

# 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

##### PREAMBLE

*Editor's Note: The following Notice of Final Rulemaking was reviewed per Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 1934). The Governor's Office authorized the notice to proceed through the rulemaking process on November 16, 2010.*

[R13-120]

<u>1. Articles, Parts, and Sections Affected (as applicable)</u>	<u>Rulemaking Action</u>
R3-11-101	Amend
R3-11-102	Amend
R3-11-103	Renumber
R3-11-103	New Section
R3-11-105	Amend
R3-11-107	Amend
R3-11-108	Amend
Table 1	Amend
R3-11-109	Amend
R3-11-201	Amend
R3-11-203	Amend
R3-11-204	Renumber
R3-11-204	Amend
R3-11-301	Amend
R3-11-302	Repeal
R3-11-304	Amend
R3-11-401	Amend
R3-11-402	Amend
R3-11-403	Amend
R3-11-405	Amend
R3-11-501	Amend
R3-11-502	Amend
R3-11-601	Repeal
R3-11-604	Amend
R3-11-606	Amend
R3-11-607	Amend
R3-11-701	Amend
R3-11-702	Amend
R3-11-703	Amend
R3-11-705	Amend
R3-11-706	Amend
R3-11-707	Amend
R3-11-801	Amend
R3-11-802	Amend
R3-11-901	Amend
R3-11-902	Amend
R3-11-903	Amend
R3-11-1001	Amend
R3-11-1002	Amend
R3-11-1003	Amend

Notices of Final Rulemaking

R3-11-1005	Amend
R3-11-1006	Amend
R3-11-1007	Amend
R3-11-1008	Amend
R3-11-1009	Amend
R3-11-1010	Amend

**2. Citations to the agency's statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):**

Authorizing statute: A.R.S. §§ 32-2207(8), 32-2275, and 32-2295

Implementing statute: A.R.S. §§ 32-2204, 32-2207(3), (9), and (10), 32-2213(A)(7), 32-2219, 32-2232(12), 32-2242, 32-2243, 32-2245, 32-2250, 32-2272, 32-2273, 32-2281, 32-2292, and 32-2293

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

September 7, 2013

**a. If the agency selected a date earlier than the 60-day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):**

Not applicable

**b. If the agency selected a date later than the 60-day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):**

Not applicable

**4. Citation to all related notices published in the Register to include the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:**

Notice of Rulemaking Docket Opening: 18 A.A.R. 1347, June 15, 2012

Notice of Rulemaking Docket Opening: 18 A.A.R. 2370, September 28, 2012

Notice of Proposed Rulemaking: 18 A.A.R. 2528, October 12, 2012

Notice of Public Information: 19 A.A.R. 945, May 3, 2013

**5. The agency's contact person who can answer questions about the rulemaking:**

Name: Victoria Whitmore, Executive Director

Address: 1400 West Washington St., Ste. 240  
Phoenix, AZ 85007

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**6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:**

The Board is amending rules to make them consistent with industry standards and agency practice. Amendments to R3-11-102, R3-11-103, R3-11-203, R3-11-301, R3-11-304, R3-11-606, R3-11-607, R3-11-901, R3-11-903, R3-11-1002, and R3-11-1003, are made in part in response to a five-year-review report approved by the Council on November 3, 2009. The Board made R3-11-103 as required under A.R.S. § 32-2207(8)(c).

The Board deleted reference to requiring an applicant to obtain Board approval to take a licensing examination because it lacks authority for that requirement.

This rulemaking is exempt from the rulemaking moratorium contained in Executive Order 2012-03 under paragraph (4)(c) of the Order.

**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 Board reviewed no studies. This rulemaking does not rely on scientific principles or methods.

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

**Notices of Final Rulemaking**

The rulemaking will have minimal economic impact because the new rules are very similar to those being amended. The following changes will have positive economic impact:

- Made the rule required under A.R.S. § 32-2207(8)(c);
- Clarified that an applicant does not have to obtain Board approval before taking the national examination;
- Reduced the amount of time before a continuing education that the provider must apply for pre-approval from the Board;
- Required a request for waiver of the continuing education requirement to be submitted by December 10 to provide time for the Board to act on the request before the license or certificate expires on December 31; and
- Clarified that a crematory license is not cancelled when there is a change of owner.

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

In addition to the changes identified in item 11, all of which are non-substantial, the Board made minor language and formatting changes to improve clarity. Additionally, in R3-11-402(B), the Board reduced the number of days before a continuing education takes place that a request for pre-approval must be submitted. This reduces the burden on those seeking pre-approval of a continuing education.

**11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to comments:**

Comments were received from Ms. Serling, a certified veterinary technician, and the following licensed veterinarians, Dr. Langhofer, Dr. Skinner, Dr. Ames, Dr. Driggers, Dr. Panzero, and Dr. Johnson. Their comments, the Board's analysis, and action taken follow:

<b>Comment</b>	<b>Board's Analysis</b>	<b>Action</b>
R3-11-101. Why was the definition of veterinary assistant deleted? There is uncertainty about what a certified veterinary technician can do. I don't understand why Arizona does not clearly state what a CVT is allowed to do.	The definition of veterinary assistant was deleted because the term is defined at A.R.S. §32-2201(25). The Board defined in R3-11-605 the services that a CVT is authorized to perform.	No change
R3-11-102. Is 24 hour notice of a special meeting adequate?	This is the amount of time required under the Open Meetings Law. The Board attempts to provide more notice but in an emergency, it might be possible to comply minimally with the Open Meetings Law.	No change
R2-11-107. It was suggested that a subsection be added requiring the Board to provide notice that a change of address has been obtained.	The Board wants to provide quality customer service and currently acknowledges change of request information received by telephone or e-mail. However, the Board does not have the resources to mailed acknowledgment of change of address.	No change
R3-11-501. The words "strive to" should remain in the ethical standards.	The Board believes it is important that a veterinarian show respect for colleagues rather than simply strive to show respect.	No change was made regarding the phrase "strive to." A correction was made to the name of the American Veterinary Medical Association.
R3-11-502(B)(1). Instead of requiring that emergency information be on a veterinarian's voice message, allow it to be on a web site.	In an emergency, most clients call their veterinarian so it is reasonable to place information on a voice message. The information may also be place on a web site.	No change
R3-11-502(B)(2). If we are required to make a referral to a veterinary hospital when we are closed, are we liable for the services performed at the hospital?	The rule does not require that a referral be made. It requires only that information be provided regarding where veterinary medical services can be obtained.	No change
R3-11-502(E). There is confusion regarding the meaning of "documented instructions." It is believed to be overbearing to mandate that all instructions be documented.	The Board concurred that the language was subject to multiple interpretations.	Clarifying changes were made to indicate that what is to be documented is the fact that instructions were provided.
R3-11-502(H)(2) and (3) and (L)(4). Many veterinarians struggle with the TPR (temperature, pulse, respiration) requirements. It is just not always possible to measure TPR as required by the rules.	The comment is correct. There are species or circumstances that make measuring TPR impractical or detrimental.	Language was added making it unnecessary to measure TPR if the species or circumstances make the measurement impractical or potentially detrimental.

**Notices of Final Rulemaking**

R3-11-502(H)(5). The requirement to maintain a separate anesthesia log should be removed because it contains nothing not already in other records.	A separate anesthesia log is a safety document that provides information useful to identify patterns on anesthesia issues.	No change
R3-11-502(L).The word “last” as used in the introduction should be deleted because it is possible this would require a veterinarian to maintain 60 years of records for certain animals. Also, “sex and breed” should be deleted because they duplicate “description.”	If an animal lived 60 years, it would be very important to have the required records because the animal probably would have outlived one or more veterinarians. A new veterinarian caring for an old animal would benefit from knowing the animal’s complete medical history.  Sex and breed are necessary to describe the animal being treated. The language was amended to indicate that “description” refers to the animal’s color and markings and a color photograph is allowed as a substitute for a written description.	No change  The language was amended to indicate that “description” refers to the animal’s color and markings and a color photograph is allowed as a substitute for a written description.
R3-11-502(M). The word “permanently” should be deleted from the requirement about labeling of radiographs.	It is important that the required information remain attached to the radiograph as long as the radiograph is maintained by the veterinarian.	No change
R3-11-604(C). Currently, if a CVT from another state moves to Arizona, they are required to retake the national examination if they took it seven years ago.	If the statement made is true, the action is inconsistent with A.R.S. § 32-2242(D).	The text was rewritten to distinguish between those who meet the standard in A.R.S. § 32-2242(D) and those who do not.
R3-11-701(A)(5). Insert the word “generally” before “provided” to account for power outages, acts of nature, or when the scale stops working.	The Board is not unreasonable. It certainly understands unusual circumstances.	No change
R3-11-701(A)(5). With regard to mobile units, there is no animal crematory in northern Arizona that will pick up a large animal of any kind. Most mobile veterinarians use burial, landfill, or rendering to dispose of large animals.	The Board appreciates this information.	The text was changed to allow a mobile veterinarian to make arrangements for disposal of an animal body if requested to do so by the client.
R3-11-801(B). A veterinarian should not be required to provide a prescription simply because an animal owner requests one.	The comment is correct. The veterinarian should have discretion regarding how to respond to a request for a prescription.	The text was changed to require a prescription only if there is a valid doctor patient relationship and the veterinarian determines the prescription is in the best interest of the animal.
R3-11-901. The Board is proposing to remove providing notice of a complaint when the licensee complained against is notified.  The Board is removing the ability to request a complainant to respond to statements or documents.	The Board always attaches a copy of the complaint when providing notice to the licensee complained against. The text change is made simply to be more concise.  The Board has no statutory authority over complainants.	No change  No change
R3-11-902(A). The word “shall” should be changed to “may” to allow the Board to use its discretion regarding whether to conduct an informal interview.	Statute outlines when an informal interview is appropriate and provides the Board with all the discretion it needs.	No change
R3-11-1002(B)(1)(h). Delete the requirement to provide a description of cremation tools. It is not necessary.	The comment is correct.	The phrase “and tools” was deleted.
R3-11-1002(B)(3). Consider not requiring training from an “other approved certified provider.” Who is approved and what is the certification?	The comment is correct.	The phrase “approved certified” was deleted.
R3-11-1008(A)(2)(f). Delete the requirement to provide information regarding in which retort a communal cremation takes place.	Not all crematories mix cremains from different retorts. If there is a problem with the quality of cremains, it is important to know which retort may be the source of the problem.	No change

**Notices of Final Rulemaking**

Add a requirement that crematories provide the Board with a list of courier services that bring bodies to the crematory so clients know that couriers are not the actual crematory.	The Board has no authority over courier services. The rules currently require an applicant to provide a copy of all contracts with courier services so the Board, in essence, has a list of courier services. The rules also require that cremains be labeled with the name of the crematory. This provides notice to clients of the entity responsible for the cremation.	No change
R3-11-1009. Consider not cancelling a license just because there is a change in any amount of ownership of the crematory.	A.R.S. § 32-2292(C) indicates that a crematory license cannot be sold, transferred, or assigned and (D) indicates that a change of responsible owner cancels an animal crematory license.	R3-11-1009 was amended to align it with statute. It is the crematory that is licensed rather than the owner of the crematory. A license is not cancelled simply because ownership of the crematory changes. Only a change in responsible owner cancels the license.
The rules do not address transportation of deceased animals. There is no requirement for enclosed transportation or refrigeration.	The Board has no authority over courier services.	No change
R3-11-1005. Do not over extend in the rules to areas in which the Board and staff have no expertise such as air flow, combustion, etc.	A.R.S. § 32-2295 authorizes the Board to establish minimum standards.	No change

**12. All agencies shall list any other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

None

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

Statute requires that a veterinarian, veterinary premises, and animal crematory be licensed and that a veterinary technician be certified. Under A.R.S. § 41-1037(A)(3), issuance of a general permit would not meet statutory requirements.

Statute provides that a temporary permit may be issued to an otherwise qualified individual who is waiting to take the next scheduled licensing examination. Under A.R.S. § 41-1037(A)(3), use of a general permit is not applicable because of the statutory requirements for obtaining and holding a temporary permit.

**b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**

Federal law is not applicable to the subject of this rulemaking.

**c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**

No analysis was submitted.

**13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rule:**

None

**14. Whether the rule was previously made, amended, or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:**

None of the rules was previously made, amended, or repealed as an emergency rule.

**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

R3-11-102. Board Meetings

Notices of Final Rulemaking

- R3-11-103. ~~Renewal of Veterinary License~~ Evaluating Board Services  
R3-11-105. Fees  
R3-11-107. Residence and Veterinary Practice Addresses  
R3-11-108. Time-frames for Licensure, Certification, Permit, and Continuing Education Approvals  
Table 1. Time-frames (in days)  
R3-11-109. ~~Office of the Ombudsman-Citizens~~ Arizona Ombudsman-Citizens' Aide

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

Section

- R3-11-201. Application for a Veterinary Medical License  
R3-11-203. ~~Information Documents Required for Examination~~ Qualification with a License Application  
~~R3-11-103.~~ R3-11-204. Renewal of Veterinary License

**ARTICLE 3. TEMPORARY PERMITTEES**

Section

- R3-11-301. Application for a Temporary Permit  
R3-11-302. ~~Termination of Employment~~ Repealed  
R3-11-304. Extension of Temporary Permits

**ARTICLE 4. CONTINUING EDUCATION REQUIREMENTS**

Section

- R3-11-401. Continuing Education  
R3-11-402. Approval of Continuing Education  
R3-11-403. Documentation of Attendance  
R3-11-405. Waiver

**ARTICLE 5. STANDARDS OF PRACTICE**

Section

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

**ARTICLE 6. VETERINARY TECHNICIANS**

Section

- R3-11-601. ~~Definition~~ Repealed  
R3-11-604. Examinations  
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  
R3-11-702. Equipment and Supplies  
R3-11-703. Maintenance Standards for a Veterinary Medical Premises  
R3-11-705. Mobile Clinics  
R3-11-706. Mobile Units  
R3-11-707. Application for a Veterinary Medical Premises License

**ARTICLE 8. DRUG DISPENSING**

Section

- R3-11-801. Notification that Prescription-only Drugs or Controlled Substances May Be Available at a Pharmacy  
R3-11-802. Labeling Requirements

**ARTICLE 9. INVESTIGATIONS AND HEARINGS**

Section

- R3-11-901. Investigations of Alleged Violations  
R3-11-902. Informal Interview  
R3-11-903. Formal Hearing

Notices of Final Rulemaking

ARTICLE 10. ANIMAL CREMATORY MINIMUM STANDARDS

Section

- R3-11-1001. Definitions
- R3-11-1002. Obtaining an Animal Crematory License
- R3-11-1003. Renewing an Animal Crematory License
- R3-11-1005. Minimum Standards for an Animal Crematory
- R3-11-1006. Minimum Operating Standards for an Animal Crematory
- R3-11-1007. Written Procedures Required
- R3-11-1008. Recordkeeping Requirements
- R3-11-1009. Change in a Responsible Owner
- R3-11-1010. Change in Operator

ARTICLE 1. GENERAL PROVISIONS

**R3-11-101. Definitions**

**A.** The definitions in A.R.S. §§32-2201, 32-2216(B), 32-2231(D), 32-2232(23), and 32-2281(E) apply to this Chapter.

**B.** The following definitions apply to ~~Additionally, in~~ this Chapter, unless otherwise specified:

1. "Administrative completeness review" means the Board's process for determining that an individual has provided all of the information and documents required by A.R.S. §§ 32-2201 through 32-2296 and this Chapter for an application.
- ~~2.~~ No change
3. "Applicant" means an individual requesting a certificate, permit, license, or continuing education approval from the Board.
4. "Application packet" means the fees, forms, documents, and additional information the Board requires to be submitted by an applicant or on the applicant's behalf.
- ~~2-5.~~ "Compartment" means an enclosure provided for the containment of to contain an animal.
- ~~3-6.~~ No change
  - a. No change
  - b. No change
- ~~4.~~ "Controlled substance" means the same as the definition in A.R.S. § 32-2201.
- ~~5-7.~~ "Credit hour" means ~~±~~ one clock hour of participation in continuing education.
- ~~6-8.~~ No change
9. "Days" means calendar days.
- ~~7-10.~~ No change
  - a. Pertaining to veterinary technicians, the written or oral instructions of a veterinarian responsible for an animal;  
or
  - b. No change
- ~~8-11.~~ "Disciplinary action" means a proceeding brought by the Board under A.R.S. § 32-2201 et seq, Article 9 of these rules, or a state licensing agency or board Title 32, Chapter 21 or this Chapter.
9. "Dispense" means the same as the definition in A.R.S. § 32-2281(E).
- ~~10-12.~~ No change
- ~~11-13.~~ No change
- ~~12-14.~~ No change
- ~~13-15.~~ "Livestock" means the same as the definitions of livestock and raites as defined in A.R.S. §§ 3-1201 (5) and (10).
- ~~14-16.~~ No change
- ~~15-17.~~ No change
- ~~16-18.~~ No change
- ~~17-19.~~ "Over-the-counter drug" means the same as the definition prescribed in A.R.S. § 32-1901.
- ~~18-20.~~ "Party" means the same as the definition prescribed in A.R.S. § 41-1001.
- ~~19-21.~~ No change
- ~~20-22.~~ No change
- ~~21-23.~~ "Physical plant" means a building or an area within a building housing a licensed veterinary medical premise or a licensed area within a building, including the architectural, structural, mechanical, electrical, plumbing, and fire protection elements of the building.
- ~~22-24.~~ "Prescription-only drug" means the same as the definition prescribed in A.R.S. § 32-1901.
- ~~23-25.~~ No change
- ~~24.~~ "Responsible veterinarian" means the same as in A.R.S. § 32-2201.
- ~~25-26.~~ No change
- ~~26-27.~~ No change
- ~~27-28.~~ No change

Notices of Final Rulemaking

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).
29. "Veterinary medical premise" means a physical plant licensed by the Board on which veterinary medical services will be performed.
30. "Veterinary medical services" means the acts listed in A.R.S. § 32-2201(21) (27).

