

# 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* 1st as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Arizona Administrative Register* after the final rules have been submitted for filing and publication.

## NOTICE OF FINAL RULEMAKING

### TITLE 3. AGRICULTURE

#### CHAPTER 2. DEPARTMENT OF AGRICULTURE

#### ANIMAL SERVICES DIVISION

#### PREAMBLE

1. **Sections Affected**

Article 1	<b>Rulemaking Action</b>
R3-2-101	New Article
R3-2-102	New Section
R3-2-103	New Section
R3-2-104	New Section
R3-2-105	New Section
R3-2-106	New Section
R3-2-107	New Section
R3-2-108	New Section
R3-2-109	New Section
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 3-1481

Implementing statutes: A.R.S. §§ 3-1481, 3-1482, and 3-1483
3. **The effective date of the rules:**

September 11, 1996
4. **A list of all previous notices appearing in the Register addressing the adopted rule:**

**Notice of Rulemaking Docket Opening:**  
1 A.A.R. 37, September 29, 1995

**Notice of Proposed Rulemaking:**  
2 A.A.R. 3094, June 14, 1996
5. **The name and address of agency personnel with whom persons may communicate regarding the rule:**

Name: Shirley Conard, Rules Specialist

Address: Department of Agriculture  
1688 West Adams, Room 124  
Phoenix, Arizona 85007

Telephone: (602) 542-0962

Fax: (602) 542-5420
6. **An explanation of the rule, including the agency's reasons for initiating the rule:**

Ratites, ostrich, emu, and rhea, are flightless birds having a flat sternum and rudimentary wings.

The ostrich industry has been a viable commercial agricultural industry for more than 100 years in South Africa, but references to the ostrich and their by-products can be found from the time the Pharaohs were in ancient Egypt. Currently the ostrich industry is growing at a remarkable pace in North America and other parts of the world.

The North American ratite industry is beginning to move out of the breeding phase, which means there is little commercial processing at the present time. Instead of being slaughtered, ratites are sold to other ranchers entering the ratite business. A pair of breeding adult ostriches recently cost between \$50,000 and \$75,000. Ranchers in North America are striving to meet the demand for fertile eggs, chicks, yearlings, and adult breeders. As the population approaches numbers necessary to support a slaughter market, prices will drop. The breeding stock of ostriches is increasing at a rate of 40% to 50% a year. At this time, there is no firm esti-

**Arizona Administrative Register**  
**Notices of Final Rulemaking**

mate when the supply of ostriches will be at a sufficient level to meet current, let alone future, consumer demand. Current U.S. demand for ostrich leather, meat, feathers, and other products may be as high as 150,000 birds annually.

As farmers are called upon to feed the ever-increasing world population, the efficiency of the ratite in putting on muscle will become very attractive. A beef animal's feed-to-muscle conversion is 5 to 1, meaning the animal must consume 5 pounds of feed to put on 1 pound of muscle. Some private ranchers have measured ostriches to have a feed-to-muscle conversion ration of 2 to 1.

Also, ratites have higher reproductive capabilities. For instance, in the cattle industry, once a cow calves, it takes 21 months to bring the calf to market with a slaughter weight of 1,100 pounds and a leather yield of 30 square feet. An ostrich hen will lay an average of 45 to 50 eggs a year with some laying as many as 120 eggs a year. Using the average number of eggs and a modest 50% survival rate, 23 birds will go to market in the 12-14 month range. At this age, each bird will yield approximately 75 pounds of meat and 14 square feet of leather. Economics heavily favors the ostrich breeding pair, with a total meat yield of 1,750 pounds versus 1,050 pounds for the steer. Furthermore, the ostriches will yield 332 square feet of leather to the cow's 30 square feet. The ostriches also yield feathers.

Ratite farming, which includes ostrich, emu, and rhea, is a potentially fast-growing alternative agricultural business. Thousands of ranchers nationwide are raising ratites for foundation stock and production. A survey conducted last summer by the *American Ostrich Association* shows that more than half of the nation's ostriches are located in the Southwest (Texas, Oklahoma, New Mexico, Arizona, and California). And Arizona has the largest single concentration of ostriches. In fact, Arizona accounts for more than 10% of the nation's ostriches. The industry is rapidly making the transition to a commercial market. Since there has always been a demand for ostrich leather, especially for the western boot market, the key has been to develop a market for the meat.

The potential of the ratite as a meat source is significant. Ratite farmers wishing to market their products to the public must take their ratites to slaughterhouses and processing establishments that can provide the necessary official marks and brands to assure that the carcasses and parts of carcasses have been inspected according to federal or state laws.

This voluntary rule package establishes the Department authority to inspect, register, and charge fees for any slaughterhouse and processing establishment wishing to handle ratites.

**Specific Section-by-Section Explanation of this Rulemaking**

**R3-2-101, Definitions.** This Section defines the terms used within the new Sections governing the ratite slaughterhouses and processing establishments, pursuant to A.R.S. Title 3, Chapter 11, Article 10, which will simplify interpretation of responsibility and clarity of purpose.

**R3-2-102, Slaughterhouse and Wholesale Processing Establishment Registration, Fee.** This Section establishes the fees required for slaughterhouse and wholesale processing establishments and sets the time frame for obtaining the registration. The fees are based on the statutory requirements, A.R.S. § 3-1481(B), "the Director may adopt fees to cover the costs directly related to this Article," and A.R.S. § 3-1482(B), "The Director shall establish a [slaughterhouse] registration fee of at least 100 but not more than \$500, that shall be submitted with the registration form."

**R3-2-103, Grant of Inspection, Pre-Grant of Inspection Evaluation, Fee.** This Section establishes the requirements and sets the timeframe for receiving the Grant of Inspection.

**R3-2-104, Denial, Withdrawal, and Suspension of Grant of Inspection.** This Section lists the specific circumstances for which a Grant of Inspection may be denied, withdrawn, or suspended.

**R3-2-105, Slaughterhouse Requirements, Inspection Fee.** This Section sets the requirements for ratite slaughterhouses. These requirements, which are based on the USDA red meat slaughterhouse regulations, are primarily the same as those currently enacted for meat and poultry slaughterhouses, except specific size variations dealing with ratite vs. livestock.

**R3-2-106, Ante-mortem Inspection Procedures.** This Section sets the procedures to be followed by the inspector and slaughterhouse personnel before a ratite is slaughtered. The Section specifies the characteristics of animals designated as "suspects", "condemned", and "downers", and establishes the procedure when dealing with electronic identification services (EIDs). It is essential that EIDs are removed or the resulting product will be adulterated.

This Section addresses the electronic identification device (EID), which is often used as an identifier by a producer. Although it is the responsibility of the slaughterhouse to remove the EIDs, it is the producer's responsibility to inform the slaughterhouse if the ratite has an EID and where it is located.

**R3-2-106, Slaughter Procedures.** This Section establishes the requirements of slaughter from stunning, bleeding, and feather removal to skinning and evisceration. These requirements are refinements of the USDA, Texas, and Oklahoma guidelines.

**R3-2-107, Post-mortem Inspection Procedures.** This Section sets the procedures to be followed by the inspector and slaughterhouse personnel after a ratite is slaughtered and is a refinement of the USDA, Texas, and Oklahoma guidelines. The Section also establishes that each carcass or part of a carcass will be marked with the official Arizona Inspected and Passed brand and a specific designation indicating the specific species of the ratite.

**R3-2-109, Wholesale Processing Establishment Requirements.** This Section sets the requirements for ratite processing establishments. The requirements are based on Arizona statutes regulating meat and poultry processing establishments.

Notices of Final Rulemaking

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

Not applicable.

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

This rulemaking sets up a voluntary program for ratite producers by giving them the option of choosing between USDA and state inspection to market their products. This rulemaking deals with requirements for ratite slaughter and ratite processing establishments. Although there are costs and benefits associated with the program, because the program is voluntary there is no negative impact to the industry.

Each entity affected by this rulemaking is making a voluntary decision to engage in the costs associated with the program. The Department is assured of obtaining funds to meet the requirements of this program by setting the costs to meet the directive of A.R.S. § 3-1481(B), that "the Director may adopt fees to cover the costs directly related to this Article."

The benefits of these rules outweigh costs associated with the rules and provide ratite producers with an alternative (and sometimes only) way to sell their products.

- A. *Estimated Costs and Benefits to the Department of Agriculture*

Initially, the Department may be using inspectors working for the meat and poultry program (MPI). This may infringe upon the legitimate time demands of the MPI inspectors and additional costs related to overtime may occur. This readjustment of personnel, however, will provide information and justification if the need for additional inspectors is warranted for this new program.

While the MPI program is half-funded by USDA-FSIS, statute requires the ratite program to be self-supporting and not receive funding from an outside source. Therefore, it will be important for the Department to keep precise records to account for the time the inspector spends working on each program.

**Registration Inspection.** The registration fee of \$100 for a slaughterhouse and \$25 for each location of a processing establishment is the base amount for the initial application and renewal. The applicant will also be charged for time spent verifying the slaughterhouse or the wholesale processing establishment meets the requirements of the Article. This verification process includes the actual time the supervisor or State Veterinarian spends inspecting the slaughterhouse or wholesale processing establishment, the time spent in transit to and from the office, and the travel reimbursement prescribed by statute. It is anticipated the supervisor or State Veterinarian will need approximately 1 hour at the slaughterhouse or wholesale processing establishment. Based upon the average salary of a grade 21 Administrative Services Officer II and a grade 24 State Veterinarian, the following explains the per hour charge for registration inspection: \$21.50, average salary; \$6.50, clerical salary based upon processing 1.25 registrations per hour at \$8.13 per hour; \$7.84, 28% ERE; and \$11.47, 32% indirect administrative costs. (TOTAL \$47.31).

**Slaughter Inspection.** The inspector must be present from ante-mortem through the entire slaughter process. The inner carcass is checked for any abnormalities, and the inspector makes certain the animal has been bled properly. If the inspector finds any abnormalities, or finds the bird was not bled properly, changes to the procedure will be made. On the average, 1 bird moves through the slaughter process every 45 minutes.

The actual time the inspector spends observing the slaughter or processing procedure will be accounted toward ratite inspection and will be based upon the following: The average cost of a grade 16 inspector at \$13.84 per hour; \$3.00 for supervisory authorization averaging 10 minutes per inspector hour; \$5.85, 28% ERE; and \$7.26, 32% indirect administrative costs. (TOTAL \$30.00). One-half hour of clerical work at \$4.06 (\$8.13 FTE) will also be added per inspector day.

- B. *Estimated Costs and Benefits to Political Subdivisions.*

Political subdivisions of this state are not directly affected by the implementation and enforcement of this proposed rulemaking.

- C. *Businesses Directly Affected by the Rulemaking*

*Estimated Costs and Benefits to Producers, Slaughterhouse Operators, Processing Establishments, and Contract Veterinarians:*

The ratite industry in the United States is changing from a primary breeder industry to an industry whose primary focus is the commercial production of ratites for their products - meat, leather, feathers, and oil. The capacity (facilities and expertise) to slaughter ratites cost effectively and efficiently is developing quickly, and slaughter numbers have been increasing dramatically for the last 12 months.

Certain management areas within the farm stand out as being key for making improvements in productivity and increasing income. These areas are genetic selection, disease prevention programs to improve flock health, environmental management, and feed costs (price and productivity of the feed).

Ratite producers must devise good marketing techniques and strategies to get buyers for their ratite meat products, and for every other part of the bird as well.

Although the 3 ratite species have anatomical and physiological differences, and many disease processes and management techniques are similar, the processing methods are virtually identical. The requirements for slaughterhouse equipment are much the same as the existing MPI slaughterhouse requirements. They include sanitary facilities, specific floor and wall materials, pest controls, cooler specifications, and inedible product areas. The differences in the rules come from the equip-

**Notices of Final Rulemaking**

ment dimension adjustments due to the size of ratites vs. the size of livestock.

Chief among the factors in a slaughter industry is the price paid for the animal at time of delivery to the processing plant. In most instances, this price is based on either live weight or hanging weight of the carcass. The Commodity Report, updated and printed each month in *The Ostrich News*, reflects the range of current prices paid by processors. A typical per-pound price is \$4.25 paid for ostrich carcasses (hide and internal organs removed) and \$5 for emus (hide and internal organs removed, fat included). Currently, there has not been a routine reduction imposed for light carcasses, nor a premium paid for optimal weight carcasses. The suggested weights are over 200 pounds for ostrich and over 80 pounds for emus.

The figures included in **Table 1** offer an average breakdown per bird of recently processed ostrich providing figures for percentage of yield from live weights through actual processed product. Based on the figures given, an ostrich weighing 271 pounds will end up as a carcass weighing 134 pounds on the rail. At \$4.25 per, this carcass will provide a return of \$569.50 to the producer. Based on figures derived from previous cost analysis of production done at Oklahoma State University this should net the producer \$400. A similar breakdown for emus (not reflected in the table) averaging 76 pounds live weight produced a carcass of 43 pounds on the rail. At a price of \$5 per pound, this carcass provides the producer \$215 with a net of \$130.

**TABLE 1**

Live Weight, Rail Weight, and Weight of Processed Cuts (in pounds) for Ostrich Slaughtered at a Commercial Operation in Oklahoma

**OSTRICH**

Live Weight	271.00 lbs.
Rail Weight	134.00 lbs.
Steaks	20.25 lbs.
Stir-fry/Stew	13.00 lbs.
Roast	11.25 lbs.
Ground	17.25 lbs.

To maintain a healthy, stable industry, we must look at this data from the perspective of the processor. Here the important element is the ability of the processor to offer the meat product at reasonable and competitive prices and yet earn a profit. **Table 1** reflects the processors usable production of meat from the ostrich purchased from the producer. The 134-pound ostrich carcass costing the processor \$569.50 provides 6 pounds of prime steak, 14.25 pounds of select steaks, 13 pounds of stir-fry/stew meat, 11.25 pounds of roasts, and 17.25 pounds of ground meat. In addition to the carcass cost, the processor's direct costs include initial inspection and killing costing \$30-\$60 per bird, labor costs of \$45-\$65 for processing, and about 10¢ per-pound packaging. The minimum cost to the processor of the 134-pound ostrich carcass is \$707.90 for 61.75 pounds of meat. These figures do not include costs for facilities, equipment, utilities, marketing, promotion, shipping, or other indirect costs.

According to these figures, if it relies only on meat sales, the processor must sell the meat at premium prices to see even a small return. Today, for example, that means selling prime ostrich steaks at \$18 per pound; select steaks at \$15 per pound; stir-fry/stew meat at \$12 per pound; roasts at \$12 per pound; and ground at \$7.50. At these premium prices the processor expects, after all meat sales, roughly a \$50 gross profit. But, the fact is these prices are not consistently obtained by the processor nor do these prices encourage widespread marketing efforts.

According to restaurant industry sources, most quality restaurants cannot pay in excess of \$3-\$6 per-pound wholesale for product and still expect to sell enough of that product to justify stocking it on a regular basis. It is also difficult to earn sufficient profit margins with the more expensive product. If we work toward \$3-\$6 as a processor figure, we can easily see that significant changes must take place in the industry to enter into competition with existing meat items. And, that high end \$5 figure is processor sales, not the wholesale cost offered by a meat distributor.

The processor then must take action to market all of the bird. They must receive income from hides, bell meats, bones, and feathers. Ostrich hides, currently quoted in the Commodity Report at \$270-\$325 offer significant income. Emu fat is another source of revenue for the processor. Increased efficiency in the processor operation and reduced costs of processing can be expected especially as volumes increase. The economy of volume cannot be overstated when costs such as processing, overhead, and transportation are considered.

