

# 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 or the Attorney General. 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 3. AGRICULTURE

#### CHAPTER 11. VETERINARY MEDICAL EXAMINING BOARD

[R08-299]

#### PREAMBLE

**1. Sections Affected**

R3-11-101  
R3-11-103  
R3-11-107  
R3-11-108  
Table 1  
R3-11-203  
R3-11-303  
R3-11-401  
R3-11-402  
R3-11-403  
R3-11-501  
R3-11-502  
R3-11-606  
R3-11-607  
R3-11-701

**Rulemaking Action**

Amend  
Amend  
Amend  
Amend  
Amend  
Amend  
Repeal  
Amend  
Amend  
Amend  
Amend  
Amend  
Amend  
Amend  
Amend

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

Authorizing statute: A.R.S. § 32-2207(8)

Implementing statutes: A.R.S. §§ 32-2201, 32-2207(2), 32-2207(3), 32-2212, 32-2213, 32-2216, 32-2218, 32-2232(12), 32-2233(B)(2), 32-2241, 32-2242, 32-2247, 32-2248, 32-2292, 32-3208, 41-1072 through 41-1079

**3. The effective date of the rules:**

November 8, 2008

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

Notice of Rulemaking Docket Opening: 14 A.A.R. 2041, May 23, 2008

Notice of Proposed Rulemaking: 14 A.A.R. 2295, June 13, 2008

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

Name: Jenna Jones, Executive Director

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Phoenix, AZ 85007

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E-mail: jenna.jones@vetboard.az.gov

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

The Board is making technical and clarifying changes to its rules. The Board is adding definitions to clarify terms used in the rules. Other changes are being made to the continuing education provisions to clarify the ways continuing education may be obtained, allow for a provider to obtain the Board's approval of continuing education, and require

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written documentation of continuing education with a renewal application. The Board is adding requirements that are currently required by the Board on renewal applications for licensees. The Board is also clarifying how a veterinary technician student may submit an application before he/she graduates. The Board is making minor changes to the standards of practice for licensees and adding a rule that requires a container used to dispose of sharp objects (sharps container) in the veterinary medical premises.

**7. A reference to any study relevant to the rules that the agency reviewed and either relied on or did not rely on its evaluation of or justification for the rules, 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 Board did not review or rely on any study.

**8. A showing of good cause why the rules are necessary to promote a statewide interest if the rules 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:**

Annual cost/revenue changes are designated as minimal when less than \$1,000, moderate when between \$1,000 and \$10,000, and substantial when greater than \$10,000.

The rulemaking impacts the Board, licensed veterinarians, temporary permittees, veterinary technicians, veterinary technician students, veterinary medical premises licensees, providers of continuing education, and consumers of veterinary services. The Board bears moderate costs for writing the rules and related economic, small business, and consumer impact statement and mailing the new rules to interested persons. The Board's administrative costs to implement the rules are minimal.

The economic impact is minimal to a licensee for adding a requirement on a renewal form for mailing and practice addresses and for whether disciplinary action has been taken or is pending before a licensing authority in any state.

The economic impact is minimal to a licensee and certificate holder for clarifying the ways by which the licensee or certificate holder may obtain continuing education and the maximum number of hours in various media forms. A licensee or certificate holder who obtains continuing education from a provider who has obtained pre-approval of continuing education is benefited by R3-11-402(B) and (C) because the licensee or certificate holder will be able to know up front rather than at renewal whether the continuing education is approved by the Board. A provider of continuing education is also benefited because the provider can represent to licensees and certificate holders that the continuing education is pre-approved by the Board.

In R3-11-501(8), the Board is changing the time for a licensed veterinarian to provide an animal owner's records to an animal owner or licensed veterinarian from 10 working days to 10 calendar days. This decreases the time the licensed veterinarian has to provide the records but benefits a consumer who may need the records sooner to protect the consumer's animal. The economic impact for this change should be minimal to the licensed veterinarian.

R3-11-606(B) benefits a veterinary technician student by allowing the student to apply to take an examination even though the veterinary technician student is graduating at least 30 days before an examination date.

To be consistent with R3-11-403, the Board is adding the requirement in R3-11-607 for a veterinary technician to submit written documentation of continuing education. Because this is already a requirement there should be no additional economic impact.

The cost for a veterinary medical premises to have a sharps container as stated in R3-11-701 should be minimal. The Board believes it is important for a licensee of a veterinary medical premises to protect persons on the premises from exposure to biohazardous medical waste and considers this a safety requirement.

The Board does not expect that consumers will be required to pay any costs as a result of the rules. Consumers benefit from the rules because the rules further the Board's mission to ensure that only competent veterinarians practice and certified veterinary technicians work in Arizona by protecting consumers from improper or inadequate delivery of veterinary medical services.

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

The Board made non-substantive grammatical and format changes at the suggestion of G.R.R.C. staff. and the following non-substantive changes:

In R3-11-101(26), the Board added a definition of "scientific meeting."

In R3-11-401(A) and (C), the Board changed "which may be obtained in any of the following ways "to" subject to the following."

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

The Board did not receive any comments.

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**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 rules:**

None

**14. Were the rules previously adopted as emergency rules?**

No

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

**TITLE 3. AGRICULTURE**

**CHAPTER 11. VETERINARY MEDICAL EXAMINING BOARD**

**ARTICLE 1. GENERAL PROVISIONS**

Section

- R3-11-101. Definitions  
R3-11-103. Renewal of Veterinary License  
R3-11-107. Residence and Veterinary Practice Address Addresses  
R3-11-108. Time-frames for Licensure, Certification, ~~and~~ Permit, and Continuing Education Approvals  
Table 1. Time-frames (in days)

**ARTICLE 2. APPLICATION AND EXAMINATION FOR LICENSURE**

Section

- R3-11-203. Information Required for Examination Qualification

**ARTICLE 3. TEMPORARY PERMITEES**

Section

- R3-11-303. ~~Multiple Employment~~ Repealed

**ARTICLE 4. CONTINUING EDUCATION REQUIREMENTS**

Section

- R3-11-401. Continuing Education  
R3-11-402. Approval of Continuing Education  
R3-11-403. Documentation of Attendance

**ARTICLE 5. STANDARDS OF PRACTICE**

Section

- R3-11-501. Ethical Standards  
R3-11-502. Standards of Practice

**ARTICLE 6. VETERINARY TECHNICIANS**

Section

- R3-11-606. Application for a Veterinary Technician Certificate  
R3-11-607. Renewal of Veterinary Technician Certificate

**ARTICLE 7. VETERINARY MEDICAL PREMISES AND EQUIPMENT**

Section

- R3-11-701. General Veterinary Medical Premises Standards

**ARTICLE 1. GENERAL PROVISIONS**

**R3-11-101. Definitions**

The following definitions apply unless otherwise specified:

