owners of land or not less than 20 percent of the owners of land lying within the boundaries of the district may file a petition with the Commissioner praying that the operations of the district be terminated and its existence discontinued. The Commissioner shall conduct such public meetings and hearings upon the petition as may be necessary to assist in the consideration thereof.
- ~~B.~~ Within 60 days after filing of the petition, the Commissioner shall give notice of the holding of a referendum and shall supervise the referendum and issue appropriate regulations governing the conduct thereof. The question shall be submitted by ballots upon which the propositions, "For terminating the existence of the (name of district)" and "Against terminating the existence of the (name of district)", shall be printed, with a square after each proposition and an instruction to mark an X in the square following the proposition for which the voter desires to vote. Only owners of lands lying within the boundaries of the district shall be eligible to vote on the referendum. No informality in the conduct of the referendum or in any matter relating thereto shall invalidate the referendum or the result thereof, if due notice thereof has been given substantially as provided in this Chapter and the referendum has been fairly conducted.
- ~~C.~~ If 65 percent of the landowners voting thereon vote to terminate the existence of a district, the Commissioner shall advise the supervisors to conclude the affairs of the district. The supervisors shall dispose of all property belonging to the district at public auction and shall pay the proceeds of the sale to the state treasury.
- ~~D.~~ The supervisors shall thereupon file a verified application with the Secretary of State for discontinuance of the district, together with the certificate of the Commissioner setting forth the determination of the Commissioner that the continued operation of the district is not administratively feasible. The application shall recite that the property of the district has been disposed of and the proceeds paid over as provided in this Section, and shall include a full accounting of the properties and the proceeds of the sale. The Secretary of State shall issue to the supervisors a certificate of dissolution and shall record the certificate in his office.
- ~~E.~~ The Commissioner shall not entertain a petition for the discontinuance of any district, nor conduct a referendum thereon, nor make any determination pursuant thereto, more than once in five years.

R12-5-1720. District Supervisors; Term of Office; Biennial Election Repealed

- ~~A.~~ The governing body of a district shall consist of five supervisors, three of whom are to be elected and two appointed by the Commissioner. Except as to the first supervisors, whose election and terms are prescribed in § 45-2035, the term of each elected supervisor shall be six years, beginning on June 1 following his election. As prescribed in § 45-2036, the terms of the two supervisors appointed by the Commissioner shall be until May 31 of the next even-numbered year or until their successors are otherwise appointed.
- ~~B.~~ An election shall be held on the first Saturday in May of each even-numbered year, at which one supervisor of the district shall be elected. Any person desiring to be a candidate shall file with the Commissioner a nomination petition in such form as the Commissioner prescribes, at least ten days prior to the election, containing the signatures of not less than 25 qualified electors of the district. No person shall be eligible to be a candidate for supervisor unless he is a qualified elector of the district. The names of candidates shall appear on the ballot in alphabetical order by surnames, with a square after each name and an instruction to mark an X in the square after the name of the voter's choice. The governing body of a district may provide a mail ballot to a qualified district elector for which the district governing body has a first class mailing address. Qualified electors of a district who wish to vote by mail ballot shall file a first class mailing address with the district governing body at least 30 days prior to the date of the election. Qualified district electors who receive ballots in proper form from the district governing body may cast their votes by mail. Mail ballots to be counted shall be received at the place designated and within the time prescribed by the district supervisors and clearly specified in the notice of election. Only qualified electors of the district shall have the right to vote. The district governing body shall provide at least one polling place in the district for qualified voters who wish to vote in person. If two or more candidates receive the same number of votes, the successful candidate shall be determined by lot.

R12-5-1721. Power of the Commissioner to Remove District Supervisor Repealed

The Commissioner may remove a district supervisor from such office if the Commissioner determines, after reasonable notice and impartial hearing, that the supervisor is guilty of misfeasance, malfeasance or nonfeasance in office. For purposes of this subsection, nonfeasance includes the failure to attend three consecutive meetings of district supervisors without reasonable excuse.

