SUMMARY: We are amending the animal import regulations to relieve certain restrictions on the importation of ratites and hatching eggs of ratites into the United States from Canada. We believe that these actions can be taken without increasing the risk of introducing poultry or livestock diseases into the United States. Additionally, we are allowing adult ostriches from any country to be imported, in accordance with the regulations, through the New York Animal Import Center, based on space availability. Currently, with certain exceptions, ostriches may not be imported into the United States if they exceed either 36 inches in height or 30 pounds in weight. We are making this change after determining that the New York Animal Import Center has the facilities and trained personnel to handle adult ostriches. We believe that these amendments will facilitate the importation into the United States of ratites and hatching eggs of ratites while ensuring the continued protection of the health of livestock and poultry in the United States.


FOR FURTHER INFORMATION CONTACT: Dr. Keith Hand, Senior Staff Veterinarian, Import/Export Animals, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737-1231, (301) 734-5097.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 92 (referred to below as "the regulations") govern the importation into the United States of certain animals and birds, including ostriches and other flightless birds known as ratites, and their hatching eggs, to prevent the introduction of communicable diseases of livestock and poultry.

Section 92.101 of the regulations, among other things, imposes general restrictions on the importation of ratites and hatching eggs of ratites. Paragraph (b)(3)(i) of § 92.101 requires that all ratites, except ratites imported as zoological birds, and all hatching eggs of ratites entering the United States must originate from certified pen-raised flocks and must be identified. Ratites must be identified by means of a microchip implant, hatching eggs of ratites by marking on the shell.

Paragraph (b)(3)(ii) also requires certain recordkeeping, reporting, and inspections related to the flock and premises of origin. Paragraph (b)(3)(ii) of § 92.101 prohibits, with certain exceptions, the importation of ostriches more than 36 inches in height or 30 pounds in weight at the time of arrival in the United States.

Section 92.102 of the regulations, among other things, requires that an importer submit a completed import permit application to import ratites or hatching eggs of ratites into the United States. The import permit application provides, among other things, information on the name and location of the quarantine facility in the United States that will maintain the ratites or hatching eggs of ratites during the mandatory quarantine period.

Section 92.103 of the regulations, among other things, requires that ratites and their hatching eggs offered for importation from any part of the world be accompanied by a certificate issued by a full-time salaried veterinary officer of the national government of the exporting country or issued by a veterinarian authorized or accredited by the national government of the exporting country and endorsed by a full-time salaried veterinary officer of the national government of that country. The certificate must state, among other things, that ratites and their hatching eggs offered for importation have been inspected and found free of evidence of communicable diseases and are identified in accordance with the provisions in § 92.101.

Section 92.105 of the regulations, among other things, specifies requirements for the inspection of ratites and hatching eggs of ratites at the port of entry in the United States. Paragraph (a) of § 92.105, among other things, allows hatching eggs of ratites to be offered for importation into the United States at any international airport, or any land-border port within 20 miles of an international airport, serviced by Customs. In addition, hatching eggs of ratites may be shipped, in bond, from the port of first arrival to the Customs port of entry where the eggs will be inspected and quarantined. Paragraph (c) of § 92.105 provides that ratites, other than hatching eggs of ratites, imported from any part of the world must be inspected by a veterinary inspector appointed by the Animal and Plant Health Inspection Service (APHIS) at a listed port of entry. The ports of entry listed for ostriches are New York, NY; Stewart Airport, Newburgh, NY; and Miami, FL. The ports of entry listed for ratites other than ostriches are New York, NY; Stewart Airport, Newburgh, NY; Miami, FL; and Honolulu, HI.

Section 92.106 of the regulations, among other things, imposes quarantine requirements on ratites and hatching eggs of ratites. Paragraph (b)(1) of § 92.106, among other things, requires ratites imported from any part of the world to be quarantined upon arrival for a minimum of 30 days to determine the ratites’ freedom from ectoparasites and communicable diseases. Paragraph (b)(3) of § 92.106 requires that ratites be treated for ectoparasites during the quarantine by an inspector until the inspector determines that the ratites are free of ectoparasites.

