

NOTICES OF SUPPLEMENTAL PROPOSED RULEMAKING

After an agency has filed a Notice of Proposed Rulemaking with the Secretary of State's Office for *Register* publication and the agency decides to make substantial changes to the rule after it is proposed, the agency must prepare a Notice of Supplemental Proposed Rulemaking for submission to the Office, and the Secretary of State shall publish the Notice under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.). Publication of the Notice of Supplemental Proposed Rulemaking shall appear in the *Register* before holding any oral proceedings (A.R.S. § 41-1022).

NOTICE OF SUPPLEMENTAL PROPOSED RULEMAKING

TITLE 3. AGRICULTURE

CHAPTER 11. VETERINARY MEDICAL EXAMINING BOARD

[R06-419]

PREAMBLE

1. Register citation and date for the original Notice of Proposed Rulemaking:

Notice of Proposed Rulemaking: 12 A.A.R. 2542, July 21, 2006

2. Sections Affected

Rulemaking Action

Table 1	Amend
R3-11-901	Amend
R3-11-902	Amend
R3-11-903	Amend
Article 10	New Article
R3-11-1001	New Section
R3-11-1002	New Section
R3-11-1003	New Section
R3-11-1004	New Section
R3-11-1005	New Section
R3-11-1006	New Section
R3-11-1007	New Section
R3-11-1008	New Section
R3-11-1009	New Section
R3-11-1010	New Section

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

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

Implementing statute: A.R.S. §§ 32-2291, 32-2292, 32-2293, and 32-2294

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

Name: Jenna Jones
Address: Veterinary Medical Examining Board
1400 W. Washington, Ste. 240
Phoenix, AZ 85007
Telephone: (602) 542-8150
Fax: (602) 364-1039
E-mail: Jenna.jones@vetbd.state.az.us

5. An explanation of the rules, including the agency's reasons for initiating the rulemaking:

In 2004, the Legislature amended the Board's statutes to require that an animal crematory be licensed. The Board was authorized to make rules establishing qualifications and minimum standards for an animal crematory, prescribing a license application form, and establishing fees for a license. The Board is making the rules authorized.

6. An explanation of the substantial change that resulted in this supplemental notice:

The Board is clarifying that its rules regarding investigations and hearings apply to a licensed animal crematory. The Board also is deleting the pro-rating of fees that was included at R3-11-1004(1) in the Notice of Proposed Rulemaking.

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ing and is changing the minimum standards to allow continued use of a cremation chamber installed in Arizona before the effective date of these rules if the cremation chamber complies with all federal, state, and local laws.

7. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

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

The primary economic impact results from the legislation requiring that an animal crematory be licensed. The minimal economic impact from the rules results from prescribing an application form, establishing minimum standards, and establishing a licensing fee. These are costs of doing business that may be passed to consumers of animal crematory services.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Jenna Jones
Address: Veterinary Medical Examining Board
1400 W. Washington, Ste. 240
Phoenix, AZ 85007
Telephone: (602) 542-8150
Fax: (602) 364-1039
E-mail: Jenna.jones@vetbd.state.az.us

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rules or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rules:

An oral proceeding regarding the proposed rules will be held as follows:

Date: Monday, December 11, 2006
Time: 10:00 a.m.
Location: 1400 W. Washington, Ste. 240
Phoenix, AZ 85007

The rulemaking record will close at 5:00 p.m. on December 13, 2006.

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

None

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

None

13. The full text of the rules follows:

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CHAPTER 11. VETERINARY MEDICAL EXAMINING BOARD

ARTICLE 1. GENERAL PROVISIONS

Section
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ARTICLE 9. INVESTIGATIONS AND HEARINGS

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R3-11-902. Informal Interview
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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

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- R3-11-1004. Fees
- 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
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ARTICLE 1. GENERAL PROVISIONS

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 a National and Clinical Competency 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 (R3-11-201 & R3-11-301)	Veterinary License	A.R.S. § 32-2212 A.R.S. § 32-2213	60	15	45
Veterinary Technician (R3-11-606)	Approval to Take a Veterinary Technician Examination	A.R.S. § 32-2243	60	15	45
Veterinary Technician (R3-11-606)	Veterinary Technician Certificate	A.R.S. § 32-2242 A.R.S. § 32-2244	60	30	30
Veterinary Medical Premises (R3-11-707)	Veterinary Medical Premises License	A.R.S. § 2271 A.R.S. § 32-2272	90	30	60
<u>Animal Crematory (R3-11-1002)</u>	<u>Animal Crematory License and Renewal</u>	<u>A.R.S. § 32-2292</u>	<u>90</u>	<u>30</u>	<u>60</u>

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 ~~32-2281~~ 32-2296 and this Chapter. The Board also may initiate a complaint on its own motion.

B. No change

C. No change

D. No change

R3-11-902. Informal Interview

A. The Board shall conduct an informal interview under A.R.S. § 32-2234, ~~32-2274~~, or ~~32-2294~~ as follows:

1. The Board shall send a written notice of the informal interview to all parties by personal service or certified mail, return receipt requested, at least 20 days before the informal interview. The Board shall ensure that the notice shall contain ~~shall~~ contains:

a. No change

b. No change

c. No change

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- d. No change
- e. No change
- f. The licensee's right to a formal hearing held according to A.R.S. § 32-2234, 32-2274, or 32-2294.
- 2. No change
 - a. No change
 - i. No change
 - ii. No change
 - iii. Deliberate.
 - b. No change
- 3. No change
 - a. No change
 - b. No change
 - c. No change
 - d. Impose disciplinary sanctions authorized by A.R.S. § 32-2234, 32-2274, or 32-2294 if a violation is found; or
 - e. No change
- B. No change
- C. No change

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. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - 5. No change
 - 6. No change

ARTICLE 10. ANIMAL CREMATORY MINIMUM STANDARDS

R3-11-1001. Definitions

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

"Cremated remains" 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.