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

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- 5. No change
- 6. “Current” means up to date and extending to the present time.
- ~~6-7.~~ No change
- ~~7-8.~~ No change
- ~~8-9.~~ No change
- 10. “ECFVG” means Educational Commission for Foreign Veterinary Graduates.
- ~~9-11.~~ No change
- ~~10-12.~~ No change
- ~~11-13.~~ “Livestock” means the same as the ~~definition~~ definitions of livestock and ratites in A.R.S. §§ 3-1201 (5) and (10).
- ~~12-14.~~ No change
- ~~13-15.~~ No change
- ~~14-16.~~ No change
- ~~15-17.~~ No change
- ~~16-18.~~ No change
- 19. “PAVE” means Program for Assessment of Veterinary Education Equivalence.
- ~~17-20.~~ No change
- ~~18-21.~~ No change
- ~~19-22.~~ No change
- 23. “RACE” means Registry of Approved Continuing Education and is a subdivision of the American Association of Veterinary State Boards.
- ~~20-24.~~ No change
- ~~21-25.~~ No change
- 26. “Scientific meeting” means a live presentation of continuing education that is not provided at a veterinary college.
- 27. “Sharps container” means a puncture resistant, leak-proof container that can be closed and is used for handling, storing, transporting, and disposing of objects that may cut or penetrate skin or mucosa, such as needles, scalpel blades, or razor blades.
- 28. “Veterinary assistant” means an individual who is not a veterinary technician but was employed by a veterinarian to work under the supervision of the veterinarian for at least two years as set out in A.R.S. § 32-2242(B)(2).
- ~~22-29.~~ No change
- ~~23-30.~~ No change

**R3-11-103. Renewal of Veterinary License**

- A. No change
- B. No change
- C. No change
  - 1. A renewal form, provided by the Board, that is signed and dated by the licensee and contains:
    - a. ~~The licensee’s name, social security number, residence, mailing and veterinary practice addresses, location name of veterinary practice, and telephone number numbers for residence and veterinary practice; and~~
    - b. ~~Current information concerning the license status, including whether any disciplinary action has been taken by or is pending before the Board.~~
    - b. A statement of whether the licensee is licensed to practice veterinary medicine in any other state of the United States, and if so, the name of the state, license number, license issuance date, and status of the license;
    - c. A statement of whether a complaint has been filed during the two-year period preceding the renewal date against the licensee with a veterinary regulatory authority in another state, and if so, the date of the complaint, description of the complaint, and resolution of the complaint;
    - d. A statement of whether the licensee is currently under investigation by a veterinary regulatory authority in another state, and if so, the name of the state, license number, and status of the investigation;
    - e. A statement of whether, within the two-year period preceding the renewal date, any disciplinary action has been taken against the licensee’s veterinary license in another state including:
      - i. The name of the state;
      - ii. The license number;
      - iii. The reason for the disciplinary action;
      - iv. Whether the disciplinary action is currently pending; and
      - v. Whether the license has been suspended, revoked, or placed on probation;
    - f. A statement of whether, within the two-year period preceding the renewal date, the licensee has been charged with a felony or any misdemeanor involving conduct that may affect patient health and safety including:
      - i. The charged felony or misdemeanor;
      - ii. The city, county, and state where the felony or misdemeanor took place;
      - iii. The court having jurisdiction over the felony or misdemeanor;
      - iv. Whether the charges were dismissed;

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- v. If applicable, the date of the conviction;
- vi. Whether the conviction was set aside;
- vii. Notice of expungement, if applicable;
- viii. Notice of restoration of civil rights, if applicable; and
- ix. Probation officer's name, address, and telephone number, if applicable;
- g. A statement that the licensee has met the continuing education requirements in Article 4; and
- h. A statement by the licensee that the information contained on the renewal application is true and correct.

- 2. No change
- 3. No change

- D. No change
- E. No change

**R3-11-107. Residence and ~~Veterinary Practice Address~~ Addresses**

- A. Within 20 days after the issuance of a license, a licensee shall provide written notice to the Board of all residence and vet-erinary practice addresses.
- B. A licensee shall provide written notice to the Board within 20 days after a change of residence or veterinary practice address.

**R3-11-108. Time-frames for Licensure, Certification, ~~and Permit,~~ and Continuing Education Approvals**

- A. No change
  - 1. No change
  - 2. "Applicant" means an individual requesting a certificate, permit, ~~or~~ license, or continuing education approval from the Board.
  - 3. No change
  - 4. No change
- B. No change
- C. No change
  - 1. No change
    - a. No change
    - b. No change
    - c. No change
    - d. For approval or denial of a veterinary technician certificate, when the applicant takes a national veterinary technician examination or Arizona veterinary technician examination required by A.R.S. § 32-2243; ~~or~~
    - e. For approval or denial of a veterinary medical premises license, when the Board receives an application packet;
    - f. For approval or denial of continuing education, when the Board receives an application packet containing a written request; and
    - g. For approval or denial of an animal crematory license, when the Board receives an application packet.
  - 2. No change
  - 3. No change
  - 4. No change
- D. No change
  - 1. During the substantive review time-frame, the Board may make ± one comprehensive written request for additional information or documentation. The time-frame for the Board to complete the substantive review is suspended from the postmark date of the comprehensive written request for additional information or documentation until the Board receives the additional information or documentation.
  - 2. No change
  - 3. No change
- E. No change
- F. No change
- G. No change

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

Type of Applicant	Type of Approval	Statutory Authority	Overall Time-frame	Administrative Completeness Time-frame	Substantive Review Time-frame
Veterinary Medical License by Examination (R3-11-201)	Approval to Take the North American Licensing Examination	A.R.S. § 32-2214	60	15	45

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Veterinary Medical License by Examination, Endorsement, or for a Specialty License (R3-11-201)	Approval to Take a State Examination	A.R.S. § 32-2214	60	15	45
Temporary Permittee (R3-11-301)	Temporary Permit	A.R.S. § 32-2216	30	15	15
Veterinary License by Examination, Endorsement, for a Specialty License, or Temporary Permittee (R3-11-201 & R3-11-301)	Veterinary License	A.R.S. § 32-2212 A.R.S. § 32-2213	60	15	45
Veterinary Technician (R3-11-606)	Approval to Take a National Veterinary Technician Examination or State Examination	A.R.S. § 32-2243	60	15	45
Veterinary Technician (R3-11-606)	Veterinary Technician Certificate	A.R.S. § 32-2242 A.R.S. § 32-2244	60	30	30
Veterinary Medical Premises (R3-11-707)	Veterinary Medical Premises License	A.R.S. § 32-2271 A.R.S. § 32-2272	90	30	60
Animal Crematory (R3-11-1002)	Animal Crematory License and Renewal	A.R.S. § 32-2292	90	30	60
Licensee (R3-11-405)	Approval for a Continuing Education Waiver	A.R.S. § 32-2207(8)	60	30	30
<u>Person requesting continuing education pre-approval (R3-11-402)</u>	<u>Pre-approval of continuing education</u>	<u>A.R.S. § 2207(8)</u>	<u>60</u>	<u>30</u>	<u>30</u>

**ARTICLE 2. APPLICATION AND EXAMINATION FOR LICENSURE**

**R3-11-203. Information Required for Examination Qualification**

- A. No change
- B. No change
- C. No change
- D. No change
- E. No change
- F. No change
- G. At the time of application, an applicant shall submit to the Board a typewritten letter or current resumé summarizing the applicant's experience and qualifications.