On June 3, 1996, we published in the Federal Register (61 FR 27797-27802, Docket No. 95-044-1) a proposal to amend the regulations by exempting certain ratites and hatching eggs of ratites from Canada from quarantine requirements upon arrival in the United States; exempting ratites imported from Canada for consignment directly to slaughter in the United States from the requirement in § 92.104(c)(8) that the ratites be treated for ectoparasites within 3 to 14 days before they are exported from Canada; exempting Canadian ratite flocks from the pen-raised requirement and the identification and recordkeeping requirements in § 92.101(b)(3); allowing ratites from Canada that are exempt from quarantine upon arrival to be offered for importation at a number of ports, in addition to the ports listed in § 92.105(c); exempting ratites and hatching eggs of ratites from Canada from the import permit requirements found in § 92.103 if the ratites and hatching eggs qualify for exemption from quarantine upon arrival in the United States and enter the United States at a Canadian land border port, as listed in § 92.203(b); and allowing ostriches greater than 36 inches in height or 30 pounds in weight to be imported into the United States from any country through the port of New York, NY; Stewart Airport, Newburgh, NY; and Miami, FL.
throughout the proposal, we contained in Title 50, subchapter B, of the Code of Federal Regulations.

hatching eggs intended for importation into the United States must meet all their hatching eggs may enter the United States. We are also adding to the list of ports of entry for ratites and hatching eggs of ratites.

Tacoma, WA, from the list of ports of entry for importation of ratites and hatching eggs of ratites.

removing the ports of Jacksonville, FL; Newburgh, NY, and be quarantined at the New York Animal Import Center, Newburgh, NY, and be quarantined at the New York Animal Import Center, based on space availability, we intended to specify ostriches only. Therefore, we are making no changes to the rule based on this comment.


can be transported, and can be cheaper to transport, and can be considered free of both END and S. enteritidis, phage type 4; therefore, the rule has been reviewed under Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. This rule has been determined to be not significant for purposes of Executive Order 12866, and, therefore, has not been reviewed by the Office of Management and Budget. This rule relieves some restrictions on the importation into the United States of ratites and hatching eggs of ratites from Canada and on the importation into the United States of adult ostriches. We anticipate that this rule will affect only the ostrich industry because very few

York, NY, or through Stewart Airport, Newburgh, NY, and be quarantined at the New York Animal Import Center (NYAIC), based on space availability.

We solicited comments concerning our proposal for 60 days ending August 2, 1996. We received two comments, one from a government agency and the other from a representative of industry, by that date. The concerns of these commenters are discussed below by topic.

Ratite References

One commenter suggested that throughout the proposal, we consistently use the general term “ratite,” rather than specify members of the ratite family such as “ostrich.” Alternatively, the commenter requested that where specific members of the ratite family are named, then each member, such as “emus,” “rheas,” and “kiwis,” should also be listed.

Where appropriate, we used the general reference “ratite” in the proposal. The term “ratites” is defined in the regulations as “cassowaries, emus, kiwis, ostriches, and rheas.” When we used the specific term “ostrich,” as in the proposal to allow ostriches greater than 36 inches in height or 30 pounds in weight to be imported into the United States from any country through the port of New York, NY, or through Stewart Airport, Newburgh, NY, and be quarantined at the New York Animal Import Center, based on space availability, we intended to specify ostriches only. Therefore, we are making no changes to the rule based on this comment.

Ratite Meat and Byproducts

One commenter asked that we also relieve restrictions on ratite meat and ratite byproducts, such as ratite hides and all ratite eggs, from Canada. Currently, the regulations in 9 CFR 94.6 restrict the entry of carcasses or parts of carcasses, and eggs (other than hatching eggs) of poultry, game birds, or other birds from countries where exotic Newcastle disease (END) or S. enteritidis, phage type 4, is considered to exist. Canada is considered free of both END and S. enteritidis, phage type 4, therefore, the importation of ratite carcasses, or parts or products of ratite carcasses, and ratite eggs (other than hatching eggs) from Canada are not restricted under APHIS regulations.