R12-5-1722. Organization of Supervisors; Vacancies Repealed

- A.** At the first meeting of the supervisors following an election, they shall organize by electing a chairman and a vice chairman and such other officers as are deemed necessary from among their number to serve for the ensuing two years.
- B.** If a vacancy occurs in the office of an elected supervisor otherwise than by expiration of term, the Commissioner may appoint a qualified elector of the district to serve until June 1 of the next even-numbered year, when a successor shall be elected for the remainder of the term.
- C.** District supervisors may employ a secretary and such other agents, employees and technical or professional experts as they may from time to time require, and may determine qualifications, compensations and duties applicable to any agent, employee or expert engaged.

R12-5-1723. Powers and Duties of Supervisor Repealed

- A.** The supervisor shall:
 - 1. Provide for the keeping of a record of all proceedings, resolutions, regulations and orders issued or adopted.
 - 2. Furnish to the Commissioner copies of such ordinances, rules, regulations, orders, contracts, forms or other documents adopted or employed, and such information concerning their activities as the Commissioner requests.
- B.** The supervisors may appoint additional advisory members to the district governing body and delegate to the chairman or any member, or to any agent or employee, such powers and duties as they deem proper.
- C.** District supervisors shall require and provide for the execution of a corporate surety bond in suitable penal sum for, and to cover, any person entrusted with the care or disposition of district funds or property.
- D.** The compensation of the district supervisors shall be determined by such supervisors meeting as the governing body of such district, but shall not exceed \$20.00 per day and mileage at the rate of 10¢ per mile and actual and necessary expenses of attending district meetings, and a similar per diem and actual and necessary expenses while engaged in official business by order of such supervisors.

R12-5-1724. Cooperation with State Agencies Repealed

Agencies of this state which have jurisdiction over or are charged with the administration of state-owned lands, and of any county or other governmental subdivision of the state which have jurisdiction over, or are charged with the administration of, any county-owned or other publicly owned lands lying within the boundaries of any natural resource conservation district, may cooperate fully with the supervisors of such districts in the effectuation of programs and operations undertaken by the supervisors under the provisions of this Chapter. The supervisors of any district organized under the provisions of this Chapter may cooperate with any municipality within the boundaries of the district on matters relating to soil conservation or land-use planning.

NOTICE OF FINAL RULEMAKING

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 4. BANKING DEPARTMENT

PREAMBLE

- 1. Sections Affected**

R20-4-205	Repeal
R20-4-208	Repeal
R20-4-210	Repeal
R20-4-211	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. § 6-123
 - Implementing statutes: A.R.S. §§ 6-123, 6-190, and 6-203
- 3. The effective date of the rules:**
 - August 3, 2000

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4. A list of all previous notices appearing in the Register addressing the final rule:

Notice of Rulemaking Docket Opening: 5 A.A.R. 2267, July 16, 1999

Notice of Proposed Rulemaking: 6 A.A.R. 1499, April 21, 2000

5. 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

6. An explanation of the rule, including the agency's reason for initiating the rule:

The Banking Department has only 1 broad reason to repeal these Sections, and that is to simplify and minimize the administrative rules. To achieve that goal, this rulemaking will repeal R20-4-205 because it is duplicative and unnecessary. This same package will repeal part, or all, of 3 other Sections that do not add anything to the Department's statutory authority. These revisions do not, however, diminish the Department's authority to regulate banks.

R20-4-205

The Department proposes to repeal R20-4-205. A.R.S. Chapter 1, Article 4 (§§ 6-141 to 6-153) controls the process of acquiring a financial institution. That process, inherently, involves a change in control of management of the acquired institution. A.R.S. § 6-144 requires the Superintendent's approval of the acquisition. A.R.S. § 6-145 requires an application for approval, and R20-4-1602 supplies the details of the application content. The requirements of R20-4-1602 cover the same ground and are more comprehensive and detailed than are those of R20-4-205. For that reason, the Department regards R20-4-205 as superfluous and redundant.

R20-4-208

The Department proposes to repeal Section R20-4-208, and to rely on the requirements of A.R.S. § 6-190 in the future. The Superintendent will, after this repeal, specify the particulars of the form of application outside the rule-making process.

R20-4-210

The Department proposes to repeal Section R20-4-210, and to rely on the requirements of A.R.S. § 6-190. The Superintendent will, after this repeal, specify the particulars of the form of application outside the rulemaking process.