**ARTICLE 3. TEMPORARY PERMITEES**

**R3-11-303. ~~Multiple Employment Repealed~~**

~~A temporary permittee working under the direction, supervision, and control of more than 1 licensed veterinarian shall notify the Board within 24 hours of a change in a supervising veterinarian.~~

**ARTICLE 4. CONTINUING EDUCATION REQUIREMENTS**

**R3-11-401. Continuing Education**

- A. During the two-year period preceding license expiration, a licensee shall complete 20 credit hours of Board-approved continuing education, subject to the following:
  - 1. A maximum of two credit hours may be in practice management; and
  - 2. ~~A maximum of five hours may be noncontact education, of which two hours may be by tapes.~~
  - 2. One credit hour for each hour of attendance at a veterinary college seminar;
  - 3. One credit hour for each hour of attendance at a scientific meeting related to veterinary medicine;
  - 3-4. A maximum of five credits hours for:
    - a. Each hour spent developing or presenting a presentation related to veterinary medicine.
    - b. Each hour of study using tapes or CDs, and
    - c. Each hour spent reading articles in veterinary journals or periodicals pertaining to veterinary medicine or controlled substances; and

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4.5. One credit hour for each hour of continuing education obtained on the internet.

**B.** No change

1. No change
2. No change

**C.** During the two-year period preceding certificate expiration, a certificate holder shall complete 10 credit hours of Board-approved continuing education, subject to the following:

1. One credit hour for each hour of attendance at a veterinary college seminar;
2. One credit hour for each hour of attendance at a class at a veterinary technology school;
3. One credit hour for each hour of attendance at a scientific meeting related to the work of a veterinary technician;
4. A maximum of two and one half credits hours for:
  - a. Each hour spent developing or presenting a presentation related to the work of a veterinary technician;
  - b. Each hour of study using tapes or CDs; and
  - c. Each hour spent reading articles in veterinary journals or periodicals pertaining to veterinary medicine or controlled substances; and
5. One credit hour for each hour of continuing education obtained on the internet.

**D.** No change

**R3-11-402. Approval of Continuing Education**

**A.** The following continuing education is approved by the Board:

1. No change
  - a. Continuing education taught in a ~~school of veterinary medicine~~ veterinary college; ~~or~~
  - b. Continuing education sponsored by the Arizona Veterinary Medical Association, American Association of Veterinary State Boards, ~~or~~ a state or national veterinary association or academy approved by the Board, or continuing education approved according to subsections (B) and (C); or
  - c. Continuing education approved by RACE;
2. No change
  - a. No change
  - b. Continuing education sponsored by the Arizona Veterinary Medical Association or American Association of Veterinary States Boards or approved by RACE; ~~or~~
  - c. Continuing education approved by the Board that is sponsored by a state or national veterinary technician association or academy;
  - d. Continuing education approved by RACE of the American Association of Veterinary State Boards; or
  - e. Continuing education approved according to subsections (B) and (C).

**B.** In addition to the continuing education approved according to subsection (A), a person who provides continuing education may request pre-approval of continuing education by submitting to the Board at least 75 calendar days before the continuing education takes place, an application packet that contains a written request that includes:

1. A description of the continuing education;
2. The date, time, and place where the continuation education will take place;
3. The number of credit hours of the continuing education;
4. The name of each individual providing the continuing education, if available; and
5. The name of the organization providing the continuing education, if applicable.

**C.** In determining whether to approve an application submitted according to subsection (B), the Board shall consider whether the continuing education:

1. Is designed to provide instruction or knowledge in current developments, skills, and procedures related to veterinary medicine or work of a certificate holder;
2. Is developed and provided by an individual with knowledge and experience in the subject area; and
3. Contributes directly to the professional competence of the licensee or certificate holder.

**D.** The Board shall approve or deny a request for pre-approval according to the time-frames set forth in Table 1.

**R3-11-403. Documentation of Attendance**

Except as stated in R3-11-401(B), a licensee or certificate holder shall submit a written document of continuing education with a renewal application that includes:

1. No change
2. No change
3. No change
4. The number of credit hours of each continuing education course; ~~and~~
5. A statement, signed and dated by the licensee or certificate holder, verifying the information in the document; and
6. If the continuing education was obtained on the internet, a copy of a document issued by the provider of the continuing education that states the number of hours obtained on the internet.

ARTICLE 5. STANDARDS OF PRACTICE

**R3-11-501. Ethical Standards**

No change

1. No change
2. No change
3. No change
4. No change
5. No change
6. No change
7. No change
8. A veterinarian shall provide records or copies of records of veterinary medical services, including copies of radiographs, to an animal owner or ~~either another~~ another licensed veterinarian currently providing veterinary medical services within 10 ~~working calendar~~ calendar days from the date of the animal owner's or other licensed veterinarian's request, or in less than 10 ~~working calendar~~ calendar days if the animal's medical condition requires.
9. No change

**R3-11-502. Standards of Practice**

**A.** No change

**B.** No change

1. No change
2. No change

**C.** No change

**D.** No change

**E.** No change

**F.** No change

**G.** No change

**H.** No change

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

**I.** No change

**J.** No change

1. No change
2. No change

**K.** No change

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

**L.** No change

1. No change
2. No change
3. No change
4. Results of examination, including temperature, heart rate, respiratory rate, ~~tentative or definitive diagnosis~~, and general condition of the animal, except for livestock;

5. The animal's tentative or definitive diagnosis;

~~5-6.~~ No change

~~6-7.~~ Name of each medication administered including:

- a. ~~concentration~~, Concentration, ~~except when the medication is only offered in one size and strength;~~
- b. ~~amount~~, Amount;
- c. ~~frequency~~, Frequency; and
- d. ~~route~~ Route of administration, ~~except when the medication is only offered in one size and strength;~~

~~7-8.~~ No change

~~8-9.~~ No change

~~9-10.~~ No change

~~10-11.~~ No change

**M.** No change

1. No change

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2. No change
3. No change
4. No change
5. No change
- N. No change
  1. No change
  2. No change
    - a. No change
    - b. A description of the animal that includes species, breed, sex, size, age, and color;
    - c. No change
    - d. No change
    - e. No change
    - f. No change
    - g. No change
  3. No change
- O. No change
  1. No change
  2. No change

ARTICLE 6. VETERINARY TECHNICIANS

**R3-11-606. Application for a Veterinary Technician Certificate**

- A. No ~~earlier than January 1 and no~~ later than 65 days before an examination date, an applicant for a veterinary technician certificate shall submit an application packet to the Board that contains:
1. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
      - i. No change
      - ii. No change
  2. No change
  3. A notarized letter, as required in A.R.S. § 32-2242, from each Arizona licensed veterinarian who employed the applicant during the ~~2~~ two years the applicant served as a veterinary ~~technician~~ assistant, verifying the employment, indicating the length of employment, and recommending the applicant; and
  4. No change
- B. A veterinary technician student who expects to graduate at least 30 days before an examination date shall submit to the Board no later than 65 days before the examination date:
1. The application required in subsection (A); and
  2. Instead of the requirements in subsection (A)(1)(d)(i), a letter from the dean of the school that indicates the applicant is in good standing and states the expected date of graduation.
- C. A veterinary technician student who submits an application according to subsection (B) shall submit to the Board the documents required in subsection (A)(1)(d)(i) no later than 15 days following the date of graduation.

