

**COMMISSIONERS**  
MARC SPITZER - Chairman  
JIM IRVIN  
WILLIAM A. MUNDELL  
JEFF HATCH-MILLER  
MIKE GLEASON



ARIZONA CORPORATION COMMISSION

BR  
EXECU



0000044353

MARK SENDROW  
DIRECTOR

SECURITIES DIVISION  
1300 West Washington, Third Floor  
Phoenix, AZ 85007-2996  
TELEPHONE: (602) 542-4242  
FAX: (602) 594-7470  
E-MAIL: accsec@ccsd.cc.state.az.us

MEMORANDUM

**TO:** Sally D'Antimo  
Docket Control

**FROM:** Cheryl T. Farson   
Securities Division

**DATE:** April 2, 2003

**RE:** Closing docket number RS-00000A-02-0005  
A.A.C. R14-4-132

AZ CORP COMMISSION  
DOCUMENT CONTROL

2003 APR -3 A 10:42

RECEIVED

Attached is a copy of the published Notice of Final Rulemaking for A.A.C. R14-4-132, docket number RS-00000A-02-0005. This document should be included in the docket, but does not need to be distributed. This rulemaking is now concluded and the docket may be closed.

Thank you for your assistance with this matter. If you have any questions or need additional information, please feel free to contact me at 542-0193.

Arizona Corporation Commission

DOCKETED

APR 03 2003

DOCKETED BY	
-------------	---

NOTICE OF FINAL RULEMAKING

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

CHAPTER 4. CORPORATION COMMISSION SECURITIES

PREAMBLE

- 1. Sections Affected Rulemaking Action  
R14-4-132 Amend
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rule is implementing (specific):  
 Authorizing statute: A.R.S. § 44-1821  
 Implementing statutes: A.R.S. §§ 44-1822, 44-1824, and 44-1961  
 Constitutional authority: Arizona Constitution, Article XI, § 4
- 3. The effective date of the rule:  
May 3, 2003
- 4. A list of all previous notices appearing in the Register addressing the final rule:  
 Notice of Rulemaking Docket Opening: 8 A.A.R. 494, February 1, 2002  
 Notice of Proposed Rulemaking: 8 A.A.R. 2221, May 24, 2002
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:  
 Name: Cheryl T. Farson  
 Address: Arizona Corporation Commission, Securities Division  
 1300 W. Washington, 3rd Floor  
 Phoenix, AZ 85007-2996  
 Telephone: (602) 542-4242  
 Fax: (602) 594-7470  
 E-mail: cf@ccsd.cc.state.az.us
- 6. An explanation of the rule, including the agency's reasons for initiating the rulemaking:  
 A.A.C. R14-4-132 ("rule 132") requires that registered dealers make, maintain, and preserve books and records in compliance with certain specified U.S. Securities and Exchange Commission ("SEC") rules, including 17 CFR 240.17a-3 and 17 CFR 240.17a-4.  
 The SEC's books and records rules, promulgated under the Securities Exchange Act of 1934, specify minimum requirements with respect to the records that dealers must make and how long those records and other documents relating to a dealer's business must be kept. The SEC has required that dealers create and maintain certain records so that, among other things, the SEC, self-regulatory organizations, and state securities regulators may conduct effective examinations of dealers. The SEC has amended 17 CFR 240.17a-3 and 17 CFR 240.17a-4. The amendments will be effective May 2, 2003.  
 The National Securities Market Improvement Act of 1996 prohibits states from establishing books and records rules that differ from, or are in addition to, the SEC's books and records rules.  
 The Division proposes amending rule 132 to reflect the federal law mandate that state books and records requirements do not differ from the SEC books and records rules and to reflect the SEC's amendments effective May 2, 2003.
- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:  
None
- 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:  
An amendment to rule 132 will not diminish a previous grant of authority.

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

The economic, small business, and consumer impact statement for rule 132 incorporates by reference SEC Release No. 34-44992; File No. S7-26-98, which analyzes the costs, savings, and benefits of amendments to the federal books and records requirements. This analysis is relevant to the Commission's amendment of rule 132 because, by federal mandate, rule 132 is uniform with federal law.

Section 15(h)(1) of the federal Securities Exchange Act of 1934 (15 U.S.C. § 78o(h)(1)), adopted in 1996, provides that

"No law, rule, regulation, or order, or other administrative action of any State or political subdivision thereof shall establish . . . making and keeping records . . . requirements for . . . dealers . . . that differ from, or are in addition to, the requirements in those areas established under this title."

The SEC has amended two of the rules incorporated in rule 132; the amendments will be effective May 2, 2003. The Commission amends rule 132 to reflect the federal law mandate that state books and records requirements do not differ from the SEC books and records rules and to reflect the SEC's amendments.

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

A typographical error was corrected in subsection (A) of the rule.

**11. A summary of the comments made regarding the rule and the agency response to them:**

The Commission did not receive written comments to the rule.

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

None

**13. Incorporations by reference and their location in the rule:**

The following materials are incorporated by reference in rule 132(A):

17 CFR 240.17a-3 (2002) as amended by 66 Fed. Reg. 55817 (2001)

17 CFR 240.17a-4 (2002) as amended by 66 Fed. Reg. 55817 (2001)

17 CFR 240.15g (2002)

17 CFR 240.15c2-11 (2002)

**14. Was this rule previously made as an emergency rule?**

No

**15. The full text of the rule follows:**

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

**CHAPTER 4. CORPORATION COMMISSION  
SECURITIES**

**ARTICLE 1. IN GENERAL RELATING TO THE ARIZONA SECURITIES ACT**

Section

R14-4-132. Books and Records of Dealers

**ARTICLE 1. IN GENERAL RELATING TO THE ARIZONA SECURITIES ACT**

**R14-4-132. Books and Records of Dealers**

- A.** Unless otherwise provided by order of the Commission, each registered dealer shall make, maintain, and preserve books and records in compliance with U.S. Securities and Exchange Commission rules 17a-3 (17 CFR 240.17a-3 (1991-2002)), and ~~17a-4~~ (17 CFR 240.17a-4 (1991-2002)) as amended in Release No. 34-4992, 66 Fed. Reg. 55817 (2001); ~~15c2-6~~ 15g (17 CFR 240.15c2-6 (1991-2002)); and 15c2-11 (17 CFR 240.15c2-11 (1991-2002)), as amended in Release No. 34-29094, 56 Fed. Reg. 19148 (1991) all of which are incorporated herein by reference. Copies of the materials are available from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, from the Commission, and are on file with the office of the Secretary of State.
- B.** To the extent that the U.S. Securities and Exchange Commission promulgates changes to the above-referenced rules, dealers in compliance with such rules as amended shall not be subject to enforcement action by the Commission for violation of this rule to the extent that the violation results solely from the dealer's compliance with the amended rule.