Maximizing carcass weight is a key area of immediate concern for processors. An examination of **Table 2** shows the variations in weight of emus offered for harvest. As an example, an emu weighing 50 pounds live weight yields only 15.5 pounds of boneless meat while a 70-pound emu yields 25.5 pounds and a 90 pounder yields 34.5 pounds of boneless meat. From the processor's perspective, the meat provided by the 50-pound emu is costing him \$4 more per pound than meat from the 90 pounder. The processor cannot continue to buy less productive birds at premium prices and must begin to penalize birds that will not dress out. Remember the cost of processing, inspection, and packaging remain constant regardless of the size of the bird. Thus, it is fair to assume emus under 90 pounds will see a substantial reduction in payment from the processor just as will ostrich under 200 pounds.

**TABLE 2**

Live Weight, Hanging Weight, and Boneless Meat (in pounds) for Select Emus Slaughtered at a Commercial Operation in Oklahoma.

EMU		
Live Weight	Hanging Weight	Boneless Weight
50 lbs.	32.5 lbs	15.5 lbs
64 lbs.	40.0 lbs	20.0 lbs
73 lbs.	36.0 lbs	25.5 lbs
83 lbs.	43.0 lbs.	23.0 lbs.
90 lbs.	47.0 lbs.	34.5 lbs.

The producer should not be surprised that processors pay premium prices only for birds that provide the best ratio for meat per pound of carcass. While ostrich and emu both show surprisingly good meat performance, there is certainly room for improved performance. There are some keys to gaining better performance, there is certainly room for improved performance. There are some keys to gaining better performance. First, these birds go through extreme growth spurts. For example, as ostrich might jump rapidly from 100 pounds to 150 pounds seemingly overnight. But, growth is not meat. The meat goes on after the growth spurt has concluded. Given the wide range of birds we have today, there is a great deal of variance about when these "spurts" occur. Producers should be measuring and weighing birds to establish the best time to offer their birds for harvest. Another key is a pound of meat can be put on for as little as 10¢, a wise investment given the return for each pound.

There are other alternatives for the producer. One is to sell younger birds to the processor who, in turn, completes the finishing process, thus better controlling the quality of the carcass. Another may be selling young birds to a feed lot operator for finishing.

The processor has avenues to assure itself of reasonable returns. These include options such as more discriminate pricing to award top producing birds, employing finishing operations to improve carcass yields, and increasing efficiency.

The January 1996 issue *The Ostrich News* reports there is more than just meat sales. Marketing and sale of virtually the entire bird is required to be competitive in price. Emu oil sales, for example, can keep the meat price in line just as sales of ostrich hides help with the bottom line. Further development in need of immediate attention are sales of green emu skins, ostrich oil, and by-product development for the stomach, neck bones, etc. Every part of the bird must bring something for the processor so the producer can get the best return and the marketing people can price the meat competitively. Processing and value added products are seen as important for profit margins and meat processors are working with new variations of sausages, salamis, and the newest creation, "corned emu."

The processor can pay top price only if the bird produces the product. Birds that do not dress out well will not allow the processor to pay top dollar.

The ratite industry offers a meat product that is healthy, desirable, and marketable. Today, considering the slaughter data and market information available, we find the processor is paying top dollar for birds. We recognize, however, there is a certain dynamic that polarizes producers and processors. Despite the dollar tug among various parties in the market, we believe the producer, processor, and distributor can work together to achieve a program that can compete favorably with the competition while providing reasonable and realistic profits for each party.

The following information is taken from a February 1996 survey sent to Arizona ratite producers:

- From 1,147 female ostriches, 1,028 birds laid 57,075 eggs during the 1994/1995 season, averaging 55-56 eggs per bird.
- A 60% hatching rate produced 34,245 chicks.
- 30% of the chicks, 13, 698 birds, will be retained for breeding.
- Approximately 20,547 birds will be sold or slaughtered in 1996-97.
- 326 ostriches were slaughtered in 1995.
  
- From 323 female emus raised, 275 birds laid 6,955 eggs during the 1994/1995 season, averaging 25 eggs per bird.
- A 84% hatching rate produced 5,842 chicks.
- 12.5% of the chicks, 730 birds, will be retained for breeding.
- Approximately 5,112 birds will be sold or slaughtered in 1996-1997.
- 57 emus were slaughtered in 1995
  
- From 45 female rheas raised, 43 birds laid 1,508 eggs during the 1994/1995 season, averaging 35 eggs per bird.
- A 41% hatching rate produced 618 chicks.
- 6.33% of the chicks, 39 birds, will be retained for breeding.
- Approximately 579 birds will be sold or slaughtered in 1996/1997.

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

- 5 rheas were slaughtered in 1995.

The Arizona producers have agreed to provide slaughterhouses with any electronic identification device locator (\$600 each) the slaughterhouse does not currently have. The processor may purchase the locator for his or her own use and loan it to the slaughterhouse when the producer's birds are being slaughtered, or when the number of slaughtered birds is greater, ratite cooperatives may purchase the locators specifically for each slaughterhouse.

If a state inspector is not available to observe the slaughter or processing procedures, a contract veterinarian may be employed. The actual time the contract veterinarian spends observing the slaughter or processing procedure will be accounted toward ratite inspection and will be based upon the following: The average cost of a contract veterinarian at \$45 per hour; \$3 for supervisory authorization averaging 10 minutes per inspector hour; and \$15.36 for 32% indirect administrative costs. (TOTAL \$63) One-half hour of clerical work at \$4.06 (\$8.13 FTE) will also be added per inspector day.

D. *Estimated Costs and Benefits to Private and Public Employment.*

Although we are aware ratite producers have already hired workers to help on their ranches, it is difficult to predict the number of jobs this industry will produce in the future. If producers can market their ratites and provide a steady supply of birds, the Department, the slaughterhouse, and the processing establishments will all experience a shortage of personnel and need to hire additional employees.

E. *Estimated Costs and Benefits to Consumers and the Public.*

The emergence of the slaughter industry has completely changed the economics of ratite production. Today the ratite producer must manage with productivity and cost in mind. As we look at 1996, there will clearly be more birds slaughtered, both in the United States and in other countries. This will put a downward pressure on prices of meat and leather. The challenge will be to market ratite products well, and to offer the marketplace a high-quality product with clearly defined benefits.

F. *Estimated Costs and Benefits to State Revenues*

This rulemaking will have no impact on state revenues.

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

No substantial changes were made between the text of the proposed rules and the text of the final rules. The nonsubstantive changes enhanced clarity and created a more clear and concise document.

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

During the oral proceeding, the Department received comments and questions concerning the following:

A commenter suggested that more alternatives be included within subsection R3-2-107(B)(3)(a)(iii). The commenter suggested that a leather strap be used instead of a chain to hang the ratite during skinning. The commenter was concerned that if a chain is used the ratite hide will be damaged and the full hide would not be marketable. The commenter related a slaughterhouse incident where a worker threw the chain around the leg causing damage to the hide in that area. The commenter pointed out that the hide is a valuable resource and it is necessary to utilize the entire hide to obtain the greatest profit from the bird. *The Department indicated that it would discuss this issue with the slaughterhouse representative attending the oral proceeding, and advised the audience that a leather strap would not be sanitary and our first priority is to assure that contamination does not take place. During the subsequent discussion, the slaughterhouse representative and the commenter determined that full utilization of the hide is possible if the hide is removed from the foot before using the sterilized chain.*

A commenter questioned why the ratite industry is being burdened with the cost of fees when other livestock products are being subsidized. *The Department discussed the differences between statute and rules, and made clear that it was a statute directive that any fee adopted would cover the costs directly related to the ratite article. The Department also discussed the fact that ratites are not classified as a livestock by USDA and thus cannot apply for subsidy under the meat and poultry program.*

A comment asked whether the rules would preclude the USDA guidelines. *The Department responded that the USDA guidelines would still be followed if they chose to receive USDA approval. The Department rules would provide ratite producers with the option of receiving state approval.*

The commenter stated that an ADHS employee said that approved ratite meat could only come from a USDA plant. *The Department acknowledged that this statement is true at the present time. When the ratite rules become approved by the GRRC and filed with the Office of the Secretary of State, then ratite meat will also be approved from state inspected slaughterhouses and processing plants.*

A commenter stated that although he understands that the Department needs to charge for the services we provide and that the published fees seem to be fair, he would wish that we could reexamine the costs of the program. *The Department did not respond to the commenter at the oral proceeding, however the Department has been verbally approached by other industry members questioning program costs. The Department is aware that the ratite industry is just getting on its feet in Arizona and that fees of any kind cut into profits, however, as expressed in the economic impact statement, inspection cost based upon the actual time the inspector spends on the inspection and only a minimum amount for administrative work is added, not hourly, but on a per-day basis.*

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 locations in the rules:  
None.
13. Was this rule previously adopted as an emergency rule?  
No.
14. The full text of the rules follows:

**TITLE 3. AGRICULTURE**

**CHAPTER 2. DEPARTMENT OF AGRICULTURE**

**ANIMAL SERVICES DIVISION**

**ARTICLE 1. RATITES**

Section	
R3-2-101.	Definitions
R3-2-102.	Slaughterhouse and Wholesale Processing Establishment Registration, Fee
R3-2-103.	Grant of Inspection, Pre-Grant of Inspection Evaluation, Fee
R3-2-104.	Denial, Withdrawal, and Suspension of Grant of Inspection
R3-2-105.	Slaughterhouse Requirements, Inspection Fee
R3-2-106.	Ante-mortem Inspection Procedures
R3-2-107.	Slaughter Procedures
R3-2-108.	Post-mortem Inspection Procedures
R3-2-109.	Wholesale Processing Establishment Requirements

**ARTICLE 1. RATITES**

**R3-2-101. Definitions**

The following terms apply to this Article.

1. "Adulterated" means any carcass or part, meat, or meat food product under 1 or more of the following circumstances:
  - a. If it bears or contains any poisonous or deleterious substance that may render it injurious to health. If the substance is not an added substance, the Article shall not be considered adulterated if the quantity of the substance in or on the article does not ordinarily render it injurious to health.
  - b. If, because of administration of any substance to the live animal or otherwise, it bears or contains any added poisonous or deleterious substance that may, in the judgment of the State Veterinarian, make the article unfit for human food, other than a substance that is:
    - i. A pesticide chemical in or on a raw agricultural commodity.
    - ii. A food additive, or
    - iii. A color additive.
  - c. If it is, in whole or in part, a raw agricultural commodity and the commodity bears or contains a pesticide chemical that is unsafe within the meaning of the Federal Food, Drug, and Cosmetic Act, 21 CFR 408;
  - d. If it bears or contains any food additive that is unsafe within the meaning of the Federal Food, Drug, and Cosmetic Act, 21 CFR 409;
  - e. If it bears or contains any color additive that is unsafe within the meaning of the Food, Drug, and Cosmetic Act, 21 CFR 706. An article that is not deemed adulterated under subsections (aa)(2)(ii), (iii), or (iv) of this CFR Section shall be deemed adulterated if use of the pesticide chemical, food additive, or color additive in or on the article is prohibited for use in official establishments by the regu-

- f. If it consists in whole or in part of any filthy, putrid, or decomposed substance or is for any other reason unsound, unhealthful, unwholesome, or otherwise unfit for human food.
  - g. If it has been prepared, packed, or held under unsanitary conditions where it may have become contaminated with filth, or where it may have been rendered injurious to health.
  - h. If it is, in whole or in part, the product of an animal that has died other than by slaughter.
  - i. If its container is composed, in whole or in part, of any poisonous or deleterious substance that may render the contents injurious to health.
  - j. If it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to the Federal Food, Drug, and Cosmetic Act, 21 CFR 409.
  - k. If any valuable constituent has been in whole or in part omitted or abstracted from, or if any substance has been substituted, in whole or in part, or if damage or inferiority has been concealed in any manner, or if any substance has been added, mixed, or packed to increase its bulk or weight, or reduce its quality or strength, or make it appear of greater value than it is.
2. "Biological residue" means any substance, including its metabolites, remaining in a ratite at the time of slaughter or in any of its tissues after slaughter as the result of treatment or exposure of the ratite to a pesticide, organic or inorganic compound, hormone, hormone-like substance, growth promoter, antibiotic, anthelmintic, tranquilizer, or other therapeutic or prophylactic agent.
  3. "Captive bolt" means a stunning instrument that when activated drives a bolt out of a barrel for a limited distance.
  4. "Commercial purposes" means for use in commerce.
  5. "Condemned" means that an identified ratite has been inspected and is in a dying condition, or is affected with a condition or disease that requires condemnation of its carcass, or that the carcass, viscera, other part of the carcass, or other product identified has been inspected and is adulterated.
  6. "Contract veterinarian" means a private practice veterinarian who contracts with the Department to inspect the slaughtering of ratites or make a disposition of individual ratites.
  7. "Downers" means ratites that cannot rise from a recumbent position or that cannot walk, including those with broken appendages, severed tendons or ligaments, or nerve paralysis.
  8. "Eviscerate" means to disembowel or remove entrails.

**Arizona Administrative Register**  
**Notices of Final Rulemaking**

9. "Green-struck" means bile-contaminated ratite meat.
10. "Inspector" means an employee of the Department or other cooperating governmental agency whose duties are the enforcement of any law or rule of the Department, or a contract veterinarian hired to enforce the laws and rules of the Department.
11. "Official inspection" means the act of a Department employee or contract veterinarian being present during the slaughter or processing, or both, of ratites.
12. "Operator" means the person who has registered a slaughterhouse or processing establishment and who is responsible for that slaughterhouse or processing establishment.
13. "Person" means an individual, corporation, partnership, trust, association, cooperative association, and any other business unit or organization.
14. "Ratite" means ostriches, emus, rheas, and cassowaries.
15. "Retained" means the carcass, viscera, other part of carcass or other product, or article so identified is held for further examination by an inspector to determine its disposition.
16. "Sampling" means economic, chemical, or microbiological testing.
17. "Suspect" means that the ratite identified is suspected of being affected with a disease or condition that may require its condemnation, in whole or in part, when slaughtered, and is subject to further examination by an inspector to determine its disposition.
18. "Synovitis" means the inflammation of a synovial membrane, caused by injury, nutritional deficiency, or microorganisms.
19. "True container" means the receptacle or other covering in which any product is directly contained or wholly or partially enclosed.
20. "USDA" means the United States Department of Agriculture.

**R3-2-102. Slaughterhouse and Wholesale Processing Establishment Registration, Fees**

- A. Any person slaughtering or processing ratites for commercial purposes shall, pursuant to A.R.S. § 3-1482, provide the following information to the State Veterinarian on a registration form furnished by the Department:
  1. The name, address, and telephone number of the applicant;
  2. The date of the registration form;
  3. The name, physical address, mailing address, and telephone number of the business locations;
  4. The names, titles, and home addresses of all persons with an ownership interest in the business;
  5. The signature and title of the applicant.
- B. The operator shall submit the following nonrefundable fee with the completed registration form:
  1. Slaughterhouse, \$100;
  2. Wholesale processing establishment, \$25 for each business location.
- C. Registration Processing Timeframe.
  1. Within 7 business days of receiving the registration and fee, the Department shall notify the operator that the registration is either complete or incomplete.
    - a. If the registration is complete, the operator shall receive a registration certificate and information on how to obtain a Grant of Inspection;
    - b. If the registration is incomplete, the notice shall specify what information is missing.
  2. An operator with an incomplete registration shall supply the missing information within 7 business days from the date of the notice. If the operator fails to do so, the

Department may close the file. To become registered, an operator whose file has been closed shall reapply as a new applicant.

