

Dated: June 17, 2003.

**Kenneth C. Clayton,**

*Acting Administrator, Agricultural Marketing Service.*

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## DEPARTMENT OF AGRICULTURE

### Food Safety and Inspection Service

#### 9 CFR Part 381

[Docket No. 02-015DF]

RIN 0583-AC97

#### **Addition of Australia and New Zealand to the List of Foreign Countries Eligible to Import Poultry Products (Ratite Only) Into the United States**

**AGENCY:** Food Safety and Inspection Service, USDA.

**ACTION:** Direct final rule.

**SUMMARY:** The Food Safety and Inspection Service (FSIS) is announcing that it will add Australia and New Zealand to the list of countries eligible to import poultry products (ratite only) into the United States (U.S.). Reviews by FSIS of Australia's and New Zealand's laws, regulations, and other written materials, as well as the findings of an on-site review of each country's system, show that their regulatory systems that apply to ratite slaughter and processing include requirements that are equivalent to that of the United States under the Poultry Products Inspection Act (PPIA) and its implementing regulations.

Under this direct final rule, ratites slaughtered and processed in certified establishments in Australia and in New Zealand will be permitted to be imported into the U.S. All ratite products imported into the U.S. from Australia and New Zealand will be subject to reinspection at U.S. ports-of-entry by FSIS inspectors.

**DATES:** This rule will be effective August 22, 2003, unless written adverse comments within the scope of this rulemaking or written notice of intent to submit adverse comments within the scope of this rulemaking are received on or before July 23, 2003. If FSIS receives adverse comments, a timely withdrawal will be published in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit adverse comments or notice of intent to submit adverse comments within the scope of this rulemaking to: FSIS Docket Clerk, Docket #02-015DF, Room 102, Cotton Annex, 300 C Street, SW., Washington, DC 20250-3700. Reference materials

cited in this document and any comments received will be available for public inspection in the FSIS Docket Room from 8:30 a.m. to 4:30 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Mr. Clark Danford, Acting Director, Import-Export Programs Staff, Office of International Affairs; (202) 720-6400.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

Effective April 2001, ratites were officially classified as poultry and subject to mandatory inspection under the PPIA (56 FR 22899). Prior to that time, imported ratites were regulated by the Food and Drug Administration (FDA).

FSIS will amend the Federal poultry products inspection regulations to add Australia and New Zealand to the list of countries eligible to import ratite and ratite products into the U.S. These countries have consistently maintained their eligibility to certify meat slaughter and processing operations.

Section 17 (21 U.S.C. 466(d)) of the PPIA states (1) notwithstanding any other provision of law, all poultry, or parts or products of poultry capable of use as human food offered for importation into the U.S. shall—(A) be subject to inspection, sanitary, quality, species verification, and residue standards that achieve a level of sanitary protection equivalent to that achieved under the U.S. standards; and (B) have been processed in facilities and under conditions that achieve a level of sanitary protection equivalent to that achieved under U.S. standards. (2)(A) The Secretary may treat as equivalent to a U.S. standard a standard of an exporting country described in paragraph (1) if the exporting country provides the Secretary with scientific evidence or other information, in accordance with risk assessment methodologies determined appropriate by the Secretary, to demonstrate that the standard of the exporting country achieves the level of sanitary protection achieved under the U.S. standard. For the purposes of this subsection, the term “sanitary protection” means protection to safeguard public health. (B) The Secretary may (i) determine, on a scientific basis, that the standard of the exporting country does not achieve the level of protection that the Secretary considers appropriate; and (ii) provide the basis for the determination in writing to the exporting country on request. (3) Any such imported poultry article that does not meet such standards shall not be permitted entry into the U.S. (4) The Secretary shall

enforce this subsection through (A) random inspections for such species verification and for residues; and (B) random sampling and testing of internal organs and fat of carcasses for residues at the point of slaughter by the exporting country, in accordance with methods approved by the Secretary. Section 17 (21 U.S.C. 466(a)) of the PPIA also prohibits the importation of any slaughtered poultry, or parts or products thereof, of any kind into the U.S. unless they are healthful, wholesome, fit for human food, not adulterated, and contain no dye, chemical, preservative, or ingredient which renders them unhealthful, unwholesome, adulterated, or unfit for human food and unless they also comply with the rules and regulations made by the Secretary of Agriculture to assure that imported poultry or poultry products comply with the standards provided for in this Act.

The importation of ratite products must be in compliance with the Federal poultry products inspection regulations to ensure that they meet the standards provided in the PPIA. 9 CFR 381.196 establishes the procedures by which foreign countries that want to import ratite or ratite products into the U.S. may become eligible to do so.

Section 381.196 requires that authorities in a foreign country's poultry inspection system certify that (1) the system provides standards equivalent to those of the U.S. and (2) the legal authority for the system and its implementing regulations are equivalent to those of the U.S. Specifically, a country's regulations must impose requirements that are equivalent to those of the U.S. in the following areas: (1) Ante-mortem and post-mortem inspection; (2) official controls by the national government over plant construction, facilities, and equipment; (3) direct and continuous supervision of slaughter activities, where applicable, and product preparation by official inspection personnel; (4) complete separation of establishments certified to export from those not certified; (5) maintenance of a single standard of inspection and sanitation throughout certified establishments; (6) requirements for sanitation at certified establishments and for sanitary handling of poultry products; (7) official controls over condemned material until destroyed or removed and, thereafter, excluded from the establishment; (8) a Hazard Analysis and Critical Control Point system as set out in 9 CFR part 417; and (9) other matters for which requirements are contained in the Act or the regulations of this part.