**R3-11-102. Board Meetings**

The Board shall:

1. Hold its annual meeting in June of each year; ~~and~~
2. Make the date, time, and place of its annual meeting available to the public at least 20 days before the date of the annual meeting; ~~and~~
3. Post notice of a special meeting on its web site and bulletin board at least 24 hours before the special meeting.

**R3-11-103. Renewal of Veterinary License Evaluating Board Services**

~~A. According to A.R.S. § 32-2218, a license issued under the provisions of A.R.S. § 32-2201 et seq. expires on December 31 of every even-numbered year unless renewed.~~

~~B. A licensee shall meet the continuing education requirements of Article 4 of these rules as a condition of renewal of a license.~~

~~C. No later than February 1 of every odd-numbered year, a licensee shall submit to the Board:~~

1. ~~A renewal form, provided by the Board, that is signed and dated by the licensee and contains:~~
  - a. ~~The licensee's name, residence, mailing and veterinary practice addresses, name of veterinary practice, and telephone numbers for residence and veterinary practice;~~
  - 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 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;~~
    - 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. ~~The renewal fee required by the Board; and~~
3. ~~A list of continuing education completed by the licensee that meets the requirements in Article 4 of these rules.~~

~~D. If a licensee fails to submit a license renewal form, renewal fee, or list of continuing education by February 1 of every odd-numbered year, the licensee shall immediately stop engaging in the practice of veterinary medicine until the licensee complies with the requirements in A.R.S. § 32-2218 and these rules.~~

~~E. Continued veterinary practice by a licensee who fails to comply with continuing education requirements or fails to submit a renewal application or fee shall constitute "probable cause" of criminal violations of A.R.S. § 32-2238(A)(4) for purposes of referral to the County Attorney's Office or the Office of the Attorney General for criminal prosecution, injunctive relief, or any other action provided by law.~~

Under A.R.S. § 32-2207(8)(c), a member of the public may evaluate the services provided by the Board by:

1. Submitting an evaluation form provided by the Board at the time services are provided.



Notices of Final Rulemaking

2. Submitting comments through the Board's web site.
3. Submitting a letter to the Board, and
4. Attending and speaking at a Board meeting.

**R3-11-105. Fees**

- A.** No change
1. No change
  2. No change
  3. ~~North American Veterinary Licensing Examination, application only -- \$100.00~~
  - 4.3. No change
  - 5.4. No change
  - 6.5. No change
  - 7.6. No change
  - 8.7. No change
  - 9.8. No change
  - 10.9. No change
- B.** No change
1. No change
  2. No change
  3. No change
  4. No change
  5. Delinquency ~~penalty~~ fee authorized by A.R.S. § 32-2247 -- \$25.00
  6. No change
- C.** No change
1. No change
  2. No change
  3. No change
  4. No change
  5. Penalty fee ~~under~~ authorized by A.R.S. § 32-2272(E) -- \$100.00
- D.** No change
1. No change
  2. No change
  3. No change
  4. No change
  5. No change
  6. No change
  7. A directory in (3), (4), (5), or (6) issued on ~~a diskette~~ an electronic medium - \$5.00 and the applicable name and address fee
- E.** No change
- F.** No change
- G.** The Board shall charge \$10.00 for each audio ~~tape~~ recording.
- H.** The Board shall waive ~~any of~~ the charges in subsection (D) for charitable organizations and government entities.

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

- A.** Within 20 days after the issuance of a license or certificate, a licensee or certificate holder shall provide written notice to the Board of all residence and veterinary practice addresses.
- B.** A licensee or certificate holder 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, Permit, and Continuing Education Approvals**

- ~~**A.** In addition to the definitions in R3-11-101, the following definitions apply to this Chapter unless otherwise specified:~~
1. ~~“Administrative completeness review” means the Board’s process for determining that an individual has provided all of the information and documents required by A.R.S. §§ 32-2201 through 32-2296 and this Chapter for an application.~~
  2. ~~“Applicant” means an individual requesting a certificate, permit, license, or continuing education approval from the Board.~~
  3. ~~“Application packet” means the fees, forms, documents, and additional information the Board requires to be submitted by an applicant or on the applicant’s behalf.~~
  4. ~~“Days” means calendar days.~~
- B-A.** The overall time-frame described in A.R.S. § 41-1072(2) for each type of approval granted by the Board is set forth in Table 1. The applicant and the Executive Director of the Board may agree in writing to extend the overall time-frame. The

**Notices of Final Rulemaking**

overall time-frame and the substantive time-frame may not be extended by more than 25% of the overall time-frame.

**~~C.B.~~** The administrative completeness review time-frame described in A.R.S. § 41-1072(1) for each type of approval granted by the Board is set forth in Table 1.

1. The administrative completeness review time-frame begins:
  - a. ~~For approval to take a state veterinary examination, the North American Veterinary Licensing Examination, a national veterinary technician examination, or an Arizona veterinary technician examination, when the Board receives an application packet;~~
  - b.a. For approval or denial of a temporary permit, when the Board receives an application packet the written request for a temporary permit required under R3-11-301(A)(4);
  - e.b. For approval or denial of a veterinary medical license, when the applicant takes a state veterinary examination or the North American Veterinary Licensing Examination required by A.R.S. § 32-2214 Board receives the application packet required under R3-11-201(A);
  - d.c. 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 Board receives the application packet required under R3-11-606(A);
  - e.d. For approval or denial of a veterinary medical premises license, when the Board receives ~~an~~ the application packet required under R3-11-707;
  - f.e. For approval or denial of continuing education, when the Board receives ~~an~~ the application packet written request required under R3-11-402(B) containing a written request; and
  - f. For approval or denial of a waiver of the continuing education requirement, when the Board receives the written request required under R3-11-405(A);
  - g. For approval or denial of an animal crematory license, when the Board receives ~~an~~ the application packet required under R3-11-1002(B); and
  - h. For approval or denial of a license or certificate renewal, when the Board receives a renewal application.
2. If ~~the~~ an application packet or request submitted under subsection (B)(1) is incomplete, the Board shall send ~~to~~ the applicant a written notice specifying the missing document or incomplete information. The administrative completeness review time-frame and the overall time-frame are suspended from the postmark date of the notice until the date the Board receives a complete application packet or request from the applicant.
3. If an application packet or request is complete, the Board shall send a written notice of administrative completeness to the applicant.
4. If the Board grants a license or approval during the time provided to assess administrative completeness, the Board shall not issue a separate written notice of administrative completeness.

**~~D.C.~~** The substantive review time-frame described in A.R.S. § 41-1072(3) is set forth in Table 1 and begins on the postmark date of the notice of administrative completeness.

1. 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. The Board shall send a written notice ~~approving the applicant to take an examination or~~ granting a license or other approval to an applicant who meets the qualifications and requirements in A.R.S. § 32-2201 through § 32-2296 and this Chapter.
3. The Board shall send a written notice of denial to an applicant who fails to meet the qualifications in A.R.S. § 32-2201 through § 32-2296 ~~and or~~ this Chapter.

**~~E.D.~~** The Board shall consider an application withdrawn if, within 360 days from the application submission date on which the materials required under subsection (B)(1) are submitted, the applicant fails to:

- ~~1. Supply~~ supply the missing information under subsection ~~(C)(2)~~ (B)(2) or ~~(D)(1)~~ (C)(1); ~~or~~
- ~~2. Take the state, veterinary examination, the North American Veterinary Licensing Examination, a national veterinary technician examination, or the Arizona Veterinary Technician Examination.~~

**~~F.E.~~** An applicant who does not wish an application withdrawn under subsection (D) may request a denial in writing within 360 days from the application submission date.

**~~G.F.~~** If a time-frame's last day falls on a Saturday, Sunday, or an official state holiday, the next business day will be considered the time-frame's last day.

**Notices of Final Rulemaking**

**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 Veterinary Licensing Examination	A.R.S. § 32-2214	60	15	45
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 (R3-11-103, R3-11-201, and R3-11-301)	Veterinary License or Renewal	A.R.S. §§ 32-2212 A.R.S. § and 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 and R3-11-607)	Veterinary Technician Certificate or Renewal	A.R.S. §§ 32-2242 A.R.S. § and 32-2244	60	30	30
Veterinary Medical Premises (R3-11-707)	Veterinary Medical Premises License or Renewal	A.R.S. §§ 32-2271 A.R.S. § and 32-2272	90	30	60
Animal Crematory (R3-11-1002 and R3-11-1003)	Animal Crematory License and or Renewal	A.R.S. § 32-2292	90	30	60
Licensee or certificate holder (R3-11-405)	Approval for of a Continuing Education Waiver	A.R.S. § 32-2207(8)	60	30	30
Licensee Person Requesting Continuing Education Pre-approval (R3-11-402)	Pre-approval of Continuing Education	A.R.S. § 32-2207(8)	60	30	30

**R3-11-109. Office of the Ombudsman-Citizens' Aide Arizona Ombudsman-Citizens' Aide**

The Board shall notify the public about the existence of the ~~office of the ombudsman-citizens aide~~ Arizona Ombudsman-Citizens' Aide by providing the ~~ombudsman-citizens ombudsman-citizens'~~ ombudsman-citizens' aide's name, address, and telephone number on the Board's web site.

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

**R3-11-201. Application for a Veterinary Medical License**

- A. An applicant for a veterinary medical license shall submit an application packet to the Board that contains:
  - 1. A notarized application form signed by the applicant that contains the information set forth in A.R.S. § 32-2213;
  - 2. The documents required ~~in~~ under R3-11-203; and
  - 3. The applicable fees, payable by certified check or money order:
    - a. If applying for a regular license, the applicant shall submit the application ~~and examination~~ fee required in R3-11-105.
    - b. If applying for a license by endorsement under A.R.S. § 32-2215(C) or a specialty license under A.R.S. § 32-2215(D), the applicant shall submit the application and ~~examination fee, and the license issuance fee~~ fees required ~~in~~ under R3-11-105.
- B. ~~Unless waived by A.R.S. § 32-2215(D), an applicant shall arrange to have an official transcript of the applicant's scores from the North American Veterinary Licensing Examination sent directly to the Board office by the professional examination service preparing the examination.~~
- C. If an applicant has passed the North American Veterinary Licensing Examination and is required to take only the state

Notices of Final Rulemaking

examination, the applicant shall submit the application packet required under subsection (A) no later than 30 days before the date the applicant intends to take the state examination.

~~D.C.~~ If an applicant is required to take the North American Veterinary Licensing Examination ~~and state examination~~, the applicant shall ~~submit an application no later than 60 days before the date the applicant intends to take the examinations~~ apply directly to the National Board of Veterinary Medical Examiners.

**R3-11-203. Information Documents Required for Examination Qualification with a License Application**

A. An applicant who is a veterinary student at the time of application shall submit with the application packet required under R3-11-201(A) a letter from the office of the dean of the veterinary college stating that the applicant is expected to graduate within 45 days following the ~~scheduled board examination~~ next administration of the examination required under A.R.S. § 32-2214(C).

B. An applicant who is not a veterinary student at the time of application shall cause a transcript verifying receipt of the degree of doctor of veterinary medicine to be mailed from the college directly to the Board.

~~B.C.~~ At the time of application, ~~the an~~ applicant shall cause letters of character reference to be sent directly to the Board by three persons who are not related to the applicant and who have known the applicant for at least three years.

~~C.D.~~ At the time of application, an applicant who has experience in the field of veterinary medicine as a practicing veterinarian or as an employee of a licensed veterinarian shall cause a letter from a veterinarian ~~or colleague~~ indicating the professional qualifications and character of the applicant to be sent directly to the Board.

~~D.E.~~ ~~Any An~~ applicant who has been or is at the time of application a licensed veterinarian in another state shall cause each state board that has licensed the applicant to send directly to the ~~Arizona~~ Board a letter indicating the applicant's standing, including whether the applicant is currently under investigation or ever has been disciplined for violation of a veterinary medical practice act.

~~E.F.~~ ~~An~~ Unless waived under A.R.S. § 32-2215(C) or (D), an applicant who has successfully passed the North American Veterinary Licensing Examination within five ~~calendar~~ years ~~preceding~~ before making application for examination in Arizona shall request that a transcript of the scores be forwarded to the Board directly ~~from~~ by the organization responsible for score reporting or the professional examination service.

~~F.G.~~ At the time of application, an applicant shall submit to the Board a passport-type photograph of the applicant no larger than 1 1/2 x 2 inches that was taken during the preceding six months.

~~G.H.~~ At the time of application, an applicant shall submit to the Board a typewritten letter or current resume summarizing the applicant's experience and qualifications.

I. As required under A.R.S. § 41-1080(A), at the time of application, an applicant shall submit to the Board the specified documentation of citizenship or alien status indicating the applicant's presence in the U.S. is authorized under federal law.

~~R3-11-103. R3-11-204. Renewal of Veterinary License~~

A. According to A.R.S. § 32-2218, a license issued under ~~the provisions of A.R.S. § 32-2201 et seq.~~ Title 32, Chapter 21 expires on December 31 of every even-numbered year unless renewed.

B. A licensee shall meet the continuing education requirements of Article 4 of ~~these rules~~ this Chapter as a condition of renewal of a license.

C. No later than February 1 of every odd-numbered year, a licensee shall submit to the Board in writing or through the Board's online renewal process:

1. A renewal ~~form~~ application, provided by the Board, that is signed and dated by the licensee and contains:

- a. No change
- b. No change
- 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 name of the state, and 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 the nature and status of the investigation;
- e. No change
  - i. No change
  - ii. No change
  - iii. No change
  - iv. No change
  - v. No change
- f. No change
  - i. No change
  - ii. No change
  - iii. No change
  - iv. No change
  - v. No change

Notices of Final Rulemaking

- vi. No change
  - vii. No change
  - viii. No change
  - ix. No change
  - g. A statement that the licensee has met the continuing education requirements in Article 4 of this Chapter; and
  - h. A statement by the licensee that the information contained on the renewal application is true and correct; and
  - 2. The renewal fee required by the Board; ~~and~~
  - 3. If the documentation previously submitted under R3-11-203(I) was a limited form of work authorization issued by the federal government, evidence that the work authorization has not expired; and
  - ~~3.4.~~ A list of continuing education completed by the licensee that meets the requirements in Article 4 of ~~these rules~~ this Chapter.
- D. If a licensee fails to submit ~~a license renewal form, renewal fee, or list of continuing education~~ the materials required under subsection (C) by February 1 of every odd-numbered year, the licensee shall immediately stop engaging in the practice of veterinary medicine until the licensee complies with the requirements in A.R.S. § 32-2218 and ~~these rules~~ this Chapter.
- E. Continued veterinary practice by ~~a licensee~~ an individual who fails to comply with ~~continuing education requirements or fails to submit a renewal application or fee shall constitute~~ subsection (C) constitutes “probable cause” of criminal ~~violations~~ violation of A.R.S. § 32-2238(A)(4) for purposes of referral to the County Attorney’s Office or the Office of the Attorney General for criminal prosecution, injunctive relief, or any other action provided by law.

ARTICLE 3. TEMPORARY PERMITTEES

**R3-11-301. Application ~~For~~ for a Temporary Permit**

- A. An applicant for a temporary permit shall:
- 1. Submit ~~an~~ to the Board the application ~~to the Board for licensure as form required in~~ under R3-11-201(A)(1) and the documents required under R3-11-203;
  - 2. Submit to the Board both the application and examination fee and temporary permit fee, payable by certified check or money order, required ~~in~~ under R3-11-105 ~~to the Board;~~
  - 3. Schedule with the Board a date to take the state examination ~~with the Board;~~
  - 4. After complying with subsections (A)(1) through (3), submit all of the following to the Board:
    - a. A written request for a temporary permit, signed by the applicant, that states:
      - i. The name and business address of the licensed veterinarian who will employ the applicant; and
      - ii. The name of each licensed veterinarian who will provide ~~direction~~ direct and personal instruction, control, or supervision, and control of the applicant;
    - b. Written documentation of graduation from a veterinary college; and
    - c. A sworn affidavit, signed by the applicant, stating the applicant:
      - i. Has graduated from a veterinary college;
      - ii. Has read and understands A.R.S. § 32-2216 and ~~R3-11-301~~ this Section;
      - iii. Agrees to work under the ~~direction~~ direct and personal instruction, control, or supervision, and control of the licensed veterinarian employing the applicant; and
      - iv. Agrees to notify the Board in writing within 10 days from the date of termination of employment.
- B. A licensed veterinarian employing an applicant for a temporary permit shall submit to the Board:
- 1. A letter detailing:
    - a. The type of work to be conducted by the applicant;
    - b. The name of each licensed veterinarian who will assume ~~direction~~ direct and personal instruction, control, or supervision, and control when the employing veterinarian is absent; and
    - c. The procedures, including frequency, for reviewing medical treatment and records of medical treatment of animals;
  - 2. A sworn affidavit, signed by the veterinarian, stating the veterinarian:
    - a. Is currently practicing veterinary medicine in Arizona;
    - b. Has read and understands A.R.S. § 32-2216 and ~~A.A.C. R3-11-301~~ this Section;
    - c. Accepts full responsibility for providing ~~direction~~ direct and personal instruction, control, or supervision, and control to the applicant; and
    - d. Agrees to notify the Board in writing within 10 days from the date of termination of applicant’s employment.