R20-4-211

The Department proposes to retain subsection R20-4-211(A), repeal subsection R20-4-211(C), and amend subsection R20-4-211(B). Subsection R20-4-211(A)'s requirement that applicant's have an initial meeting with the Superintendent is fundamental and will be retained by this rulemaking.

The Department proposes to amend subsection R20-4-211(B) to simplify the writing style, and remove some unnecessary prepositional phrases.

The proposed repeal of R20-4-211(C) will allow the Superintendent, after this modification, to specify the form of submissions outside the rulemaking process.

7. A reference to any study that the agency relied on in its evaluation of or justification for the 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 did not rely on any study as an evaluator or justification for the proposed rule.

8. 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

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

A. The Banking Department

The Department will bear the cost of the rulemaking process, along with other state agencies. The Department expects its cost of monitoring compliance with its rules will decrease marginally as a result of the repeals in this proceeding.

B. Other Public Agencies

The state will incur normal publishing costs incident to rulemaking.

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C. Private Persons and Businesses Directly Affected

Costs of services will not increase to any measurable degree. The revisions in this rulemaking should decrease a 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.

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

The Department made 1 editorial change in the text of the preamble to the Notice of Proposed Rulemaking, in response to GRRC's "courtesy review." No change has been made in the text of the rules since publication as a Notice of Proposed Rulemaking.

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

The Department has not received any comment on these proposed repeals and revisions since they were published as a Notice of Proposed Rulemaking.

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

Not applicable

13. Incorporations by reference and their location in the rules:

None

14. Was this rule previously adopted as an emergency rule?

No

15. The full text of the rules follows:

TITLE 20. COMMERCE, BANKING AND INSURANCE

CHAPTER 4. BANKING DEPARTMENT

ARTICLE 2. BANK ORGANIZATION AND REGULATION

Sections

- R20-4-205. ~~Notice of Change in Control of Management—A.R.S. § 6-123 Repealed~~
- R20-4-208. ~~Application for Approval to Establish a Banking Office—A.R.S. § 6-190 Repealed~~
- R20-4-210. ~~Application for Approval to Move Banking Office—A.R.S. § 6-123 Repealed~~
- R20-4-211. ~~Application for a Banking Permit—A.R.S. § 6-203~~

ARTICLE 2. BANK ORGANIZATION AND REGULATION

R20-4-205. Notice of Change in Control of Management—A.R.S. § 6-123 Repealed

- ~~**A.** Whenever a change occurs in the outstanding voting stock of a bank which will result in control or in a change in the control of the bank, the president or other chief executive officer of such bank shall promptly report such facts to the Superintendent upon obtaining knowledge of such change. As used in this rule, the term "control" means the power to directly or indirectly direct or cause the direction of the management or policies of the bank. A change in ownership of voting stock which would result in direct or indirect ownership by a stockholder or an affiliated group of stockholders of less than ten percent of the outstanding voting stock shall not be considered a change of control. If there is any doubt as to whether a change in the outstanding voting stock is sufficient to result in control thereof or to affect a change in the control thereof, such doubt shall be resolved in favor of reporting the facts to the Superintendent.~~
- ~~**B.** Whenever a bank makes a loan or loans, secured, or to be secured, by 25% or more of the outstanding voting stock of a bank chartered by the state of Arizona, the president or other chief executive officer of the lending bank shall promptly report such fact to the Superintendent upon obtaining knowledge of such loan or loans, except that no report need be made in those cases where the borrower has been the owner of record of the stock for a period of one year or more, or the stock is that of a newly organized bank prior to its opening.~~

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- C.** The reports required by subsections (A) and (B) of this rule shall contain the following information to the extent that it is known by the person making the report:
1. The number of shares involved;
 2. The names of the sellers (or transferors);
 3. The names of the purchasers (or transferees);
 4. The names of the beneficial owners if the shares are registered in another name;
 5. The purchase price;
 6. The total number of shares owned by the sellers (or transferors), the purchasers (or transferees) and the beneficial owners both immediately before and after the transaction, and in the case of a loan;
 7. The name of the borrower;
 8. The amount of the loan; and
 9. The name of the bank issuing the stock securing the loan and the number of shares securing the loan.

