

NOTICES OF SUPPLEMENTAL PROPOSED RULEMAKING

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

NOTICE OF SUPPLEMENTAL PROPOSED RULEMAKING

TITLE 3. AGRICULTURE

CHAPTER 2. DEPARTMENT OF AGRICULTURE

ANIMAL SERVICES DIVISION

PREAMBLE

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

Notice of Proposed Rulemaking: 8 A.A.R. 967, March 15, 2002

2. Sections Affected

Rulemaking Action

Article 1

Table 1

R3-2-202

Amend

Amend

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

Authorizing statutes: A.R.S. §§ 3-107(A)(1), 41-1073

Implementing statutes: A.R.S. §§ 3-1344, 3-1345, 3-2046, 3-2088, 3-2154, 3-2161

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

Name: Sherry D. Blatner, Rules Specialist

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

This rulemaking updates the Department's rules regarding poultry slaughter and inspection to match changes in federal rules incorporating ratites and squab slaughter into the federal poultry rules. Incorporations by reference are updated and excepted material is modified.

The time-frame table for the Animal Services Division is updated to eliminate the license for ratite slaughterhouses and to include a new time-frame for issuance of Ownership and Hauling Certificates for Equines.

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

The Notice of Proposed Rulemaking, published on March 15, 2002, incorporated the federal interim final rule requiring mandatory inspection of ratites and squab, with an effective date of April 26, 2001. On March 22, 2002, the final rule, with changes, was published in the Federal Register. The final rule adds information to Section 381.94 on the E. coli testing and sampling for ratites and squabs.

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

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

A. The Arizona Department of Agriculture.

The Department will license and inspect ratite and squab slaughter operations under the poultry rules. The Department's issuance of Ownership and Hauling Certificates for Equines will be included in the time-frame table. A change in internal procedures to issue the Certificates may now sometimes result in issuance of the Certificates in greater than a seven-day time-frame. These changes have a minimal cost to the Department related to training staff.

B. Political Subdivision.

It is not anticipated that the adoption of this rule will have any impact on political subdivisions.

C. Businesses Directly Affected By the Rulemaking.

Businesses previously licensed to slaughter ratites under Article 11 are now licensed under Article 2 provisions for poultry slaughter, R3-2-202(B). Only two licenses were issued under the ratite rules. If squabs are slaughtered, the poultry inspection, slaughtering standards, and licensing requirements apply to that activity.

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

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

The Department of Agriculture will schedule a public hearing if a written request for a public hearing is made to the person in item #4.

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:

9 CFR Chapter III, Subchapters A and E, revised as of January 1, 2001, amended 67 FR 13253-13259, March 22, 2002. The following parts and sections of 9 CFR are excepted from incorporation:

302.2, 322, 331, 381.96 through 381.112, 307.5, 327, 335, 381.195 through 381.209, 307.6, 329.7, 381.38, 381.218, 312, 329.9, 381.39, 381.220 through 381.225

The incorporated material appears in rule R3-2-202 (A) and (B).

13. The full text of the rules follows:

TITLE 3. AGRICULTURE

CHAPTER 2. DEPARTMENT OF AGRICULTURE

ANIMAL SERVICES DIVISION

ARTICLE 1. GENERAL PROVISIONS

Section

Table 1. Time-frames (Calendar Days)

ARTICLE 2. MEAT AND POULTRY INSPECTION

Section

R3-2-202. Meat and Poultry Inspection; ~~and~~ Slaughtering Standards

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ARTICLE 1. GENERAL PROVISIONS

Table 1. Time-frames (Calendar Days)