**R3-11-302. Termination of Employment Repealed**

~~A temporary permittee and the temporary permittee’s employer shall notify the Board in writing within 10 days from the date the temporary permittee ceases to be employed by a veterinarian who is providing direction, supervision, and control.~~

**R3-11-304. Extension of Temporary Permits**

- A. The Board shall extend a temporary permit as allowed by A.R.S. § 32-2216(B), only if the temporary permittee submits

Notices of Final Rulemaking

~~the application required by R3-11-301, qualifies under A.R.S. § 32-2216(B) and this Article, to the Board evidence of good and sufficient reason for failing to take the scheduled state examination and evidence that the temporary permittee is scheduled to take the next state examination following issuance of the extension.~~

**B.** ~~As provided under A.R.S. § 32-2216(B), the Board shall not extend a temporary permit a second time.~~

**ARTICLE 4. CONTINUING EDUCATION REQUIREMENTS**

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

**A.** ~~During~~ Except as provided in subsection (B), 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 in practice management;
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;
4. ~~A One credit hour, to a maximum of five, credits hours~~ for:
  - a. Each hour spent developing or ~~presenting~~ making 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
5. One credit hour for each hour of continuing education obtained at an interactive program, including an interactive program on the internet.

**B.** A licensee receiving an initial license in an even-numbered year ~~is required to~~ shall complete 10 credit hours of continuing education before the licensee's initial renewal date.

~~+C.~~ If the a licensee graduated from a veterinary college within 11 months before the license application date, the licensee may apply 10 credit hours of veterinary college course work to fulfill the continuing education requirement at the time of first renewal.

~~2. After the initial renewal the licensee shall complete 20 credit hours of continuing education as required under subsection (A).~~

~~E.D.~~ During Except as provided in subsection (E), 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 One credit hour, to a maximum of two and one-half, credits hours~~ for:
  - a. Each hour spent developing or ~~presenting~~ making 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 at an interactive program, including an interactive program on the internet.

~~D.E.~~ A certificate holder receiving an initial certificate in an even-numbered year shall complete five credit hours of continuing education before the certificate holder's ~~initial~~ first renewal date. ~~Thereafter, the certificate holder shall complete 10 credit hours of continuing education for the licensing period.~~

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

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

1. For a veterinarian:
  - a. Continuing education taught in or under the authority of a veterinary college;
  - b. Continuing education sponsored by the Arizona Veterinary Medical Association, American Association of Veterinary State Boards, 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. For a veterinary technician:
  - a. Continuing education taught in or under the authority of a veterinary technician school or school of veterinary medicine;
  - b. Continuing education sponsored by the Arizona Veterinary Medical Association or American Association of Veterinary States Boards or approved by RACE;
  - 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

Notices of Final Rulemaking

may request pre-approval of continuing education by submitting to the Board at least ~~75~~ 60 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~~ continuing 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~~ a request for pre-approval 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~~ A licensee or certificate holder shall submit a written document of continuing education with a renewal application that includes:

1. The name of the licensee or certificate holder;
2. The title of each continuing education ~~course~~;
3. The date of completion of each continuing education ~~course~~;
4. The number of credit hours of each continuing education ~~course~~;
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~~.

**R3-11-405. Waiver**

A. A licensee or certificate holder seeking a waiver from the continuing ~~educational~~ education requirements in this Article shall submit a written request to the Board by December 10th before the license or certificate expires that contains the licensee's or certificate holder's name, ~~reason for the request~~, and an explanation of the reason for the request. ~~The Board shall comply with the time frames in R3-11-108 when granting or denying the request for a waiver.~~

B. The Board shall consider the following in determining whether to grant a waiver from the continuing education requirements in this Article:

1. Illness or disability,
2. Military service or absence from the United States, or
3. Any other circumstance demonstrated by the licensee or certificate holder to be beyond the licensee's or certificate holder's control.

**ARTICLE 5. STANDARDS OF PRACTICE**

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

~~According to A.R.S. § 32-2232(A)(12)~~ Under A.R.S. § 32-2232(12), a veterinarian practicing under a license or permit shall practice according to the following standards of professional ethics, which are based on the Principles of Veterinary Medical Ethics of the American Veterinary Medical Association, published by the American Veterinary Medical Association in 1999. The breach of any of the following standards constitutes grounds for disciplinary action against a veterinary license or permit under A.R.S. §§ 32-2233 and 32-2234.

1. A veterinarian shall ~~strive to~~ show respect for the veterinarian's colleagues, the owner of an animal to whom veterinary medical services are being provided, and the public through courteous verbal or written interchange, considerate treatment, professional appearance, professionally acceptable procedures, and ~~the utilization~~ use of current professional and scientific knowledge.
2. A veterinarian shall not slander or injure the professional standing or reputation of another member of the profession or condemn the character of that individual's professional acts in a false or misleading manner.
3. A veterinarian shall offer or seek a consultation or a referral whenever it appears that the quality of veterinary medical service provided by the veterinarian will be enhanced.
4. When a veterinarian agrees to provide veterinary medical services to an animal, the veterinarian shall comply with the standards of practice in R3-11-502 regardless of the fees charged.
5. A ~~responsible veterinarian~~ Responsible Veterinarian employed by a partnership, corporation, or individual; that is not licensed by the Board shall ensure that the veterinary judgment and responsibility of each veterinarian employed by the partnership, corporation, or individual is neither influenced nor controlled by the partnership, corporation, or individual to the detriment of ~~the an~~ animal.
6. A veterinarian shall ensure that emergency services are consistent with A.R.S. § 32-2201 through § 32-2296, this

Notices of Final Rulemaking

Chapter, and the needs and standards of the locality where the emergency medical services are provided.

7. A veterinarian is free to choose whom the veterinarian will serve within the limits of the law. A veterinarian who agrees to provide veterinary medical services to an animal is responsible for the welfare of the animal until the animal is released, referred, or discharged by the veterinarian or the veterinarian is dismissed by the animal owner.
8. A veterinarian shall provide records or copies of records of veterinary medical services, including copies of radiographs, to an animal owner or another licensed veterinarian currently providing veterinary medical services within 10 ~~calendar~~ days from the date of the animal owner's or other licensed veterinarian's request, or in less than 10 ~~calendar~~ days if the animal's medical condition requires.
9. A veterinarian shall not make a false statement on or alter any document, record, or report concerning treatment of an animal.

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

- A. Before providing a veterinary medical service or housing an animal, a ~~responsible veterinarian~~ Responsible Veterinarian shall ensure that the animal owner is provided a written notice that states whether personnel will be present on the veterinary medical premises for 24-hour observation of the animal.
- B. A ~~responsible veterinarian~~ Responsible Veterinarian shall ensure that a notice of where veterinary medical services may be obtained when the veterinary medical premises is not open for business:
  1. Is placed on the voice mail of the veterinary medical premises; and
  2. Contains the name, telephone number, and address of ~~the a~~ veterinarian or veterinary medical premises that is available to provide veterinary medical services. Livestock veterinarians are exempt from providing an address.
- C. Before providing a veterinary medical service, a veterinarian shall ensure that the animal owner or the animal owner's agent is provided an estimate of the cost for the veterinary medical service, except in the case of livestock.
- D. When providing a veterinary medical service, a veterinarian shall ensure that no expired supplies are used.
- E. Before ~~an~~ a surgical patient or hospitalized animal is discharged, a veterinarian shall ensure that the animal owner is provided with instructions detailing ~~the~~ care of the animal after discharge and documents in the medical record that verbal or written care instructions were provided.
- F. Before euthanizing an animal for which the animal owner is known, a veterinarian shall obtain ~~written~~ signed authorization from the animal owner or verbal authorization from the animal owner that is witnessed by one other individual and documented in the medical record.
- G. ~~A veterinarian shall separate an animal with a suspected or diagnosed contagious disease or illness so neither the animal nor the interior of the animal's compartment comes into contact with another animal or the other animal's compartment. For animals with a suspected or diagnosed contagious disease or illness, a veterinarian shall provide a separate isolation area that is not in close proximity to other animals and shall ensure that the ill animal does not come into contact with another animal or the other animal's compartment.~~
- H. If general anesthesia is administered or surgery is performed on an animal by a veterinarian, the veterinarian shall ensure:
  1. ~~Authorization~~ A prior signed authorization to perform surgery is obtained from the animal owner if the animal owner is known, ~~before surgery is performed~~ or verbal authorization that is witnessed by one other individual and documented in the medical record is obtained from the known animal owner. This provision does not apply to livestock;
  2. Within six hours before anesthesia is administered or surgery is performed, the animal is examined and the animal's temperature, heart rate, respiratory rate, diagnosis, and general condition are recorded in the animal's medical record except for species or in situations that make the examination impractical or potentially detrimental to the animal or examiner;
  3. The animal's heart rate and respiratory rate are recorded in the animal's medical record immediately after giving the animal a general anesthetic and monitored and recorded a minimum of every 15 minutes while anesthesia is being administered except for species or in situations that make the examination impractical or potentially detrimental to the animal or examiner;
  4. After the animal is given a general anesthetic, the animal is continuously observed by personnel until the animal is extubated and able to swallow; and
  5. The following information is recorded in a written anesthesia log, which is separate from both the controlled drug log maintained under subsection (K) and medical record of each animal maintained under subsection (L) which and is maintained on the veterinary medical premises for three years from the date the anesthesia is administered:
    - a. The animal's name and species,
    - b. The name of the animal owner,
    - c. The date of administration of the anesthesia,
    - d. The recovery status of the animal, and
    - e. The name of the veterinarian ~~administering the anesthesia.~~
- I. A veterinarian shall follow manufacturer's label requirements for the storage and handling of biologics, veterinary supplies, and veterinary medications.
- J. A veterinarian who dispenses a prescription-only drug shall:
  1. Comply with all federal and state laws, including A.A.C. Title 3, Chapter 11, Article 8, regarding the dispensing of a



Notices of Final Rulemaking

- prescription-only drug; and
2. Ensure that a prescription-only drug or prescription-only device is destroyed or returned to the manufacturer or distributor no later than 30 days after its expiration date.
- K.** A veterinarian who dispenses or administers a controlled substance shall:
1. Comply with all federal and state laws including A.A.C. Title 3, Chapter 11, Article 8;
  2. Maintain an inventory record on the veterinary medical premises for two years from the date of entry of each controlled substance purchased by the veterinarian that contains the:
    - a. Name of the controlled substance,
    - b. Strength of the controlled substance,
    - c. Date the controlled substance was received by the veterinarian,
    - d. Amount of the controlled substance received by the veterinarian,
    - e. Name of the distributor of the controlled substance, and
    - f. Invoice number; and
  3. Maintain a dispensing or administration log on the veterinary medical premises, separate from the inventory record required under subsection (K)(2), for two years from the date of entry that contains for each controlled substance dispensed or administered the:
    - a. Name of the controlled substance,
    - b. Strength of the controlled substance,
    - c. Amount of the controlled substance,
    - d. Name of the animal to ~~whom~~ which dispensed or administered,
    - e. Name of the animal owner,
    - f. Date dispensed or administered, ~~and~~
    - g. Name of the veterinarian who dispensed or administered the controlled substance, and
    - h. Decrement amounts of the controlled substance quantifying the amount remaining.
- L.** Except as provided in subsection (N), a veterinarian shall maintain on the veterinary medical premises for three years after the last date an animal receives veterinary medical services a written medical record containing the:
1. Name, address, and telephone number of the animal owner;
  2. Description of the animal's color and markings or a color photograph of the animal, and the sex, breed, weight, and age of the animal;
  3. Date of veterinary medical services and date a written entry is made to the medical record, if the entry is made on a date other than when the veterinary medical services were provided;
  4. Results of examination, including temperature, heart rate, respiratory rate, and general condition of the animal, except for livestock and species or in situations that make the examination impractical or potentially detrimental to the animal or examiner;
  5. The animal's tentative or definitive diagnosis;
  6. Treatment provided to the animal;
  7. Name of each medication administered including:
    - a. Concentration, except when the medication is only offered in one size and strength;
    - b. Amount;
    - c. Frequency; and
    - d. Route of administration;
  8. Name of each medication prescribed including concentration, amount, and frequency;
  9. Name and result of each diagnostic and laboratory test conducted;
  10. Signature or initials of each individual placing an entry in the medical record; and
  11. Signature or initials of the veterinarian performing the veterinary medical services.
- M.** A veterinarian shall ensure that a radiograph of an animal is permanently labeled with the following information and maintained on the veterinary medical premises for three years from the last date an animal receives veterinary medical services:
1. The name of the animal owner,
  2. The name of the animal,
  3. The date the radiograph was taken,
  4. The name of the veterinarian or veterinary medical premises, and
  5. The anatomical orientation.
- N.** A veterinarian who administers a rabies vaccine to an animal on behalf of an animal control agency or animal shelter and provides no other veterinary medical service to the animal:
1. Is exempt from the requirements of subsection (L);
  2. Shall generate a rabies vaccination record for each animal vaccinated that includes:
    - a. The name and address of the animal owner;
    - b. A description or color photograph of the animal that includes species, breed, sex, age, and color;

Notices of Final Rulemaking

- c. The date of vaccination;
  - d. The vaccine manufacturer's name;
  - e. The serial number of the vaccine used;
  - f. The date re-vaccination is due; and
  - g. The veterinarian's signature; and
3. Shall provide a copy of each rabies vaccination record to the veterinary medical premises, animal control agency, or animal shelter at which the rabies vaccination was provided. If a copy of the rabies vaccination record is provided to the veterinary medical premises, the veterinary medical premises shall maintain the record for at least three years from the date of vaccination.
- O. In this Section, unless otherwise specified:
1. "Animal control agency" means a board, commission, department, office, or other administrative unit of federal or state government or of a political subdivision of the state that is responsible for controlling rabies in animals in a specific geographic area.
  2. "~~[A]nimal~~ Animal shelter" means a duly incorporated humane society, animal welfare society, society for the prevention of cruelty to animals or other nonprofit corporate organization devoted to the welfare, protection and humane treatment of animals. A.R.S. § 11-1022(~~F~~)(H).

ARTICLE 6. VETERINARY TECHNICIANS

**R3-11-601. Definition Repealed**

For the purposes of this Article "veterinary technician" means a person who:

- ~~1. Is employed by and works under the direction, supervision, and control of an Arizona licensed veterinarian;~~
- ~~2. Performs acts requiring judgment based on education or experience, knowledge, and application of the principles of animal technology in the care or maintenance of the health or the prevention of illness of animals;~~
- ~~3. Has passed a national and a state veterinary technician examination; and~~
- ~~4. Is not licensed by the Board to practice veterinary medicine.~~

**R3-11-604. Examinations**

- A. The Board shall hold a veterinary technician examination at least once a year. A minimum of 20 days before the examination, the Board shall send an applicant a written notice of the date, time, and place of the examination.
- B. An applicant shall pass a national veterinary technician examination and an Arizona veterinary technician examination with a score of at least 70% percent on each examination before being certified by the Board.
- C. ~~If an An applicant has passed with a passing score on either a the national veterinary technician examination or an the Arizona veterinary technician examination within 5 shall retake the examination if the applicant does not obtain certification within five years before after the date of the application, the applicant is not required to retake the examination that was passed.~~
- D. An applicant who meets all the requirements in A.R.S. § 32-2242(D) is not required to retake the national veterinary technician examination. However, an applicant who meets all the requirements in A.R.S. § 32-2242(D) shall pass the Arizona veterinary technician examination within five years before obtaining certification.

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

- A. ~~No later than 65 days before an examination date~~ Except as provided in subsection (B), an applicant for a veterinary technician certificate shall submit, at least 65 days before an examination date, an application packet to the Board that contains:
  1. A notarized application form, signed by the applicant, containing:
    - a. The applicant's name, mailing address, residence and business telephone numbers, and ~~social security~~ Social Security number;
    - b. The name of the veterinarian currently employing applicant, if employed by a veterinarian;
    - c. The name and address of the veterinary premises where applicant is employed, if employed; and
    - d. A statement of whether application is being made on the basis of education or ~~experience~~ transfer from another state:
      - i. If application is based ~~upon~~ on education, the applicant shall submit written documentation of graduation from a school that meets the requirements in A.R.S. § 32-2242(B)(~~1~~) with a curriculum in veterinary technology; or
      - ii. If application is based ~~upon experience~~ on transfer from another state, the applicant shall submit the information required in ~~(d)(i) and information required in subsection (3)~~ proof required under A.R.S. § 32-2242(D);
  2. ~~The date of the applicant's~~ If an applicant has passed a national veterinary technician examination, if taken before submission of the application for certification. The the applicant shall provide the date on which the applicant took the examination and arrange to have an official transcript of the applicant's scores from the national veterinary technician examination sent directly to the Board office by the ~~professional examination service preparing the examina-~~

Notices of Final Rulemaking

~~tion~~ American Association of Veterinary State Boards;

3. A notarized letter, as required in A.R.S. § 32-2242, from each Arizona-licensed veterinarian who employed the applicant during the two years the applicant served as a veterinary assistant, verifying the employment, indicating the length of employment, and recommending the applicant; and An applicant who has been or is at the time of application certified or registered in another state as a veterinary technician shall cause each state board that has certified or registered the applicant to send directly to the Board a letter indicating the applicant's standing, including whether the applicant is currently under investigation or has ever been disciplined for violation of a veterinary technician or medical practice act;
4. As required under A.R.S. § 41-1080(A), an applicant shall submit to the Board the specified documentation of citizenship or alien status indicating the applicant's presence in the U.S. is authorized under federal law; and
- 4.5. A certified check or money order for the application and examination fee required in R3-11-105.
- 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~~ the application required ~~in~~ under subsection (A); and
  2. ~~Instead of except, rather than the requirements in~~ documentation required under 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~~ under subsection (B) shall submit to the Board the ~~documents~~ documentation required ~~in~~ under subsection (A)(1)(d)(i) no later than 15 days following the date of graduation.