In addition to the foregoing, such reports shall contain such other information as may be available to inform the Superintendent of the effect of the transaction upon control of the bank whose stock is involved.

- D.** Whenever such a change as described in subsection (A) of this rule occurs, each bank shall report promptly to the Superintendent any changes or replacement of its chief executive officer or of any director occurring in the next 12-month period, including in its report a statement of the past and current business and professional affiliations of the new chief executive officer or directors.

R20-4-208. Application for Approval to Establish a Banking Office — A.R.S. § 6-190 Repealed

A. Applicant shall submit, upon the original filing, sufficient information in support of the application to enable the superintendent to make a determination.

B. Approval of the application requires a showing that the need for the banking office in the community or area where it will be located is such as to demonstrate the favorable prospect for a sound banking operation, that the current earnings of the bank are sufficient to support the operation of the banking office, and that the bank will have qualified personnel available to staff the banking office when it is opened.

C. The application shall be in the following form on legal-size paper:

Superintendent of Banks
 101 Commerce Building
 1601 West Jefferson
 Phoenix, Arizona 85007

Sir:

The _____
 (Applicant) (Street Address) (City)

hereby makes application for approval to establish and maintain a banking office at _____ to be known as _____ office.

(Street Address) (City) (County)

The general character or type of business to be exercised by the proposed banking office is as follows:

In support of this application, we submit the following information:

1. Attached as Exhibit A is a certified copy of the resolution of the Board of Directors authorizing the filing of this application.
2. The Certificate of Incorporation was issued on _____, 19__.
3. The bank was opened for business on _____, 19__.
4. The following information is furnished on the _____ existing banking offices as of _____, 19__.

(In thousands)

Street Address	City	Opened	Deposits	Loans
5. The following _____ banking offices have been approved but not opened:				
Street Address	City	Opened	Date Approved	Anticipated Opening Date

6. The following banking office locations are pending approval:

Street Address	City	Application Date
7. Attached as Exhibit B is a Statement of Condition of the bank as of _____, 19__.		

7. Attached as Exhibit B is a Statement of Condition of the bank as of _____, 19__.

8. The capital structure of the bank as of the application date _____, 19__ is:

- a. Capital stock (_____ shares at \$ _____ par value) \$ _____
- b. Capital obligations _____
- c. Capital surplus _____
- d. Earned surplus (including undivided profits) _____
- e. Other (identify) _____

Total Capital _____

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- 9. The ratio of total capital to total assets is -----%.
10. The ratio of total capital to total deposits is -----%.
11. The capital structure will be increased as follows prior to the establishment of the proposed banking office:
12. Attached as Exhibit C is a statement of the earnings and expenses of the bank for each of the last three calendar years.
13. The estimated cost and description of the premises to be occupied by the proposed banking office is as follows:
(Attach a copy of any contract, lease, option or letter of intent covering the purchase or lease of the property. If no copy is attached state the reason.)
14. The estimated cost of furniture, fixtures and equipment is \$ -----
15. Attached as Exhibit D is a statement reflecting the estimated demand and time deposits, gross income, operating expenses (detailed), and net income, or loss for each of the first three years of operation of the proposed banking office.
16. It is estimated that \$ ----- of deposits will be transferred to the proposed banking office from other offices of the bank.
17. The name, duties, salary and brief resume of each of the officers to be assigned to the proposed banking office is as follows:
18. Officers of the proposed banking office will have the following authority in connection with extension of credit:
19. The following is a summary of the supervision and control which will be exercised by the officials of the bank over the activities of the proposed banking office:
20. The applicant bank maintains surety bond coverage on its active officers and employees as follows:
Banker Blanket Bond \$ -----
Excess Fidelity Bond -----
Other -----
21. The approximate population of the city in which the proposed banking office is to be located is ----- as of -----, 19--. Source:
22. The approximate population of the trade area to be served by the proposed banking office is ----- as of -----, 19--. Source:
23. Existing and approved banks and banking offices located within a three-mile radius of the proposed banking office are as follows:
Name Location Deposits Distance
24. Attached as Exhibit E is a map delineating the trade area and indicating the location of each of the above banks and banking offices in the trade area and the proposed banking office.
25. The economic and demographic characteristics of the trade area is as follows:
26. Information relative to the needs for the proposed banking office in the trade area is as follows:
Enclosed herewith is a copy of the application to the ----- (insert name of appropriate federal agency).
Attached is our check in the amount of \$375.00 representing payment of the filing fee for this application.
The undersigned does hereby certify and state that he has read this application and all statements, representations, and information contained therein are true and correct to the best of his knowledge and belief.