**R3-11-607. Renewal of Veterinary Technician Certificate**

- A. ~~A certified veterinary technician shall submit the renewal fee, and information concerning current employment status, location of employment, and residence and practice addresses before~~ No later than February 1 of every odd-numbered year, ~~a certificate holder shall submit: on a~~
1. A renewal application form, provided and mailed to the certified veterinary technician certificate holder by the Board, that is signed and dated by the certificate holder and contains:
    - a. The certificate holder's name, residence address, work address, and telephone number for work address;
    - b. A statement of whether, within the two-year period preceding the renewal date, the certificate holder has been charged with a felony or any misdemeanor involving conduct that may affect patient health and safety including:
      - i. The charged felony or misdemeanor;
      - ii. The city, county, and state where the felony or misdemeanor took place;
      - iii. The court having jurisdiction over the felony or misdemeanor;
      - iv. Whether the charges were dismissed;
      - v. The date of the conviction;
      - vi. Whether the conviction was set aside;
      - vii. Notice of expungement, if applicable;
      - viii. Notice of restoration of civil rights, if applicable; and

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- ix. Probation officer's name, address, and telephone number, if applicable; and
  - c. A statement by the certificate holder that the information contained on the renewal form is true and correct.
  - 2. The written documentation of continuing education required in R3-11-403; and
  - 3. The fee required by the Board.
- B. A ~~certified veterinary technician~~ certificate holder who fails to submit the certificate renewal fee, and ~~required~~ required information ~~required in subsection (A)~~ before February 1 of every odd-numbered year; ~~shall forfeit~~
- 1. Forfeits all privileges and rights extended by the certificate; and
  - 2. ~~The veterinary technician shall~~ Shall immediately cease performing veterinary technician services until the certificate holder:
    - a. ~~complying~~ Complies with the requirements of subsection (A), and
    - b. ~~paying~~ Pays the delinquency fee required in R3-11-105 in addition to the certificate renewal fee.

ARTICLE 7. VETERINARY MEDICAL PREMISES AND EQUIPMENT

R3-11-701. General Veterinary Medical Premises Standards

A responsible veterinarian shall ensure that:

- 1. No change
- 2. No change
- 3. Floors, tables, countertops, sinks, and fixtures within the veterinary medical premises are made of nonporous materials that ~~may~~ can be sanitized.
- 4. No change
- 5. No change
- 6. Storage space is provided on the veterinary medical premises for biohazardous medical waste pending disposal pick-up; ~~and~~
- 7. If animals, other than livestock, will be housed on a veterinary medical premises, an individual compartment, equipped with a latch, for each animal housed on the veterinary medical premises is provided; ~~and~~
- 8. A sharps container is provided on the veterinary medical premises.

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

[R08-304]

PREAMBLE

- 1. Sections Affected

R4-23-202	<u>Rulemaking Action</u>
R4-23-203	Amend
R4-23-302	Amend
R4-23-407	Amend
- 2. The statutory 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) and (5) and 32-1904(B)(5), (7), and (10)
  - Implementing statutes: A.R.S. §§ 32-1922, 32-1923, 32-1924, 32-1964, and 32-1968
- 3. The effective date of the rules:
  - November 8, 2008
- 4. A list of all previous notices appearing in the Register addressing the proposed rules:
  - Notice of Rulemaking Docket Opening: 14 A.A.R. 717, February 29, 2008
  - Notice of Proposed Rulemaking: 14 A.A.R. 1476, May 2, 2008
- 5. The name and address of agency personnel with whom persons may communicate regarding the rules:
  - Name: Dean Wright, Compliance Officer
  - Address: Board of Pharmacy  
1700 W. Washington St., Suite 250  
Phoenix, AZ 85007

Notices of Final Rulemaking

Telephone: (602) 771-2727  
Fax: (602) 771-2749  
E-mail: dwright@azpharmacy.gov

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

During the Board's Five-year Rule Review approved by the Governor's Regulatory Review Council (G.R.R.C.) on July 10, 2007, the Board identified three rules to amend because of inconsistencies with other rules and one rule to amend by adding a more current incorporation by reference. In the first two rules, R4-23-202(B)(3)(b)(ii), R4-23-202(b)(4)(b)(ii), R4-23-203(B)(3)(b)(ii), and R4-23-203(B)(4)(b)(ii) reference an "examination fee specified in R4-23-205(C)." However, R4-23-205(C) lists only an application fee. R4-23-205(C) was changed from an examination fee to an application fee on May 1, 2004. The Board intends to correct the inconsistency by inserting the word "application" in place of the word "examination" in R4-23-202(B)(3)(b)(ii), R4-23-202(b)(4)(b)(ii), R4-23-203(B)(3)(b)(ii), and R4-23-302(B)(4)(b)(ii). In the third rule, R4-23-302(D) cites R4-23-104. R4-23-104 was repealed and replaced by R4-23-111 on May 1, 2004. To be consistent, the Board intends to amend R4-23-302(D) by replacing "R4-23-104" with "R4-23-111." In the fourth rule, R4-23-407(D)(2) incorporates by reference "21 CFR 1306.25, published April 1, 2001." To bring the rule up to date, the Board intends to amend R4-23-407(D) by incorporating the April 1, 2008 edition of 21 CFR 1306.25. The rules will include format, style, and grammar necessary to comply with the current rules of the Secretary of State and the Governor's Regulatory Review Council.

The Board believes that amending these rules will benefit the public and the pharmacy community by clearly establishing standards for pharmacist licensure, intern training sites, pharmacy intern preceptor privileges, and practice standards for prescription dispensing in Arizona.

**7. A reference to any study relevant to the rules that the agency reviewed and either relied on 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:**

The agency did not review or rely on any study relevant to the rules.

**8. A showing of good cause why the rules are necessary to promote a statewide interest if the rules 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 amended rules will impact the Board, pharmacists, interns, and pharmacies. The amended rules' impact on the Board will be the usual rulemaking-related costs, which are minimal.