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

- A. No later than February 1 of every odd-numbered year, a certificate holder shall submit:
  1. A signed and dated renewal application form, which is provided and mailed to the certificate holder by the Board, ~~that is signed and dated by the certificate holder and contains~~ containing the following information:
    - a. The certificate holder's name, residence address, work address, and work 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
      - 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~~ under R3-11-403; ~~and~~
  3. If the documentation previously submitted under R3-11-606(A)(4) was a limited form of work authorization issued by the federal government, evidence that the work authorization has not expired; and
  - 3.4. The fee required by the Board under R3-11-105.
- B. A certificate holder who fails to submit the certificate renewal fee; and information required ~~in~~ under subsection (A) before February 1 of every odd-numbered year:
  1. Forfeits all privileges and rights extended by the certificate, and
  2. Shall immediately cease performing veterinary technician services until the certificate holder:
    - a. Complies with the requirements of subsection (A), and
    - b. Pays the delinquency fee required ~~in~~ under 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~~ Responsible Veterinarian shall ensure that:

1. The physical plant of a veterinary medical premises conforms to state and local building and fire codes and local zoning requirements;
2. A veterinary medical premise's identification is visible to the public from the outside of its physical plant. The identification includes the hours of operation and shall be placed so that it is unobstructed from public view. If the hours of operation include hours after dusk, a means of illuminating the sign shall be provided and used during the hours of operation after dusk;
3. Floors, tables, countertops, sinks, and fixtures within the veterinary medical premises are made of nonporous materials that can be sanitized.

Notices of Final Rulemaking

4. Water and a means of achieving water temperatures from 32°F to 212°F is provided on the veterinary medical premises;
5. Refrigerated storage space, large enough to contain all deceased animals except livestock, is provided on the veterinary medical premises, pending necropsy and disposal pick-up or, in the case of a mobile unit, if requested by the client, arrangements are made for disposal of the body, except livestock;
6. Storage space is provided on the veterinary medical premises for biohazardous medical waste pending disposal pick-up;
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; ~~and~~
9. A working scale is provided at the veterinary medical premises for use with animals other than livestock.

**R3-11-702. Equipment and Supplies**

~~A responsible veterinarian~~ Responsible Veterinarian shall ensure that equipment and supplies are available on the veterinary medical premises of an adequate number and type to provide the veterinary medical services that are offered at the veterinary medical premises.

**R3-11-703. Maintenance Standards for a Veterinary Medical Premises**

~~A responsible veterinarian~~ Responsible Veterinarian shall ensure that:

1. All exits, corridors, and passageways inside and outside the veterinary medical premises are unobstructed at all times;
2. Combustible material such as paper, boxes, ~~or~~ and rags are not allowed to accumulate inside or outside the veterinary medical premises;
3. Temperatures are maintained between 65°F and 90°F in each room where an animal, other than livestock, is treated or housed;
4. Floors, countertops, tables, sinks, and any other equipment or fixtures used in a veterinary medical premises are maintained in a clean condition and sanitized after contact with an animal or animal tissue; and
5. Animal compartments are cleaned and sanitized at least once every 24 hours when an animal, other than livestock, is being housed and after each animal, other than livestock, vacates the compartment.

**R3-11-705. Mobile Clinics**

A. Except for R3-11-701(1), R3-11-701(2), R3-11-701(5), and R3-11-701(6) the application process and standards contained in this Article apply to mobile clinics.

B. ~~A responsible veterinarian~~ Responsible Veterinarian shall ~~provide~~ ensure that a mobile clinic ~~with~~ has:

1. An electrical power source;
2. Storage space for biohazardous waste pending disposal pick-up; and
3. Storage space, separate from storage space in subsection (B)(2), for the transportation of a deceased animal.

**R3-11-706. Mobile Units**

~~A responsible veterinarian~~ Responsible Veterinarian shall:

1. Ensure that controlled substances and prescription-only drugs are maintained accessible only to authorized personnel,
2. Meet manufacturer's label requirements for the storage and handling of biologics and veterinary supplies and medications requiring temperature control, and
3. Maintain sterile surgical supplies and equipment.

**R3-11-707. Application for a Veterinary Medical Premises License**

An applicant for a veterinary medical premises license shall:

1. Submit the following to the Board:
  - a. A notarized application form, signed by the ~~responsible veterinarian~~ Responsible Veterinarian, that contains the information set forth in A.R.S. § 32-2272; and
  - b. The fee required in R3-11-105, payable by certified check or money order; and
2. Pass an inspection conducted by the Board.

**ARTICLE 8. DRUG DISPENSING**

**R3-11-801. Notification that Prescription-only Drugs or Controlled Substances May Be Available at a Pharmacy**

A. A dispensing veterinarian shall notify an animal owner that some prescription-only drugs and controlled substances may be available at a pharmacy by:

1. Stating the availability at or before the time of dispensing;
2. Posting a written statement that is visible to the animal owner; or
3. Providing the animal owner with written notification.

B. A dispensing veterinarian may provide a written, electronic, or telephonic prescription ~~to the animal owner~~ if requested by an animal owner and the dispensing veterinarian:

1. Has a valid doctor-patient relationship with the animal, and

Notices of Final Rulemaking

2. Determines that providing the prescription is in the best interest of the animal.

**R3-11-802. Labeling Requirements**

A veterinarian shall dispense a prescription-only drug or a controlled substance in a container bearing a legible label that sets forth all of the information in required under A.R.S. § 32-2281(A)(1), ~~and the name and telephone number of the veterinary medical premises from which the prescription-only drug or controlled substance is dispensed.~~

**ARTICLE 9. INVESTIGATIONS AND HEARINGS**

**R3-11-901. Investigations of Alleged Violations**

- A. A person may notify the Board of an alleged violation of A.R.S. §§ 32-2201 through 32-2296 and this Chapter. The Board also may initiate a complaint on its own motion.
- B. The Board shall send a written notice ~~of the complaint~~ to the licensee or certificate holder who is the subject of a complaint. The licensee or certificate holder shall provide a written response and all relevant records or documents concerning the complaint if requested by the Board, no later than 15 days from the date of the notice. If a medical record is relevant to the complaint, the licensee or certificate holder shall ensure that the version of the medical record provided to the Board is typewritten.
- C. The Board may request the ~~complainant or the~~ licensee or certificate holder to reply to any statements or documents the Board receives concerning a complaint. If the Board requests the ~~complainant or~~ licensee or certificate holder to provide the Board with additional information concerning a complaint, the ~~complainant or~~ licensee or certificate holder shall respond in writing within 15 days from the date of the request.
- D. The Board may request the complainant and other witnesses or the licensee or certificate holder to appear before the Board to assist in the Board's investigation.

**R3-11-902. Informal Interview**

- A. The Board shall conduct an informal interview under A.R.S. § 32-2234, 32-2249, 32-2274, or 32-2294 as follows:
  1. The Board shall send a written notice of the informal interview to ~~all parties~~ the licensee or certificate holder by personal service or certified mail, return receipt requested, at least 20 days before the informal interview. The Board shall ensure that the notice contains:
    - a. The time, place, and date of the informal interview;
    - b. An explanation of the informal nature of the ~~informal~~ interview;
    - c. A statement of the subject matter or issues involved;
    - d. The licensee's or certificate holder's right to appear with or without ~~counsel~~ the assistance of an attorney;
    - e. A notice that if a licensee or ~~complainant~~ certificate holder fails to appear at the informal interview, the informal interview may be held in the licensee's or ~~complainant's~~ certificate holder's absence; and
    - f. The licensee's or certificate holder's right to a formal hearing held according to A.R.S. § 32-2234, 32-2249, 32-2274, or 32-2294.
  2. During the informal interview:
    - a. The Board may:
      - i. Swear in the licensee or certificate holder and all witnesses;
      - ii. Question the licensee or certificate holder and all witnesses; and
      - iii. Deliberate.
    - b. The licensee or certificate holder may question witnesses.
  3. At the conclusion of the informal interview the Board may:
    - a. Order additional investigation;
    - b. Order another informal interview;
    - c. Dismiss the complaint;
    - d. Impose disciplinary sanctions authorized by A.R.S. § 32-2234, 32-2249, 32-2274, or 32-2294 if a violation is found; or
    - e. Order a formal hearing on the complaint.
- B. The Board shall issue written findings of fact, conclusions of law, and order of the Board no later than 60 days from the date of the conclusion of the informal interview.
- C. A licensee, certificate holder, or the Board may seek a ~~Board~~ rehearing or review of a Board decision as stated in A.A.C. R3-11-904 or A.R.S. § 41-1092.02.

**R3-11-903. Formal Hearing**

- A. If a formal hearing under A.R.S. § 32-2234, 32-2249, 32-2274, or 32-2294 is to be held before an administrative law judge, the requirements in A.R.S. § 41-1092 through 41-1092.11 apply.
- B. If a formal hearing under A.R.S. § 32-2234, 32-2249, 32-2274, or 32-2294 is to be held directly before the Board, the requirements in A.R.S. § 41-1092 through 41-1092.11 and the following apply:
  1. The Board shall provide a written complaint and notice of formal hearing to a licensee or certificate holder at the licensee's or certificate holder's last known address of record, by personal service or certified mail, return receipt

Notices of Final Rulemaking

- requested at least 30 days before the date set for the formal hearing;
2. A licensee or certificate holder served with a complaint and notice of hearing shall file an answer by the date specified in the notice of hearing admitting or denying the allegations in the complaint;
  3. A complaint and notice of hearing may be amended at any time. The Board shall send written notice of any changes in the complaint and notice of hearing to the licensee or certificate holder at least 20 days before a formal hearing;
  4. The licensee or certificate holder may appear at the formal hearing with or without the assistance of an attorney. If the licensee or certificate holder fails to appear, the Board may hold the formal hearing in the licensee's or certificate holder's absence;
  5. The Board may conduct a formal hearing without adherence to the rules of procedure or rules of evidence used in civil proceedings. At the formal hearing, the Board shall rule on the procedure to be followed and admissibility of evidence; and
  6. The Board shall send a written decision that includes written findings of fact, conclusions of law, and order ~~of the Board~~ to the licensee or certificate holder ~~and all parties~~ within 60 days after the formal hearing is concluded. ~~A The~~ licensee, certificate holder, ~~or the Board~~ may seek rehearing or review of the order according to A.A.C. R3-11-904 or A.R.S. § 41-1092.02.

**ARTICLE 10. ANIMAL CREMATORY MINIMUM STANDARDS**

**R3-11-1001. Definitions**

~~The definitions in A.R.S. § 32-2201 apply to this Article. Additionally, in~~ In this Article:

- "Animal remains" means the body or part of the body of a dead animal in any stage of decomposition.
- "Authorizing agent" means an individual legally entitled to authorize the cremation of animal remains.
- "Communal cremation" means remains from multiple animals are in the cremation chamber without any form of separation or identification during the cremation process.
- "Cremated remains or ashes" means the residual of animal remains recovered after completion of the cremation process.
- "Cremation chamber" means the enclosed space within which the cremation process takes place.
- "Individual cremation" means the remains of each animal are separated and placed in a mapped location in the cremation chamber during the cremation procedure.
- "Major changes in the scope of animal crematory services," as used in A.R.S. § 32-2292(C), means an increase or decrease in the number ~~or capacity of cremation chambers at~~ of retorts or the addition of services offered or provided by an animal crematory licensed under this Article.
- "Operator" means the individual who is responsible ~~to the Board~~ for the day-to-day operation of an animal crematory licensed under this Article.
- "Owner" means the person named under A.R.S. § 32-2292(B)(2).
- "Private cremation" means the remains of only one animal are placed in the cremation chamber.
- "Process" means to reduce identifiable bone fragments remaining after cremation to unidentifiable ~~bone fragments~~ cremated remains.
- "Renewal period" means the two years between January 1 of an odd-number year and December 31 of an even-numbered year.
- ~~"Responsible owner Owner" means the owner and any individual or entity with legal title to at least 10 percent of a licensed animal crematory~~ the person designated by the crematory owner to be responsible to the Board for the operation of the animal crematory.
- "Retort" means the machine used to cremate animal remains.

**R3-11-1002. Obtaining an Animal Crematory License**

- A. A person shall not provide or represent to provide animal cremation services before submitting to the Board an application and the fee required under subsection (B).
- B. To obtain an animal crematory license, the ~~owner~~ Responsible Owner of an animal crematory shall:
  1. Submit an application, using a form obtained from the Board, ~~that which provides,~~ but is not limited to, the following information:
    - a. Name of the animal crematory;
    - b. Address of the fixed location of the animal crematory;
    - c. Name of the person owning the animal crematory; ~~;~~
    - d. ~~Name of each responsible owner of the animal crematory;~~
      - i. If the owner is an individual, that individual's name;
      - ii. If the owner is a partnership, the names of all partners; and
      - iii. If the owner is corporation or another business form, the names of all individuals owning at least 10 percent of the business;
    - d. For each individual identified under subsection (B)(1)(c):
      - i. Residential address; and

Notices of Final Rulemaking

- ii. Documentation of citizenship or alien status, specified under A.R.S. § 41-1080(A), indicating the individual's presence in the U.S. is authorized under federal law.
  - e. ~~Addresses of all individuals identified under subsection (B)(1)(d);~~
  - f. ~~Social Security numbers of all individuals identified under subsection (B)(1)(d);~~
  - ~~g-e. Name~~ Names of the operator all operators;
  - ~~h-f. A description of the all services that will be provided at or offered by the animal crematory;~~
  - ~~i-g. A description of the animal crematory premises;~~
  - ~~j-h. A description of the any cremation equipment; and~~
  - k. ~~Signature~~ Name and signature of the operator Responsible Owner;
2. Submit the fee required under R3-11-1004(1);
  3. Submit evidence that ~~the operator~~ all operators have received training in the safe and proper operation of the ~~cremation chamber crematory from the manufacturer of the retort or other provider;~~
  4. Submit a copy of every application for or license or permit issued for the animal crematory to operate in this state; and
  5. Schedule an inspection of the animal crematory by a Board designee.

**R3-11-1003. Renewing an Animal Crematory License**

- A. An animal crematory license expires on December 31 of every even-numbered year.
- B. ~~An owner~~ A Responsible Owner that fails to submit a renewal application and the fee required under R3-11-1004(2) to the Board on or before December 31 of an even-numbered year shall cease providing animal cremation services until a renewal application is submitted.
- C. To renew an animal crematory license, the ~~owner~~ Responsible Owner shall submit to the Board, between October 1 and December 31 of an even-numbered year:
  1. A renewal application that provides the following information:
    - a. Name of the animal crematory;
    - b. Address of the fixed location of the animal crematory;
    - e. ~~Name of the person owning the animal crematory;~~
    - ~~d-c.~~ Name of each responsible the owner of the animal crematory:
      - i. If the owner is an individual, that individual's name;
      - ii. If the owner is a partnership, the names of all partners; and
      - iii. If the owner is corporation or another business form, the names of all individuals owning at least 10 percent of the business;
    - e. ~~Addresses of all individuals identified under subsection (C)(1)(d);~~
    - f. ~~Social Security numbers of all individuals identified under subsection (C)(1)(d);~~
    - d. For individuals named under subsection (C)(1)(c), if the documentation previously submitted under R3-11-1002(B)(1)(d)(ii) was a limited form of work authorization issued by the federal government, evidence that the work authorization has not expired;
    - ~~g-e. Name~~ Names of the operator all operators;
    - ~~h. A description of the services provided at the animal crematory;~~
    - ~~i. A statement regarding how the services provided at the animal crematory have changed during the renewal period; and~~
    - j. Signature of the operator Responsible Owner; and
  2. The fee required under R3-11-1004(2)
- D. If a renewal application is not submitted as required under subsection (C) but is submitted before February 1 following expiration on the previous December 31, the ~~owner~~ Responsible Owner shall include with the renewal application an affirmation that animal cremation services were not provided at the animal crematory after the animal crematory license expired on the previous December 31.
- E. If a renewal application is not submitted under either subsection (C) or (D), the ~~owner~~ Responsible Owner may have the animal crematory re-licensed within one year following expiration only by:
  1. Submitting the renewal application and fee required under subsection (C);
  2. Submitting the affirmation required under subsection (D); and
  3. Submitting the penalty required under R3-11-1004(3).
- F. If a renewal application is not submitted under subsection (C), (D), or (E), the ~~owner~~ Responsible Owner may have the animal crematory re-licensed only by complying with R3-11-1002.

**R3-11-1005. Minimum Standards for an Animal Crematory**

The owner shall ensure that:

1. The animal crematory complies with all federal, state, and local laws;
2. The animal crematory is at a fixed location;
3. The ~~cremation chamber retort~~ retort is constructed to withstand temperatures high enough to reduce animal remains to bone

Notices of Final Rulemaking

- fragments yet protect persons and property from damage from excessive heat or harmful emissions;
4. The ~~cremation chamber retort~~ is shielded from public view;
  5. The ~~cremation chamber retort~~ is competently installed. If the ~~cremation chamber retort~~ is installed in Arizona after the effective date of this Article, the ~~cremation chamber retort~~ shall be installed according to the manufacturer's recommendations and in accordance with all state, federal, and local laws and ordinances;
  6. If the ~~cremation chamber retort~~ is inside a building:
    - a. It is vented to the outside of the building; and
    - b. There is adequate exhaust to prevent heat buildup;
  7. The cremation chamber receives fresh air to aid in combustion;
  8. The animal crematory has a storage facility that:
    - a. Chills animal remains to at least 40 ~~degrees Fahrenheit~~ °F;
    - b. Is secure from access by unauthorized individuals; and
    - c. Preserves the dignity of the animal remains; ~~and~~
  9. The animal crematory has the equipment and supplies necessary to conduct cremations in a manner that protects the health and safety of crematory employees and the public; and
  10. All city, county, and other building codes, restrictions, and guidelines applicable to the animal crematory are followed.