License	Authority	Administrative Completeness Review	Response to Completion Request	Substantive Completeness Review	Response to Additional Information	Overall Time-frame
MEAT AND POULTRY INSPECTION						
License to Slaughter	A.R.S. § 3-2002 A.R.S. § 3-2003 R3-2-208	14	14	30	14	44
Transfer of License Without Fee	A.R.S. § 3-2009	14	14	30	5	44
State Meat Inspection Service	A.R.S. § 3-2047	14	14	30	14	44
Sale or Exchange of Meat or Poultry	A.R.S. § 3-2081 R3-2-208	14	14	30	14	44
Rendering Facility Certification	A.R.S. § 3-2081 R3-2-205	14	14	30	14	44
Transfer of License	A.R.S. § 3-2086	14	14	30	5	44
Official Slaughter Meat Licenses	A.R.S. § 3-2122 R3-2-208	14	14	30	14	44
FEEDING OF ANIMALS						
Feed Lot License	A.R.S. § 3-1452	14	14	60	14	74
Permit to Feed Garbage to Swine	A.R.S. § 3-2664	14	14	60	14	74
DAIRY PRODUCTS AND CONTROL						
Milk Distributing Plant New Renewal	A.R.S. § 3-607	7 7	7 7	7 14	7 7	14 21
Milk Processing Plant New Renewal Plant Licensing New Renewal	A.R.S. § 3-607 A.R.S. § 3-665	7 7 7 7	7 7 7 7	7 14 7 14	7 7 7 7	14 21 14 21
Request to market a product as a milk product	A.R.S. § 601.01	7	7	7	7	14
Tester License	A.R.S. § 3-619	7	7	7	7	14
Trade Product Label	A.R.S. § 3-667	7	14	30	30	37
LIVESTOCK SELF INSPECTION						
Equine Trader Permit	A.R.S. § 3-1348	7	7	7	7	14

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Ownership and Hauling Certificate for Equines	A.R.S. § 3-1344 A.R.S. § 3-1345	<u>14</u>	<u>14</u>	<u>14</u>	<u>14</u>	<u>28</u>
EGG PRODUCTS AND CONTROL						
Annual Licensing	A.R.S. § 3-714	7	7	7	7	14
AQUACULTURE						
Aquaculture Facility	A.R.S. § 3-2907 R3-2-1004	14	14	30	14	44
Fee Fishing Facility	R3-2-1005	14	14	30	14	44
Processor	R3-2-1006	14	14	30	14	44
Transporter	R3-2-1007	14	14	30	14	44
Special Licenses	A.R.S. § 3-2908 R3-2-1008	14	14	30	14	44
RATITES						
Slaughterhouse and Wholesale Processing Establishment Registration	A.R.S. § 3-1482 R3-2-1102	14	14	60	14	74

ARTICLE 2. MEAT AND POULTRY INSPECTION

R3-2-202. Meat and Poultry Inspection; and Slaughtering Standards

- A.** All meat inspection and slaughtering procedures shall be conducted as prescribed in 9 CFR Chapter III, Subchapters A and E, revised as of January 1, ~~1999~~ 2001. This material is incorporated by reference, on file with the Office of the Secretary of State, and does not include any later amendments or editions. The following parts and sections of 9 CFR; ~~Chapter III, Subchapter A~~, are excepted from incorporation:
302.2, 312, 329.7, ~~306.3, 321,~~ 329.9, 307.5, 322, 331, 307.6, 327, 335
- B.** All poultry inspection and slaughtering procedures shall be conducted as prescribed in 9 CFR Chapter III, Subchapters ~~C~~ A and E, revised as of January 1, ~~1999~~ 2001, ~~amended 67 FR 13253-13259, March 22, 2002~~. This material is incorporated by reference, on file with the Office of the Secretary of State, and does not include any later amendments or editions. The following sections of 9 CFR ~~Chapter III, Subchapter C~~ are excepted from incorporation:
381.38, 381.195 through 381.209, 381.39, 381.218, 381.96 through 381.112, 381.220 through 381.225, ~~381.185 through 381.186, 381.230 through 381.236~~