The amended rules will have no economic impact on pharmacists, interns, and pharmacies. The rules are necessary to correct inconsistencies discovered by the Board during its Five-year Rule Review approved by the Governor's Regulatory Review Council (G.R.R.C.) on July 10, 2007. The Board identified three rules to amend because of inconsistencies with other rules and one rule to amend by adding a more current incorporation by reference. In the first two rules, R4-23-202(B)(3)(b)(ii), R4-23-202(b)(4)(b)(ii), R4-23-203(B)(3)(b)(ii), and R4-23-203(B)(4)(b)(ii) reference an "examination fee specified in R4-23-205(C)." However, R4-23-205(C) lists only an application fee. R4-23-205(C) was changed from an examination fee to an application fee on May 1, 2004. The amended rules make changes to correct the inconsistency by inserting the word "application" in place of the word "examination" in R4-23-202(B)(3)(b)(ii), R4-23-202(b)(4)(b)(ii), R4-23-203(B)(3)(b)(ii), and R4-23-302(B)(4)(b)(ii). In the third rule, R4-23-302(D) cites R4-23-104. R4-23-104 was repealed and replaced by R4-23-111 on May 1, 2004. To be consistent, the rules amend R4-23-302(D) by replacing "R4-23-104" with "R4-23-111." In the fourth rule, R4-23-407(D)(2) incorporates by reference "21 CFR 1306.25, published April 1, 2001." To bring the rule up to date, the amended rules amend R4-23-407(D) by incorporating the April 1, 2008 edition of 21 CFR 1306.25. The amended rules have no economic impact on pharmacies, pharmacists, or interns, but simply correct inconsistencies with other rules and bring one rule up to date with a current incorporation by reference of a federal regulation. The amended rules have no economic impact on the public.

The amended rules will benefit the public and the pharmacy community by clearly establishing standards for pharmacist licensure, intern training sites, pharmacy intern preceptor privileges, and practice standards for prescription dispensing in Arizona.

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

There are no substantial changes in the final rules from the proposed rules. There are minor changes to style, format, grammar, and punctuation requested by G.R.R.C. staff.

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

A public hearing was held June 9, 2008. No one attended the hearing and no comments were received.

**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

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**13. Any material incorporated by reference and its location in the rules:**

21 CFR 1306.25, published April 1, 2008, and no future amendments or editions, located at R4-234-407(D)(2).

**14. Were these rules previously approved as emergency rules?**

No

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

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 23. BOARD OF PHARMACY**

**ARTICLE 2. PHARMACIST LICENSURE**

Section

R4-23-202. Licensure by Examination

R4-23-203. Licensure by Reciprocity

**ARTICLE 3. INTERN TRAINING AND PHARMACY INTERN PRECEPTOR**

Section

R4-23-302. Training Site and Pharmacy Intern Preceptors

**ARTICLE 4. PROFESSIONAL PRACTICES**

Section

R4-23-407. Prescription Requirements

**ARTICLE 2. PHARMACIST LICENSURE**

**R4-23-202. Licensure by Examination**

**A. No change**

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

**B. No change**

1. No change
  - a. No change
  - b. No change
  - c. No change
2. The Board office shall deem an application or registration form received on the date that the Board office stamps on the form ~~as that form is received by~~ when the Board office receives the form. The Board office shall deem a score transfer received on the date that the NABP transmits the applicant's official NABP score transfer report through the online computer link to the Board office.
3. An applicant for licensure by examination shall:
  - a. Make application on a form furnished by the Board, and
  - b. Submit with the application for licensure by examination form:
    - i. The documents specified in the application form, and
    - ii. The ~~examination~~ application fee specified in R4-23-205(C) made payable to the Arizona State Board of Pharmacy by money order or certified or personal check.
4. An applicant for licensure by examination shall:
  - a. ~~Make Register for~~ NAPLEX and MPJE ~~registration~~ on forms furnished by the Board or NABP; and
  - b. Submit with the registration forms:
    - i. The documents specified in the registration forms, and
    - ii. The ~~examination~~ application fee specified by and made payable to NABP by money order, certified check, or bank draft.
5. No change

**C. No change**

1. No change
2. No change
  - a. No change
  - b. No change
3. No change

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- D. No change
  - 1. No change
  - 2. No change
- E. No change
  - 1. No change
  - 2. No change
- F. No change
  - 1. No change
    - a. No change
    - b. No change
    - c. No change
  - 2. No change
    - a. No change
    - b. No change
    - c. No change
  - 3. No change
  - 4. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
    - e. No change
    - f. No change
  - 5. No change
    - a. No change
    - b. No change
    - c. No change

**R4-23-203. Licensure by Reciprocity**

- A. No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
  - 5. No change
- B. No change
  - 1. No change
    - a. No change
    - b. No change
  - 2. The Board office shall deem an application or registration form received on the date that the Board office stamps on the application or registration form ~~as that form is received by~~ when the Board office receives the form.
  - 3. An applicant for licensure by reciprocity shall:
    - a. Make application on a form furnished by the Board, and
    - b. Submit with the application for licensure by reciprocity form:
      - i. The documents specified in the application form, and
      - ii. The reciprocity and ~~examination~~ application fee specified in R4-23-205(B) and (C) and made payable to the Arizona State Board of Pharmacy by money order or certified or personal check.
  - 4. An applicant for licensure by reciprocity shall:
    - a. ~~Make Register for MPJE registration~~ on a form furnished by the Board or NABP; and
    - b. Submit with the registration form:
      - i. The documents specified in the registration form; and
      - ii. The ~~examination~~ application fee specified by and made payable to NABP by money order, certified check, or bank draft.
  - 5. No change
- C. No change
  - 1. No change
  - 2. No change
    - a. No change
    - b. No change
  - 3. No change

- D. No change
  - 1. No change
  - 2. No change
- E. No change

**ARTICLE 3. INTERN TRAINING AND PHARMACY INTERN PRECEPTOR**

**R4-23-302. Training Site and Pharmacy Intern Preceptors**

- A. No change
  - 1. No change
  - 2. No change
- B. No change
- C. No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
  - 5. No change
- D. Revocation of preceptorship privileges. The Board shall revoke a pharmacy intern preceptor's privilege to train pharmacy or graduate interns if the Board determines that a pharmacy intern preceptor fails to provide experiential training as specified in R4-23-301(E) or violates A.R.S. ~~Chapter 18~~ Title 32, Chapter 18 or ~~Chapter 27~~ Title 36, Chapter 27 or the federal act. ~~R4-23-104~~ R4-23-111 applies to revocation of preceptor privileges.
- E. ~~Pharmacist-to-intern~~ Pharmacist-to-intern ratio. A pharmacy intern preceptor may supervise the training of more than one pharmacy or graduate intern during a calendar quarter. The ratio of pharmacist to intern shall not exceed one pharmacist to two interns in a community pharmacy or limited-service pharmacy setting unless approved by the Board. In considering a request to exceed the ratio, the Board will consider pharmacy space limitations and whether exceeding the ratio poses a safety risk to the public health. Subject to R4-23-609 and the safety of public health, there is no ~~pharmacist to intern~~ pharmacist-to-intern ratio in a practice setting directed by a Board-approved college or school of pharmacy experiential training program.
- F. Preceptor responsibilities. A pharmacy intern preceptor assumes the responsibilities of a teacher and mentor in addition to those of a pharmacist. A preceptor shall thoroughly review pharmacy policy and procedure with each intern. A preceptor is responsible for the pharmacy-related actions of an intern during the specific training period. A preceptor shall give an intern the opportunity for skill development and provide an intern with timely and realistic feedback regarding their progress.