**R3-11-1006. Minimum Operating Standards for an Animal Crematory**

The owner shall ensure that:

1. The animal crematory accepts delivery of animal remains only from:
  - a. The owner of the animal remains;
  - b. An animal shelter or humane society;
  - c. A veterinarian licensed under this Chapter;
  - d. An individual or entity with whom the animal crematory has a written contract regarding collection, pick-up, or delivery services; ~~or~~
  - e. An authorized agent of a person described under subsections (1)(a) through (1)(d); or
  - f. A state, county, city, or other corporation authorized to remove dead animals.
2. Animal remains that cannot be cremated immediately upon receipt are placed in the storage facility described in R3-11-1005(8) but for no more than 30 days;
3. If animal remains are submitted for individual cremation:
  - a. The animal remains are cremated separate from other animal remains;
  - b. The cremated remains are not commingled with other cremated remains;
  - c. The cremated remains are removed from the cremation chamber to the extent feasible and placed in an appropriately sized and securely closed container;
  - d. A label containing the following information is permanently affixed to the container in which the cremated remains are placed:
    - i. Name of the crematory,
    - ii. Name of the animal cremated, and
    - iii. Date of cremation; and
  - e. The cremated remains are disposed according to instructions from the authorizing person or agent;
4. All animal remains submitted for cremation are cremated;
5. Animal remains that are communally cremated are disposed of in a legal manner;
6. The cremation chamber is:
  - a. Operated in a safe and sanitary manner and maintained so the cremation chamber functions in an effective and efficient manner; or
  - b. Operated and maintained according to the manufacturer's recommendations if the ~~cremation chamber retort~~ is installed in Arizona after the effective date of this Article;
7. Employees of the animal crematory who handle animal remains use universal precautions and exercise reasonable care to minimize the risk of injury or transmitting communicable disease; and
8. Instructions for operation of the cremation chamber, including emergency shut-down procedures, are located at the animal crematory and easily accessible.

**R3-11-1007. Written Procedures Required**

**A.** The ~~owner~~ Responsible Owner shall ensure that the animal crematory has written procedures regarding the manner in which:

1. Animal remains are identified from the time the animal crematory accepts delivery of the animal remains until the cremated remains are released according to instructions from the authorizing person or agent;
2. Authorization to cremate is obtained and documented;
3. The cremation chamber is loaded and unloaded;



Notices of Final Rulemaking

4. Cremated remains are processed;
  5. Cremated remains, including unclaimed cremated remains, are returned to the authorized agency or disposed of; and
  6. Records are to be completed and maintained for three years from the date of service.
- B. The ~~owner~~ Responsible Owner shall ensure that all employees involved in providing animal cremation services are familiar with and follow the required procedures.
- C. The ~~owner~~ Responsible Owner shall make these written procedures available for inspection by the Board upon request.

**R3-11-1008. Recordkeeping Requirements**

- A. The ~~owner~~ Responsible Owner shall ensure that records containing the following information are maintained for three years:
1. For the cremation of individual animal remains:
    - a. ~~Name~~ Last name of the owner of the animal;
    - b. Name of the animal;
    - c. Description of the animal, including its weight;
    - d. Name of the individual, facility, or ~~location~~ organization from which the animal was received;
    - e. Authorization to cremate;
    - f. Date of cremation and in which retort the cremation occurred; and
    - g. Date and manner of disposition of cremated remains;
  2. For a communal cremation of animal remains:
    - a. Name of the individual, facility, or ~~location~~ organization from which the animal remains were received;
    - b. Number of animals and estimated total weight;
    - c. Last name of animals' owners, if known;
    - d. Names of animals, if known;
    - ~~e.~~ Authorization to cremate;
    - ~~f.~~ Date of cremation and in which retort the cremation occurred; and
    - ~~e.~~ Date and manner of disposition of cremated remains.
- B. If an animal crematory uses a service to collect, pick up, or deliver animal remains for cremation, the ~~owner~~ Responsible Owner shall enter into a written contract with the service that requires the service to inform the authorizing person or agent, in writing, of the name of the animal crematory that will do the cremation. The ~~owner~~ Responsible Owner shall maintain a copy of any contract for two years after expiration of the contract term.
- C. The ~~owner~~ Responsible Owner shall maintain for ~~two~~ three years records of all maintenance performed on the ~~cremation chamber~~ retort.
- D. The ~~owner~~ Responsible Owner shall make the records required under this Section available for inspection by the Board upon request.
- E. Under A.R.S. § 32-2294(A)(3), the ~~owner~~ Responsible Owner shall make records required under subsection (A) available on request to the authorizing person or agent.

**R3-11-1009. Change in a Responsible Owner**

- ~~A. A responsible owner shall not sell, assign, or transfer the license for an animal crematory.~~
- ~~B. If Under A.R.S. § 32-2292(D), a responsible owner change of Responsible Owner sells, assigns, or transfers all or part of a licensed animal crematory, the cancels a license is automatically cancelled and the Responsible Owner shall:~~
1. ~~The owner shall submit~~ Submit the cancelled license to the Board within 20 days after the ~~licensed animal crematory is sold, assigned, or transferred~~ the change in Responsible Owner; and
  2. ~~The owner shall ensure~~ Ensure that animal cremation services are not provided until an application and fee are submitted under R3-11-1002.

**R3-11-1010. Change in Operator**

Within ~~20~~ 30 days after a change in operator, the ~~owner~~ Responsible Owner shall provide a written notice to the Board that includes:

1. Name of the licensed animal crematory;:
2. Animal crematory license number;:
3. Name of the former operator;:
4. Name of the new operator;:
5. Date on which the new operator assumed responsibility for the animal crematory;: and
6. An affirmation, signed by the ~~owner~~ Responsible Owner, that the new operator received training in the safe and proper operation of the cremation chamber and the written procedures required under R3-11-1007.

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 30. BOARD OF TECHNICAL REGISTRATION

Editor's Note: The following Notice of Final Rulemaking was exempt from Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 1934).

[R13-121]

**PREAMBLE**

- 1. Articles, Parts, and Sections Affected (as applicable) Rulemaking Action**

R4-30-103	Amend
R4-30-305	Amend
- 2. Citations to the agency's statutory rulemaking authority to include both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. §§ 32-106(A)(1) and (9), 32-106(F), 32-112(D), 12-990, 12-1000(D).  
Implementing statutes: A.R.S. §§ 32-122.03 and 32-122.04.
- 3. The effective date of the rule:**

September 7, 2013

  - a. If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):**

Not applicable.
  - b. If the agency selected a date later than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):**

Not applicable
- 4. Citations to all related notices published in the Register to include the Register as specified in R1-409(A) that pertain to the record of the final rulemaking package:**

Notice of Rulemaking Docket Opening: 17 A.A.R. 4, January 7, 2011  
Notice of Proposed Rulemaking: 18 A.A.R. 50, January 13, 2012  
Notice of Supplemental Rulemaking: 18 A.A.R. 1120, May 18, 2012
- 5. The agency's contact person who can answer questions about the rulemaking:**

Name:	Melissa Cornelius, Executive Director
Address:	Board of Technical Registration 1110 W. Washington St., Suite 240 Phoenix, AZ 85007
Telephone:	(602) 364-4930
Fax:	(602) 364-4931
E-mail:	Melissa.cornelius@azbtr.gov
- 6. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**

The State Board of Technical Registration (Board) is charged with protecting the health, safety, and welfare of the public. Toward this end, the Board examines, and issues registrations and certificates to architects, assayers, clandestine drug lab remediation firms and their employees, certified remediation specialists, engineers, geologists, home inspectors, landscape architects, and land surveyors. Pursuant to A.R.S. § 32-106(A)(1), the Board has authority to adopt rules for the "performance of duties imposed upon it by law." The subject rulemaking is submitted pursuant to that authority.

This rulemaking proposes to amend two of the Board's rules. A.A.C. R4-30-305, Drug Laboratory Site Remediation Best Standards and Practices, requires the most significant modification, in order to incorporate new techniques to ensure that seized, illegal drug labs are cleaned thoroughly, and according to improved industry standards. R4-30-103, Drug Laboratory Site Remediation Definitions should be amended to correctly correspond to newly added or modified subsections of R4-30-305.

Notices of Final Rulemaking

The Governor's Office has reviewed and granted the Board's request for an exemption to the Rules Moratorium, in place since 2009, in order to allow the Board to amend these rules to better protect the public's health, safety and welfare.

**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:**

This rulemaking references an article entitled, "Support for Selection of a Cleanup Level for Methamphetamine at Clandestine Drug Laboratories," by the Colorado Department of Public Health, published in February 2005. The public may obtain or review the study, at: <http://www.colorado.gov>. The Board reviewed this study but did not rely upon it when determining to raise the remediation clearance level of methamphetamine from 0.1 µg/100 cm<sup>2</sup> to 1.5 µg/100 cm<sup>2</sup> in R4-30-305.

This rulemaking references an article entitled, "Development of a Reference Dose (RfD) for Methamphetamine" and "Assessment of Children's Exposure to Surface Methamphetamine Residues in Former Clandestine Methamphetamine Labs, and Identification of a Risk Based Cleanup Standard for Surface Methamphetamine Contamination," published by the Office of Environmental Health Hazard Assessment (OEHHA), Integrated Risk Assessment Branch, California Environmental Protection Agency, State of California, in February 2009. The Board relied upon these articles and the studies cited in them when it determined to raise the remediation clearance level of methamphetamine from 0.1 µg/100 cm<sup>2</sup> to 1.5 µg/100 cm<sup>2</sup> in R4-30-305. The public may obtain or review the studies, at: <http://www.oehha.ca.gov/risk.html>.

**8. A showing of good cause why the rule is necessary to promote a statewide interest if the rulemaking 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 Board expects that updating the rules will benefit all parties involved in its regulatory processes. The proposed rulemaking would clarify requirements for those registrants working to clean up illegal drug labs. Requirements for the remediation of commercial properties, and pretesting contaminated properties to determine the level of verifiable Methamphetamine required for a full remediation are now provided for in Rule 305.

The proposed rule changes will not impose significant additional costs for small business.

Updating the techniques used to clean illegal drug labs is not expected to impose significant costs on certificate holders or their employees.

The proposed rulemaking would tighten language relating to enforcement and clarify compliance requirements for drug lab remediation, which the Board expects will affect registrants and small businesses positively.

The proposed rulemaking is not expected to have a significant negative impact on the following sectors of the economy: 1) the competitiveness of professionals in Arizona compared to their counterparts from other states; 2) the prices of goods and services in the state; 3) state revenues. The additional administrative costs to state agencies, such as to the Board, the Secretary of State's Office, and the Governor's Regulatory Review Council, are not expected to be significant.

**10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:**

At its regularly scheduled meeting held on February 28, 2012, the Board reviewed three comments: 1.) to add the phrase "retain a drug laboratory site remediation firm to" into proposed amended rule R4-30-305(A)(7); 2.) to add the phrase "and demolition" to R4-30-305(D)(2)(c); and 3.) to keep the remediation clearance levels of methamphetamine at 0.1 µg/100 cm<sup>2</sup>, rather than raise them to 1.5 µg/100 cm<sup>2</sup>, as is proposed in R4-30-305(C)(2). The Board approved adding the phrases proposed above into R4-30-305(A)(7) and into R4-30-305(D)(2)(c). The Board voted to leave the proposed change in the remediation clearance levels of methamphetamine at 1.5 µg/100 cm<sup>2</sup>, as proposed in the Notice of Proposed Rulemaking, denying the commenter's request to keep the clearance level of methamphetamine at 0.1 µg/100 cm<sup>2</sup>.

The Board also made grammatical, clarifying and formatting changes to the Notice of Final Rulemaking proposed by GRRC staff and the Office of the Secretary of State. These changes also include the addition of the location and publication date of materials incorporated by reference and removal of such language for references to state rules.

**11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:**

The Chairman of the Board's Environmental Remediation Rules, Chet Pearson, PE., proposed adding the two phrases into R4-30-305(A)(7) and (D)(2)(c) as described above for clarification. The Board approved those additions to the rule.

Jeff Kary, President of Kary Environmental Services, Inc., and a member of the Board's Environmental Remediation Rules and Standards Committee, appeared before the Board on February 28, 2012, and spoke against raising the remediation clearance level of methamphetamine from the current level of 0.1 µg/100 cm<sup>2</sup> to 1.5 µg/100 cm<sup>2</sup> as pro-

Notices of Final Rulemaking

posed in the Notice of Proposed Rulemaking. He explained that raising the level as proposed would seriously compromise remediation efforts, leaving sites with trace levels of methamphetamine. He cited a study from Colorado advocating keeping clearance levels at a stricter 0.1 µg/100 cm<sup>2</sup> to ensure effective, thorough remediations.

The Board considered testimony from Chet Pearson, PE., on behalf of the Committee which reviewed the Colorado study and a contradictory study on the issue published in California. The Committee recommended to the Board that the methamphetamine clearance level be raised from 0.1 µg/100 cm<sup>2</sup> to 1.5 µg/100 cm<sup>2</sup> to make the remediations more economical. The Board adopted the Committee recommendation and voted to affirm the proposed change from 0.1 µg/100 cm<sup>2</sup> to 1.5 µg/100 cm<sup>2</sup> at its meeting on February 28, 2012.

**12. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

Pursuant to A.R.S. § 32-106(I), Drug Laboratory Site Remediation Firms are registered with the Board under A.R.S. § 32-141(E). The Legislature created a specific statutory scheme for certifying and registering these firms.

R4-30-305 does not require registrants to obtain a permit because R4-30-270 requires remediation firms, to be licensed by the Registrar of Contractors to perform activities required for remediations, such as construction and demolition.

**b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**

Federal law relating to remediating hazardous waste is applicable to the subject of the proposed rules changes, but this proposed rulemaking is not more stringent.

**c. Whether a person submitted an analysis to the agency that compares the rule's impact on the competitiveness of business in this state to the impact on business in other states:**

No one submitted analyses to the Board that compare the proposed rules' impact on business in this state or other states.

**13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rule:**

As contained in proposed rule **R4-30-103**:

- (2): Asbestos Hazard Emergency Response Act of 1986, 40 CFR 763.92, effective November 15, 2000. 65 FR 69216.
- (16): EPA Method 8015B.
- (17): EPA Method 6010B.
- (18): EPA Method 8260B.
- (26): "Hazardous Waste" as defined in 40 CFR 261.3, effective December 3, 2001. 66 FR 60153.
- (27): "Hazardous Waste Operations Training" as defined in 29 CFR 1910.120(e), effective November 7, 2002. 67 FR 67964.

**14. Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:**

R4-30-305 was not originally promulgated as an emergency rule. It was made through an exempt rulemaking.

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

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 30. BOARD OF TECHNICAL REGISTRATION**

**ARTICLE 1. GENERAL PROVISIONS**

Section  
R4-30-103. Drug Laboratory Site Remediation Definitions

**ARTICLE 3. REGULATORY PROVISIONS**

Section  
R4-30-305. Drug Laboratory Site Remediation Best Standards and Practices

ARTICLE 1. GENERAL PROVISIONS

**R4-30-103. Drug Laboratory Site Remediation Definitions**

In addition to the definitions provided in A.R.S. §§ 12-990, 32-101, and R4-30-101, the following definitions shall apply only to drug laboratory site remediation requirements in this Chapter:

1. "ADHS" means the Arizona Department of Health Services.
2. "AHERA" means the Asbestos Hazard Emergency Response Act of 1986 training provisions contained in 40 CFR 763.92, effective November 15, 2000, 65 FR 69216, the provisions of which are incorporated by reference ~~and on file with the Secretary of State~~. This rule does not include any later amendments or editions of the incorporated matter. Copies of these provisions are available at the office of the Board of Technical Registration and from the U.S. Government Printing Office, P.O. Box 979050, St. Louis, MO 6397-9000, and on the federal digital system at [www.gpo.gov/fdsys](http://www.gpo.gov/fdsys).
3. "AWQS" means the Arizona Aquifer Water Quality Standards contained in A.A.C. R18-11-406, ~~effective December 31, 2002, the provisions of which are incorporated by reference and on file with the Secretary of State. This rule does not include any later amendments or editions of the incorporated matter. Copies of these standards are available at the office of the Board of Technical Registration.~~
4. "Background concentration" means the level of naturally occurring contaminant in soil.
5. "Certificate" or "certificates" means registrations or certifications issued to ~~on-site~~ onsite workers or ~~on-site/remediation~~ onsite supervisors by the Board.
6. "Certified Industrial Hygienist" means a person certified in the comprehensive practice of industrial hygiene by the American Board of Industrial Hygiene.
7. "Certified Safety Professional" means a person certified in safety practices and procedures by the Board of Certified Safety Professionals.
8. "Chain-of-custody protocol" means a procedure used to document each person that has had custody or control of an environmental sample from its source to the analytical laboratory, and the time of possession of each person.
9. "Characterize" means to determine the quality or properties of a material by sampling and testing to determine the concentration of contaminants, or specific properties of the material such as flammability or corrosiveness.
10. "Combustible" means vapor concentration from a liquid that has a flash point greater than 100° F.
11. "Confirmation sampling of remedial projects" means collecting ~~materials-material~~ material samples after a remedial effort to confirm that the remedial effort reduced contaminant concentrations or material properties to a level at or below the remedial standard.
12. "Contamination" or "contaminated" means the state of being impacted or polluted by hazardous or petroleum substances or chemicals.
13. "Corrosive" means a material such as acetic acid, acetic anhydride, acetyl chloride, ammonia (anhydrous), ammonium hydroxide, benzyl chloride, dimethylsulfate, formaldehyde, formic acid, hydrogen chloride/hydrochloric acid, hydrobromic acid, hydriodic acid, hydroxylamine, methylamine, methylene chloride (dichloromethane, methylene dichloride), methyl methacrylate, nitroethane, oxalylchloride, perchloric acid, phenylmagnesium bromide, phosphine, phosphorus oxychloride, phosphorus pentoxide, sodium amide (sodamide), sodium metal, sodium hydroxide, sulfur trioxide, sulfuric acid, tetrahydrofuran, or thionyl chloride that increases or decreases the pH of a material and may cause degradation of the material.
14. "Delineated" means to determine the extent of a contaminant by sampling, testing, and showing the size and shape of the contaminant plume on a drawing.
15. "EPA" means the United States Environmental Protection Agency.
16. "EPA Method 8015B" means the EPA approved method for determining the concentration of various non-halogenated volatile organic compounds and semi-volatile organic compounds by gas chromatography/flame ionization detector. The EPA first published the second revision to the report, SW-846, citing this Method in Ch. 4.3.1, in the South West Region, in December 1996. It is incorporated by reference. The material incorporated by reference does not include any later amendments or editions of the incorporated matter. Copies of these provisions are available at U.S. EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105, and at the office of the Board of Technical Registration.
17. "EPA Method 6010B" means the EPA approved method for determining the concentration of various heavy metals by inductively coupled plasma. The EPA first published the report, SW-846, citing this Method in Ch. 3.3, in the South West Region, in December 1996. It is incorporated by reference. The material incorporated by reference does not include any later amendments or editions of the incorporated matter. Copies of these provisions are available at U.S. EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105, and at the office of the Board of Technical Registration.