Therefore, based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposal as a final rule with the changes discussed in this document.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. This rule has been determined to be not significant for purposes of Executive Order 12866, and, therefore, has not been reviewed by the Office of Management and Budget. This rule relieves some restrictions on the importation into the United States of ratites and hatching eggs of ratites from Canada and on the importation into the United States of adult ostriches. We anticipate that this rule will affect only the ostrich industry because very few
quarantined at private facilities, historically only about 26 percent of the imported eggs (this includes fertile and infertile eggs) have hatched chicks that survived beyond 30 days. Despite being a financially dangerous option, importers continue to import hatching eggs and are trying to improve their rate of hatch and chick survival. However, because of the relatively low hatch and survival rate and the reduced market prices of ostriches of different ages, we do not expect a heavy volume of the hatching eggs of ratites from Canada to be imported into the United States as a result of this rule.

Any imports from Canada that might result from this rule could cause a further decline in the domestic prices of ratites in the United States. However, we expect that domestic ratite importers will benefit by having fewer restrictions on Canadian imports. Over the short term, the proposed changes in the regulations might have a minor adverse economic impact on domestic ostrich producers. Over the long term, we expect the domestic ratite industry to benefit from any imports that may occur because reduced ostrich prices could lead to larger domestic populations of ostriches, benefiting consumers of ostriches and ostrich products. A larger domestic ratite population could further enhance the economic viability of commercial ratite breeding, slaughter, feather, and leather markets.

We expect that the economic effect of allowing the importation of adult ostriches from all countries into the United States through the New York Animal Import Center will be insignificant because of the drastic decrease in the market prices of ostriches.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

Regulatory Reform

This action is part of the President's Regulatory Reform Initiative, which, among other things, directs agencies to remove obsolete and unnecessary regulations and to find less burdensome means to achieve regulatory goals.

List of Subjects in 9 CFR Part 92

Animal diseases, Imports, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping.

Accordingly, 9 CFR part 92 is amended as follows:

PART 92—IMPORTATION OF CERTAIN ANIMALS, BIRDS, AND POULTRY AND CERTAIN ANIMAL, BIRD, AND POULTRY PRODUCTS: REQUIREMENTS FOR MEANS OF CONVEYANCE AND SHIPPING CONTAINERS

1. The authority citation for part 92 continues to read as follows:


§ 92.101 [Amended]

2. Section 92.101 is amended as follows:

a. By removing paragraph (b)(3)(ii).

b. By redesignating paragraphs as follows:

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g. In newly designated paragraph (b)(3)(x), the fourth sentence, by removing the reference “(b)(3)(ii)(E)” and adding “(b)(3)(iv)” in its place.

§ 92.101 General prohibitions; exceptions.

(b) * * *

(3) Except for ratites imported as zoological birds, and ratites and ratite hatching eggs imported from Canada in accordance with § 92.107, ratites and hatching eggs of ratites may not be imported into the United States unless the following conditions are met:

* * *

§ 92.102 [Amended]

3. Section 92.102(c) is amended by removing the reference “§ 92.105(a)” and adding “§ 92.105(b)” in its place.

4. Section 92.103 is amended as follows:

a. In paragraph (a)(1), the first sentence, by removing the reference “§ 92.214” and adding “§ 92.107(b)” in its place.

b. By revising paragraphs (a)(1)(xiii), (a)(2)(iii), and (a)(2)(iv) to read as set forth below.

c. In paragraph (a)(2)(v), by removing “§ 92.101(b)(3)(i)(G) and (b)(3)(i)(J)” and adding “§ 92.101(b)(3)” in its place.

4. Section 92.102 is amended by removing paragraph (b)(3)(ii), by removing the reference “§ 92.105(a)” and adding “§ 92.105(b)” in its place.

5. Section 92.101(b)(3)” in its place.

6. At the end of the section, by adding an OMB control number to read as set forth below.

§ 92.103 Import permits for birds; and reservation fees for space at quarantine facilities maintained by APHIS.

(a) * * *

(1) * * *

(xiii) In addition, the application for a permit to import ratites or hatching eggs of ratites, except for ratites and hatching eggs of ratites imported from Canada in accordance with § 92.107, shall specify the number of ratites or hatching eggs intended for importation, the size of the flock of origin, and the location of the premises where the flock of origin is kept; and shall state that, from the date of application through the date of export, APHIS representatives shall be granted access to the premises where the flock of origin is kept. (For ratites intended for importation as zoological birds, the flock of origin shall be the ratites intended for importation.)