**ARTICLE 4. PROFESSIONAL PRACTICES**

**R4-23-407. Prescription Requirements**

- A. No change
  - 1. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
    - e. No change
    - f. Date of dispensing;
    - g. No change
    - h. No change
    - i. No change
    - j. No change
    - k. No change
    - l. No change
  - 2. No change
  - 3. No change
- B. No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
- C. No change
- D. Transfer of prescription order information. For a transfer of prescription order information to be valid, a pharmacy permit-

tee or pharmacist-in-charge shall ensure that:

1. No change
2. The original prescription order information for a Schedule III, IV, or V controlled substance is transferred only as specified in 21 CFR 1306.25, published ~~April 1, 2004~~ April 1, 2008, and no future amendments or editions, incorporated by reference, and on file with the Board, and available from the U.S. Government Printing Office, U.S. Superintendent of Documents, Washington, DC 20402-0001;
3. No change
4. No change
  - a. No change
    - i. No change
      - (1) No change
      - (2) No change
      - (3) No change
    - ii. No change
      - (1) No change
      - (2) No change
    - iii. No change
      - (1) No change
      - (2) No change
      - (3) No change
      - (4) No change
      - (5) No change
      - (6) No change
      - (7) No change
      - (8) No change
  - b. No change
    - i. No change
    - ii. No change
      - (1) No change
      - (2) No change
    - iii. No change
      - (1) No change
      - (2) No change
      - (3) No change
      - (4) No change
      - (5) No change
      - (6) No change
      - (7) No change
      - (8) No change
5. No change
  - a. No change
  - b. No change
6. No change
  - a. No change
  - b. No change
  - c. No change
  - d. No change
    - i. No change
      - (1) No change
      - (2) No change
      - (3) No change
      - (4) No change
    - ii. No change
      - (1) No change
      - (2) No change
      - (3) No change
      - (4) No change
      - (5) No change
      - (6) No change

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- (7) No change
- (8) No change
- e. No change
  - i. No change
    - (1) No change
    - (2) No change
    - (3) No change
    - (4) No change
    - (5) No change
  - ii. No change
- f. No change
- E. No change
  - 1. No change
    - a. No change
    - b. No change
      - i. No change
      - ii. No change
    - c. No change
      - i. No change
      - ii. No change
      - iii. No change
  - 2. No change
  - 3. No change
  - 4. No change
  - 5. No change
- F. No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
    - a. No change
    - b. No change
  - 5. No change
  - 6. No change

**NOTICE OF FINAL RULEMAKING**

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 23. BOARD OF PHARMACY**

[R08-302]

**PREAMBLE**

- |   |  |
|---|--|
| <b><u>1. Sections Affected</u></b><br>R4-23-415   | <b><u>Rulemaking Action</u></b><br>Amend |
| <b><u>2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rule is implementing (specific):</u></b><br>Authorizing statutes: A.R.S. § 32-1904(A)(8)<br>Implementing statutes: A.R.S. § 32-1932.01 |  |
| <b><u>3. The effective date of the rule:</u></b><br>November 8, 2008  |  |
| <b><u>4. A list of all previous notices appearing in the Register addressing the proposed rule:</u></b><br>Notice of Rulemaking Docket Opening: 14 A.A.R. 845, March 21, 2008<br>Notice of Proposed Rulemaking: 14 A.A.R. 1186, April 18, 2008                    |  |

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**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  
1700 W. Washington St., Suite 250  
Phoenix, AZ 85007  
Telephone: (602) 771-2727  
Fax: (602) 771-2749  
E-mail: dwright@azpharmacy.gov

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

During the 46th Legislative Session in 2003, the Legislature made changes to A.R.S. § 32-1932.01 by taking the words "pharmacists and interns" out and inserting the word "licensees," A.R.S § 32-1932.01 deals with the substance abuse treatment and rehabilitation program. The Board staff has determined that the R4-23-415 (Impaired Licensees - Treatment and Rehabilitation) still contains the phrase "pharmacists and interns" and therefore needs to be updated to conform to the statute.

R4-23-415 is amended by replacing the words "pharmacists and interns" with the word "licensees" in subsections (A) and (C)(4) and (5). The rule will include format, style, and grammar necessary to comply with the current rules of the Secretary of State and the Governor's Regulatory Review Council.

The Board believes that amending this rule will benefit the public health and safety by establishing clear standards governing treatment and rehabilitation programs for Board licensees.

**7. A reference to any study relevant to the rule that the agency reviewed and either relied on 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:**

The agency did not review or rely on any study relevant to the rules.

**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 has no economic impact except the cost to the Board for the usual rulemaking-related costs, which are minimal. The treatment and rehabilitation program has been in operation for many years. The rule is necessary to comply with statutory mandate. The rule's changes are necessary to correct the inconsistency created during the 46th Legislative Session in 2003, when the Legislature made changes to A.R.S. § 32-1932.01 by taking the words "pharmacists and interns" out and inserting the word "licensees," The rule does not impose any costs on small business or consumers.

The public, Board, technicians, interns, and pharmacists benefit from rules that are clear, concise, and understandable. The rule benefits the public health and safety by establishing clear standards governing treatment and rehabilitation programs for Board licensees.

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

There are no substantial changes in the final rules from the proposed rules. There are minor changes to style, format, grammar, and punctuation requested by G.R.R.C. staff.

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

A public hearing was held May 19, 2008. Janet Elliott representing the Arizona Community Pharmacy Committee attended the public hearing. Ms. Elliott provided written comment from The Arizona Community Pharmacy Committee voicing support for the rulemaking. No other comments were received.

**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. Any material incorporated by reference and its location in the rule:**

None

**14. Was the rule previously approved as an emergency rule?**

No

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

TITLE 4. PROFESSIONS AND OCCUPATIONS

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CHAPTER 23. BOARD OF PHARMACY

ARTICLE 4. PROFESSIONAL PRACTICES

Section

R4-23-415. Impaired Licensees – Treatment and Rehabilitation

ARTICLE 4. PROFESSIONAL PRACTICES

**R4-23-415. Impaired Licensees – Treatment and Rehabilitation**

- A. The Board may contract with qualified organizations to operate a program for the treatment and rehabilitation of ~~pharmacists and interns~~ licensees impaired as the result of alcohol or other drug abuse, pursuant to A.R.S. § 32-1932.01.
- B. No change
- C. No change
  - 1. No change
  - 2. No change
  - 3. No change
    - a. No change
      - i. No change
      - ii. No change
    - b. No change
      - i. No change
      - ii. No change
      - iii. No change
      - iv. No change
  - 4. The program administrator shall report immediately to the Board the name of any impaired ~~pharmacist or pharmacy intern~~ licensee who poses a danger to ~~the public or himself~~ self or others.
  - 5. The program administrator shall report to the Board, as soon as possible, the name of any impaired ~~pharmacist or pharmacy intern~~ licensee:
    - a. Who refuses to submit to treatment;
    - b. Whose impairment is not substantially alleviated through treatment; or
    - c. No change
  - 6. No change
- D. Pursuant to ~~Under~~ A.R.S. § 32-1903(F), the Board may publish the names of participants under current Board orders.
- E. ~~A majority of the~~ The Board or its executive director may request the treatment records for any participant. The program administrator shall provide treatment records within 10 working days of receiving a written request from the Board or its executive director for such records. Upon request of the program administrator or the Board or its executive director, a program participant shall authorize a drug and alcohol treatment facility or program or a private practitioner or treatment program to release the participant's records to the program administrator or the Board or its executive director.
- F. No change