Notices of Final Rulemaking

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18. "EPA Method 8260B" means the EPA approved method for determining the concentration of various volatile organic compounds by GC/MS. The EPA first published the report, SW-846, citing this Method in Ch. 4.3.2, in the South West Region, in December 1996. It is incorporated by reference. The material incorporated by reference does not include any later amendments or editions of the incorporated matter. Copies of these provisions are available at U.S. EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105 or on the EPA website at [http://epa.gov/wastes/hazard/testmethods/sw846/online/8\\_series.htm](http://epa.gov/wastes/hazard/testmethods/sw846/online/8_series.htm), and at the office of the Board of Technical Registration.
19. "Exposed" means open to the atmosphere and not covered by a non-porous material.
20. "Final Report" means the report required in ~~R4-30-305(R)~~ R4-30-305(D).
21. "FID" means flame ionization detector.
22. "Flammable" means vapor concentration from a liquid that has a flash point less than 100° F.
23. "GC/MS" means gas chromatograph/mass spectrometer.
24. "Hazardous chemical decontamination projects" means work or services related to the remediation, removal, or clean-up of hazardous chemicals, hazardous substances, petroleum substances, or other hazardous materials.
25. "Hazardous substance" means red phosphorous, iodine crystals, tincture of iodine, methamphetamine, ephedrine, pseudoephedrine, volatile organic compounds, corrosives, LSD, ecstasy, lead, mercury, and any other chemical used at a clandestine drug laboratory site to manufacture methamphetamine, LSD, or ecstasy.
26. "Hazardous waste" means toxic materials to be discarded as defined in 40 CFR 261.3, and 66 FR 60153, effective December 3, 2001, and published by the U.S. Government Printing Office, P.O. Box 979050, St. Louis, MO 63197-9000 and available electronically through the federal digital system at [www.gpo.gov/fdsys/](http://www.gpo.gov/fdsys/). The text of this regulation is the provisions of which are incorporated by reference and on file with the Secretary of State. This rule does not include any later amendments or editions of the incorporated matter. Copies of these provisions are available in the office of the Board of Technical Registration.
27. "HAZWOPER" or Hazardous Waste Operations and Emergency Response training means Hazardous Waste Operations Training as defined in 29 CFR 1910.120(e), and 67 FR 67964, effective November 7, 2002, and published by the U.S. Government Printing Office, P.O. Box 979050, St. Louis, MO 63197-9000, and available electronically through the federal digital system at [www.gpo.gov/fdsys/](http://www.gpo.gov/fdsys/). The text of this regulation is and 67 FR 67964, the provisions of which are incorporated by reference and on file with the Secretary of State. This rule does not include any later amendments or editions of the incorporated matter. Copies of these standards are available at the office of the Board of Technical Registration.
28. "HEPA" means high-efficiency particulate air.
29. "Highly suggestive of contamination" means visible or olfactory indication of contamination, or locations that are within 10 feet of areas where hazardous substances were stored or used to manufacture methamphetamine, LSD, or ecstasy and could likely be contaminated with hazardous substances, unless separated by a full-height, non-porous wall with no openings.
30. "Impacted groundwater" means water present beneath ground surface that contains hazardous or petroleum substances at concentrations above background concentrations.
31. "Impacted soil" means soil that contains hazardous or petroleum substances at concentrations above background concentrations.
32. "Inaccessible" means unable to be reached without removal of a construction material or component.
33. "LEL/O<sub>2</sub>" means lower explosive limit/oxygen.
34. "Laboratory detection limit" means the lowest concentration of a hazardous or petroleum substance that can be reliably quantified or measured by an analytical laboratory under ideal operating conditions for a particular test method on a sample.
35. "Negative pressure enclosure" means an air-tight enclosure using a local exhaust and HEPA filtration system to maintain a lower air pressure in the work area than in any adjacent area and to generate a constant flow of air from the adjacent areas into the work area.
36. "Non-porous" means resistant to penetration of hazardous substances or non-permeable substance or materials, such as concrete floors, wood floors, ceramic tile floors, vinyl tile floors, sheet vinyl floors, painted drywall or sheet rock walls or ceilings, doors, appliances, bathtubs, toilets, mirrors, windows, counter-tops, sinks, sealed wood, metal, glass, plastic, and pipes.
37. "Personal protective equipment" means various types of clothing such as suits, gloves, hats, and boots, or apparatus such as face masks or respirators designed to prevent inhalation, skin contact, or ingestion of hazardous chemicals.
38. "Personnel decontamination procedures" means procedures used to clean or remove potential contamination from personal protective equipment.
39. "PID" means photo ionization detector.

Notices of Final Rulemaking

40. "Porous" means easily penetrated or permeated by hazardous substances or permeable substances or materials such as carpets, draperies, bedding, mattresses, fabric covered furniture, pillows, drop ceiling or other fiber-board ceiling panels, cork paneling, blankets, towels, clothing, and cardboard.
41. "Properly disposed of" means to discard at a licensed facility in accordance with all applicable laws and not reused or sold, or metal recycled by giving or selling to a licensed recycling facility for scrap metal.
42. "Remedial standard" or "remediation standard" means the level or concentration to be achieved by the drug laboratory site remediation firm as defined in R4-30-305(C)(2) ~~or and~~ (C)(3)(4).
43. "Remediated" or "remediation" means treatment of the residually contaminated portion of the real property by a drug laboratory site remediation firm to reduce contaminant concentrations to a level below the remedial standards.
44. "Residual contamination" means contamination resulting from spills or releases of hazardous or petroleum substances.
45. "Return air housing" means the main portion of an air ventilation system where air from the livable space returns to the air handling unit for heating or cooling.
46. "Reusable" means not disposable or equipment that can be used more than one time for sampling after cleaning.
47. "Sample location" means the actual place where an environmental sample was obtained.
48. "Shoring plan" means a written description or drawing that shows the structural supports required to safely occupy the building during remediation.
49. "Seepage pit" means a hole in the ground used to dispose of septic fluids.
50. "Services" means the activities performed by the drug laboratory site remediation firm in the course of remediating residual contamination from the manufacturing of methamphetamine, ecstasy, or LSD, or from the storage of chemicals used in manufacturing methamphetamine, ecstasy, or LSD.
51. "SRL" means the Arizona residential soil remediation levels contained in ~~A.A.C. R18-7-201, 18 A.A.C. 7, Article 2, Appendices A and B effective September 30, 2002, the provisions of which are incorporated by reference and on file with the Secretary of State. This rule does not include any later amendments or editions of the incorporated matter. Copies of this rule are available at the office of the Board of Technical Registration.~~
52. "Temporary filter media" means a device used to filter or clean air.
53. "Toxic" means hazardous substances that can cause local or systemic detrimental effects to people.
54. "VOA" means volatile organic analyte.
55. "VOCs" means volatile organic compounds or chemicals that can evaporate at ambient temperatures such as acetone, acetonitrile, aniline, benzene, benzaldehyde, benzyl chloride, carbon tetrachloride, chloroform, cyclohexanone, dioxane, ethanol, ethyl acetate, ethyl ether, Freon 11, hexane, isopropanol, methanol, methyl alcohol, methylene chloride, naphtha, nitroethane, petroleum ether, petroleum distillates, pyridine, toluene, o-toluidine, and any other volatile organic chemical used at the clandestine drug laboratory site to manufacture methamphetamine, LSD, or ecstasy.
56. "Waste" means refuse, garbage, or other discarded material.

ARTICLE 3. REGULATORY PROVISIONS

**R4-30-305. Drug Laboratory Site Remediation Best Standards and Practices**

A. Preliminary procedures.

1. The onsite supervisor shall determine the nature and extent of damage and contamination of the residually contaminated portion of the real property ~~shall be determined.~~
2. The ~~on-site onsite~~ supervisor shall request a copy of any document copies of from a any-law enforcement agency, state agency, or other report reporting agency regarding the nature and extent of illegal drug activity, evidence of what materials were removed from the real property, ~~and~~ the location from which they were removed, and the area posted by the notice of removal.
3. The ~~on-site onsite~~ supervisor shall:
  - a. Evaluate all information obtained regarding the nature and extent of damage and contamination;
  - b. Develop procedures to safely enter the residually contaminated portion of the real property in order to conduct a visual assessment;
  - c. Wear the appropriate personal protective equipment for ~~the all condition(s)~~ conditions assessed;
  - d. Visually inspect the residually contaminated portion of the real property; ~~and~~
  - e. Be assisted by at least one ~~on-site onsite~~ worker during the initial entry into the residually contaminated portion of the real property.
4. The ~~on-site onsite~~ supervisor shall conduct and document appropriate required testing for corrosive, flammable, combustible, and toxic atmospheres during the initial entry in the residually contaminated portion of the real property, such as using a LEL/O2 meter, pH paper, PID, FID, or equivalent equipment.

Notices of Final Rulemaking

5. If the notice of removal posting is no longer present at the time of the initial entry by the drug laboratory site remediation firm, then the entire house, mobile home, recreational vehicle, detached garage or shed, hotel room, motel room or apartment unit shall be considered the residually contaminated portion of the real property.
  - ~~5-6.~~ If there was a fire or explosion in the residually contaminated portion of the real property ~~which~~ that appears to have compromised ~~it's~~ the structural integrity of the structure, the drug laboratory site remediation firm shall obtain a structural assessment of the residually contaminated portion of the real property.
  7. The owner may retain a drug laboratory site remediation firm to demolish, and dispose of the residually contaminated portion of the real property rather than perform the remediation described in subsection (B).
  - ~~6-8.~~ The drug laboratory site remediation firm shall prepare a written work plan that contains:
    - a. Complete identifying information of the real property, ~~such as and the drug laboratory site remediation firm including but not limited to:~~
      - ~~i.~~ Street address, mailing address, owner of record, legal description, county tax or parcel identification number, or vehicle identification number if a mobile home or recreational vehicle;
      - ~~ii.~~ Registration number of the drug laboratory site remediation firm, name and certification number of the ~~on-site~~ onsite supervisor and ~~on-site~~ onsite workers that will be performing remediation services on the residually contaminated portion of the real property;
    - b. Copies of the current certification of the ~~on-site~~ onsite supervisor and ~~on-site~~ onsite workers that will be performing remediation services on the residually contaminated portion of the real property;
    - c. Photographs or drawings, and a written description of the residually contaminated portion of the real property that depicts the location and type of any residual contamination;
    - d. A description of the personal protective equipment to be used at the residually contaminated portion of the real property;
    - e. The health and safety procedures that will be followed in performing the remediation of the residually contaminated portion of the real property;
    - f. A list of emergency contacts and telephone numbers;
    - g. The route and location of the nearest hospital with emergency service facilities;
    - h. A detailed summary of the work to be performed by the drug laboratory site remediation firm including:
      - ~~i.~~ Any pre-remediation sampling and testing of non-porous or porous materials;
      - ~~ii.~~ Any demolition work;
      - ~~iii.~~ Any and all materials or articles to be removed or cleaned;
      - ~~iv.~~ All procedures to be employed to remove the residual contamination;
      - ~~v.~~ All processes used to cover or encapsulate contaminants;
      - ~~vi.~~ All procedures to be employed to evaluate plumbing, septic, sewer, and soil;
      - ~~vii.~~ All procedures for decontamination or disposal of contaminated materials or demolition debris;
      - ~~viii.~~ All containment and negative pressure enclosure plans; and
      - ~~ix.~~ Personnel decontamination procedures to be used;
    - i. The shoring plan, if an assessment of the structural integrity was conducted and it was determined that shoring was necessary for the safe occupation of the structure during remediation; and
    - j. A complete list of the proposed post-decontamination testing of the residually contaminated portion of the real property and the ~~name(s) name of the individual(s)~~ each individual conducting the sampling, such as an independent Certified Industrial Hygienist, Certified Safety Professional, Arizona-registered geologist, or Arizona-registered engineer supervising the sampling, and the ~~laboratory(ies)~~ each laboratory performing the analytical testing.
  - ~~7-9.~~ The written work plan shall be:
    - a. Approved in writing by the owner of the real property or the owner's agent;
    - b. Submitted to the ~~county health department of the county in which the property is located~~ State Board of Technical Registration; and
    - c. Retained by the drug laboratory site remediation firm for a minimum of three years.
- B.** Remediation procedures for the residually contaminated portion of the real property.
1. All clandestine drug laboratory site remediation firms, ~~on-site~~ onsite supervisors, and ~~on-site~~ onsite workers shall comply with all applicable federal, state, municipal, and local laws, rules, ordinances, and regulations during the remediation or demolition of the residually contaminated portion of the real property.
  2. An ~~on-site~~ onsite supervisor shall be present on the residually contaminated portion of the real property during the performance of remedial or demolition services including any pre-remediation and post-remediation sampling and testing.
  3. The ventilation system shall be turned off at the start of the remediation work and remain off until completion of the remediation work.
  4. The remediation or demolition work shall be conducted in a manner so that no other areas or items are contaminated as a result of the work. An onsite worker shall not store new or cleaned items in any areas requiring remediation.



Notices of Final Rulemaking

5. If the dwelling on the real property is connected to a septic system, then wash water from the remediation work shall not be disposed of in the septic system.
6. If the dwelling has an attic or crawl space, the onsite supervisor shall assess the attic or crawl space. If the attic or crawl space was not used for the manufacturing of drugs, the storage of drugs or chemicals, or the ventilation of manufacturing areas, and these areas will not be occupied, then the attic or crawl space does not require remediation.
7. The residually contaminated portion of the real property shall be assessed for asbestos-containing materials prior to demolition. Any Freon-containing appliances, propane tanks, tires, or other hazardous materials shall be removed from the residually contaminated portion of the real property prior to any demolition activities. The preliminary procedures described in subsection (A) shall be followed prior to demolition activities to verify the removal of all chemicals from the residually contaminated portion of the real property and to assist with characterization of the demolition wastes. The procedures for evaluating plumbing, septic, sewer, and soil described in subsection (B)(14) shall be followed prior to demolition activities. Mobile homes, travel trailers, or other recreational vehicles may be transported to the landfill prior to demolition. The demolition work shall be conducted in a manner to prevent visible dust emissions from the work area that may impact persons on adjacent property. The demolition debris shall be properly characterized prior to disposal as required in subsection (B)(15). After demolition, any remaining building components shall be remediated as described in subsection (B).
- ~~3-8.~~ On-site Onsite workers or on-site onsite supervisors shall conduct the removal of the contamination from the residually contaminated portion of the real property, except for porous materials from areas not highly suggestive of contamination that may be cleaned by a dry cleaning or laundry service.
9. If pre-remediation sampling and testing are performed, non-porous materials and areas shall be sampled and tested using the personnel and procedures described in subsection (C) prior to any remediation services. If the non-porous materials or areas meet the post-remediation clearance levels described in subsections (C)(2) and (4), then no removal or cleaning of these non-porous materials or areas is required. If pre-remediation sampling and testing are performed, porous materials and areas shall be sampled and tested using the personnel and procedures described in subsection (C) prior to any remediation services. If the porous materials or areas meet the post-remediation clearance levels described in subsections (C)(2) and (4), then no removal or cleaning of these porous materials or areas is required. If pre-remediation sampling and testing are performed to evaluate whether remediation is required, the pre-remediation sampling and testing shall include an evaluation of plumbing, septic, sewer, and soil described in subsection (B)(14).
- ~~4-10.~~ Procedures for areas highly suggestive of contamination:
  - a. All porous materials, such as carpets, draperies, bedding, fabric covered furniture, drop ceilings, clothing, and related items, that were present in the area highly suggestive of contamination at the time of the initial notice of removal (A.R.S. § 12-1000) shall be removed and properly disposed of. All items to be removed and disposed of shall be destroyed to prevent future reuse of the items.
  - b. All porous materials such as carpets, draperies, bedding, fabric covered furniture, clothing, and related items, that were moved into the area highly suggestive of contamination after the time of the initial notice of removal (A.R.S. § 12-1000) shall be removed and properly disposed of, except porous drop ceilings, which shall be HEPA vacuumed and left in place. At the owner's discretion, all or some porous materials with no evidence of staining may be cleaned by HEPA vacuuming and one of the following methods:
    - i. Steam cleaning: Hot water and detergent shall be injected into the porous materials under pressure to agitate and loosen any contamination. The water and detergent solution shall then be extracted from the porous material by a wet vacuum.
    - ii. Chemical dry cleaning: Porous materials that cannot be washed with detergent and water shall be dry cleaned using a liquid solvent dry cleaning solution in a dry cleaning machine for at least 15 minutes.
    - iii. Detergent and water solution: Porous materials shall be washed with detergent and water for at least 15 minutes. The porous materials shall be rinsed with water.
    - iv. If any porous materials are removed from the real property for cleaning, the materials shall be HEPA vacuumed, and the cleaning facility shall be notified in writing, by the drug laboratory site remediation firm, that the materials being cleaned are from a clandestine drug laboratory.
  - ~~b-c.~~ All stained materials from the laboratory operations including wall board (sheet rock), wood furniture, wood flooring, and tile flooring shall be removed and properly disposed of, unless the owner requests cleaning and testing to meet the post remediation clearance levels contained in subsections (C)(2) and ~~(C)(3)(4)~~ of this rule. If cleaned, the materials shall be washed with a detergent and water solution and then thoroughly rinsed. This procedure shall be repeated at least two additional times using new detergent solution and rinse water.
  - ~~e-d.~~ All non-porous surfaces, such as bathtubs, toilets, mirrors, windows, ~~tile flooring~~ floors, walls, ceilings, doors, appliances, counter-tops, and sinks, and non-fabric furniture may be cleaned to the point of stain removal and left in place or removed and properly disposed of. If cleaned, these surfaces shall be washed with a detergent and water solution and then thoroughly rinsed. This procedure shall be repeated at least two additional times using new detergent solution and rinse water.
  - ~~d-e.~~ All exposed concrete surfaces shall be thoroughly washed with a detergent and water solution and then thor-

Notices of Final Rulemaking

oroughly rinsed, or may be removed and properly disposed of. This cleaning procedure shall be repeated at least two additional times using new detergent solution and rinse water; and

- e-f. All appliances shall be removed and properly disposed of, unless the owner requests cleaning and testing to meet the post-remediation clearance levels contained in subsections (C)(2) and ~~(C)(3)~~ (4) of this rule. If cleaned, the appliances shall be washed with a detergent and water solution and then thoroughly rinsed. This cleaning procedure shall be repeated at least two additional times using new detergent solution and rinse water.