(2) * * *
(iii) In addition, a permit to import ratites or hatching eggs of ratites, except for ratites or hatching eggs of ratites imported from Canada in accordance with § 92.107, will be denied or withdrawn unless APHIS representatives are granted access to the premises where the flock of origin is kept (or, in the case of zoological birds, to the premises where the birds are kept), from the date of the application for the permit through the date of export.

(iv) Except for ratites intended for importation as zoological birds and ratites and hatching eggs of ratites imported from Canada in accordance with § 92.107, a permit to import ratites or hatching eggs of ratites will be denied or withdrawn unless an APHIS representative has visited the premises where the flock of origin is kept within the 12-month period before the intended importation and has determined that the flock is pen-raised and contains sufficient breeding pairs to produce the number of ratites or hatching eggs intended for importation.

...ceilings required to be established under the flock of origin has not exceeded the hatching eggs of ratites exported from...ectoparasites on the ratites; concentration sufficient to kill with a pesticide of a type and loaded for shipment to the United States not more than 14 days before being treated at least 3 days but...Canada for immediate slaughter, the certificate were produced and...immediately following the words “any part of the world”.

§ 92.104 Certificates for pet birds, commercial birds, zoological birds, and research birds.

(a) By revising paragraphs (c)(2), (c)(8), (c)(13), (c)(14), (c)(15), (c)(16), (d)(2), (d)(9), (d)(10), and (d)(11) to read as set forth below.

b. At the end of the section, by adding an OMB control number to read as set forth below.

§ 92.105 Inspection at the port of entry.

(b) Ratites from Canada. Ratites that were hatched and raised in Canada or ratites that were legally imported into Canada and, upon arrival in Canada, were quarantined for a minimum of 28 days at a Canadian quarantine facility and remained in Canada for an additional 60 days following completion of quarantine may be imported into the United States:

1. Without being quarantined upon arrival in the United States; and
2. At any of the following ports of entry: Anchorage, AK; Fairbanks, AK; Los Angeles, CA; San Diego, CA; Denver, CO; Miami, FL; Tampa, FL; Atlanta, GA; Honolulu, HI; Eastport, ID; Chicago, IL; New Orleans, LA; Boston, MA; Baltimore, MD; Houlton, ME; Jackman, ME; Detroit, MI; Port Huron, MI; Sault Ste. Marie, MI; Minneapolis, MN; Raymond, MT; Sweetgrass, MT; Buffalo, NY; Champlain, NY; New York, NY; Stewart Airport, Newburgh, NY; Dunseith, ND; Pembina, ND; Portal, ND; Portland, OR; San Juan, PR; Houston, TX; Ruidoso, NM; Des Moines, IA; Rapid City, SD; St. Cloud, MN; Minneapolis, MN; Yakima, WA; Anchorage, AK; Fairbanks, AK; Portland, OR; New York, NY; and Stewart Airport, Newburgh, NY.

§ 92.106 [Amended]

7. Section 92.106 is amended as follows:

a. In paragraph (b)(1), the first sentence, by adding the words, “except as provided in § 92.107,” immediately following the words “any part of the world”.

b. In paragraph (b)(2), the first sentence, by adding the words, “except as provided in § 92.107,” immediately following the words “any part of the world”.

8. Section 92.107 is amended as follows:

a. By adding the paragraph designation “(c)” immediately preceding the words “In-bond shipments from Canada.”

b. By adding new paragraphs (b) and (c) to read as follows:

§ 92.107 Special provisions.

(b) Ratites from Canada. Ratites that were hatched and raised in Canada or ratites that were legally imported into Canada and, upon arrival in Canada, were quarantined for a minimum of 28 days at a Canadian quarantine facility and remained in Canada for an additional 60 days following completion of quarantine may be imported into the United States:

1. Without being quarantined upon arrival in the United States; and
2. At any of the following ports of entry: Anchorage, AK; Fairbanks, AK; Los Angeles, CA; San Diego, CA; Denver, CO; Miami, FL; Tampa, FL; Atlanta, GA; Honolulu, HI; Eastport, ID; Chicago, IL; New Orleans, LA; Boston, MA; Baltimore, MD; Houlton, ME; Jackman, ME; Detroit, MI; Port Huron, MI; Sault Ste. Marie, MI; Minneapolis, MN; Raymond, MT; Sweetgrass, MT; Buffalo, NY; Champlain, NY; New York, NY; Stewart Airport, Newburgh, NY; Dunseith, ND; Pembina, ND; Portal, ND; Portland, OR; San Juan, PR; Houston, TX; Ruidoso, NM; Des Moines, IA; Rapid City, SD; St. Cloud, MN; Minneapolis, MN; Yakima, WA; Anchorage, AK; Fairbanks, AK; Portland, OR; New York, NY; and Stewart Airport, Newburgh, NY.
ADDRESSES: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428.