NOTICE OF FINAL RULEMAKING

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

CHAPTER 4. CORPORATION COMMISSION  
SECURITIES

[R08-293]

PREAMBLE

**1. Sections Affected**

R14-4-116

**Rulemaking Action**

Amend

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

Authorizing statute: A.R.S. § 44-1821

Notices of Final Rulemaking

Implementing statute: A.R.S. § 44-1891

Constitutional authority: Arizona Constitution, Article XV, §§ 4 and 13

**3. The effective date of the rule:**

October 21, 2008

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

Notice of Rulemaking Docket Opening: 13 A.A.R. 2687, August 3, 2007

Notice of Proposed Rulemaking: 13 A.A.R. 3431, October 12, 2007

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

Name: Cheryl T. Farson, General Counsel  
Address: Corporation Commission, Securities Division  
1300 W. Washington St., Third Floor  
Phoenix, AZ 85007-2996  
Telephone: (602) 542-4242  
Fax: (602) 594-7476  
E-mail: cfarson@azcc.gov

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

A.A.C. R14-4-116 incorporates by reference certain North American Securities Administrators Association ("NASAA") statements of policy and guidelines used by the Arizona Corporation Commission's Securities Division as its standards of review for specified securities registration applications. Pursuant to A.R.S. § 41-1028 and A.A.C. R1-1-414, A.A.C. R14-4-116 does not include any later amendments or editions of the incorporated matter. Effective May 7, 2007, NASAA amended its policy statements relating to Asset-Backed Securities, Commodity Pool Programs, Equipment Programs, Mortgage Programs, Oil and Gas Programs, Real Estate Investment Trusts, and Real Estate Programs and its Omnibus Guidelines to revise suitability standards to reflect inflation. The Corporation Commission amends A.A.C. R14-4-116 to incorporate the NASAA amendments.

The suitability standards amended by NASAA are financial standards designed to ensure that issuers do not sell complex and risky securities to investors for whom such investments are not suitable. Copies of the subject statements and guidelines can be accessed at [http://www.nasaa.org/issues\\_\\_\\_answers/regulatory\\_activity/559.cfm](http://www.nasaa.org/issues___answers/regulatory_activity/559.cfm).

In drafting the amendments, the NASAA project group solicited comments from all of the state securities regulators and from the public. The project group held a public hearing regarding its proposed amendments on October 20, 2006. After receiving, reviewing, and considering 92 responses, the project group recommended the amendments and NASAA adopted them effective May 7, 2007.

The Corporation Commission amends A.A.C. R14-4-116 to incorporate the NASAA amended statements of policy and guidelines to enhance investor protection and uniformity among the states with respect to the standard of review applied to applications for registration of the specified securities transactions.

**7. A reference to any study relevant to the rule that the agency reviewed and either relied on 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:**

Not applicable

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

The economic, small business, and consumer impact statement for A.A.C. R14-4-116 analyzes the costs, savings, and benefits that accrue to the Corporation Commission, regulated persons, and the general public. The amendment to A.A.C. R14-4-116 should have no economic impact on the Corporation Commission. The Corporation Commission does not anticipate that the rule will have a direct financial impact on regulated persons. An indirect financial impact may result if the universe of potential investors is reduced for registered securities transactions subject to the revised suitability standards. The Corporation Commission does not anticipate that the rule will impose costs upon the general public.

The benefits provided by the amendment to A.A.C. R14-4-116 are nonquantifiable. The Corporation Commission anticipates that the general public may benefit from increased investor protection. State securities regulators participate in the drafting of NASAA statements of policy and adopt them in order to facilitate uniformity among the states regarding the standards imposed on applicants for registration of securities. The Corporation Commission anticipates that regulated persons may benefit from such uniformity.

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

Subsection (B) of the amendment to A.A.C. R14-4-116 has been revised since the publication of the Notice of Proposed Rulemaking to reflect a change of address for NASAA.

**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 following publication of the 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:**

None

**13. Any material incorporated by reference and its location in the text:**

The following NASAA materials are incorporated by reference in A.A.C. R14-4-116(A):

1. Statement of policy regarding loans and other material affiliated transactions, amended November 18, 1997.
2. Registration of asset-backed securities, adopted October 25, 1995; amended May 7, 2007.
3. NASAA mortgage program guidelines, adopted September 10, 1996; amended May 7, 2007.
4. Registration of commodity pool programs, adopted September 21, 1983, effective January 1, 1984; amended and adopted May 7, 2007.
5. Equipment programs, adopted November 20, 1986; amended April 22, 1988, and May 7, 2007.
6. Registration of oil and gas programs, adopted September 22, 1976; amended October 12, 1977, October 31, 1979, April 23, 1983, July 1, 1984, September 3, 1987, September 14, 1989, October 24, 1991, and May 7, 2007.
7. Statement of policy regarding real estate investment trusts, revised and adopted May 7, 2007.
8. Real estate programs, last revised May 7, 2007.
9. Statement of policy regarding unequal voting rights, adopted and effective October 24, 1991.
10. Omnibus Guidelines, adopted March 29, 1992; amended May 7, 2007.
11. Statement of policy regarding church extension fund securities, adopted April 17, 1994, entitled guidelines for general obligation financing by religious denominations; amended April 18, 2004.
12. Statement of policy regarding church bonds, adopted April 14, 2002.

**14. Whether the rule was previously made as an emergency rule and, if so, whether the text was changed between the making as an emergency and the making of the final rule:**

Not applicable

**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  
R14-4-116. NASAA Statements of Policy

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

**R14-4-116. NASAA Statements of Policy**

- A. Unless otherwise provided in A.R.S. Title 44, Chapter 12, Article 7, transactions that fall within one or more of the following North American Securities Administrators Association (NASAA) statements of policy shall comply with the requirements of those statements of policy to qualify for registration or renewal under A.R.S. Title 44, Chapter 12, Article 7. This Section shall not apply to the registration of securities under A.R.S. § 44-1901.
1. Statement of policy regarding loans and other material affiliated transactions, amended November 18, 1997.
  2. Registration of asset-backed securities, adopted October 25, 1995; amended May 7, 2007.
  3. NASAA mortgage program guidelines, adopted September 10, 1996; amended May 7, 2007.
  4. Registration of commodity pool programs, adopted September 21, 1983, effective January 1, 1984; amended and

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- adopted ~~August 30, 1990~~; May 7, 2007.
  - 5. Equipment programs, adopted November 20, 1986, ~~effective January 1, 1987~~; amended April 22, 1988, and ~~October 24, 1994~~ May 7, 2007.
  - 6. Registration of oil and gas programs, adopted September 22, 1976; amended October 12, 1977, October 31, 1979, April 23, 1983, July 1, 1984, September 3, 1987, September 14, 1989, ~~and~~ October 24, 1991, and May 7, 2007.
  - 7. Statement of policy regarding real estate investment trusts, revised and adopted ~~September 29, 1993~~ May 7, 2007.
  - 8. Real estate programs, last revised ~~September 29, 1993~~ May 7, 2007.
  - 9. Statement of policy regarding unequal voting rights, adopted and effective October 24, 1991.
  - 10. Omnibus Guidelines, adopted March 29, 1992; amended May 7, 2007.
  - 11. Statement of policy regarding church extension fund securities, adopted April 17, 1994, entitled guidelines for general obligation financing by religious denominations; amended April 18, 2004.
  - 12. Statement of policy regarding church bonds, adopted April 14, 2002.
- B. The material listed in subsection (A) is incorporated by reference and on file with the Commission. The incorporated material does not contain later editions or amendments. The material is published in *NASAA Reports* by Commerce Clearing House, Inc., 4025 ~~West W. Peterson Avenue Ave.~~, Chicago, ~~Illinois IL~~ 60646. Copies are available from NASAA, ~~40 G Street St., N.E., Suite 710~~ 750 First St., N.E., Suite 1140, Washington D.C. 20002, and the Commission.