~~5-11.~~ Procedures for areas not highly suggestive of contamination.

- a. All porous materials, such as carpets, draperies, bedding, fabric covered furniture, clothing, and related items shall be removed and properly disposed of, except for porous drop ceilings, which shall be HEPA vacuumed and left in place. At the owner's discretion, all or some porous materials with no evidence of staining may be cleaned by HEPA vacuuming and one of the following methods:
  - i. Steam cleaning: Hot water and detergent shall be injected into the porous materials under pressure to agitate and loosen any contamination. The water and detergent solution shall then be extracted from the porous material by a wet vacuum.
  - ii. Chemical dry cleaning: Porous materials that cannot be washed with detergent and water shall be dry cleaned using a liquid solvent dry cleaning solution in a dry cleaning machine for at least 15 minutes.
  - iii. Detergent and water solution: Porous materials shall be washed with detergent and water for at least 15 minutes. The porous materials shall be rinsed with water.
  - iv. If any porous materials are removed from the real property for cleaning, the materials shall be HEPA vacuumed, and the cleaning facility shall be notified in writing, by the drug laboratory site remediation firm, that the materials being cleaned are from a clandestine drug laboratory.
- b. All non-porous surfaces, such as bathrooms, toilets, floors, countertops, sinks, walls, ceilings, mirrors, windows, doors, appliances, and non-fabric furniture, shall be thoroughly HEPA vacuumed and washed with a detergent and water solution and then thoroughly rinsed. This cleaning procedure shall be repeated at least two additional times using a new detergent solution and rinse water.
- c. Doors or other openings to areas with no visible contamination shall be cordoned off from all other areas with at least 4-mil plastic sheeting after being cleaned, to avoid ~~re-contamination~~ recontamination during further remediation of the residually contaminated portion of the real property.
- d. Spray-on acoustical ceilings shall be left undisturbed, and shall be sampled and tested for asbestos, and for residual contamination to determine whether ceilings meet the post-remediation clearance levels contained in subsections (C)(2) and ~~(C)(3)~~(4) of this rule. If the post-remediation clearance levels are exceeded, these materials shall be properly removed and disposed of according to applicable laws relating to asbestos removal and properly disposed of.
- e. All exposed concrete surfaces shall be thoroughly washed with a detergent and water solution and then thoroughly rinsed. This cleaning procedure shall be repeated at least two additional times using new detergent solution and rinse water.

~~6-12.~~ Structural Integrity and Security Procedures. If, as a result of the remediation, the structural integrity or security of the real property is compromised, the drug laboratory site remediation firm shall contact a qualified, registered professional to conduct a structural assessment and recommend corrective action for ~~take measures to remedy the structural integrity or security~~ of the real property.

~~7-13.~~ Ventilation Cleaning Procedures.

- a. The ventilation system shall be turned off at the start of the remediation work and remain off until completion of the remediation work.
- ~~a-b.~~ Air registers shall be removed and washed with a detergent and water solution and then thoroughly rinsed. This cleaning procedure shall be repeated at least two additional times using new detergent solution and rinse water.
- ~~b-c.~~ Temporary filter media shall be attached to air register openings.
- ~~e-d.~~ A fan-powered HEPA filter collection machine shall be connected to the ductwork to develop negative air pressure in the ductwork.
- ~~d-e.~~ Air lances, mechanical agitators, or rotary brushes shall be inserted into the ducts through the air register openings to loosen all dirt, dust and other loose materials.
- e-f. The air handler unit, including the return air housing, coils, ~~fan(s), each fan, system(s) each system,~~ and each drip pan, shall be washed with a detergent and water solution and then thoroughly rinsed. This cleaning procedure shall be repeated at least two additional times using new detergent solution and rinse water.
- f-g. All porous linings or filters in the ventilation system shall be removed and properly disposed of.
- ~~g-h.~~ The ventilation system shall be sealed off at all openings with at least 4-mil plastic sheeting to prevent recontamination until the residually contaminated portion of the real property meets the post-remediation clearance levels contained in subsections (C)(2) and ~~(C)(3)~~(4) of this rule.

~~8-14.~~ Procedures for Plumbing, Septic, Sewer, and Soil.

- a. All plumbing inlets to the septic ~~or~~ sewer system, including but not limited to sinks, floor drains, ~~bath tubs bath-~~

*Arizona Administrative Register / Secretary of State*  
**Notices of Final Rulemaking**

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- tubs, showers, and toilets, shall be visually assessed for any staining or other visible residual contamination. All plumbing traps shall be assessed for VOC concentrations with a PID or FID, and for mercury vapors, ~~by~~ using a mercury vapor analyzer. If VOC concentrations or mercury vapor concentrations exceed the post-remediation clearance levels contained in subsections (C)(2) and ~~(C)(3)(4) of this rule~~, the accessible plumbing and traps where the excess levels are found shall be removed and properly disposed of, or shall be cleaned and tested to meet the post-remediation clearance levels contained in R4-30-305(C)(2) and ~~(C)(3)(4) of this rule~~.
- b. The ~~on-site onsite~~ supervisor shall determine if whether the dwelling is connected to a local sewer system or to an ~~on-site onsite~~ septic system. If the dwelling is connected to an ~~on-site onsite~~ septic system, water from the remediation work shall not be disposed of in the septic system, and a sample of the septic tank liquids shall be obtained and tested for VOC concentrations.
- i. If VOCs are not found in the septic tank sample or are found at concentrations less than AWQS or less than 700 ~~micrograms~~ milligrams per liter (mg/l) for acetone, no additional work is required in the septic system area, unless requested by the owner of the real property.
- ii. If VOCs are found in the septic tank at concentrations exceeding the AWQS or exceeding 700 mg/l for acetone, the following shall apply:
- (1) The discharge area, such as the leach field, seepage pit, ~~and or~~ evaporation mounds, shall be investigated under the direct supervision of an Arizona-registered geologist or an Arizona-registered engineer;
  - (2) The septic system discharge area shall be investigated for VOCs using EPA Method 8260B or an equivalent test method and, unless there is ~~clear~~ evidence that mercury or lead was not used in the manufacturing of methamphetamine, LSD or ecstasy at the clandestine drug laboratory, the septic system discharge area shall also be investigated for mercury and lead;
  - (3) The vertical extent of any VOCs, mercury, and lead detected in the soil samples shall be delineated to concentrations at or below laboratory detection limits or to background concentrations, and the horizontal extent of ~~the any~~ VOCs, mercury, and lead shall be delineated to concentrations at or below each compound's SRL;
  - (4) If any ~~of the~~ VOCs, mercury, ~~and or~~ lead used by the clandestine drug laboratory migrated down to groundwater level, the extent of groundwater contamination shall ~~also~~ be investigated under the direct supervision of an Arizona-registered geologist or an Arizona-registered engineer and the vertical and horizontal extent of the groundwater contamination shall be delineated to concentrations at or below the AWQS or below 700 mg/l for acetone; and
  - (5) After complete characterization of ~~the a~~ release, the impacted soils shall be remediated to concentrations below the SRL or background concentrations, and any impacted groundwater shall be remediated to concentrations at or below the AWQS or below 700 mg/l for acetone.
- c. The ~~on-site onsite~~ supervisor shall observe the real property for evidence of burn areas, burn or trash pits, debris piles or stained areas. The on-site supervisor shall test any burn areas, burn or trash pits, debris piles or stained areas with appropriate applicable testing equipment, such as; a LEL/O<sub>2</sub> meter, pH paper, PID, FID, mercury vapor analyzer or equivalent equipment.
- i. If the burn areas, burn or trash pits, debris piles, or stained areas are not part of the residually contaminated portion of the real property, the drug laboratory site remediation firm shall recommend to the owner of the real property that these areas be investigated. If the owner advises the drug laboratory site remediation firm not to investigate these areas, the drug laboratory site remediation firm shall take appropriate action pursuant to R4-30-301(11).
- ii. If the burn areas, burn or trash pits, debris piles or stained areas are part of the residually contaminated portion of the real property, these areas shall be investigated and remediated by the drug laboratory site remediation firm.
- (1) Any wastes remaining from the operation of the clandestine drug laboratory or other wastes impacted by compounds used by the clandestine drug laboratory shall be characterized, removed, and properly disposed of.
  - (2) Any potentially impacted soil ~~and/or or~~ groundwater shall be investigated under the direct supervision of an Arizona-registered geologist or an Arizona-registered engineer.
  - (3) The burn areas, burn or trash pits, debris piles, or stained areas shall be investigated for the VOCs used by the drug laboratory. Unless there is ~~clear~~ evidence that mercury or lead was not used in the manufacturing of methamphetamine, LSD, or ecstasy at the clandestine drug laboratory, the burn areas, burn or trash pits, debris piles, or stained areas shall be investigated for lead and mercury.
  - (4) The vertical extent of any VOCs, lead, or mercury detected in the soil samples shall be delineated to concentrations below laboratory detection limits or to background concentrations. The horizontal extent of these compounds shall be delineated to concentrations below each compound's SRL.
  - (5) If any of the compounds used by the clandestine drug laboratory migrated down to groundwater level, the extent of groundwater contamination shall ~~also~~ be investigated under the direct supervision of an

**Notices of Final Rulemaking**

Arizona-registered geologist or an Arizona-registered engineer. The vertical and horizontal extent of the groundwater contamination shall be delineated to concentrations below the AWQS and below 700 mg/l for acetone.

- (6) After complete characterization of ~~the a~~ release, the impacted soils shall be remediated to concentrations below the SRL or background concentrations, and any impacted groundwater shall be remediated to concentrations below the AWQS and below 700 mg/l for acetone.

**9-15. Waste Characterization and Disposal Procedures.**

- a. All items removed from the clandestine drug laboratory remediation site, and waste generated during the remediation or demolition work, shall be ~~properly~~ characterized and properly disposed of. All items to be removed and disposed of shall be destroyed to prevent future reuse of the items.
- b. All suspect asbestos-containing building materials shall be properly sampled and tested for asbestos pursuant to EPA rule prior to disturbance or removal.
- c. All waste shall be ~~properly~~ characterized by sampling and testing, or the waste shall be considered hazardous waste and ~~properly~~ disposed of pursuant to ~~the~~ applicable law, except the waste shall not be deemed to be household hazardous waste.
- d. The drug laboratory site remediation firm shall comply with all federal, state, municipal, county laws, codes, ordinances and regulations pertaining to waste transportation and disposal.

**C. ~~Pre-remediation and Post-Remediation~~ Post-remediation Testing Procedures.**

- 1. ~~Post-remediation~~ Remediation sampling shall be conducted under the direct supervision of ~~a~~ an independent Certified Industrial Hygienist, ~~a~~ Certified Safety Professional, Arizona-registered geologist or ~~an~~ Arizona-registered engineer. The individual taking the samples and the Certified Industrial Hygienist, Certified Safety Professional, Arizona-registered geologist, or Arizona-registered engineer directing the sampling shall have experience with ~~the~~ remediation of hazardous substances, ~~with~~ confirmation sampling of remedial projects, and ~~with evaluating~~ evaluation of health risks and exposures to chemicals. All sampling used to verify that no additional removal or cleaning is required shall be conducted under the direct supervision of a Certified Industrial Hygienist, Certified Safety Professional, Arizona-registered geologist, or ~~an~~ Arizona-registered engineer. The drug laboratory site remediation firm and its employees shall not conduct the sampling and testing. All sample locations shall be photographed for documentation purposes, and these photographs shall be included in the final report.
- 2. ~~The drug laboratory site remediation firm shall conduct sampling~~ Sampling and testing shall be conducted for all of the compounds listed below. All ~~remediated~~ areas and materials shall meet the following ~~post-remediation~~ clearance levels:

<b>Compound</b>	<b>Remediation Standard</b>
Red Phosphorus	Removal of stained material or cleaned pursuant to these standards
Iodine Crystals	Removal of stained material or cleaned pursuant to these standards
Methamphetamine	<del>0.1</del> <u>1.5</u> µg Methamphetamine/100 cm <sup>2</sup>
Ephedrine	0.1 µg Ephedrine/100 cm <sup>2</sup>
<del>Pseudoephedrine</del>	<del>0.1 µg Pseudoephedrine/100 cm<sup>2</sup></del>
VOCs in Air	VOC air monitoring < 1 ppm
Corrosives	Surface pH of 6 to 8
LSD	0.1 µg LSD/100 cm <sup>2</sup>
Ecstasy	0.1 µg Ecstasy/100 cm <sup>2</sup>

- 3. If methamphetamine, ecstasy, or LSD is detected in the pre-remediation sampling and testing of porous materials and surfaces, then the porous materials shall be disposed of or cleaned as described in subsection (B).
- 3-4. The drug laboratory site remediation firm shall conduct sampling and testing for all of the metals listed below in all cases except where there is ~~clear~~ evidence that these metals were not used in the manufacturing of methamphetamine, LSD, or ecstasy at the drug laboratory:

<b>Compound</b>	<b>Remediation Standard</b>
Lead	4.3 µg Lead/100 cm <sup>2</sup>
Mercury	3.0 µg Mercury/m <sup>3</sup> air