Notices of Supplemental Proposed Rulemaking

NOTICE OF SUPPLEMENTAL PROPOSED RULEMAKING

TITLE 3. AGRICULTURE

CHAPTER 2. DEPARTMENT OF AGRICULTURE

ANIMAL SERVICES DIVISION

PREAMBLE

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

Notice of Proposed Rulemaking: 7 A.A.R. 5534, December 21, 2001

2. Sections Affected

Rulemaking Action

R3-2-412	New Section
R3-2-413	New Section
R3-2-505	New Section
R3-2-606	Amend
R3-2-614	Amend
R3-2-615	Amend
R3-2-705	Amend

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

Authorizing statutes: A.R.S. §§ 3-107(A)(1), 3-1203(B)(1)

Implementing statutes: A.R.S. §§ 3-1204, 3-1205, 3-1207

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

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

This rulemaking incorporates by reference amendments to 9 CFR 54, establishing procedures for scrapie eradication in sheep and goats, and 9 CFR 79, establishing identification requirements for interstate movement of sheep and goats. Requirements are established for identification of exhibition goats and sheep. Identification of sheep and goats to flock of birth is prescribed for intrastate movement.

The language in Article 6 is clarified, the health certificate requirement for equine is moved from Section R3-2-615 to Section R3-2-606(A)(7), and the rules are modified to conform to current language standards of the Office of the Secretary of State.

The self-inspection requirements in Article 7 for sheep are amended to include the new requirement of animal identification to flock of birth.

The rulemaking was initiated to conform Arizona requirements for importation of sheep and goats to updated federal requirements implemented to eradicate scrapie, and to implement these same requirements to intrastate movement, which is required within the next two years for Arizona to retain its designation as a Consistent State as described at 9 CFR 79.6.

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

At the request of exhibit officials, R3-2-614(B) is modified to provide an exemption to the Brucella ovis test for exhibition rams returning to the out-of-state flock of origin. These animals do not present a disease threat if they do not remain 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

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

A. The Arizona Department of Agriculture.

The Department will incur modest expenses related to training staff and educating the regulated community on the new sections and amendments.

B. Political Subdivision.

Other than the Department, no political subdivision is affected by this rulemaking.

C. Businesses Directly Affected By the Rulemaking.

Sheep and goat producers will incur minimal additional expense to individually identify each animal shipped interstate with federally approved methods. USDA-approved tags and tag applicators are available free of charge from the USDA. Exhibitors of most native Arizona sheep or goats will be required to provide individual identification of the animals. Exhibit officials will be required to verify health and identification documentation prescribed by rule. The rule will require owners of native Arizona sheep or goats to provide individual identification of the animals to their flock of birth prior to any movement, except if the first point of commingling is an auction market also acting as the owner's agent.

The Department believes that the added costs of implementing the federal guidelines for scrapie eradication and scrapie flock identification are outweighed by the benefit of enhanced disease prevention, and the need to maintain the state's classification as a Consistent State.

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

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

The Arizona Department of Agriculture will schedule an oral proceeding if a written request for an oral proceeding is made to the person listed in item #4.

The close of record will occur on May 6, 2002, at 3:00 p.m. if an oral proceeding is not requested.

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:

9 CFR 54; 66 FR 43963-44003, August 21, 2001. R3-2-505

9 CFR 79; 66 FR 43963-44003, August 21, 2001. R3-2-614

13. The full text of the rules follows:

TITLE 3. AGRICULTURE

CHAPTER 2. DEPARTMENT OF AGRICULTURE

ANIMAL SERVICES DIVISION

ARTICLE 4. ANIMAL DISEASE PREVENTION AND CONTROL

Section

R3-2-412. Exhibition Sheep and Goats

R3-2-413. Sheep and Goats; Intrastate Movement

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ARTICLE 5. STATE-FEDERAL COOPERATIVE DISEASE CONTROL PROGRAM

Section

R3-2-505. Scrapie Procedures for Eradication

ARTICLE 6. HEALTH REQUIREMENTS GOVERNING ADMISSION OF ANIMALS

Section

R3-2-606. Health Certificate

R3-2-614. ~~Goats and Sheep and Goats~~

R3-2-615. Equine Importation

ARTICLE 7. LIVESTOCK INSPECTION

Section

R3-2-705. Self-inspection for Sheep

ARTICLE 4. ANIMAL DISEASE PREVENTION AND CONTROL

R3-2-412. Exhibition Sheep and Goats

An exhibit official shall deny entry to any sheep or goat not individually identified by the following:

1. Imported sheep or goat.
 - a. The official health certificate as prescribed in R3-2-606 and the animal identification required in R3-2-614, and
 - b. The import permit prescribed in R3-2-607.
2. Native Arizona sheep or goat. A method as prescribed in 9 CFR 79.2(a)(2) for a non-neutered sheep or goat, and a neutered sheep or goat over 18 months of age.

R3-2-413. Sheep and Goats; Intrastate Movement

A. Before intrastate movement of a sheep over 18 months of age and a sheep or goat of any age not in a slaughter channel, the producer must identify the animal to the flock of birth before leaving the flock. A sheep or goat not in a slaughter channel includes an animal not for sale, transfer, or movement to:

1. A slaughter facility.
2. Custom slaughter, or
3. A feeding operation before movement to slaughter.

B. An exemption to subsection (A) exists if:

1. The first point of commingling with other animals is an Arizona auction market, and
2. The auction market acts as the owner's agent to identify the sheep or goat to the flock of birth.

C. This Section is effective January 1, 2003.

ARTICLE 5. STATE-FEDERAL COOPERATIVE DISEASE CONTROL PROGRAM

R3-2-505. Scrapie Procedures for Eradication

The Department controls and eradicates scrapie using the procedures outlined in 9 CFR 54; 66 FR 43963-44003, August 21, 2001. This material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department and the Office of the Secretary of State.

ARTICLE 6. HEALTH REQUIREMENTS GOVERNING ADMISSION OF ANIMALS

R3-2-606. Health Certificate

A. A health certificate is valid for not more than 30 days after the date of issue, except where otherwise noted in this Article, and shall contain:

1. The name and address of the shipper and receiver;
2. The origin of shipment;
3. The shipment's final destination;
4. Cattle.
 - a. The number of animals covered by the health certificate, and an accurate description and, except for steers, spayed heifers, or "F" branded heifers consigned to a designated feedlot identified by brand, ± one of the following individual identifications:
 - i. The USDA metal eartag number;
 - ii. The registration tattoo number, or
 - iii. The registration brand of a breed association recognized by VS.
 - b. The health status of the animals, including date and result of an inspection, dipping, test, or vaccination required by Arizona; and
 - c. The method of transportation.
5. Swine.
 - a. Evidence that the swine have been inspected within 10 days before the shipment.