3. Upon receipt of the missing information, the Department shall notify the operator within 7 business days that the registration is complete.
- D. If an operator does not renew the registration within 30 days before the expiration date, the operator may renew within 90 days after the expiration date provided an additional, nonrefundable \$50 accompanies the registration fee.
- E. Registrations are not transferable and shall be valid for 1 year and expire on December 31, except as otherwise provided in R3-2-104 and 3 A.A.C. 1.
- E. The operator shall maintain records of all ratite transactions for a minimum of 1 year. Upon request, the operator shall permit the State Veterinarian, or the State Veterinarian's designee, to inspect any slaughterhouse or wholesale processing establishment records pertaining to ratites.

**R3-2-103. Grant of Inspection, Pre-Grant of Inspection Evaluation, Fee**

- A. An operator wishing a Grant of Inspection shall apply with the Department for a pre-grant of inspection evaluation.
- B. Within 30 days of the application, the Department shall conduct a pre-grant of inspection evaluation of the operator's establishment for compliance with R3-2-105 or R3-2-109, or both. If the establishment does not meet the minimum requirements, additional evaluations may be required.
- C. The Department shall, within 7 business days after the pre-grant of inspection evaluation, send the applicant an invoice for the pre-grant of inspection evaluation fee. This fee shall include the time to and from the State Veterinarian's office at \$47.50 per hour, and travel reimbursement as prescribed by A.R.S. § 38-623(C) and (D).
- D. If the pre-grant of inspection evaluation shows that the establishment complies with R3-2-105 or R3-2-109, or both, and the pre-grant of inspection evaluation fee has been received, the Department shall, within 7 business days, complete the Grant of Inspection by assigning a "P" number indicating the specific slaughterhouse, or the specific wholesale processing establishment.
- E. Pre-grant of inspection evaluations for continuance of a Grant of Inspection are valid for 1 year, except as otherwise provided in R3-2-104 and 3 A.A.C. 1.

**R3-2-104. Denial, Withdrawal, and Suspension of Grant of Inspection**

- A. The Director may deny a slaughterhouse or wholesale processing establishment a Grant of Inspection if:
  1. The operator previously has had a Grant of Inspection denied and has not shown that the operator can and will comply with the provisions of this Article;
  2. The pre-grant of inspection evaluation reveals contamination levels above those prescribed by this Article, or
  3. Noncompliance with R3-2-105 or R3-2-109.
- B. The Director may suspend or withdraw a Grant of Inspection if the operator:
  1. Files a Grant of Inspection application form that is false or misleading,
  2. Fails to keep or make available records for 1 year,
  3. Fails to remit the prescribed fee,
  4. Fails to notify the Department of any changes in ownership or management,
  5. Fails to maintain the slaughterhouse or wholesale processing establishment equipment and facilities in a clean and sanitary condition or
  6. Marks or labels ratite products or containers in a false or

**Notices of Final Rulemaking**

- misleading manner.
- C. The Director may suspend or withdraw a Grant of Inspection if the operator:
  - 1. Fails to comply with the tagging requirements prescribed by R3-2-106(C), or
  - 2. Fails to follow humane handling and stunning requirements prescribed by R3-2-107(A)(1) and (2).
- D. If a Grant of Inspection is denied, withdrawn, or suspended, the Department shall send the operator written notice explaining the reason for the denial, withdrawal, or suspension, and the operator's right to seek a fair hearing.
- E. The Director may order the operator to take appropriate action to correct any violation in subsections (A), (B), and (C).

**R3-2-105. Slaughterhouse Requirements, Inspection Fee**

- A. An operator shall keep a slaughterhouse in a clean and sanitary condition to ensure that contamination of carcasses in the evisceration area with dander or other contaminants is precluded. An operator shall maintain the following equipment and practices to ensure the production of a wholesale carcass free from contamination.
  - 1. General.
    - a. A metal knocking box or concrete box with a metal door to confine the animal before stunning;
    - b. A separately drained, dry landing area at least 5 feet wide in front of the knocking box;
    - c. A curbed-in bleeding area at least 8 feet wide and 7 feet long, located so blood will not splash upon stunned animals lying the dry landing area or upon carcasses being skinned on the siding bed. Curbing shall be at least 6 inches high and 6 inches wide;
    - d. Rails placed so the lowest part of the ratite is at least 12 inches from the floor;
    - e. A header rail placed at least 3 feet from the adjacent wall;
    - f. A 2-level viscera inspection truck for evisceration, unless a moving top viscera inspection table is used;
    - g. A suspect pen for the humane restraint of ratites to allow the inspector to examine suspect ratites;
    - h. A separate pre-evisceration area for stunning and bleeding, air injection, and the picking process.
  - 2. Pens
    - a. Holding pens surfaced with an impervious material, sloped to drains. A curb shall be installed around the outside of the holding pens to prevent the wash from escaping. Water under pressure shall be available for washing the holding pens.
    - b. Holding and shackling pens located outside of, and separated from, the slaughtering department.
    - c. Feeding pens at least 300 feet from the plant and not located in front of the plant.
  - 3. Disposal of blood. When blood is not permitted to drain into the sewage system, it may be collected in a metal tank and removed from the premises.
  - 4. Equipment and Utensils.
    - a. Equipment constructed of metal and easily cleaned. Cutting boards shall be of synthetic material, but equipment, such as the framework of boning or cutting tables, offal racks and trees, product storage racks, and product trucks shall be of metal construction. Rusty or worn-out equipment shall be replaced.
    - b. Equipment cleaned thoroughly following each day's operations. A clear, colorless, odorless, tasteless, edible mineral oil may be used on metal equipment, such as choppers, grinders, mixers, tables, meat trucks, offal racks, hooks, and trolleys. Scale shall not be permitted to accumulate on metal equipment.

- c. Receptacles for cleaning and sterilization of tools and equipment with drains to permit draining and cleaning of the receptacles and placed at convenient locations in the slaughtering department. Water wasting from equipment shall not flow across the floor.
- d. Shovels used for transferring ice or other edible materials from 1 another shovel shall not touch the floor.
- 5. Coolers. All coolers shall have concrete floors sloped to a drain. Walls shall be smooth, free of cracks, light-colored, and impervious. A separate chill cooler and holding cooler may be provided or both may be combined in 1 room. The door between the slaughtering department and the chill cooler shall be clad with rust-resistant metal. Rails shall be spaced at least 2 feet from walls, columns, refrigerating equipment, or other fixed equipment to prevent contact with the carcasses. When overhead refrigerating facilities are provided, insulated drip pans connected to the drainage system shall be installed beneath them. If wall coils are installed, a drip gutter of impervious material and connected to the drainage system shall be installed beneath the coils. When edible offal is chilled or stored in a cooler other than a separate offal cooler, that area shall be separately drained.
- 6. Ventilation and Lighting.
  - a. Natural ventilation may be supplemented by artificial means. Ventilation shall be sufficient to assure the absence of dust, masking odors, or steam vapors. To ensure adequate lighting at all times and at all places, natural lighting shall be supplemented by well-distributed artificial lighting.
  - b. A minimum of 100 foot candles of shadow-free lighting with a minimum color-rendering index of 85 at all inspection sites.
- 7. Inedibles.
  - a. All inedibles in containers with tight-fitting lids while in edible product areas or edible product coolers. All inedibles shall be denatured to preclude their use for human consumption.
  - b. Requests for permission to render shop scraps and outside dead animals shall be made to the inspector who shall grant or deny the request.
- 8. Other edible products departments.
  - a. Floors, walls, and ceilings in the edible products departments of the slaughterhouse constructed of material that can be readily cleaned. Wooden structures and equipment shall be kept at a minimum. Floors requiring drainage shall be constructed of dense concrete or floor brick laid on a concrete base. The interior walls and, where practical, ceiling surfaces shall be smooth and flat. Walls shall be constructed of glazed tile, smooth Portland cement plaster, or other impervious material. Walls shall be free of cracks and crevices and, where brick or tile is used, the mortar joints shall be flush with the surface of the walls. Walls shall be light colored.
  - b. Floors of the plant well drained with a slope of not less than 1/4 inch to the foot to drainage inlets. The floors shall be smooth, impervious, and in good repair; they shall be free from cracks and depressions that could hold floor liquids. Floors shall not be made of wood. Junctions of floors and walls shall be covered.
  - c. Walls, ceilings, beams, and hangers cleaned. Rails may be oiled instead of painted. Rust and scale shall

*Arizona Administrative Register*  
Notices of Final Rulemaking

- be removed from hangers and meat trolleys. Smooth Portland cement plaster walls shall not be painted.
9. Drainage.
- a. Floors that require flushing during operations with sloped floor drains to carry off the floor drainage. Each floor drain shall be equipped with a deep-seal trap. Drainage lines shall be vented to the outside in accordance with local plumbing codes. A drain line shall be at least 4 inches in diameter.
  - b. Sewage may be disposed of into a municipal sewer system, if permitted by local ordinance, or it may be disposed of into a stream or other similar body of water, provided that:
    - i. This method is acceptable to health authorities having jurisdiction over sewage disposal, and
    - ii. The flow of the stream or other body of water is sufficient to carry the sewage away from the plant at all seasons of the year. When cesspools are used, they shall be of sufficient size to receive the sewage from the plant at all times, and constructed so they do not create a nuisance by breeding flies or other insects.
  - c. Grease recovery basins shall not mask odors or create a harborage for pests.
10. Water Supply, Wash Basins, Sterilizing Facilities.
- a. Hot and cold running water, under pressure, available at all parts of the plant and that conforms with the requirements of the Department of Health Services. The hot water used for cleaning inspection equipment and other equipment, floors, and walls that are subject to contamination by the dressing or handling of diseased carcasses, their viscera, and other parts, shall be at least 180°F. Thermometers shall be installed to show the temperature of the water at the point of use. A cleanup hose shall be provided.
  - b. The hot water used for cleaning rooms and equipment other than those mentioned in subsection (A)(10)(a) shall be delivered under pressure and at least 140°F.
  - c. At least 1 foot-pedal operated wash basin placed in or near each dressing room. These wash basins shall be equipped with running hot and cold water, delivered through a combination mixing faucet with an outlet 12 inches above the rim of the bowl. The drainage outlet shall lead directly into the drain of the sewage system. Soap, paper towels, and a receptacle for dirty paper towels or other trash shall be convenient to the wash basin.
  - d. One or more foot-pedal operated wash basin located in the slaughtering department, and 1 or more in any other place in the establishment as may be essential to ensure cleanliness of all persons handling products. These wash basins shall be equipped with hot and cold running water, delivered through a combination mixing faucet with an outlet 12 inches above the rim of the bowl. The drainage outlet shall lead directly into the sewage lines. Soap, paper towels, and a receptacle for dirty paper towels or other trash shall be convenient to the wash basins.
  - e. Water for sterilizing purposes maintained at a temperature of at least 180°F. One or more sterilizing receptacles of rust-resisting, impervious material shall be placed at convenient locations in the slaughtering department for the sterilization of contaminated implements or implements used on a diseased carcass or part of a carcass. The sterilizer shall be equipped with a cold water and steam line, or other means to maintain water at a minimum of 180°F, during all slaughtering operations. The sterilizer shall contain a drain so water may be completely drained for daily cleaning of the sterilizer. Equipment such as boilers and water heaters shall not be located in the slaughtering department or in any edible products department. To prevent back siphonage, vacuum breakers shall be provided on all steam and water lines when the open ends are submerged or connected to equipment.
11. Protection Against Flies, Rodents, or Other Vermin.
- a. Kept free of flies, rats, mice, roaches, and other pests or vermin. The slaughterhouse shall be constructed to prevent entrance of rodents to the premises and to eliminate their breeding places in surrounding areas and in the establishment. The plant shall be constructed to eliminate roach and other insect harbors. Windows, doors, and other openings to the plant shall have insect screens or other measures to prevent entrance of flies or other insects. The screens shall be kept in good repair. Sprays containing residual-acting chemicals shall not be used in edible products departments.
  - b. Animal-handling facilities such as stock pens and runways cleaned as often as necessary. Manure or other waste materials shall not be permitted to accumulate at or near the plant.
12. Toilet and hand-washing facilities with both hot and cold running water. Separate facilities shall be provided when both sexes are employed.
- B. Sterilizing Equipment.
1. Implements contaminated by contact with diseased or adulterated carcasses shall be cleaned and sterilized.
  2. Equipment used in dressing a carcass, such as viscera trucks or inspection tables, shall be sterilized as prescribed by subsection (A)(10)(e).
- C. Slaughtering Other Species.
1. The kill floor and equipment shall be completely washed down with hot water and soap, and contact equipment shall be sterilized before any other species is slaughtered.
  2. Soap and water shall be used to clean all product contact surfaces following ratite slaughter and processing.
  3. Plant personnel shall change protective clothing and shall wash their hands between the slaughter of ratites and other species.
- D. A slaughterhouse shall reimburse the Department for the actual time spent conducting the official inspection at the following rates:
1. Department inspector, \$30 per hour, or
  2. Contract veterinarian, \$63 per hour, or
  3. Clerical work per inspector day, \$4; and
  4. Travel, if applicable, as prescribed in A.R.S. § 38-623(C) and (D).
- E. If an inspector is not normally at a slaughterhouse, the plant manager shall contact the Department 48 hours before ratite slaughter and request that an inspector be provided to conduct the official inspection and witness the slaughtering procedure. If an inspector is not available, the Department shall provide an inspector at the earliest possible date. The plant manager may request the Department to hire a contract veterinarian to conduct the official inspection and witness the slaughtering procedure.
- F. A slaughterhouse shall pay the cost of sampling.

**R3-6-106. Ante-mortem Inspection Procedures**

**A. Inspection Procedure**

1. An inspector shall observe each ratite from both sides, at rest and in motion, to determine whether abnormal conditions exist. Abnormal conditions include loose stools characterized by excessive fecal stains around the vent, a pasty vent, or both, bloody diarrhea, regurgitation of food, disinclination to rise from sternal recumbency, and weight loss particularly notable over the back and thighs.
2. Any ratite exhibiting physiological or pathological disease characteristics or other abnormal conditions shall be identified as a suspect, segregated, and held for further inspection by the inspector.

**B. Ratite Washing.** If the ratite is washed before slaughter, sufficient time shall be allowed after washing for the ratite to be dry enough to prevent dripping when stunned.

**C. Other Marks and Devices.**

**1. Suspect.**

- a. Ratites shall be handled as suspects if they show signs of abnormalities or diseases, such as dirty, ruffled feathers; swollen sinuses; eye discharge; nostril discharge; diarrhea; swellings; lameness; ascites; or cachexia.
- b. All ratites identified as suspect shall be tagged by plant personnel with a serially numbered metal or plastic leg band or tag bearing the term "Arizona Suspect" except, if segregated and handled as suspect, ratites affected with conditions to the extent that lesions would be readily detected on post-mortem inspection need not be individually tagged on ante-mortem inspection need not be individually tagged on ante-mortem inspection with the "Arizona Suspect" tag.
- c. Suspect ratites showing signs of abnormalities or diseases shall be segregated into designated suspect pens for examination by an inspector.
- d. Each ambulatory suspect shall be retained and slaughtered at the end of the day's operation.
- e. A slaughtered suspect shall be retained as a suspect until final post-mortem inspection by a contract veterinarian or a Department veterinarian if the inspector concludes the ratite is affected with a disease or condition that may cause condemnation of the carcass on post-mortem inspection.