"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 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.

"Process" means to reduce identifiable bone fragments remaining after cremation to unidentifiable bone fragments.

"Renewal period" means the two years between January 1 of an odd-number year and December 31 of an even-numbered year.

"Responsible owner" means an individual or entity with legal title to at least 10 percent of a licensed animal crematory.

R3-11-1002. Obtaining an Animal Crematory License

- A. A person shall not provide or represent to provide animal cremation services before submitting an application to the Board under subsection (B).
- B. To obtain an animal crematory license, the owner of an animal crematory shall:
 - 1. Submit an application, using a form obtained from the Board, that provides the following information:
 - a. Name of the animal crematory;
 - b. Address of the fixed location of the animal crematory;
 - c. Name of 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;
 - d. Addresses of all individuals identified under subsection (B)(1)(c);
 - e. Social Security numbers of all individuals identified under subsection (B)(1)(c);
 - f. Name of the operator;

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- g. A description of the services that will be provided at the animal crematory;
- h. A description of the animal crematory;
- i. A description of the cremation equipment; and
- j. Signature of the operator;
- 2. Submit the fee required under R3-11-1004(1).
- 3. Submit evidence that the operator received training in the safe and proper operation of the cremation chamber;
- 4. Submit a copy of every application for or license or permit issued for an 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. A responsible owner that fails to submit a renewal application 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 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;
 - c. Name of the responsible owner:
 - 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. Addresses of all individuals identified under subsection (C)(1)(c);
 - e. Social Security numbers of all individuals identified under subsection (C)(1)(c);
 - f. Name of the operator;
 - g. A description of the services provided at the animal crematory;
 - h. A statement regarding how the services provided at the animal crematory have changed during the renewal period; and
 - i. Signature of the operator; 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 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 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 responsible owner may have the animal crematory re-licensed only by complying with R3-11-1002.**

R3-11-1004. Fees

Under the authority provided by A.R.S. § 32-2207(9), the Board establishes and shall collect the following fees:

- 1. Animal crematory license: \$400;
- 2. Renewal of an animal crematory license: \$400;
- 3. Penalty for license renewal after January 31 following expiration: \$100; and
- 4. Duplicate license: \$10.

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

The responsible 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 is constructed to withstand temperatures high enough to reduce animal remains to bone fragments yet protect persons and property from damage from excessive heat or harmful emissions;
- 4. The cremation chamber is shielded from public view;
- 5. The cremation chamber is competently installed. If the cremation chamber is installed in Arizona after the effective date of this Article, the cremation chamber shall be installed according to the manufacturer's recommendations;
- 6. If the cremation chamber is inside a building:
 - a. It is vented to the outside of the building; and
 - b. There is adequate exhaust to prevent heat buildup;

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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;
 - 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.

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

The responsible 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. Other authorizing agent;
2. Animal remains that cannot be cremated immediately upon receipt are placed in the storage facility described in R3-11-1005(8);
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 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
 - b. Maintained so the cremation chamber functions in an effective and efficient manner; or
 - c. Operated and maintained according to the manufacturer's recommendations if the cremation chamber 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 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 agent;
 2. Authorization to cremate is obtained and documented;
 3. The cremation chamber is loaded and unloaded;
 4. Cremated remains are processed;
 5. Cremated remains, including unclaimed cremated remains, are disposed; and
 6. Records are to be completed and maintained.
- B.** The responsible owner shall ensure that all employees involved in providing animal cremation services are familiar with the required procedures.
- C.** The responsible owner shall make these written procedures available for inspection by the Board upon request.

R3-11-1008. Recordkeeping Requirements

- A.** The responsible owner shall ensure that the following records are maintained for three years:
 1. For the cremation of individual animal remains:
 - a. 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 from which the animal was received;

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- e. Authorization to cremate;
- f. Date of cremation; 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 from which the animal remains were received;
 - b. Number of animals and estimated total weight;
 - c. Authorization to cremate;
 - d. Date of cremation; 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 responsible owner shall enter into a written contract with the service that requires the service to inform the authorizing agent, in writing, of the name of the animal crematory that will do the cremation. The responsible owner shall maintain a copy of any contract for two years after expiration of the contract term.
- C.** The responsible owner shall maintain for two years records of all maintenance performed on the cremation chamber.
- D.** The 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 responsible owner shall make records required under subsection (A) available on request to the authorizing agent.

R3-11-1009. Change in Responsible Owner

- A.** The responsible owner shall not sell, assign, or transfer the license for an animal crematory.
- B.** If the responsible owner sells, assigns, or transfers all or part of a licensed animal crematory, the license is automatically cancelled and:
 - 1. The former responsible owner shall submit the cancelled license to the Board within 20 days after selling, assigning, or transferring the licensed animal crematory; and
 - 2. The new owner of the animal crematory shall not provide animal cremation services until an application is submitted under R3-11-1002.

R3-11-1010. Change in Operator

Within 20 days after a change in operator, the 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 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.