

into the U.S., provided that the animals were slaughtered in an establishment certified to export to the U.S. and provided the countries submit a request for establishing equivalency. The **Federal Register** document pointed out that Australia and New Zealand were both certified to import meat into the U.S. and had indicated that they planned to seek equivalency status to import ratites into the U.S. under the Federal poultry product inspection regulations.

In response to Australia's and New Zealand's request to establish equivalency to import ratite and ratite products into the U.S., FSIS conducted a review of the Australian and New Zealand ratite inspection systems to determine whether they are equivalent to the U.S. ratite inspection laws and regulations. The review concluded that both countries' requirements are equivalent to those mandated by the PPIA and its implementing regulations.

FSIS then conducted an on-site review of the Australian and New Zealand ratite inspection systems in operation. Both countries inspect ratites under the programs that FSIS has found equivalent to that of the U.S. for other species. The on-site review found that both countries were in fact implementing the slaughter and inspection procedures that FSIS found to be equivalent in its document analysis. The FSIS review team concluded that the implementation of ratite processing standards and procedures by both countries is equivalent to that by the U.S.

On June 23, 2003, FSIS issued a direct final rule (68 FR 37069) announcing that it planned to amend the Federal poultry products inspection regulations to add Australia and New Zealand to the list of countries eligible to import ratite meat products into the U.S. The rule made clear that these countries have consistently maintained their eligibility to certify meat slaughter and processing operations, and that they meet the equivalency standards.

The June 23, 2003, direct final rule provided a 30-day comment period, ending July 23, 2003. The direct final rule stated that the rule would be made effective "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."

FSIS received comments in response to the direct final rule, all from representatives of the U.S. ratite industry. After careful review and full consideration of these comments, FSIS has concluded that none of them raised

or discussed issues that were "within the scope of this rulemaking." None of the comments addressed whether the ratite inspection system in Australia and New Zealand is equivalent.

Most commenters believed that this direct final rule would "lift the import restrictions" on ratite products and voiced opposition to opening the American market to such products. These views reflected a misunderstanding of the rule's purpose and effect.

This change to the regulations does not "lift import restrictions" on ratite products from Australia and New Zealand or "open the market" to such products, since Australia and New Zealand have been able to import ratite products into the U.S. under the jurisdiction of FDA for years.

Under USDA regulations, foreign countries that import ratite meat into the U.S. are required to meet import requirements that substantially exceed those that were applied by FDA rules. For example, under USDA regulations ratite meat may be imported into the U.S. only from establishments in countries that have demonstrated to FSIS that they have a system of poultry inspection that is equivalent to the U.S. domestic program. In other words, foreign ratite meat must be as safe and wholesome as domestic ratite meat.

FSIS conducts annual audits of exporting countries' systems to verify the equivalence of their inspection program. Furthermore, under USDA jurisdiction, every lot of imported ratite meat must be presented to FSIS for reinspection at a U.S. port-of-entry. Products that are reinspected and found not to meet U.S. ratite meat standards would be rejected and refused entry into the U.S.

Other commenters focused on the importation of emu oil. The change to the regulation pertains only to ratite *meat*. Emu oil would be subject to FSIS jurisdiction only if it were imported for use as human food. FSIS is not aware of any direct food use for emu oils. Based on FSIS's understanding from the comments, emu oil is used in the U.S. for a variety of pharmaceutical purposes, but not for food. The pharmaceutical use of an animal-derived product will continue to be regulated by the FDA, not USDA.

Commenters also stated that American ratite farmers cannot compete with ratite products from Australia and New Zealand, because those countries sell their products at a lower cost than that of U.S. producers. However, as stated above and in the June 2003 direct final rule, Australia and New Zealand already import ratite meat into the U.S.

and have been doing so for some time. These foreign establishments import approximately 160,000 pounds of fresh or frozen whole, cut-up, or deboned ratite meat per year into the U.S. There is no reason to believe, nor have the commenters provided any reason to believe, that there will be a significant change in volume of trade as a result of this rule. Nor is this rule likely to have much of an effect on supply and prices. Therefore, this rule is not expected to have an impact on small domestic entities that produce these types of products. Even if the product quantities and varieties imported increase, there is no basis to make any conclusion other than that the volume increase will be minimal, and no significant impact will be realized.

After review and consideration of the comments received, FSIS has concluded that the comments received are not adverse comments within the scope of the rule. Thus, the Agency is affirming the direct final rule adding Australia and New Zealand to the list of countries eligible to import poultry products (ratite only) into the U.S.

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