**2. Condemned.**

- a. Ratites determined to be condemned on ante-mortem inspection shall be identified as Arizona Condemned in a manner approved by the State Veterinarian, decharacterized, and disposed of in a manner that precludes use as human or animal food.
- b. Condemned ratites shall either be promptly or humanely killed and disposed of by plant employees or, with permission of the State Veterinarian, held for observation or treated, or both, in separate facilities on the premises. Following recovery, the held ratite may be reexamined by an inspector. If normal, the held ratite may be passed for slaughter as suspect with the permission of the State Veterinarian.
- c. Dead-on-arrival (DOA) carcasses shall be tagged "Arizona Condemned," decharacterized, and disposed of in a manner that precludes use as human or animal food.
- d. Carcasses shall be decharacterized with 1 of the following denaturing agents:
  - i. Charcoal (finely powdered) with a minimum 1 lb. per 100 lbs. meat,

- ii. F-D & C Blue 2,
- iii. F-D & C Green 3, or
- iv. Liquid charcoal.

**3. Downers.**

- a. All ratites termed downers shall be identified as Arizona Suspect.
- b. All downers, including those showing signs of trauma, shall be examined by an inspector. The nature and extent of the examination shall be sufficient to determine whether the ratite should be condemned, passed for slaughter as suspect, or held for further observation.
- c. Downers shall be handled as expeditiously as possible.
- d. Carcass disposition for those passed for slaughter shall be based on ante- and post-mortem findings and, when necessary, on laboratory results.

**4. Poisoning.** Ratites exhibiting signs of drug or chemical poisoning shall be withheld from slaughter. The State Veterinarian shall be immediately notified as to the history, number of ratites involved, symptoms, and other pertinent information.

**5. Reportable Diseases.**

- a. If a reportable disease is suspected, the inspector shall notify the plant management and immediately inform the State Veterinarian.
- b. Ratites with or suspected of having a reportable disease may be removed from the plant at the producer's request with the approval of the State Veterinarian. These ratites are subject to federal and state laws on disease control and eradication.

**D. Electronic Identification Device (EID) Certification**

1. The producer shall certify the presence or absence of an EID in each ratite. If an EID is present, the producer shall state the location of the device.
2. The plant manager shall provide the EID certification to the inspector at the time the ratite is presented for ante-mortem inspection.
3. Prior to skinning, the plant manager shall scan all ratites to determine the presence and location of the EID.
4. The EID shall be removed and disposed of to prevent its entry into edible product, edible rendered product, or any rendered product destined for use in animal foods. Carcasses known to contain EIDs shall not pass post-mortem inspection until the device is removed and presented to the inspector. If an EID cannot be located, the part of the carcass where the device is removed and presented to the inspector. If an EID cannot be located, the part of the carcass where the device was implanted shall be condemned and placed in a container marked "condemned." This condemned part shall enter normal rendering operations and shall not be used in processing animal foods. Unless the part of the carcass where the EID was implanted is condemned, none of the carcass will pass inspection.

**E. Drug Use Certification.** The producer shall complete and sign a Drug Certification For Ratites form provided by the Department stating whether the ratite has been treated with, or otherwise given vaccines or medications.

**R3-2-107. Slaughter Procedures**

**A. Pre-evisceration**

**1. Humane Handling.**

- a. All ratites shall be handled in a manner that prevents needless suffering.
- b. Downer ratites shall not be dragged while conscious.
- c. Feed and water shall be supplied to all ratites held more than 24 hours.

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

2. Stunning. Ratites shall be rendered unconscious by an electrical or captive bolt stunner, hobbled, or shackled after stunning, and hoisted from the dry landing area by 1 or both legs.
  3. Bleeding.
    - a. A cut shall be made through the thoracic inlet to sever the heart or major arteries and veins exiting the heart to ensure complete bleeding.
    - b. For emus, immediate removal of the head is an acceptable alternative to severing the heart or major arteries and veins exiting the heart. The procedure for head removal prescribed in subsection (B)(2) shall be followed if this option is chosen.
  4. Feather Removal.
    - a. Feathers may be removed by dry hand picking on the kill floor (after stunning) if it can be done without contaminating the kill floor with dander and feather dust. The floor shall remain reasonably free of feathers.
    - b. Feathers may remain on the wing tips and tail if the wing tips and tail are removed during skinning. All removed feathers shall be stored in containers away from the exposed carcass. If required by the inspector, the skin shall be rinsed to remove loose dander and dust.
    - c. Feathers may be picked before or after air injection.
    - d. Feather follicles remaining on the carcass after skinning shall be removed by trimming.
    - e. De-feathered carcasses shall be transferred to the evisceration area. Plant employees who work in the pre-evisceration area shall wash their hands, arms, and apron to remove dust and dander before beginning the skinning and evisceration operations. If necessary to reduce contamination from dust and dander during evisceration, the inspector may require a washdown of the kill floor before evisceration begins.
  5. Air Injection.
    - a. Compressed air injection shall be conducted in a sanitary manner that includes air filtration and injection needle disinfection. Air filtration shall consist of not less than 2 stages. An initial stage of air filtration shall occur at or near the use point and consist of an aerosol or coalescing filter, capable of filtration to not more than 0.75 microns, for the removal of oil and water. A subsequent stage of air filtration shall occur at or near the point the needle hose attached to the air line and consist of a particulate filter capable of filtration to not more than 0.3 microns. The filters shall be maintained by inspecting regularly to ensure they are working properly, and cleaning or replacing when necessary. The injection needle shall be disinfected by placement in water that is not less than 180°F. for at least 10 seconds immediately before each injection.
    - b. When air is injected, the neck and the vent shall be tied after air injection and before skinning to minimize leakage of cloacal material in accordance with subsection (B)(1). If leakage occurs, the carcass shall be washed before skinning.
- B. Skinning and Evisceration.**
1. Venting/Bunging. The vent shall be excised, in a manner that prevents contamination from cloacal material. After the attachments to the vent are loosened, the vent shall be drawn from the carcass, encased in a plastic bag, and tied.
  2. Head Removal.
    - a. If the head is removed immediately after stunning, the head shall be removed by cutting the skin of the neck to expose the esophagus and trachea. The esophagus shall be loosened from the neck, severed from the head, stripped from the neck, and tied.
    - b. If the neck is saved as edible product, the head shall be removed and placed adjacent to the viscera inspection station after the skin of the head is excised to the ventral part of the beak. If the neck is not saved as edible product, the neck with the head attached may be skinned, severed, and placed adjacent to the viscera inspection station. The cervical vertebrae may be sawed through to remove the head or neck, or both.
    - c. When the breast plate is removed to facilitate evisceration, tying the esophagus may not be required. The head and trachea shall be removed from the neck and presented for inspection.
    - d. Identification of the neck, head, and corresponding carcass shall be maintained until final inspection of the ratite and the EID certification prescribed in R3-2-106(D)(1) and (2) is completed. The head shall be handled so it will not cause contamination of edible parts.
3. Skinning.
    - a. Leg and Foot Removal.
      - i. If the feet, toes, and lower legs are removed before proceeding with the skinning operations, the skin shall be carefully reflected at a point distal to the hock joint, and the leg shall be sawed through, approximately 3 inches below the hock, to remove the lower leg and foot. Care shall be taken not to contaminate the exposed neck with dirt and dander from feet and legs.
      - ii. If the feet and lower legs are removed after skinning, the carcass shall be hung by a toe and reflected radially at the toe joint, the complete leg shin shall be removed as a single piece with the body skin. The lower leg and foot may then be removed below the hock as described in subsection (B)(3)(a)(i).
      - iii. A sterilized chain may be attached proximal to the tibiotarsal-tarsometatarsal (hock) joint for hanging the carcass, or 2 separate hooks may be used for hanging the carcass by the tendons.
    - b. Skin Removal.
      - i. Skinning may be started on the cradle and finished on the hoist. The skin shall be opened lengthwise on the ventral midline. The skin shall be reflected away from the carcass to prevent contamination of exposed tissues. Care shall be taken to prevent carcass contamination with dander, feathers, feces, urine (in ostriches), or other extraneous material.
      - ii. Remaining fatty tissue that contains pinfeathers which pulled through the skin during the skinning process may be saved only as inedible product. The fatty tissue containing the pinfeathers shall be removed by trimming. Transferring fat from a fat carcass to a lean carcass is prohibited.
      - iii. If contamination occurs during the handling of carcasses, organs, and other parts, the contaminated carcass, organs, or other parts shall be promptly removed by the plant employee in a

**Notices of Final Rulemaking**

- manner approved by the inspector.
- iv. Carcasses shall not contact each other from the bleeding area to the last inspection point.
  - 4. Neck Removal. If the neck touches the floor, the contaminated portion shall be removed and identified to the carcass. The contaminated portion shall be condemned.
  - 5. Evisceration.
    - a. Evisceration begins with a midline abdominal incision caudal to the breast plate. The sternum and, in ostriches, the pubic symphysis, shall be split with a brisket saw or other device approved by the inspector. As an alternate procedure the ribs may be severed on each side and the breast plate pulled down to expose the thoracic viscera. If the breast plate is removed by sawing through the ribs, the saw shall be directed toward the outside of the thorax to prevent damage to the viscera.
    - b. The pelvis (pubic symphysis) of the ostrich shall be spread for visibility after being split to aid in preventing puncturing the urinary bladder at the time the vent is excised, bagged, and tied. The bagged and tied vent shall be pulled through the pelvis and abdominal cavity.
    - c. Part of the abdominal walls may be removed before evisceration to increase visibility of internal organs.
    - d. The liver, spleen, intestinal tract, testes or ovary and oviduct, and lungs shall be reflected in a caudal to cranial direction by cutting and blunt dissection without causing contamination of any part of the carcass or edible product. Care should be taken to avoid penetrating the gut.
    - e. The intestinal tract, oviduct, and ovary shall be placed in a separate tray for inspection. The heart, lungs, trachea, testicles, liver, and spleen shall be placed in a separate tray. The kidneys shall be observed in their pelvic crypts on the carcass by the inspector before their removal from the crypts by the eviscerator. They shall be reinspected in the tray with the intestinal tract.
    - f. Evisceration procedures different from those described in subsections (B)(5)(a) and (b) may be acceptable provided they are approved by the inspector and do not alter the inspection procedure.
  - 6. Trimming and Carcass Washing. The carcass shall be trimmed of all defects and visible contamination. After the carcass inspection has been completed, the carcass shall be washed.
  - 7. Contamination. Carcasses or parts of carcasses contaminated by contact with diseased carcasses shall be condemned unless all contaminated tissues are removed promptly.
  - 8. Retained Product. When product is retained for further inspection, identity and wholesomeness shall be preserved. Identity shall be maintained by keeping the product under department lock or seal, or by using retained tags. Product wholesomeness shall be maintained by preventing contamination, dehydration, and decomposition with plastic bags or other refrigeration or freezing means. If necessary, samples of retained product may be sent to the laboratory.

**R3-2-108. Post-mortem Inspection Procedures**

- A. The inspector shall inspect each carcass, all parts except feathers and toes, and accompanying viscera. Any carcass, part, or viscera exhibiting physiological or pathological disease characteristics that might render the carcass or any part adulterated shall be identified as Arizona Retained and held for further

- disposition by the State Veterinarian or by a contract veterinarian. The identity of the carcass, including all parts, shall be maintained until a final inspection has been completed.
- B. Each carcass and all organs and other parts of carcasses that are not diseased, adulterated, or naturally inedible shall be passed for human food and stamped with the official species inspection brand.
- C. The carcass or parts of a carcass of all ratites inspected at a registered slaughterhouse and found at the time of post-mortem inspection, or at any subsequent inspection, to be affected with any of the diseases or conditions named in this Article shall be disposed of in accordance with the instructions in subsection (F) pertaining to the disease or condition. The inspector shall decide the manner of disposal for each carcass, organ, or other part not specifically covered by this Article. If the inspector is in doubt concerning the disposition, the State Veterinarian shall make the final determination. Specimens from the carcass may be sent to a laboratory approved by the State Veterinarian for histopathological, microbiological, or toxicological diagnosis.
- D. Inspection Procedures.
  - 1. Digestive System. The inspector shall observe the esophagus, proventriculus, ventriculus (gizzard), small intestine (including the cecum and pancreas), the rectum, cloaca, urinary bladder (in ostriches), and vent.
  - 2. Head. The inspector shall inspect the head by incising the skin of the throat up to the ventral part of the beak. The skin and tissues shall be reflected laterally exposing the tissues of the head. Any abnormalities shall cause the carcass to be identified as suspect. The neck shall be inspected with the head if both were removed together.
  - 3. Heart. The inspector shall palpate, open, and observe the heart for abnormal conditions. The cut surfaces of the muscle, inner surfaces, and valves shall be observed.
  - 4. Kidney. The inspector shall observe the kidneys in their crypts (of the synsacrum) on the carcass and observe, and palpate them in the intestinal tray after carcass inspection. After the inspector examines the kidneys on the carcass, a plant employee shall remove the kidneys from the carcass and present them for further inspection on the lower tray of the viscera truck. After inspection of the kidneys is complete, the kidneys shall be condemned as inedible.
  - 5. Liver. The inspector shall observe, and palpate the liver for any swelling, abscess, nodule, or color change. The gall bladder shall be observed on an emu or rhea.
  - 6. Lungs and Trachea. The inspector shall observe the lungs for any abnormal condition, such as thickening, granulomatous condition, abnormal exudate, discoloration, nodule, and abscess. The trachea shall also be observed.
    - a. Ratite lungs shall not be saved for use as human food. They shall be maintained under inspector control until properly disposed of.
    - b. Lungs not condemned may be used in the preparation of animal food at the registered slaughterhouse with the approval of the inspector, or they may be distributed from the slaughterhouse in commerce for animal food manufacturing purposes or to pharmaceutical manufacturers for pharmaceutical use, if they are labeled as "Inedible Ostrich Lungs - for Animal Food or Pharmaceutical Manufacturing Only."
  - 7. Spleen. The inspector shall observe and palpate the spleen.
  - 8. Viscera. The inspector shall palpate the viscera, visceral organs, and internal fat for abnormal swelling, coloration

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

change, nodule, thickening, abscess, or other inflammatory process. Incisions shall be made when necessary for further inspection.