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- b. A statement that:
 - i. The swine have never been fed garbage, and
 - ii. The swine have not been vaccinated for pseudorabies.
 - c. Except for feeder swine consigned to a restricted swine feedlot:
 - i. A list of the individual permanent identification for each exhibition swine, using an earnotch that conforms to the universal swine-earnotch system or for each commercial swine, using other individual identification, and the premises identification using a tattoo or producer-furnished tamper-proof eartag that conforms to the USDA National Premises Identification System;
 - ii. The validated brucellosis-free herd number and last test date for swine originating from a validated brucellosis-free herd;
 - iii. The pseudorabies status of the state of origin; and
 - iv. The pseudorabies qualified negative herd number, if applicable.
 - d. Except for feeder swine consigned to a restricted swine feedlot, swine moving directly to an exhibition, and swine from a farm of origin in a state recognized by ~~USDA-APHIS~~ APHIS as a pseudorabies Stage V state, a statement that the swine shall be quarantined on arrival and kept separate and apart from all other swine until tested negative for pseudorabies no sooner than 15 days nor later than 30 days after entry.
 - e. Feeder swine consigned to a restricted swine feedlot shall be identified by premises of origin using a tattoo or producer-furnished tamper-proof eartag that conforms to the USDA National Premises Identification System.
6. Sheep and goats. ~~A statement certifying that:~~
- a. Individual identification prescribed in R3-2-614;
 - b. A statement that:
 - ~~a-i.~~ The sheep or goats are not infected with bluetongue, nor exposed to scrapie or originate from a scrapie-infected or source flock;
 - ~~b-ii.~~ Breeding rams have been individually examined and are free of gross lesions of ram epididymitis; and
 - c. A statement of a negative test for Brucella ovis if required by R3-2-614(B).
7. Equine.
- a. Equine shall be identified on the health certificate by age, sex, breed, color, name, brand, tattoo, scars, and distinctive markings.
 - b. A statement that the equine has a negative test for EIA, as required in R3-2-615, including:
 - i. The date and results of the test;
 - ii. The name of the testing laboratory; and
 - iii. The laboratory generated accession number.
- B.** Additions, deletions, and unauthorized or uncertified changes inserted or applied to a health certificate renders the certificate void. Uncertified photocopies of health certificates are invalid.
- C.** The veterinarian issuing a health certificate shall certify that the animals shown on the health certificate are free from evidence of any infectious, contagious, or communicable disease or known exposure.
- D.** An accredited veterinarian shall inspect animals for entry into the state.
- E.** The Director may limit the period for which a health certificate is valid if advised by the State Veterinarian of the occurrence of a disease that constitutes a threat to the livestock industry.

R3-2-614. ~~Goats and Sheep and Goats~~

- A.** The owner of ~~goats and a sheep or goat~~ entering Arizona, or the owner's agent, shall comply with the requirements of:
 - 1. Article 6 and pay the expenses incurred to quarantine, test, and retest the ~~goats and sheep or goat;~~ and
 - 2. Animal identification prescribed in 9 CFR 79; 66 FR 43963-44003, August 21, 2001. This material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department and the Office of the Secretary of State.
- B.** ~~Breeding rams~~ A breeding ram six months of age and older shall test negative for Brucella ovis within 30 days of entry or originate from a certified brucellosis-free flock. An exhibition ram that returns to the out-of-state flock of origin is exempt from the testing requirement of this subsection.

R3-2-615. Equine Importation

- A.** Except for R3-2-607, ~~equines~~ an equine may enter the state as prescribed in R3-2-602 through R3-2-611.
- ~~B.~~** ~~Equines shall be individually identified on the health certificate by age, sex, breed, color, name, brand, tattoo, scars, and distinctive markings.~~
- ~~C.~~** ~~Equines~~ An equine with fistulous withers or poll evil shall not be imported.
- ~~D.~~** ~~C.~~ All equine ~~6~~ six months of age or older shall, using a test established in R3-2-407(A), be tested negative for EIA within 12 months before entry. Testing expenses shall be paid by the owner. ~~The health certificate shall contain:~~
 - 1. ~~The date and results of the test;~~
 - 2. ~~The name of the testing laboratory; and~~
 - 3. ~~The laboratory generated accession number.~~

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R3-2-705. Self-inspection for Sheep

- A.** An owner or operator applying for a self-inspection certificate book for sheep movement shall obtain an application from the livestock officer or inspector and submit it with the following information to the Department:
1. The name, business or home address, telephone number, social security number, and signature of the applicant;
 2. The date of the application; and
 3. The signature and badge number of the livestock officer or inspector assigned in the inspection area.
- B.** An owner or operator shall provide the following information on a self-inspection certificate whenever sheep are being moved:
1. The name, business or home address, telephone number, and signature of the owner;
 2. The date of the shipment;
 3. The name, address, and telephone number of the person purchasing the sheep, if applicable;
 4. The location from which the sheep are being moved;
 5. The name of the trucker;
 6. The location to which the sheep are being moved, including the name of the pasture, auction, exhibit, or slaughter establishment;
 7. The number of sheep being moved; ~~and~~
 8. The brand location and ear marks; and
 9. The flock of birth identification prescribed in R3-2-413.