**Notices of Final Rulemaking**

- 4-5. All sampling and testing shall be conducted in accordance with the following procedures:
- a. All sample locations shall be photographed, and the photographs shall be included in the final report.
  - b. All sample locations shall also be shown on a floor plan of the residually contaminated portion of the real property, and the floor plan shall be included in the final report.
  - c. All samples shall be obtained from areas representative of the materials or surfaces being tested. All samples shall be obtained, preserved, and handled in accordance with industry standards for the types of samples and analytical testing to be conducted and maintained under chain-of-custody protocol.
  - d. The individual conducting the sampling shall wear a new pair of gloves to obtain each sample.
  - e. All reusable sampling equipment shall be decontaminated prior to sampling.
  - f. All testing equipment shall be properly equipped and calibrated for the types of compounds to be analyzed.
  - g. Methamphetamine, ephedrine, pseudoephedrine, ecstasy, and/or or LSD sampling and testing of non-porous materials and surfaces:
    - i. Whatman 40 ashless filter paper or an equivalent filter paper shall be used for all wipe sampling. The filter paper shall be wetted with analytical grade methanol or deionized water for the wipe sampling. The filter paper shall be blotted or wiped at least five times in two perpendicular directions within each sampling area. The same filter paper may be used for up to three wipe areas or a new filter paper may be used for each area, and the three filter papers combined for analytical testing.
    - ii. Three 10 cm x 10 cm areas (100 cm<sup>2</sup>) shall be wipe sampled from each room of the residually contaminated portion of the real property. The three samples shall be obtained from the non-porous floor, one wall, and the ceiling in each room.
    - iii. Three 10 cm x 10 cm areas (100 cm<sup>2</sup>) shall be wipe sampled from different areas of the ventilation system.
    - iv. If there is a kitchen in the residually contaminated portion of the real property, three 10 cm x 10 cm areas (100 cm<sup>2</sup>) shall be wipe sampled from a combination of the counter top, sink, or stove top, and from the floor in front of the stove top.
    - v. If there is a bathroom in the residually contaminated portion of the real property, three 10 cm x 10 cm areas (100cm<sup>2</sup>) shall be wipe sampled from a combination of the counter top, sink, toilet, and ~~the any shower/ or bath tub~~ bath tub.
    - vi. If there are any cleaned appliances in the residually contaminated portion of the real property, one 10 cm x 10 cm area (100 cm<sup>2</sup>) shall be wipe sampled from the exposed portion of each appliance. If multiple appliances are present, each wipe sample may be a composite of up to three 100 cm<sup>2</sup> areas on three separate appliances.
    - vii. After sampling, the wipe sample shall be placed in a new clean sample jar and sealed with a teflon-lined lid. The sample jar shall be ~~properly~~ labeled with at least the site or project identification number, date, time, and actual sample location. The sample jar shall be placed in a cooler with ice until delivered to an analytical laboratory licensed in any state in the United States to perform GC/MS testing. The sample shall be analyzed for methamphetamine, ~~ephedrine, pseudoephedrine, LSD, and/or or~~ ecstasy, depending upon the type of clandestine drug laboratory, using a GC/MS instrument, or an equivalent.
  - h. Methamphetamine, ecstasy, and LSD sampling and testing of porous materials and surfaces:
    - i. Microvacuum sampling shall be conducted using a 37 mm microvac cassette equipped with a glass fiber filter and backup pad, a short piece of tygon tubing (1 to 2 inches) with one end cut at a 45 degree angle to be used as the "vacuum hose," and flexible tygon tubing to connect the pump to the filter. The person conducting the sampling shall connect the cassette with tygon tubing to a high volume sampling pump and calibrate the sampling pump, with a primary calibration standard, to a flow rate from 15 to 20 liters per minute.
    - ii. Select sampling areas of 10 cm x 10 cm (100 cm<sup>2</sup>). In general, visibly soiled, dusty, or heavily used areas are good choices for sampling. Three 10 cm x 10 cm areas (100 cm<sup>2</sup>) of carpet shall be microvacuum sampled from each room of the residually contaminated portion of the real property.
    - iii. If there are porous furniture, lamp shades, or other fixtures in the residually contaminated portion of the real property, three 10 cm x 10 cm areas (100 cm<sup>2</sup>) of these materials shall be microvacuum sampled from each room where present. If multiple porous furnishings are present, the three sampled areas shall be taken from three separate furnishings.
    - iv. If there are porous wall coverings, curtains, shades, or paintings in the residually contaminated portion of the real property, three 10 cm x 10 cm areas (100 cm<sup>2</sup>) of these materials shall be microvacuum sampled from each room where present. If multiple porous wall coverings are present, the three sampled areas shall be taken from three separate wall coverings.
    - v. If there are clothes, linens, or other porous materials in the residually contaminated portion of the real property, three 10 cm x 10 cm areas (100 cm<sup>2</sup>) of these materials shall be microvacuum sampled from each room where present. If multiple other porous materials are present, the three sampled areas shall be taken from three separate items.
    - vi. Perform the first vacuuming, in one direction, from side to side, from top to bottom. Use a slow sweeping

Notices of Final Rulemaking

motion. During the sampling of softer materials, press the angled tubing nozzle firmly onto the sampling surface to agitate particles. Perform a second vacuuming, in one direction, from top to bottom from side to side across the entire area. Use a slow sweeping motion. During the sampling of softer materials, press the angled tubing nozzle firmly onto the sampling surface to agitate particles. The same filter may be used for up to three vacuum areas, or a new filter may be used for each area, and the three filters combined for analytical testing.

vii. After sampling, immediately turn off the pump and remove the filter cassette from the inlet and outlet tubing sections, replace the cassette plugs and place the sample into a labeled, resealable plastic bag.

viii. If additional samples are being collected, remove and discard the short vacuum nozzle tubing and place a clean vacuum nozzle on a new filter cassette to collect additional samples.

ix. After all sampling has been completed, the pump exterior should be decontaminated (wiped with a 10% bleach solution or an equivalent solution.) The collection tubing should also be discarded.

x. All sample cassette bags shall be labeled with at least the site or project identification number, date, time, and actual sample location. The samples shall be submitted to an analytical laboratory licensed in any state in the United States to perform GC/MS testing. The samples shall be analyzed for methamphetamine, LSD, and ecstasy, depending on the type of clandestine drug laboratory using a GC/MS instrument or an equivalent.

~~h.i.~~ VOC sampling and testing procedures:

i. A ~~properly calibrated~~ PID or FID calibrated to manufacturer's specifications capable of detecting VOCs shall be used for testing. The background concentration of VOCs shall be obtained by testing three exterior areas outside the limits of the residually contaminated portion of the real property and in areas with no known or suspected sources of VOCs. All VOC readings shall be recorded for each sample location.

ii. At least three locations in each room of the residually contaminated portion of the real property shall be tested for VOC readings. The testing equipment probe shall be held in the sample location for at least 30 seconds to obtain a reading; ~~and,~~

iii. All accessible plumbing traps shall be tested for VOCs by holding the testing equipment probe in the plumbing pipe above the trap for at least 60 seconds.

~~i.j.~~ pH testing procedures:

i. Surface pH measurements shall be made using deionized water and pH test strips with a visual indication for a pH between ~~6 six~~ and ~~8 eight~~. The pH reading shall be recorded for each sample location.

ii. For horizontal surfaces, deionized water shall be applied to the surface and allowed to stand for at least three minutes. The pH test strip shall then be placed in the water for a minimum of 30 seconds and read.

iii. For vertical surfaces, a Whatman 40 ashless filter paper or equivalent filter paper shall be wetted with deionized water and wiped over a 10 cm x 10 cm area at least five times in two perpendicular directions. The filter paper shall then be placed into a clean sample container and covered with enough deionized water to cover the filter paper. The filter and water shall stand for at least three minutes prior to testing. The pH test strip shall then be placed in the water for a minimum of 30 seconds and read.

iv. pH testing shall be conducted on at least three locations in each room within the areas with visible contamination and within areas known to store or handle chemicals used for the clandestine drug laboratory in the residually contaminated portion of the real property.

~~j.k.~~ Lead Sampling and Testing Procedures:

i. Unless there is ~~clear~~ evidence that lead was not used in the manufacturing of methamphetamine, LSD, or ecstasy at the clandestine drug laboratory, lead sampling shall be conducted as follows:

(1) Whatman 40 ashless filter paper or an equivalent filter paper shall be used for wipe sampling. The filter paper shall be wetted with analytical grade 3% nanograde nitric acid for the wipe sampling. The filter paper shall be blotted or wiped at least five times in two perpendicular directions within each sampling area. The same filter paper may be used for up to three wipe areas or a new filter paper may be used for each area and the three filter papers combined for analytical testing; ~~and,~~

(2) Three 10 cm x 10 cm areas (100 cm<sup>2</sup>) shall be sampled in each room within the areas with visible contamination or within areas known to store or handle chemicals used for the clandestine drug laboratory in the residually contaminated portion of the real property; ~~and~~

(3) After sampling, the wipe sample shall be placed in a new clean sample jar and sealed with a teflon-lined lid. The sample jar shall be ~~properly~~ labeled with at least the site or project identification number, date, time, and actual sample location. The sample jar shall be placed in a cooler with ice until delivered to an Arizona-licensed analytical laboratory.

ii. The sample shall be analyzed for lead using EPA Method 6010B or an equivalent.

~~k.l.~~ Mercury Sampling and Testing Procedures:

i. A ~~properly calibrated~~ mercury vapor analyzer calibrated in accordance with manufacturer's specifications shall be used for evaluating the remediated areas for the presence of mercury. All mercury readings shall be

**Notices of Final Rulemaking**

- recorded for each sample location.
- ii. At least three locations in each room within the areas with visible contamination or within areas known to store or handle chemicals used for the clandestine drug laboratory in the residually contaminated portion of the real property shall be tested for mercury vapor readings. The testing equipment probe shall be held in the sample location for at least 30 seconds to obtain a reading.
- iii. All accessible plumbing traps shall be tested for mercury by holding the testing equipment probe in the plumbing pipe above the trap for at least 60 seconds.
- ~~f.m.~~ Septic Tank Sampling and Testing Procedures:
  - i. The liquid in the septic tank shall be sampled with a new clean bailer or similar equipment.
  - ii. The liquid shall be decanted or poured with minimal turbulence into three new VOA vials ~~properly~~ prepared by the laboratory.
  - iii. The VOA vials shall be filled so that there are no air bubbles in the sealed container. If air bubbles are present, the vial must be emptied and refilled;
    - (1) The sample vials shall be ~~properly~~ labeled with at least the date, time, and sample location;
    - (2) The sample vials shall be placed in a cooler with ice until delivered to an Arizona-licensed analytical laboratory; ~~and~~
    - (3) The sample shall be analyzed for acetone and methanol using EPA Method 8015B or an equivalent method.

**D. Final report.**

- 1. A final report shall be:
  - a. Prepared by the drug laboratory site remediation firm;
  - b. Submitted to the owner of the remediated property and the ~~county health department of the county in which the property is located~~ Board within 30 days after completion of the remediation services, and
  - c. Retained by the firm for a minimum of three years.
- 2. The final report shall include the following information and documentation:
  - a. Complete identifying information of the real property, and the drug laboratory site remediation firm, such as including but not limited to street address, mailing address, owner of record, legal description, county tax or parcel identification number, or vehicle identification number if a mobile home or recreational vehicle, registration number of the drug laboratory site remediation firm, name and certification number of the ~~on-site~~ onsite supervisor, and name and certification numbers of the ~~on-site~~ onsite workers ~~that~~ who performed the remediation services on the residually contaminated portion of the real property;
  - b. A summary of any pre-remediation sampling and testing and all post-remediation sampling and testing including the name and certification, registration, or license number of the Certified Industrial Hygienist, Certified Safety Professional, Arizona-registered geologist, or Arizona-registered engineer supervising the sampling and testing;
  - ~~b.c.~~ A summary of the remediation and demolition services completed on the residually contaminated portion of the real property, with any deviations from the approved work plan, including a list of the rooms, surfaces, materials, and articles cleaned, a list of the materials and articles removed and disposed of, and the procedures used to evaluate the plumbing, septic, sewer, and soil and to document the extent of the remediation or demolition services and any deviations from the approved work plan;
  - ~~e.d.~~ Photographs documenting the remediation services and showing each of the sample locations, and a drawing or sketch of the residually contaminated areas that depict the sample locations;
  - ~~d.e.~~ A copy of the sampling and testing results for VOCs and mercury, a copy of any asbestos sampling and testing results, a copy of the laboratory test results on all samples, and a copy of the chain-of-custody protocol documents for all samples from the residually contaminated portion of the real property;
  - ~~e.f.~~ A summary of the waste characterization work, and copies of any waste sampling and testing results, and transportation and disposal documents, including but not limited to, bills of lading, weight tickets, and manifests for all materials removed from the real property;
  - ~~f.g.~~ A summary of the ~~on-site~~ onsite supervisor's observation and testing of the real property for evidence of burn areas, burn or trash pits, debris piles, or stained areas;
  - ~~g.h.~~ A copy of any reports provided to the drug laboratory site remediation firm including:
    - i. A copy of any report prepared by the Certified Industrial Hygienist, Certified Safety Professional, an Arizona-registered geologist, and an or Arizona-registered engineer; and
    - ii. ~~and~~ A signed statement confirming that the sampling was conducted under direct supervision;
  - ~~h.i.~~ A statement that the residually contaminated portion of the real property has been remediated in accordance with R4-30-305 these standards; and
  - j. The total cost of any pre-remediation sampling and testing, as described in subsection (B)(9), the total cost of all post-remediation sampling and testing, as described in subsection (C) and the total cost of the remediation decontamination services as described in subsections (B)(9), (10), (12), (13), and (14);

**Notices of Final Rulemaking**

- 3. Within 24 hours after the final report described in subsection (D) ~~(4)~~ of this Article has been prepared, the drug laboratory site remediation firm shall deliver, or send by certified mail, a copy of the complete and final report to those individuals and entities identified in A.R.S. § 12-1000(A)(2); the State Board of Technical Registration. The drug laboratory site remediation firm shall also deliver or send a separate document to all other individuals and entities stating that the residually contaminated portion of the real property has been remediated pursuant to A.R.S. § 12-1000~~(D)~~ (E).

**NOTICE OF FINAL RULEMAKING**

**TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE**

**CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA**

*Editor's Note: The following Notice of Final Rulemaking was exempt from Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 1934).*

[R13-125]

**PREAMBLE**

1. **Article, Part, or Section affected (as applicable)**                      **Rulemaking Action**  
     R20-5-165    New Section
2. **Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**  
     Authorizing statute: A.R.S. §§ 23-107(A)(1); 23-921(B)  
     Implementing statute: A.R.S. § 23-1041(E)
3. **The effective date of the rule:**  
     July 10, 2013
  - a. **If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. §41-1032(A)(1) through (5):**  
 The Industrial Commission requests the rule become effective on the date the final rule packet is filed with the Secretary of State. The anticipated filing date is July 9, 2013 which is the day of the Governor's Regulatory Review Council meeting in July 2013. The Industrial Commission requests this effective date because the Commission is statutorily mandated to establish the maximum average monthly wage for the next calendar year not later than August 1 of each calendar year. *See*, A.R.S. § 23-1041(E). Good cause exists to make this rule effective immediately because this rule must be effective before August 1, 2013 so the Commission can adopt the maximum average monthly wage for 2014 not later than August 1, 2013. *See*, A.R.S. § 41-1032(A)(2)(a rule may be effective immediately to avoid violation of state law).
  - b. **If the agency selected a date later than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):**  
 Not applicable
4. **Citations to all related notices published in the Register as specified in R1-409(A) that pertain to the record of the final rulemaking package:**  
     Notice of Rulemaking Docket Opening: 19 A.A.R. 203, February 8, 2013  
     Notice of Proposed Rulemaking: 19 A.A.R. 198, February 8, 2013
5. **The agency's contact person who can answer questions about the rulemaking:**

Name:	Andrew F. Wade, Chief Counsel Industrial Commission of Arizona, Legal Division
Address:	800 W. Washington St. Phoenix, AZ 85007
Telephone:	(602) 542-5781
Fax:	(602) 542-6783
E-mail:	icalgaldivision@ica.state.az.us
6. **An agency's justification and reason why a rule should be made, amended, repealed or renumbered to include an explanation about the rulemaking:**



Notices of Final Rulemaking

The Industrial Commission has the ministerial duty under A.R.S. § 23-1041(E) to adopt a maximum average monthly wage that will be used in setting the average monthly wage in workers' compensation claims. Under Arizona's workers' compensation system, injured workers are paid benefits based on their "average monthly wage" as of the date of their injury. This average monthly wage is subject to a statutory cap, or maximum, average monthly wage. For calendar year 2013, the Arizona maximum average monthly wage is \$4,185.78. The maximum average monthly wage is indexed to increase the maximum average monthly wage to keep pace with general increases in wages and salaries.

The Legislature amended A.R.S. § 23-1041(E) in 2012 and changed the index from "the Arizona mean wage published by the department of economic security using the bureau of labor statistics occupational employment statistics data coded for all occupations for the prior calendar year" to, simply, the "employment cost index."

The "employment cost index" consists of many different indexes published by the Bureau of Labor Statistics, and the data is published for civilian, government, and industry workers and is broken down by each of those groups and also by occupation and union versus non-union workers. The data for each series is available in current or constant dollars, and then seasonally adjusted or not seasonally adjusted. Because the 2012 amendment does not specify a series, occupation, seasonal or not seasonal, or union versus non-union, a specific index must be identified so the Commission can adopt the maximum average monthly wage as directed by the statute. Regardless of the specific index used, any change in the maximum average monthly wage is subject to the statute's prohibition of any decrease and a maximum increase of no more than five percent.

Partnering with stakeholders, the Commission has identified a specific employment cost index to be used by the Commission in carrying out its statutory duty to adopt the maximum average monthly wage used in workers' compensation claims and has concluded that it is appropriate to use the rulemaking process to identify the specific employment cost index.

- 7. A reference to any study relevant to the rule that the agency reviewed and either to relied on or did not to 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:**

Not applicable.

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

Not applicable.

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

The index specified by the rule is expected to reflect general increases in wages and further the legislative intent to increase the maximum average monthly wage to keep pace with those increases. Although increasing the maximum average monthly wage may result in an increase, albeit a slight increase, in the cost of workers' compensation insurance, the use of the specified index is expected to achieve a balance between minimizing the impact of any increases to the maximum average monthly wage on workers' compensation premiums with the desire to index the maximum average monthly wage to general increases in wages.

- 10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:**

There is one change between the proposed rulemaking and the final rule. To provide information on where the employment cost index can be located, the website address for the Bureau of Labor Statistics was added. The specific change is adding "available at <http://www.bls.gov/>" to the end of the rule.

- 11. Any agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:**

Representatives of the Arizona Chamber of Commerce, Arizona Self-Insurers Association, and the Greater Phoenix Chamber of Commerce attended the March 19, 2013, oral proceeding and stated they were in support of the rulemaking. The Commission has not received any comments opposed to the proposed rule.

- 12. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

- a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

The rule does not require a permit.

- b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**

Not applicable.

- c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**

No analysis was submitted.

Notices of Final Rulemaking

**13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rule:**

None.

**14. Whether the rule was previously made, amended, repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also the agency shall state where the text changed between the emergency and the final rulemaking packages:**

Not applicable.

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

**TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE**

**CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA**

**ARTICLE 1. WORKERS' COMPENSATION PRACTICE AND PROCEDURE**

Section

R20-5-165. Calculation of Maximum Average Monthly Wage

**ARTICLE 1. WORKERS' COMPENSATION PRACTICE AND PROCEDURE**

**R20-5-165. Calculation of Maximum Average Monthly Wage**

In using the Bureau of Labor Statistics Employment Cost Index to adopt the amount of an increase to the maximum average monthly wage under A.R.S. § 23-1041(E), the Commission shall use the Bureau of Labor Statistics, Employment Cost Index for Wages and Salaries, for Civilian Workers, by Occupational Group and Industry, All Workers, available at <http://www.bls.gov/>.