**E. Diseases or Conditions to be Considered in Post-mortem.**

1. **Airsacculitis.** The abdominal and thoracic air sacs shall be observed before, during, and after evisceration. Carcasses with evidence of extensive involvement of the air sacs with airsacculitis or those showing airsacculitis along with systemic changes shall be condemned. Less affected carcasses may be passed for food after complete removal and condemnation of all affected tissues including the exudate.
2. **Anemia.** Carcasses of ratites too anemic to produce wholesome meat shall be condemned.
3. **Anthrax.**
  - a. Carcasses found before evisceration to be affected with anthrax shall not be eviscerated but shall be retained, condemned or disposed of in a manner that precludes use as human or animal food.
  - b. After evisceration, any carcass or part, including hides, feathers, viscera and contents, blood, or fat of a ratite affected with anthrax, shall be condemned and immediately disposed of in a manner that precludes use as human or animal food.
  - c. Any part of a carcass that is contaminated with anthrax-infected material through contact with soiled instruments shall be immediately condemned and disposed of in a manner that precludes use as human or animal food.
  - d. Any portion of the slaughtering department contaminated through contact with anthrax-infected material, including the bleeding area, gambrelling bench, floors, walls, posts, platforms, saws, cleavers, knives, hooks, and employees' hoots and aprons, shall be cleaned immediately and disinfected with a disinfectant approved by the State Veterinarian.
  - e. When a disinfectant solution is applied to equipment that will afterwards contact product, the equipment shall be rinsed with potable water before the contact.
4. **Arthritis.**
  - a. Carcasses affected with arthritis that is localized and not associated with systemic change may be passed for human food after removal and condemnation of all affected parts.
  - b. Affected joints shall be removed and condemned. To avoid contamination of the meat that is passed for human food, the joint capsule shall not be opened until after the affected joint is removed.
  - c. Carcasses affected with arthritis shall be condemned when there is evidence of systemic involvement.
5. **Biological Residues.**
  - a. Carcasses, organs, or other parts of carcasses shall be condemned if the inspector determines they are adulterated because of the presence of biological residues.
  - b. Ratites suspected of having been treated with or exposed to any substance that may impart a biological residue that would make the edible tissue unfit for human food or otherwise adulterated shall be identified as Arizona Suspect. These ratites may be released from the slaughterhouse with permission from the State Veterinarian. When the metabolic processes have reduced the residue sufficiently to make the tissues fit for human food and otherwise not adulterated, the ratite may be returned for slaughter. To aid in determining the amount of resi-

due present in the tissue, the inspector may permit the slaughter of any affected ratite for the purpose of collecting tissue for analysis of the residue. This analysis may include the use of in-plant screening procedures designed to detect the presence of antimicrobial residues.

- c. All carcasses, edible organs, and other parts, in which biological residues are found that render the articles adulterated shall be marked as "Arizona Condemned" and disposed of in a manner acceptable to the Department, kept separate from all other condemned carcasses or parts, and not used for animal food.
6. **Bruises.** Any carcass or part of a carcass that is badly bruised shall be condemned. Parts of a carcass that show only slight reddening from a bruise may be trimmed and passed for food.
7. **Central Nervous System Disorders.** Ratites with central nervous system disorders such as depression, drowsiness, weakness, coma, staggering, circling, or muscular tremors shall be condemned.
8. **Contamination.**
  - a. At the time of any inspection, each carcass or part of a carcass that is adulterated due to contamination shall be condemned, except that any carcass or part of a carcass that may be made unadulterated by reprocessing need not be condemned if reprocessed under the supervision of an inspector and found to be not adulterated after reinspection.
  - b. Any carcass accidentally contaminated during slaughter with digestive tract contents shall not be condemned if promptly reprocessed under the supervision of an inspector and found to be not adulterated after inspection. Contaminated surfaces shall be removed only by trimming.
  - c. Carcasses contaminated by volatile oils, paints, poisons, gases, or other substances that render the carcasses adulterated shall be condemned. Any organ or other part of a carcass that has been accidentally mutilated during processing shall be condemned, and if the whole carcass is affected, the whole carcass shall be condemned.
9. **Decomposition.** Carcasses deleteriously affected by post-mortem change shall be disposed of as follows:
  - a. Carcasses that have reached a state of putrefaction or stinking fermentation shall be condemned;
  - b. Carcasses affected by types of post-mortem change that are superficial in nature may be passed for human food after removal and condemnation of the affected parts.
10. **Drug Withdrawal.** Ratites that receive a drug or chemical and are presented for slaughter before the required withdrawal period is complete shall be withheld from slaughter until the withdrawal period elapses.
11. **Emaciation.** Carcasses too emaciated to produce wholesome meat, and carcasses that show a serous infiltration of muscle tissue, or a serous or mucoid degeneration of fatty tissue, shall be condemned. A gelatinous change of the fat of the heart of well-nourished carcasses and mere leanness shall not be classed as emaciation.
12. **Emergency Slaughter.**
  - a. Emergency slaughter may be allowed with the permission of the State Veterinarian.
  - b. If emergency slaughter is granted, the ratite shall be marked "Not For Sale" and no inspection will be required. Meat from these ratites shall be used only

Arizona Administrative Register  
Notices of Final Rulemaking

- by the owner.
- c. Sick or dying ratites, or ratites treated with a drug or chemical and presented for slaughter before the required withdrawal period, are not covered by emergency slaughter provisions.
13. Escaped Ratites; Control. Tranquilizers shall not be used on ratites destined to slaughter. If a tranquilizer is used, the inspector shall consult the State Veterinarian for handling and disposition of involved ratites.
14. Inflammatory Conditions. Any organ or other part of a carcass that is affected by inflammation shall be condemned; when the lesions are of a character or extent as to affect the whole carcass, the whole carcass shall be condemned.
15. Livers with the following diseases or abnormalities shall be condemned:
- a. Inflammation, abscess, necrosis, cirrhosis, or tumors;
  - b. Livers with 1 large cyst or several small cysts;
  - c. Discoloration caused by bile duct disorders;
  - d. Enterohepatitis; or
  - e. Contamination from intestinal contents or noxious materials.
16. Lungs and Trachea Inspection. Lungs affected with disease or pathology and lungs adulterated with chemical or biological residue shall be condemned and identified as Arizona Inspected and Condemned. Condemned lungs may not be saved for animal food.
17. Muscular Inflammation, Degeneration, or Infiltration.
- a. If muscular lesions are found to be distributed so removal is impractical, the carcass shall be condemned.
  - b. If muscular lesions are found to be distributed so removal is practical, the following requirements shall govern disposal of the carcasses, edible organs, and other parts of carcasses showing the muscular lesions:
    - i. If the lesions are localized so that the affected tissues can be removed, the unaffected parts of the carcass may be passed for human food after the removal and condemnation of the affected portion.
    - ii. If part of the carcass shows numerous lesions, if complete extirpation is difficult and uncertainly accomplished, or if the lesion renders the part unfit for human food, the part shall be condemned.
    - iii. If the lesions are slight or insignificant from a standpoint of wholesomeness, the carcass or parts may be passed for use in the manufacture of comminuted cooked product after removal and condemnation of the affected portions.
18. Myiasis. Ratites with wounds infested with maggots shall be segregated and maggot specimens submitted to the State Veterinarian to identify possible screwworm infestation.
19. Neoplasms.
- a. An individual organ or other part of a carcass affected with a neoplasm shall be condemned.
  - b. If there is evidence of metastasis or that the general condition of the ratite has been adversely affected by the size, position, or nature of the neoplasm, the entire carcass shall be condemned.
  - c. Carcasses of ratites affected with any 1 or more of the several forms of the avian leukosis complex shall be condemned.
20. Nutritional Problems.
- a. The long bones of ratites may exhibit changes due to hormonal imbalance, nutritional deficiency or excess (osteomyelosclerosis in laying birds). Carcasses showing such bony changes with no other pathology may be passed for food.
  - b. Lesions resulting from visceral gout or chalk-like deposits in joints or pleura shall be removed by trimming. Carcasses with visceral gout lesions distributed so that removal is impossible or impractical shall be condemned.
21. Parasites. Organs or other parts of carcasses infested with parasites or which show lesions of parasite infestation shall be condemned. If the whole carcass is affected, the whole carcass shall be condemned.
22. Pigmentary Conditions.
- a. Carcasses showing generalized pigmentary deposits shall be condemned.
  - b. The affected parts of carcasses showing localized pigmentary deposits to be unwholesome or otherwise adulterated shall be removed and condemned.
  - c. Any part of a carcass that is green-struck shall be condemned. If the carcass is so extensively affected that removal of green-struck parts is impracticable, the whole carcass shall be condemned.
23. Research Ratites Presented For Slaughter.
- a. No ratite used in any research investigation involving an experimental biological product, drug, or chemical shall be eligible for slaughter at a registered slaughterhouse unless:
    - i. The operator of the slaughterhouse, the sponsor of the investigation, or the investigator submits to the State Veterinarian data or a summary evaluation of the data that demonstrates use of the biological product, drug, or chemical will not result in the ratite products being adulterated; and the State Veterinarian approves the slaughter.
    - ii. Written approval by the State Veterinarian shall be furnished to the inspector before the time of slaughter.
  - b. The inspector or the State Veterinarian may deny or withdraw the approval for slaughter of any ratite subject to the provision of this subsection when deemed necessary to ensure that all products prepared at the registered slaughterhouse are free from adulteration.
24. Synovitis. Carcasses with localized synovitis may be passed for food after removal of affected tissues; those with evidence of systemic effects shall be condemned.
25. Systemic Condition - Septicemia or Toxemia.
- a. All carcasses affected so consumption of the products may cause food poisoning shall be condemned. This includes all carcasses showing signs of:
    - i. Acute inflammation of the lungs, pleura, pericardium, peritoneum, or meninges;
    - ii. Septicemic or toxemic disease, or an abnormal physiological state;
    - iii. Gangrenous or severe hemorrhagic enteritis or gastritis;
    - iv. Septic pericarditis; or
    - v. Egg peritonitis or bacterial enteritis.
  - b. When a systemic condition is evident, carcass and viscera shall be condemned.
26. Tuberculosis. Carcasses affected with tuberculosis shall

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

- be condemned.
- E. Final Trim and Rinse (Carcass Inspection)
1. After evisceration, the external and cut surfaces of the carcass, the thoracic and abdominal-pelvic cavities, and kidneys in their crypts shall be observed for lack of or abnormal body fat, inflammation, or evidence of peritonitis or pleuritis before removing external fat.
  2. The carcass shall be trimmed of all visible contamination and thoroughly rinsed with potable water. After rinsing, the inspector shall make a final inspection. Trimmed parts, including external fat containing pin feathers or feather quills, shall be placed in containers marked "inedible." The carcass shall be chilled to 40° after the final inspection unless further processing is done within 2 hours and subsequently chilled.
  3. Carcasses showing evidence of having died of causes other than slaughter shall be condemned.
  4. Carcasses shall be retained for further examination by a contract veterinarian when presented with conditions that may require complete condemnation of the carcass, or when an inspector is not certain of the pathological process and carcass disposition.
- G. Official Marks and Devices to Identify Inspected and Passed Products of Ratites.
1. The Arizona Inspected and Passed brand for carcasses or parts of carcasses shall include the following words between a double triangle: "Inspected, Passed, and A.D.A." The "P" number shall be contained within the inner triangle. Each carcass shall bear a label identifying the ratite species.
  2. Carcasses bearing the approved Arizona Inspected and Passed brand and the appropriate "P" number may enter a registered processing establishment, as prescribed in R3-2-109, for further processing.
- H. Condemned Carcasses and Parts of Carcasses.
1. Carcasses and parts of carcasses condemned on post-mortem inspection shall be decharacterized with USDA-approved denaturing agents as prescribed in R3-2-105(C)(2)(d).
  2. Except as otherwise provided in subsections (E)(3), (E)(5), and (E)(16), condemned ratite carcasses and ratite meat may be used in the preparation of animal food with the approval of the State Veterinarian.
    - a. True containers of ratite meat or meat products from condemned ratites for use in the preparation of animal food shall be identified with the following information in letters at least 3/4 inch in height, on all sides or in at least 2 places if the container has less than 4 sides:
      - i. The species of ratite;
      - ii. "Ratite meat from dead ratites for animal food only and not for human consumption," and "Denatured with \_\_\_\_\_";
      - iii. The correct statement of net weight; and
      - iv. The name and address of the registered processor.
    - b. Before the denaturing agents are applied to pieces more than 4 inches in diameter, the pieces shall be freely slashed or sectioned. The denaturing agent shall be mixed thoroughly with all of the material to be denatured and shall be applied in such quantity and manner that it cannot easily and readily be removed by washing or soaking. Denaturant shall be used to give the ratite meat, ratite meat by-products, raw animal fat, or rendered animal fats and oils, a distinctive color, odor, or taste so the denatured

material cannot be confused with an article of human food. The application of any of the denaturing agents listed in this Section to the outer surfaces of molds or blocks of boneless ratite meat, ratite meat by-products, or ratite meat food products is adequate.

- c. All denaturing shall be done immediately upon condemnation of the ratite meat or product, after the ratite meat or product is prepared, or during preparation of animal food products.
- d. Every carrying container in which animal food obtained from a dead ratite is packaged shall bear the phrase "Animal Food Only" with markings on at least 2 sides, in letters 2 inches high. The exterior surface shall be sufficiently absorbent so that the markings will not become illegible during handling, storage, or transportation of the container.
- e. Sales of ratite meat appropriate for animal food are permitted only to kennels, zoos, and animal food manufacturing plants licensed by the Department. The animal food manufacturing plant shall maintain records of these purchases for at least 1 year.
- f. The operator of a slaughterhouse who wishes to appeal a decision of an inspector as to a carcass or part of a carcass that has been condemned, may appeal the decision to the State Veterinarian. If the operator is not satisfied and wishes to make a further appeal, the operator may submit an appeal to the Director, pursuant to 3 A.A.C. 1, Article 1.

**R3-2-109. Wholesale Processing Establishment Requirements**

- A. To prevent adulterated ratite products from entering intrastate or interstate commerce, each processing establishment shall be kept in a clean and sanitary condition and shall meet the requirements prescribed by R3-2-105(A)(4) through (12) and the following requirements:
1. A ratite meat processor other than a slaughtering establishment shall have at least 1 daily inspection visit by an inspector when the establishment is in operation.
  2. A ratite meat processor, mentioned in subsection (A)(1), and a slaughtering establishment with state meat inspection service that processes ratite meat or ratite meat food products shall:
    - a. Allow all ratite meats used for processing to be re-inspected and condemned in whole or in part, if necessary.
    - b. Permit the inspectors to inspect all operations in the processing of ratite meat and meat food products to ensure that the operation is conducted in a clean and sanitary manner and in conformity with the provisions of this Article.
    - c. Use only "Arizona Inspected and Passed" products or "USDA Inspected and Passed" products in the preparation of all ratite meat and ratite meat food products.
- B. All non-meat products used in the preparation of a ratite food product shall be approved by the Food and Drug Administration (FDA).
- C. Labeling and containers.
1. At the time they leave the establishment, all ratite products inspected at a registered processing establishment and found to be not adulterated shall bear, on their shipping containers and immediate containers, in distinctly legible form, the following:
    - a. The true name of the product, including the species name;

Notices of Final Rulemaking

- b. The ingredient statement if the product contains 2 or more ingredients;
  - c. The name and address of the processing company;
  - d. "Keep refrigerated" or "Keep Frozen" statement;
  - e. The Arizona Inspected and Passed Brand;
  - f. The net weight of the product; and
  - g. A reproduction of the FDA-approved safe handling statement.
- 2. Packaged carcasses shall bear the information listed in subsections (C)(1)(a) through (f) at the time they leave the establishment.
  - 3. No product shall be sold or offered for sale by any person in intrastate or interstate commerce under any name or other marking or labeling that is false or misleading, or in any container of a misleading form or size.

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 45. BOARD OF RESPIRATORY CARE EXAMINERS

PREAMBLE

1. Sections Affected

	<u>Rulemaking Action</u>
Article 1	New Article
R4-45-101	New Section
R4-45-102	New Section
R4-45-103	New Section
R4-45-104	New Section
Article 2	New Article
R4-45-201	New Section
R4-45-202	New Section
R4-45-203	New Section
R4-45-204	New Section
R4-45-205	New Section
R4-45-206	New Section
R4-45-207	New Section
R4-45-208	New Section
R4-45-209	New Section
R4-45-210	New Section
R4-45-211	New Section
R4-45-212	New Section
R4-45-213	New Section
R4-45-214	New Section
Article 3	New Article
R4-45-301	New Section
R4-45-302	New Section

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

Authorizing statutes: A.R.S. § 32-3504(A)(2), "the Board shall adopt rules necessary to administer this chapter.