FOR FURTHER INFORMATION CONTACT: Sparky Conrey, Staff Attorney, Office of General Counsel, telephone (703) 518-6540, and Jodee Wuerker, Compliance Officer, Office of Examination and Insurance, telephone (703) 518-6360.

SUPPLEMENTARY INFORMATION:

(1) Loans to Officials

On September 30, 1996, the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (the “Act”) was enacted. Section 2306 of the Act amended sections 107(5)(A) (iv) and (v) of the Federal Credit Union Act, by raising the threshold of loans to officials that require credit union board of director approval from $10,000 to $20,000. 12 U.S.C. 1757(5)(A) (iv) and (v). These statutory provisions are currently implemented in section 701.21(d) (1) and (4) of NCUA’s Rules and Regulations. 12 CFR 701.21(d) (1) and (4). The $10,000 amount is changed to $20,000 in these two sections. All other portions of the rules regarding loans to officials remain the same.

(2) Truth in Savings

Background

NCUA has previously extended the compliance date three times of part 707, which implements the Truth in Savings Act (TISA), for certain small, nonautomated credit unions. Each time, the NCUA Board took into consideration the limited resources of the exempted credit unions. The last extension was due to expire on January 1, 1997. 60 FR 57173 (November 14, 1995).

Section 2604(c) of the Act exempts from TISA requirements “any nonautomated credit union that was not required to comply with the [TISA] as of the date of enactment of the Act,” pursuant to the determination of the NCUA Board. The NCUA Board has previously exempted nonautomated and insufficiently automated credit unions with an asset size of $2 million or less as reported to, or determined by, NCUA. An exemption had been supported by NCUA, the Department of the Treasury, and credit union trade associations in Congressional hearings and other legislative action,

citing the hardships that would befall the small, nonautomated credit unions if TISA compliance became mandatory. These hardships potentially include: increased mergers of the affected credit unions into larger credit unions; increased voluntary liquidations; loss of volunteer support; allocation of credit union resources from member services to compliance; the expense, complications, and logistics of automating in order to comply; and loss of credit union services to members. Subsequently, Congress provided a TISA exemption for small, nonautomated credit unions.

The NCUA Board is concerned with the continued viability of small credit unions and the provision of continued financial services to their members. Ten years ago, credit unions under $2 million in size made up about two-thirds (10,564) of all federally insured credit unions. Today, such credit unions number only 3,401; about thirty percent of federally insured credit unions. In addition, the assets of today’s 3,401 smallest credit unions are .9 percent of total assets in all credit unions, while credit union assets under $2 million or less accounted for 7.7 percent of total assets ten years ago. The average credit union today has $28 million in assets, compared to $5 million ten years ago.

Because the Act recognizes the difficulty that small credit unions face in complying with the many requirements of the TISA, especially the calculation requirements, statutory relief is provided. It is important to note that this relief is available to a very small segment of credit unions. Almost four-fifths of credit unions with $2 million or less in assets are automated or have in-house data processing. NCUA has determined that there are about 704 credit unions under $2 million in assets that report having manual recordkeeping systems. Analogously, NCUA has also determined that there are about 607 credit unions under $2 million in assets that have no compensated employees. (These numbers do not include the approximately 645 non-federally insured credit unions that do not submit 5300 reports.) The actual number of credit unions exempt from TISA and part 707 is estimated by NCUA staff to be fewer than 1,000. Although the statutory exemption is permanent in nature, NCUA encourages exempted credit unions to continue to comply with the spirit and intent of TISA by providing full and fair account disclosures to members. Even with the extension, many small, nonautomated credit union activities comply with the purposes of TISA: to enable credit union members and potential members to make informed decisions about credit union accounts and to make meaningful comparisons with accounts at other financial institutions.

Definition of Nonautomated

The NCUA Board has decided to implement the Act’s exemption for nonautomated credit unions by