(President or Vice-President)

Attest:

(Cashier or Secretary)

R20-4-210. Application for Approval to Move Banking Office - A.R.S. § 6-123 Repealed

- A. Applicant shall submit, upon the original filing, sufficient information in support of the application to enable the Superintendent to make a determination without further amendments or additions thereto.
B. The application shall be in the following form on legal size paper:

-----, 19--

Superintendent of Banks
101 Commerce Building
1601 West Jefferson
Phoenix, Arizona 85007

Sir:

The -----

(Applicant) (Street Address) (City)

hereby makes application for approval to move the banking office located at

(Street Address) City
known as ----- office.

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The proposed location is _____ miles from the present banking office site.

In support of this application, we submit the following information:

1. Attached as Exhibit A is a certified copy of the resolution of the Board of Directors authorizing the filling of this application.
2. The present office opened for business on _____, 19__.
3. The following information is furnished on the _____ existing banking offices as of _____, 19__.

(In thousands)
 Loans

4. The following _____ banking offices have been approved but not opened:

Street Address	City	Opened	Date Approved	Anticipated Opening Date
----------------	------	--------	---------------	--------------------------

5. The following banking office applications are pending approval:

Street Address	City	Application Date
----------------	------	------------------

6. Attached as Exhibit B is a Statement of Condition of the bank as of _____, 19__.

7. The capital structure of the bank as of the application date _____, 19__ is:

- a. Capital stock (____ shares at \$____ par value) \$_____
- b. Capital obligations _____
- c. Capital surplus _____
- d. Earned surplus (including undivided profits) _____
- e. Other (identify) _____

Total Capital _____

8. The ratio of total capital to total assets is _____%.
9. The capital structure will be increased as follows prior to the establishment of the proposed banking office:
10. The cost and detailed description of the premises to be occupied by the proposed banking office is as follows: (Attach a copy of any contract, lease, option or letter of intent covering the purchase or lease of the property. If no copy is attached state the reason.)
11. The estimated cost of additional furniture, fixtures and equipment not included in cost of premises is \$_____.
12. The estimated demand and time deposits for each of the first three years of operation of the proposed banking office is as follows:
13. The applicant bank maintains surety bond coverage on its active officers and employees as follows:

Banker Blanket Bond	\$_____
Excess Fidelity Bond	_____
Other	_____
14. The approximate population of the trade area to be served by the proposed banking office is _____ as of _____, 19__. Source:
15. Existing and approved banks and banking offices located within a three mile radius of the proposed banking office are as follows:

Name	Location	Deposits	Distance
------	----------	----------	----------
16. Attached as Exhibit C is a map delineating the trade area and indicating the location of each of the above banks and banking offices in the trade area and the proposed banking office.
17. The economic and demographic characteristics of the trade area is as follows:

Enclosed herewith is a copy of the application to the _____ (insert name of appropriate federal agency).

Attached is our check in the amount of \$375.00 representing payment of the filing fee for this application.

The undersigned does hereby certify and state that he has read this application and all statements, representations, and information contained therein are true and correct to the best of his knowledge and belief.

(President or Vice President)

Attest:

 (Cashier or Secretary)

R20-4-211. Application for a Banking Permit—A.R.S. § 6-203

- A. Before an application is filed, the representatives of the potential proposed applicant shall meet with the Superintendent Superintendent of Banks banks to discuss capitalization, location, and management of the proposed bank.
- B. After the meeting required by subsection (A), persons who wish to proceed with the application process Applicant shall submit an application in the form the Superintendent prescribes, upon the original filing, The applicant shall support the application with sufficient information in support of the application to enable the Superintendent superintendent to make a determination.