Implementing statutes: A.R.S. §§ 32-3501 through 32-3558, the laws regarding the Board of Respiratory Care Examiners

3. The effective date of the rules:

September 12, 1996

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

Notice of Rulemaking Docket Opening:

2 A.A.R. 1639, May 3, 1996

Notice of Proposed Rulemaking:

2 A.A.R. 1582, May 3, 1996

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

Name: Mary Hauf Martin, Executive Director

Address: Board of Respiratory Care Examiners  
1400 West Washington, Suite 200  
Phoenix, Arizona, 85007

Telephone: (602) 542-5995

Fax: (602) 542-5900

**Notices of Final Rulemaking**

6. **An explanation of the rule, including the agency's reasons for initiating the rule:**  
The Board is mandated by statute to adopt rules which will provide licensees, applicants, and the general public the requirements for licensure of respiratory care practitioners in Arizona.
7. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state.**  
Not applicable.
8. **The summary of the economic, small business, and consumer impact:**  
The rules provide the framework for licensure of respiratory care practitioners (RCP) in Arizona. There are small fee increases for some aspects of licensure, while others remain the same as in current practice. All fees are borne by individual RCPs, so there is no small business impact. All revenues derived from fees enable the Board to continue to cover costs of operation. Consumers are served by the Board whose purpose is to protect the public health.
9. **A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**  
The changes are language and clarity modifications. Some phrases have been reworded to enhance clarity. Some complex sentences have been broken down into 2 sentences for ease of reading and understanding. There was some necessary renumbering. All of the wording changes reflect the actual, on-going practices of the Board. There were no changes in wording which change Board practice. Because the word "day" is used throughout the package to mean "calendar day," a definition of "day" was added. The definitions of "contested case" and "party" were moved from the Hearing Section of Article 3 to the Definitions Section in Article 1. The Section in Article 2 entitled "Standards of Professional Conduct" was moved to the end of the Article to enhance the rules' organization. An additional section on Temporary Licenses was added to emphasize that an individual shall receive only 1 Temporary License as set forth in A.R.S. § 32-3521(A).
10. **A summary of the principal comments and the agency response to them:**  
There were no public comments received.
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:**  
Essentials and Guidelines of an Accredited Education Program for the Respiratory Therapy Technician and Respiratory Therapist as adopted in 1962, and revised in 1986 (and no later amendments of editions) by the Joint Review Committee for Respiratory Therapy Education of the Commission on Accreditation of Allied Health Education Programs (CAAHEP). R4-45-202
13. **Was this rule previously adopted as an emergency rule?**  
No.
14. **The full text of the rules follows:**

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 45. BOARD OF RESPIRATORY CARE EXAMINERS**

**ARTICLE 1. GENERAL PROVISIONS.**

- R4-45-101. Definitions
- R4-45-102. Fees
- R4-45-103. Service by the Board
- R4-45-104. Change of Name or Address

**ARTICLE 2. LICENSURE**

- R4-45-201. Application
- R4-45-202. Minimum Standards Curriculum
- R4-45-203. Examinations
- R4-45-204. Application Based on Foreign Training
- R4-45-205. Application Based on Licensure By Another State
- R4-45-206. Licensure Based on Organizational Registration or Certification
- R4-45-207. Renewal
- R4-45-208. Continuing Education Requirements
- R4-45-209. Approved Continuing Education Programs
- R4-45-210. Criteria for Approved Continuing Education Courses and Programs
- R4-45-211. Audit and Sanctions for Noncompliance
- R4-45-212. Waiver of Requirements
- R4-45-213. Temporary Licensure
- R4-45-214. Standards of Professional Conduct

**ARTICLE 3. HEARINGS**

- R4-45-301. Hearing Procedures
- R4-45-302. Rehearing or Review of Decision

**ARTICLE 1. GENERAL PROVISIONS**

**R4-45-101. Definitions**

In addition to the definitions set forth at A.R.S. § 32-3501, in this Chapter, unless the context otherwise requires:

1. "ACLS" means Advanced Cardiac Life Support Protocols.
2. "Applicant" means an individual who meets the qualifications set forth at A.R.S. § 32-3523 and applies for licensure pursuant to A.R.S. § 32-3522.
3. "Approved continuing education" means a planned course or program designed to enhance learning and promote the continued development of knowledge, skills, and attitudes consistent with contemporary standards for the individual's respiratory care practice, and is approved by the Board, American Association for Respiratory Care, or the Arizona Society for Respiratory Care.
4. "BLS" means Basic Life Support Protocols.
5. "CPR" means cardiopulmonary resuscitation.
6. "Contested case" has the same meaning as provided in A.R.S. § 41-1001.

7. "Continuing education unit" or "CEU" means an approved continuing education course or program that lasts 60 minutes.
8. "Day" means calendar day.
9. "Direct supervision" means that a licensed respiratory care practitioner or physician licensed pursuant to A.R.S. Title 32, Chapters 13 or 17, is physically present at a work site and readily available to provide respiratory care to a patient or observe and direct the practice by the holder of a temporary license.
10. "Executive Director" means the executive officer employed by the Arizona Board of Respiratory Care Examiners to perform administrative and investigative functions as ordered by the Board.
11. "License" means the document issued by the Board that allows an individual to engage in the practice of respiratory care in Arizona.
12. "Licensee" means an individual who holds a current license issued pursuant to A.R.S. § 32-3501 et seq.
13. "National Board for Respiratory Care, Inc. or NBRC" means the national credentialing board for respiratory therapy.
14. "Party" has the same meaning as provided in A.R.S. § 41-1001.
15. "Pharmacological, diagnostic, and therapeutic agents" as used in A.R.S. § 32-3501(5) means, but is not limited to, medications that are aerosolized, given through artificial airways, or given through vascular access.
16. "Temporary license" means the document issued by the Board pursuant to A.R.S. § 32-3521 that allows an applicant to practice respiratory care under direct supervision before the Board issues the applicant a license.
17. "Verification of license" means the form the Board provides to an applicant to submit for completion to states in which the applicant currently holds or previously held a license.

**R4-45-102. Fees**

- A. The Board shall charge the following fees:
  1. \$100 for an application for a license.
  2. \$150 for an application based on a diploma from a foreign respiratory therapy school.
  3. \$85 for an initial license.
  4. \$85 for a biennial renewal of a license.
  5. \$25 for recovery of the cost of the following service: renewing a temporary license.
  6. \$10 for recovery of the cost of the following service: verifying an Arizona license to another state.
  7. \$10 for a duplicate license or duplicate wallet license card.
  8. \$25 to purchase the Board's Respiratory Care Practitioners' List compiled pursuant to A.R.S. § 32-3504(A)(7).
  9. \$25 fee for recovery of the cost associated with an insufficient funds check submitted to the Board as payment of any fee.
- B. All fees shall be remitted to the Board by personal check, cashier's check, or money order, payable to the Board of Respiratory Care Examiners. All fees remitted to the Board are non-refundable.

**R4-45-103. Service by the Board**

Service of any decision, order, subpoena, notice, or other written process may be made by, for, or on behalf of the Board by personal service or by mailing a copy by certified mail. Service by certified mail shall be made to the address of record on file with the Board. Service upon an attorney who has appeared on behalf of a party constitutes service upon the party. If service is by certified mail,

service is complete upon deposit in the United States mail.

**R4-45-104. Change of Name or Address**

- A. A licensee shall notify the Board in writing within 30 days after the licensee's name is legally changed. The notice shall include a notarized or certified copy of the official document evidencing the name change. At the time of notification, the licensee shall request a duplicate license in the new name and shall pay the fee prescribed in R4-45-102(A)(7).
- B. A licensee shall notify the Board in writing within 10 days after a change in the licensee's address of record.

**ARTICLE 2. LICENSURE**

**R4-45-201. Application**

- A. An applicant shall submit an application for a license to practice as a respiratory care practitioner to the Board office on a form prescribed by the Board.
- B. An application, which shall include an address of record, shall be typed or written in black ink, and signed, under oath, by the applicant. The application shall be accompanied by the following:
  1. An application fee in the amount prescribed in R4-45-102(A)(1).
  2. All documentation needed to verify information provided on the application, and
  3. A statement of the facts entitling the applicant to take an examination or to receive a license without examination.
- C. An applicant shall inform the Board in writing of any change in the applicant's address of record within 10 days from the date of change.
- D. The Board shall notify the applicant in writing of any decision concerning the application.
- E. If the Board denies an application, the applicant may make a written request for a hearing to review the denial. The applicant shall file the request with the Board within 15 days following service of notice of the denial. The request shall state specifically the reasons why the Board should review its decision. The Board shall schedule the hearing at its next meeting or at the first meeting that is convenient for all parties. The Board shall conduct the hearing in accordance with A.R.S. § 41-1061 et seq.
- F. If an applicant whose application is denied does not request a hearing to review the denial or if the denial is affirmed, the Board shall administratively close the applicant's file. An individual who wishes to be considered for licensure after the individual's file has been administratively closed shall reapply.
- G. An applicant shall be a high school graduate or have obtained a General Equivalency Diploma (GED).

**R4-45-202. Minimum Standards Curriculum**

A training program for respiratory therapists or respiratory therapy technicians shall consist of a curriculum conforming to the requirements of the Essentials and Guidelines of an Accredited Education Program for the Respiratory Therapy Technician and Respiratory Therapist as adopted in 1962, and revised in 1986 (and no later amendments or editions) by the Joint Review Committee for Respiratory Therapy Education of the Commission on Accreditation of Allied Health Education Programs (CAAHEP), which is incorporated by this reference and on file with the Board and the Office of the Secretary of State.

**R4-45-203. Examinations**

- A. Except when a license may be issued without an examination pursuant to A.R.S. § 32-3524, an applicant shall pass a written examination for Certified Respiratory Therapy Technicians provided by the NBRC. The passing score shall be a

**Arizona Administrative Register**  
**Notices of Final Rulemaking**

scaled score set by the NBRC.

- B.** An applicant shall inform the Board that the applicant passed the Certified Respiratory Therapy Technicians examination by of the following methods:
1. Forward a copy of either the examination results or certificate, or
  2. Direct the NBRC to forward a copy of either the examination results or certificate.
- C.** The examination results or certificate shall be provided to the Board as soon as possible.

**R4-45-204. Application Based on Foreign Training**

If an application for a license is based on a diploma from a respiratory therapy school located outside the United States, the applicant shall cause the school from which the diploma was issued to deliver to the Board certified copies of course transcripts and other information concerning the applicant's course of study sufficient to enable the Board to determine whether the course of study is equivalent to the Board's minimum standards.

**R4-45-205. Application Based on Licensure By Another State**

- A.** If an application for a license is based on licensure by another state, the applicant shall cause the state that issued the license to deliver to the Board a certified copy of the license and a Verification of License regarding the status of applicant's license in that state.
- B.** An applicant shall cause the state in which the applicant is licensed to deliver to the Board either a copy of the results of the NBRC examination or a copy of another examination administered to the applicant, the results of the other examination, and any information necessary to enable the Board to determine whether the other examination is equivalent to the NBRC examination.

**R4-45-206. Licensure Based on Organizational Registration or Certification**

The Board shall issue a license to an applicant without examination if the applicant:

1. Is qualified pursuant to A.R.S. § 32-3523,
2. Files an application for licensure,
3. Satisfies the requirements prescribed in A.R.S. § 32-3524, and
4. Is registered as a respiratory therapist or certified as a respiratory therapy technician by the NBRC.

**R4-45-207. Renewal**

- A.** A respiratory care practitioner's first license expires on the licensee's second birthday following issuance of the license. Thereafter, a respiratory care practitioner's license expires every other year on the licensee's birthday. To apply for renewal of a license, a licensee shall complete a license renewal application form and:
1. Pay the renewal fee prescribed in R4-45-102(A)(4); and
  2. Complete the required continuing education units.
- B.** The Board shall notify a licensee by mail at the licensee's address of record of:
1. Need to renew the licensee's license, and
  2. Expiration of the licensee's license.
- C.** If an expired license is not renewed before 2 years from the date of expiration, an individual may obtain a new license only by applying as a new applicant.
- D.** Misrepresentation of information on the renewal application or of compliance in acquiring CEUs constitutes grounds for disciplinary action.

**R4-45-208. Continuing Education Requirements**

Continuing education is required as a condition of licensure

renewal.

1. A respiratory care practitioner shall acquire 20 CEUs during every 2-year licensure period. To renew a license, a respiratory care practitioner shall report compliance with the continuing education requirements. Documentation showing evidence of compliance shall be submitted only if requested by the Board.
2. During the first licensure period, a licensee shall use the licensure issuance date as the beginning of the period in which the licensee is required to acquire CEUs. Licensees shall acquire 20 hours of CEUs before expiration of the first licensure period. Subsequent continuing education periods coincide with subsequent licensure periods.

**R4-45-209. Approved Continuing Education Programs**

- A.** The Board shall accept for CEUs a course or program meeting the criteria set forth in R4-45-210. The Board shall have the authority to audit programs offering CEUs for compliance with the criteria.
- B.** Any course or program approved by the American Association for Respiratory Care or the Arizona Society for Respiratory Care shall be accepted by the Board for CEUs.

**R4-45-210. Criteria for Approved Continuing Education Courses and Programs**

- A.** Approved continuing education courses and programs shall meet the following criteria:
1. The content of the course or program is relevant to the scope of practice of respiratory care as defined in A.R.S. § 32-3501(5), and
  2. At least 2/3 of the course or program hours relate to clinical practice.
- B.** The non-clinical course or program hours may cover:
1. Activities relevant to specialized aspects of respiratory care, such as education, supervision, and management;
  2. Health care cost containment or cost management;
  3. Preventative health services and health promotion;
  4. Required abuse reporting; and
  5. Other subject matter required by statute or rule to be included in continuing education for licensed healing arts practitioners.
- C.** The faculty who provide the continuing education shall be knowledgeable in the course or program subject matter as evidenced by:
1. A degree from an accredited college or university and verifiable experience in the subject matter, or
  2. Teaching and clinical experience in the same or similar subject matter.
- D.** A provider of continuing education that wishes to grant CEUs shall apply for approval. The application for approval shall include:
1. List of educational objectives;
  2. Description of the teaching methods, for example: lecture, seminar, audio visual materials, or simulation;
  3. Description of the manner in which participants will be involved in the learning activities; and
  4. Names and qualifications of all faculty.
- E.** Course or program providers shall maintain a record of who attended each course or program for 3 years.
- F.** All course or program providers shall provide documentation to each participant that includes: participant's name and respiratory care practitioner license number, course or program title, number of CEUs, date or dates, and name and address of provider.

**R4-45-211. Audit and Sanctions for Noncompliance**

- A.** The Board shall audit a random sample of licensees for com-

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

pliance with the continuing education requirements. If documentation of compliance is incomplete, the licensee shall correct the deficiency. If the audit is conducted in conjunction with the license renewal, the licensee shall provide documentation proving compliance within 60 days of expiration of the licensee's license. If a licensee fails to submit documentation of compliance within this time, the Board shall revoke the licensee's renewed license and cause the renewal fee to be forfeited. The Board may audit all late renewals for compliance with continuing education requirements.

- B. Licensees shall make documentation of compliance with the continuing education requirements available to the Board upon request.