NOTICE OF FINAL RULEMAKING

TITLE 15. REVENUE

CHAPTER 5. DEPARTMENT OF REVENUE  
TRANSACTION PRIVILEGE AND USE TAX SECTION

[R08-312]

PREAMBLE

- |                                   |                                 |
|-----------------------------------|---------------------------------|
| <b>1. <u>Section Affected</u></b> | <b><u>Rulemaking Action</u></b> |
| R15-5-2211                        | Amend                           |
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statute the rule is implementing (specific):**  
Authorizing statute: A.R.S. § 42-1005  
Implementing statutes: A.R.S. §§ 42-5001, 42-5003, 42-5014
- 3. The effective date of the rule:**  
November 8, 2008
- 4. A list of all previous notices appearing in the Register addressing the final rule:**  
Notice of Rulemaking Docket Opening: 13 A.A.R. 4618, December 28, 2007  
Notice of Proposed Rulemaking: 14 A.A.R. 161, January 11, 2008
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- |            |  |
|------------|--|
| Name:      | Rick Swenson, Tax Analyst  |
| Address:   | Tax Policy and Research Division<br>Department of Revenue<br>1600 W. Monroe St., Room 810<br>Phoenix, AZ 85007 |
| Telephone: | (602) 716-6452   |
| Fax:       | (602) 716-7995   |
| E-mail:    | RSwenson@azdor.gov   |

Please visit the ADOR web site to track the progress of these rules and other agency rulemaking matters at: <http://www.azdor.gov/ResearchStats/Proposedrules.htm#proprulemaking>.

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

The following rulemaking is pursuant to changes recommended in the latest Five-year Review Report of the rules in 15 A.A.C. 5, which are applicable to the administration of transaction privilege taxes. The Department is amending this rule to clarify the applicable statutes, to conform to current rulewriting standards, and to delete unnecessary language.

The requirement that taxpayers must elect a method of reporting is moved from subsection (A) to subsection (B) of this rule.

This rulemaking moves the definition of "accrual method" and "cash receipts method" of reporting from subsection (B) to subsection (A) of this rule. Separate definitions for "accrual method," "cash receipts method," "method of reporting," "payment" and "reporting period" are added to subsection (A) of this rule. "Method of reporting" means the method to report and pay transaction privilege tax. "Payment" means all received consideration. "Reporting period" means a calendar month or as prescribed by statute.

The required treatment of allowable deductions and exemptions consistent with the method of reporting is moved from subsection (B) to subsection (C) of this rule. Allowable exclusions must also be reported in a manner consistent with the method of reporting and are added to subsection (C).

Written approval from the Department is not required prior to a change in the method of reporting and is deleted from subsection (C) of this rule.

A new subsection (D) is added to the rule that requires a taxpayer to provide written notification to the Department before changing the taxpayer's method of reporting. The provision that the Department may audit the books of a taxpayer when the taxpayer changes the method of reporting is moved from subsection (C) to subsection (D).

**7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the final 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 review any study relevant to the 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:**

The amended rule primarily reduces an existing administrative burden of the agency. Written approval from the Department will not be required prior to a change in the method of reporting. The Department may have decreased costs due to no longer providing written approval to each taxpayer that requests a change in its method of reporting.

The changes in the rule are intended to clarify the rule and make it more readable for taxpayers. For businesses and individuals subject to transaction privilege tax, these changes may increase compliance and reduce error in reporting their tax liability. The Department may see a slight increase or decrease in revenues collected due to the increased clarity of the rule.

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

The Department has made a nonsubstantive change to the Notice of Proposed Rulemaking, 14 A.A.R. 161, January 11, 2008. At the request of the Governor's Regulatory Review Council, the Department proposes to replace "reporting period that the sale" in proposed A.A.C. R15-5-2211(A) with the term "reporting period in which the sale"; and proposes to replace "reporting period that payment" in proposed A.A.C. R15-5-2211(A) with "reporting period in which payment," so that the definitions of "accrual method" and "cash receipts method," respectively, are the same as the current rule.

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

None

**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:**

None

**14. Whether the rule was previously made as an emergency rule and, if so, whether the text was changed between the making as an emergency and the making of the final rule:**

No

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

TITLE 15. REVENUE

**CHAPTER 5. DEPARTMENT OF REVENUE  
TRANSACTION PRIVILEGE AND USE TAX SECTION**

**ARTICLE 22. TRANSACTION PRIVILEGE TAX – ADMINISTRATION**

Section

R15-5-2211. Election of Basis to Report and Pay Taxes

**ARTICLE 22. TRANSACTION PRIVILEGE TAX – ADMINISTRATION**

**R15-5-2211. Election of Basis to Report and Pay Taxes**

- ~~A.~~ The taxpayer, on the application for a transaction privilege tax or use tax license, shall elect to report and pay taxes based on either the “cash receipts” or the “accrual” method.
- ~~B.~~ Under the cash receipts method, a sale is reported in the month in which payment is received. Under the accrual method, the sale is reported in the month in which it occurs without regard to when payment is received. Allowable deductions and exemptions shall be reported in a manner consistent with the reporting of the tax.
- ~~C.~~ The basis of reporting shall not be changed without receiving written approval from the Department. The Department may audit the books of the taxpayer to adjust any tax liability resulting from the change.
- A. For purposes of this Section, the following definitions apply:
  - 1. “Accrual method” means that a sale is reported in the reporting period in which the sale occurs regardless of when payment is received.
  - 2. “Cash receipts method” means that a sale is reported in the reporting period in which payment is received.
  - 3. “Method of reporting” means a method to report and pay transaction privilege tax.
  - 4. “Payment” means all consideration received including cash, credit, property, and services.
  - 5. “Reporting period” means a calendar month or as prescribed by A.R.S. § 42-5014.
- B. A taxpayer shall elect a method of reporting based on either the accrual or the cash receipts method at the time of making the application for a transaction privilege tax license or use tax registration.
- C. A taxpayer shall report allowable exclusions, deductions, and exemptions in a manner consistent with the method of reporting elected under subsection (B).
- D. A taxpayer shall provide written notification to the Department prior to changing its method of reporting elected under subsection (B). The Department may audit the books of the taxpayer to adjust any tax liability resulting from the change in the method of reporting.