**R4-45-212. Waiver of Requirements**

At the time of making application for renewal of a license, a licensee may request a waiver from completion of the continuing education requirements. The Board shall grant a waiver only if the licensee verifies in writing that during the period immediately before expiration of the license, the licensee:

1. Resided in a country outside the United States for at least 1 year, reasonably preventing completion of continuing education requirements;
2. Was absent from Arizona for at least 1 year, reasonably preventing completion of the continuing education requirements; or
3. Was prevented from completing the continuing education requirements for reasons of health or other good cause including:
  - a. Physical or mental disability of the licensee for at least 1 year, reasonably preventing completion of continuing education requirements; or
  - b. Physical or mental disability of a member of the licensee's family for at least 1 year and the licensee had responsibility for the family member's care, preventing completion of the continuing education requirements
4. A disability claimed under subsection (3) shall be verified in writing by a licensed physician or surgeon.

**R4-45-213. Temporary Licensure**

- A. The Board shall issue a temporary license, valid for 8 months, to an applicant only after a complete application, including all necessary documents and fees, is reviewed by the Board's Executive Director and the applicant is determined to be eligible to apply for a license pursuant to A.R.S. § 32-3523. An applicant who is issued a temporary license shall perform respiratory care services only under direct supervision. The temporary license may be renewed for an additional 120 days. An individual may receive only 1 8-month temporary license and 1 120-day temporary license renewal.
- B. A temporary licensee who seeks renewal of a temporary license shall submit a request for renewal to the Board on a form prescribed by the Board.
- C. The request for a renewed temporary license shall:
  1. Include an address of record,
  2. Be typed or written in black ink,
  3. Be signed by the applicant, and
  4. Be accompanied by the following:
    - a. The service cost prescribed in R4-45-102(A)(5); and
    - b. A statement under oath that the temporary license has not expired and the temporary licensee is registered to take the next scheduled NBRC examination.
- D. A temporary licensee who is unable to submit the statement described in subsection (C)(4)(b) may request an opportunity to explain this inability to the Board.
- E. The Board shall administratively close an application if the

applicant fails to apply for renewal of a temporary license within 60 days before expiration of the temporary license. An individual who wishes to be considered for licensure after the individual's file has been administratively closed shall reapply.

- F. Reapplication does not qualify an individual for a second temporary license. No individual shall receive more than 1 temporary license.
- G. A temporary licensee is subject to disciplinary action by the Board pursuant to A.R.S. § 32-3553.

**R4-45-214. Standards of Professional Conduct**

Conduct or practice that is contrary to recognized standards of ethics of the respiratory therapy profession, as used in A.R.S. § 32-3501(10)(i), includes but is not limited to the following:

1. Engaging in the practice of respiratory care in a manner that harms or may harm a patient or that the Board determines falls below the community standard;
2. Procuring or attempting by fraud or misrepresentation to procure a license or renewal of a license to practice respiratory care;
3. Violating a formal order, condition of probation, or stipulation issued by the Board;
4. Obtaining a fee by fraud, deceit, or misrepresentation;
5. Falsely claiming attendance at a continuing education course or program to meet license renewal requirements;
6. Endangering a patient's or the public's physical or emotional health or safety or engaging in conduct or practice that may reasonably be expected to do so;
7. Engaging in sexual intimacies with a patient;
8. Committing an act of sexual abuse, misconduct, harassment, or exploitation;
9. Acting in a manner that the Board determines, based on community standards, constitutes incompetence, gross negligence, repeated negligence, or negligence that results in harm or death of a patient;
10. Abandoning or neglecting a patient, or leaving a respiratory therapy assignment before properly advising appropriate personnel;
11. Using or being under the influence of alcohol, illegal drugs or substances, or drugs or substances that impair judgment, while on duty in any health care work location;
12. Impersonating another licensed practitioner;
13. Knowingly employing, directing, or supervising an individual in the performance of respiratory care who is not authorized to practice respiratory care;
14. Violating the confidentiality of information concerning a patient;
15. Inaccurately recording, falsifying, or altering a patient record, including but not limited to, patient charts or medication administration records;
16. Misrepresenting or omitting facts on an application for employment as a respiratory care practitioner;
17. Retaliating against any person who reports in good faith to the Board alleged incompetence, illegal, or unethical conduct of any practitioner.

**ARTICLE 3. HEARINGS**

**R4-45-301. Hearing Procedures**

The following procedures are applicable to all hearings conducted pursuant to A.R.S. § 32-3553(1):

1. A complaint and notice of hearing shall be served upon all parties at least 20 days before the date set for hearing.
2. A licensee served with a complaint and notice of hearing shall file an answer within 10 days of service of the complaint, admitting or denying each allegation of the com-

**Arizona Administrative Register**  
**Notices of Final Rulemaking**

- plaint.
3. Before the hearing, a complaint and notice of hearing may be amended to add new or additional grounds. The licensee shall file an amended answer to the amended complaint within 10 days of being served.
  4. If a party fails to appear, the hearing may be held in the party's absence.
  5. The chairperson of the Board or the designated presiding officer may continue, reschedule, or extend a hearing for good cause or for the performance of acts required by law or the Board.
  6. Hearings conducted by the Board shall be open to the public.
  7. The designated presiding officer shall conduct the proceedings and rule on the admissibility of evidence.
  8. All hearings shall be mechanically or stenographically recorded. The Board is not required to transcribe the record of a hearing unless there is an appeal to the superior court. Upon written request, the Board shall either transcribe the record or allow the individual requesting the record to have it transcribed. In either case, the individual requesting the record shall pay to have it transcribed.
  9. In all cases determined by hearing, the Board shall issue a decision and order in accordance with A.R.S. Title 41, Chapter 6.

**R4-45-302. Rehearing or Review of Decision**

- A. Except as provided in subsection (G), any party who is aggrieved by a decision of the Board may file with the Board, not later than 15 days after service of notice of the decision, a written motion for rehearing or review of the decision specifying the particular grounds for a rehearing or review.
- B. A party may amend a motion for rehearing or review at any time before the motion is ruled upon by the Board. Any party may file a response within 10 days after service of a motion or amended motion. The Board may require the filing of written briefs addressing the issues raised in the motion and may provide for oral argument.
- C. A motion for rehearing or review of the decision may be

granted based on a contention that the decision was:

1. Founded on or contained errors of law including errors of construction or application of relevant rule,
  2. Unsupported by any competent evidence as disclosed by the entire record,
  3. Materially affected by unlawful procedures,
  4. Based on a violation of any constitutional provision, or
  5. Arbitrary or capricious.
- D. The Board may affirm or modify the decision or grant a rehearing or review to all or some of the parties and on all or some of the issues for any of the reasons set forth in subsection (C). An order granting a rehearing or review shall specify the ground or grounds on which the rehearing or review is granted, and the rehearing or review shall cover only those matters specified.
  - E. Not later than 15 days after a decision is rendered, the Board may, on its own initiative, order a rehearing or review of its decision for any reason it might have granted a rehearing or review on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing or review for a reason not stated in the motion. The order granting a rehearing or review shall specify the grounds on which the rehearing or review is granted.
  - F. When a motion for rehearing or review is based upon affidavits, they shall be served with the motion. An opposing party may serve opposing affidavits within 10 days after service of the motion. This period may be extended by the Board for an additional period not exceeding 20 days for good cause shown or upon written stipulation of the parties. Reply affidavits may be permitted.
  - G. If, in a particular decision, the Board makes specific findings that the immediate effectiveness of the decision is necessary for preservation of the public health, safety or welfare, the decision may be issued as a final decision without an opportunity for rehearing or review. If an application for judicial review of the decision is made, it shall be made in accordance with A.R.S. § 12-901 et seq.

**NOTICE OF FINAL RULEMAKING**

**TITLE 9. HEALTH SERVICES**

**CHAPTER 23. DEPARTMENT OF HEALTH SERVICES**

**DENTAL ORAL HEALTH**

**PREAMBLE**

**1. Sections Affected**

R9-23-101  
R9-23-102  
R9-23-103  
R9-23-104  
R9-23-105  
R9-23-301  
R9-23-303  
R9-23-304  
R9-23-305  
R9-23-306  
R9-23-307  
R9-23-401  
R9-23-407

**Rulemaking Action**

Amend  
Amend

Notices of Final Rulemaking

2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statute: A.R.S. § 36-104(3)  
Implementing statutes: A.R.S. § 36-104(1)(c)(i), and 36-132(A)(10)
3. **The effective date of the rules:**  
September 12, 1996
4. **A list of all previous notices appearing in the Register, addressing the final rule:**  
Notice of Rulemaking Docket Opening:  
2 A.A.R. 1497, April 19, 1996  
Notice of Proposed Rulemaking:  
2 A.A.R. 1762, May 17, 1996
5. **The name and address of agency personnel with whom persons may communicate regarding the rule:**  
Name: Donald S. Altman, D.D.S., M. P. H., Chief  
Address: Office of Oral Health  
1740 West Adams Street  
Phoenix, Arizona 85007  
Telephone: (602) 542-1866  
Fax: (602) 542-2936
6. **An explanation of the rule, including the agency's reasons for initiating the rule:**  
The amendments to Chapter 23 change the name of the Office of Dental Health to the Office of Oral Health and "quality assurance" to "quality improvement" to accurately reflect on the type of services provided by the Office. In addition, language in the incorporation by reference was added to be consistent with current usage as well as an update of the reference in R9-23-103 on "Universal Precaution for Prevention of Transmission of Human Immunodeficiency Virus, Hepatitis B Virus, and other Bloodborne Pathogens in Health Care Settings", June 1988 to the standard reference, 29 CFR 1910.1030, Occupational Exposure to Bloodborne Pathogens.  
  
Deleted from the rule, R9-23-301, Scope of Services, were general statements concerning continuing education and public education in subsections (1) and (2) which are program activities that do not require rulemaking.  
  
The rule amendments were initiated as a result of a 5-year review report approved by the Governor's Regulatory Review Council on July 11, 1995. The Department believes the adoption of the amendments will clarify the focus of the Office of Oral Health with emphases on oral health concerns, renew interest in the quality improvements review process as it affects prepaid dental plans, and accomplish the update of standards concerning "Occupational Exposure to Bloodborne Pathogens".
7. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**  
Not applicable.
8. **The summary of the economic, small business, and consumer impact:**  
It is expected that the amendments will not have an economic impact and the existing rules will continue to be beneficial for state agencies, counties, small businesses, and consumers. The rule amendments do not affect the direction of the Office, funding or services provided to high risk, indigent, and special needs children and adults, or education and technical assistance to state and county agencies and health care professionals. The Department assigns 8 professional and 3 support staff to plan and carry out the various programs of the Office of Oral Health. The \$442,207 in state appropriated funds and \$483,500 in federal funds are expended on the programs with \$442,431 directly allocated for contractual services with dentists, hygienists, assistants, and county dental health programs to provide prevention and treatment services in the rural areas of the state.  
  
The update of the incorporation by reference regarding Occupational Exposure to Bloodborne Pathogens is practiced by oral health care professionals at every level and, as a result, there should be a negligible increase in costs by providers adhering to the latest update in federal standards.
9. **A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**  
No substantial changes have been made in the text of the rules as originally proposed. Minor corrective changes were made to R9-23-102(C), Inspection of Premises, in deleting the words, "as amended", and in R9-23-301(A), deleting the "and/or" to read "or" to be consistent with similar rule amendments. The reference citation 29 CFR for Occupational Exposure to Bloodborne Pathogens was corrected from 19.10.1030 to 1910.1930 throughout the rule to comply with the proper citation.
10. **A summary of the principal comments on the agency response to them:**  
No comments were received.
11. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**  
None.

**Arizona Administrative Register**  
**Notices of Final Rulemaking**

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

Guidelines for Assessment of Clinical and Professional Performance, Third Printing, 1992, California Dental Association, P.O. Box 13749, Sacramento, California 95853, located at R9-23-102(B).

**13. Was this rule previously adopted as an emergency rule?**

No.

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

**TITLE 9. HEALTH SERVICES**

**CHAPTER 23. DEPARTMENT OF HEALTH SERVICES**

**ORAL DENTAL HEALTH**

**ARTICLE 1. GENERAL PROVISIONS**

Section

- R9-23-101. Definitions
- R9-23-102. Inspection of Premises
- R9-23-103. Infectious Disease Control
- R9-23-104. Required Dental Records
- R9-23-105. Dispute Resolution

**ARTICLE 2. STANDARDS FOR THE PROVISION OF  
ORAL HEALTH DENTAL SERVICES**

**ARTICLE 3. ORAL DENTAL HEALTH SERVICES**

Section

- R9-23-301. Scope of Services
- R9-23-303. Informed Consent
- R9-23-304. Fluoride Mouth Rinse Program
- R9-23-305. Dental Sealants Program
- R9-23-306. Restorative Treatment Program
- R9-23-307. Screening and Referral

**ARTICLE 4. PREPAID DENTAL PLAN ORGANIZATIONS**

Section

- R9-23-401. Program of Compliance
- R9-23-407. Quality Improvement Assurance

**ARTICLE 1. GENERAL PROVISIONS**

**R9-23-101. Definitions**

In this Chapter, unless the context otherwise requires:

1. "Amalgam" means a combination of silver alloy and mercury used for dental restorations.
2. "Bitewing radiograph" means an x-ray film designed to show the crowns of the upper and lower posterior teeth simultaneously.
3. "Board eligible" means a dentist who has successfully completed an approved training program in a specialty field recognized by the American Dental Association.
4. "Caries" mean areas of decay in or on a tooth.
5. "Chief executive officer" means the person who has the authority and responsibility for the operation of a prepaid dental plan organization in accordance with the applicable legal requirements and policies approved by the governing authority.
6. "Composite" means a mixture of a filler, usually quartz, ceramic, or glass particles, and a resin blend used for dental restorations.
7. "Contracting agency" means a governmental or nonprofit organization that has contracted with the ~~OOH ODH~~ to provide clinical and/or administrative services.

8. "Copal base" means a liquid resin placed under a restoration to insulate the pulpal tissue.
9. "Dental facility" means a dental health clinic or institutional department staffed by licensed dentists and/or licensed dental hygienists.
10. "Dental sealant" means a thin plastic coating applied to the chewing surfaces of premolar or molar teeth which fills the pits and grooves of a tooth and prevents the trapping of food debris.
11. "Dentate" means with teeth.
12. "Dentist" means a person who is licensed to practice dentistry under the provisions of A.R.S. § 32-1201 et seq.
13. "Dentition" means the type, number and arrangement of teeth.
14. "Dentures" mean a partial or complete set of false teeth designed to simulate the patient's natural dentition.
15. "Department" means the Department of Health Services.
16. "Diagnostic services" mean those dental services necessary to identify dental abnormalities, including radiographs and clinical examinations.
17. "Director of an organized educational setting" means the person responsible for the overall management of the facility.
18. "Emergency services" mean those dental services necessary to control bleeding, relieve pain, including local anesthesia, or eliminate acute infection. Medications which that may be prescribed by the dentist but must be obtained through a pharmacy are excluded.
19. "Endodontics" ~~mean~~ means dental services related to the pulp of a tooth.
20. "Extraoral" means outside of the mouth.
21. "Fluoride" means a chemical compound, usually sodium fluoride or acidulated phosphate fluoride, applied topically ~~and/or~~ or as a mouth rinse.
22. "General dentist" means a dentist licensed under the provisions of A.R.S. § 32-1201 et seq. whose practice is ~~neither~~ not limited to a specific area ~~nor~~ and who is not certified by a specialty board recognized by the American Dental Association.
23. "Gingival tissue" means intraoral soft tissue commonly referred to as the gums.
24. "Governing authority" means the person or body, including a board of trustees or board of directors in whom the ultimate authority and responsibility for the direction of a prepaid dental plan organization is vested.
25. "Hamular notch" means the area behind the upper back molar.
26. "Hygienist" means a person who is licensed to practice dental hygiene under the provisions of A.R.S. § 32-1281 et seq.
27. "Intraoral" means inside the mouth.
28. "Mandibular" means associated with the lower jaw.

29. "Maxillary" means associated with the upper jaw.
  30. "Mobile Dental Unit" or "MDU" means a self-contained dental operator housed in a movable trailer owned by the Department.
  31. "Mucobuccal fold" means the space between the cheek and teeth.
  32. "Occlusion" means the manner in which the upper and lower teeth fit together when the mouth is completely closed.
  33. "Office of Oral Dental Health" or OOH ODH" means the office within the Department responsible for oral health services.
  34. "Operative dentistry" means the use of dental amalgam, dental permanent cement, composite and noncomposite resin materials, cast alloy restorations, stainless steel and aluminum crowns, and various temporary and intermediate materials usually classified as cements to maintain a functional dentition.
  35. "Operator" means the patient chair and attached or related equipment used to deliver dental services.
  36. "Organization" means a prepaid dental plan organization as defined in A.R.S. § 20-1001.
  37. "Organized educational setting" means any facility providing supervised instructional care or services for children under less than 21 years of age.
  38. "Panographic radiograph" means an x-ray which that shows all of the teeth and related structures on 1 film.
  39. "Patient" means a person who is being attended by a dentist or dental hygienist to receive an examination, diagnosis, and/or or dental treatment or a combination of an examination, diagnosis, and dental treatment.
  40. "Periapical" means a full view of an individual tooth, including the area under the gum line and around the root of the tooth.
  41. "Portable dental equipment" means operator equipment which that can be transported by automobile and set up in a public area or private residence.
  42. "Postdam" means a ridge built into the a maxillary denture which touches the posterior soft tissue of the roof of the mouth.
  43. "Posterior flange" means that part of the a denture which extends into the space between the tongue and the mandibular jawbone or the cheek and maxillary jawbone.
  44. "Preventive services" mean means dental care intended to maintain dental health and prevent dental disease, including any combination of oral hygiene education, professional prophylaxis, application of fluorides, and a viable system of recall or follow-up.
  45. "Professional prophylaxis" means cleaning the teeth with mild abrasives and dental equipment.
  46. "Pulpal" means the soft living tissue that fills the central cavity of a tooth.
  47. "Radiograph" means a picture produced on a sensitive surface by a form of radiation other than light, including x-ray photographs.
  48. "Representative sample" means a part of a population or subset from a set of units selected to investigate the properties of the parent population or the set.
  49. "Restoration" means treatment which that returns a patient to a functional level of dental health, including treatment of the pulpal tissues and gingival tissues, the use of metal and plastic fillings, and the use of removable partial and complete dentures.
  50. "Saddle area" means that portion of a partial denture which covers the bone where posterior teeth from either the upper or lower jaw have been removed.
  51. "Specialist" means a dentist whose practice is limited to a specified area and who is recognized by the appropriate specialty board of the Commission on Accreditation of Dental Education of the American Dental Association as board eligible or board certified.
  52. "Therapeutic services" mean basic dental services provided by a general dentist including pulp therapy for permanent and primary teeth exclusive of root canal therapy, restoration of carious permanent and primary teeth with materials other than cast restorations, and routine extractions.
  53. "Treatment plan" means a statement of the services to be performed for the patient.
- R9-23-102. Inspection of Premises**
- A. OOH ODH shall inquire into the provision of dental services monitored or funded by the Department by conducting, during regular business hours, inspections of all areas or matters affecting dental services to the public. The inspection shall include:
    1. Interviewing the dentists who are employed by or own the dental facility,
    2. Conducting a walk-through observation of the facility's infection control practices,
    3. Auditing facility records, and
    4. Providing oral and written feedback to the facility's dentists and staff.
  - B. Dentists shall comply with follow the California Dental Association Guidelines for the Assessment of Clinical and Professional Performance, Third Printing, 1992, as amended California Dental Association, P.O. Box 13749, Sacramento, California 95853, which is hereby incorporated by reference and on file with the Department and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments. Copies are available from the Arizona Department of Health Services, Office of Dental Health, 1740 West Adams, Room LL-010, Phoenix, Arizona 85007.
  - C. If OOH ODH determines after an inspection that a dentist has failed to follow the Guidelines for the Assessment of Clinical and Professional Performance, 1992 as amended, and such the failure constitutes a threat to the public health, safety, or welfare, the Office shall report the findings to:
    1. The owners or directors of the facility,
    2. The Arizona Board of Dental Examiners with a recommendation for investigation correction and/or sanction of that the facility's licensed professionals, and
    3. The contracting agency with a recommendation for correcting the circumstances and/or or canceling the facility's contract.
- R9-23-103. Infectious Disease Control**
- All facilities providing professional dental services funded by the Department shall be maintained as follows:
1. Operatories shall be kept clean-swept and free from debris;
  2. Counter surfaces of operatories, equipment used in patient care, and instruments used in extraoral examinations shall be disinfected after each patient with a solution comparable in disinfection ability to 1 part sodium hypochlorite and 10 parts water; and
  3. Instruments used in intraoral examinations or treatment shall be disposed of or sterilized after each patient in compliance with 29 CFR 19.10.1030, Occupational Exposure to Bloodborne Pathogens, July 1, 1992 the "Universal Precautions for Prevention of Transmission of Human Immunodeficiency Virus, Hepatitis B Virus, and other Bloodborne Pathogens in Health Care Set

Notices of Final Rulemaking

~~tings" June 1988, Centers for Disease Control, 1600 Clifton Road, N.E., Atlanta, GA 30333 which is incorporated hereby by reference and on file with the Department and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.~~

**R9-23-104. Required Dental Records**

- A. Each dental facility shall maintain a record of the symptoms presented, radiographs, diagnoses, treatment plans, and services provided to each patient of that the facility.
- B. Each dental record shall have displayed upon it the full name of the dentist responsible for that the patient's treatment.
- C. Original dental records shall be the property of the dental facility and shall not be removed from the premises except when a record or portion thereof:
  - 1. Is subpoenaed by a court, or
  - 2. Is being routed to other health professionals for consultation or evaluation.
- D. Dental records shall be preserved in the original or by microfilm for 5 years, except when:
  - 1. The patient is under less than age 21, in which case the record shall be maintained for 3 years after the patient has reached the reaches age of 21; or
  - 2. The patient has received only preventive services only, through QOH ODH programs, in which case the record shall be maintained for 3 years.

**R9-23-105. Dispute Resolution**

~~If a Any~~ dentist or dental facility funded by the Department or monitored by the Department pursuant to an agreement with another state agency which that funds them who the dentist or dental facility wishes to protest audit or inspection findings, the dentist or dental facility shall file a written protest with the Chief of QOH ODH within 30 days of the protested action. The Chief of QOH ODH shall acknowledge a the protest in writing, within 15 working days of receipt, review the merits of the protest and send written notice of the decision findings, conclusions, and reasons decision to the protestor within 30 working days of the acknowledgment. The protestor may file an appeal, in writing, with the Department of Health Services, Director's Office, within 30 days of receipt of the decision, pursuant to R9-1-102 et seq.

**ARTICLE 2. STANDARDS FOR THE PROVISION OF DENTAL ORAL HEALTH SERVICES**

**ARTICLE 3. DENTAL ORAL HEALTH SERVICES**

**R9-23-301. Scope of Services**

- A. Services delivered under QOH ODH shall be provided directly by the Department or through contracted facilities, agencies and/or individuals. The services which shall be provided are as follows:
  - 1. ~~Continuing education for dental health professionals in cooperation with the Arizona Board of Dental Examiners, the Arizona Dental Association or the Arizona Dental Hygienists' Association;~~
  - 2. ~~Education of the public and nondental health care providers on issues related to oral health;~~
  - 3.1. Fluoride mouth rinse programs as provided for in R9-23-304,
  - 4.2. Dental sealant programs as provided for in R9-23-305,
  - 5.3. Restorative treatment as provided for in R9-23-306, and
  - 6.4. Screening and referral to the private dental sector as provided for in R9-23-307.

- B. Nothing in this Article shall be construed to establish an entitlement program. The provision of services by the Office of Oral Dental Health shall be is contingent on available funding.

**R9-23-303. Informed Consent**

- A. ~~For each patient, Recipients of dental health services a dental facility shall have on file a consent form provided by QOH ODH which shall that include includes~~ he following information.
  - 1. Name, address, and telephone number of the patient;
  - 2. Name, address, and telephone number of the physician to contact in the event of a medical problem with the patient;
  - 3. Age of the patient;
  - 4. The physical or mental impairment, if any, which precludes the patient from authorizing the the patient's own treatment; and
  - 5. The signature of the patient or parent or legal guardian of the patient and the date of the signature.
- B. ~~A dental facility shall obtain new consent form for each patient shall be filed~~ at the beginning of each new treatment plan or each year after the initial form.
- C. The patient or parent or legal guardian of the patient may cancel the consent form at any time by submitting a signed and dated letter of cancellation to QOH ODH.

**R9-23-304. Fluoride Mouth Rinse Program**

- A. QOH ODH shall provide education and instruction on the methods and benefits of rinsing the mouth with a prepared solution of sodium fluoride on a weekly basis to children, their parents or legal guardians, instructors, school nurses, or any other supervisory representatives at the request of the director of an organized educational setting. The education and instruction shall include techniques for the safe storage of fluoride.
- B. The director of the organized educational setting shall designate a representative to supervise the program and maintain contact with QOH ODH to facilitate the ordering of fluoride mouth rinse supplies from the QOH ODH.
- C. Designated employees of the organized educational setting shall provide the fluoride mouth rinse to and supervise its use by participating children.

**R9-23-305. Dental Sealants Program**

- A. QOH ODH shall provide education on the benefits of applying a dental sealant to the chewing surface of newly erupted molars to children eligible pursuant to R9-23-302, their parents or guardians, instructors, school nurses or other designated representatives at the written request of the director of an organized educational setting.
- B. A dentist representing QOH ODH or under contract with QOH ODH shall screen eligible children to determine if each child's molars are:
  - 1. Sufficiently erupted to allow treatment,
  - 2. Free from decay, and
  - 3. Free from prior restorations.
- C. QOH ODH shall schedule eligible children for the application of sealants by a dentist or hygienist.

**R9-23-306. Restorative Treatment Program**

- A. QOH ODH shall provide restorative treatment services to eligible patients eligible pursuant to R9-23-302 based on their condition and within the capabilities of an MDU or QOH's ODH's portable equipment, at the written request of the patient or the patient's parent or legal guardian.
- B. Patients in need of restorative treatment services beyond those provided by an MDU or QOH's ODH's portable equipment shall be referred by QOH ODH to the private dental sector. The cost of any treatment provided by the private dental sector

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

shall be the responsibility of the patient, or parent or legal guardian of the patient.

**R9-23-307. Screening and Referral**

- A. ~~At the request of patient eligible pursuant to R9-23-202, or parent or legal guardian of the patient, OOH shall schedule a Screening examinations screening examination designed to evaluate the patient's oral health status shall be scheduled at the request of the patient, or parent or legal guardian of the patient,~~ with the dental health professional representing OOH QDH in the patient's geographic area.
- B. When a screening examinations examination reveals the need for dental treatment, the dental health professional shall either refer the patient either to another dental health professional representing OOH QDH or refer the patient to the private dental sector.
1. Referrals to the private dental sector shall be based upon special needs of the patient which that OOH QDH cannot provide.
  2. The cost of any treatment provided by the private dental sector shall be the responsibility of the patient or parent or legal guardian of the patient.
- C. ~~When referring Referrals of a child children or a persons person requiring a legal guardian, the dental health professional shall provide to the patient, parent, or legal guardian, a completed requiring a legal guardian shall be accomplished by the completion of a referral form furnished by OOH QDH outlining for the patient, the parent, or legal guardian the nature of the problems discovered in the screening examination.~~

**ARTICLE 4. PREPAID DENTAL PLAN ORGANIZATIONS**

**R9-23-401. Program of Compliance**

- A. Any organization submitting an application for a certificate of authority to the Department of Insurance, as prescribed by A.R.S. § 20-1002, shall, at the same time, submit to the Department a written program of compliance which that specifies how the organization will comply with the provisions of this Article. The written procedures program of compliance shall contain descriptions of the following:
1. The organization's dental care plan including the proposed or actual:
    - a. Enrollment, both member and dependent;
    - b. Professional staffing, identifying board eligibility, or certification for each dentist and hygienist listed;
    - c. Dental support staff by number and classification; and
    - d. Provisions for using consultants for dental services which that cannot be provided by the organization's

staff.

2. The organization's geographic areas, including maps indicating the boundaries of the proposed geographic areas and the locations of all facilities in which dental care will be provided under the plan.
  3. The responsibilities and qualifications of the following positions:
    - a. The organization's chief executive officer, and
    - b. The organization's dental director
  4. The organization's dental record system.
  5. The organization's quality improvement assurance program.
- B. Within 45 days of receipt of the written program of compliance by the Department, the Director shall make a written finding whether the procedures comply program complies with the requirements of this Article and shall notify the Department of Insurance and the organization of this finding.

**R9-23-407. Quality Improvement Assurance**

- A. The governing authority shall appoint a quality improvement assurance committee, which shall meet at least annually, consisting of the chief executive officer or designee, the dental director, dental health professionals, allied health professionals, and consumers who shall be are members of the plan.
- B. The quality improvement assurance committee shall establish dental care standards equivalent to *Guidelines for the Assessment of Clinical and Professional Performance, 1992* as amended, review and evaluate services performed by the organization's dental health professionals, and adopt administrative procedures covering frequency of meetings, types of records to be kept, and arrangements to produce and distribute for committee reports and their dissemination.
- C. A copy of the minutes of each quality improvement assurance committee meeting shall be forwarded to the Director, Department of Health Services.
- D. Each organization shall maintain a quality improvement assurance plan which shall that include includes procedures to be used for each of the following:
1. Compliance with the standards for dental care as established in subsection (B),
  2. Surveillance of care provided,
  3. Analysis of problems identified,
  4. Correction of deficiencies including a time schedule for correction, and
  5. Periodic reassessment of the plan.
- E. The organization shall maintain a written program of compliance which that contains annually updated information as specified in R9-23-401(A)(1) through (5) and shall be is subject to review by the Department.

## CORRECTIONS TO 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* 1st as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Arizona Administrative Register* after the final rules have been submitted for filing and publication.

Editor's Note: A Notice of Final Rulemaking covering the Sections listed below appeared in 2 A.A.R. 4078, September 27, 1996. An inadvertent printing error appeared in this Notice which was not detected until the printing process was completed. Text from another, unrelated Notice of Final Rulemaking was attached onto the end of the text in R10-3-412. While all the text for 10 A.A.C. 3 was intact, the additional text was attached in error. The Secretary of State's Office accepts full responsibility for this error and has ensured that the text in the upcoming 96-3 Supplement does not contain the superfluous material. We apologize for any confusion this error might have caused.

### TITLE 10. LAW

#### CHAPTER 3. DEPARTMENT OF LAW CIVIL RIGHTS DIVISION

1. Sections Affected	Rulemaking Action
Article 4	New Article
R10-3-401	New Section
R10-3-402	New Section
R10-3-403	New Section
R10-3-404	New Section
R10-3-405	New Section
R10-3-406	New Section
R10-3-407	New Section
R10-3-408	New Section
R10-3-409	New Section
R10-3-410	New Section
R10-3-411	New Section
R10-3-412	New Section