

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 95-044-1]

The Importation of Ratites and Hatching Eggs of Ratites

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend 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 proposed actions can be taken without increasing the risk of introducing poultry or livestock diseases into the United States. Additionally, we propose to allow 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 proposing 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 proposed amendments would 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.

DATES: Consideration will be given only to comments received on or before August 2, 1996.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 95-044-1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238.

Please state that your comments refer to Docket No. 95-044-1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690-2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Tracey Butler, 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)(i) 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 92.103 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 92.104 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 of 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. Paragraph (b)(2) of § 92.106, among other things, requires hatching eggs of ratites imported from any part of the world to be quarantined upon arrival, incubated for approximately 42 days, and held in quarantine for a minimum of 30 days following the hatch of the last chick in the lot, to determine the ratites' freedom from communicable diseases. Additionally, the ratites and hatching eggs of ratites must be tested for and found free of viral diseases of poultry, including exotic Newcastle disease.

Ratites and Hatching Eggs of Ratites From Canada

We are proposing to exempt certain ratites and hatching eggs of ratites from Canada from quarantine requirements upon arrival in the United States. We are proposing this relief for ratites that meet the following conditions: (1) They were hatched and raised in Canada; or (2) if imported into Canada, they were quarantined upon arrival in Canada for a minimum of 28 days at a Canadian quarantine facility and remained in Canada for an additional 60 days following quarantine. We are also proposing to exempt ratite hatching eggs that were laid in Canada from U.S. quarantine requirements. We would continue to require that these ratites and hatching eggs of ratites be accompanied by a health certificate, in accordance with current § 92.104(a), (c), and (d), and that they meet the other applicable requirements of the regulations.

We are proposing this change to the regulations because we believe that ratites and their hatching eggs from Canada present a minimal risk of introducing animal and poultry diseases into the United States, as explained below.

Currently, Canada's import regulations allow ratites to be imported into Canada only from Germany, The Netherlands, and the United Kingdom. We have determined that Canadian requirements for importing ratites and their hatching eggs into Canada are similar to U.S. requirements for importing ratites and their hatching eggs into the United States. Specifically, ratites imported into Canada must meet the following conditions to be eligible for entry into a Canadian quarantine station: (1) They were hatched in and have never been outside the country of origin, or they have been quarantined in the country of origin for at least 60 days; (2) they were inspected within 30 days immediately prior to the date of export and were found to be free from evidence

of viral diseases of poultry, including Newcastle disease, and as far as could be determined have not been exposed to disease within the preceding 60 days; (3) they tested negative for viral diseases; and (4) they were inspected and declared healthy by a Canadian veterinary inspector upon arrival in Canada. Upon arrival in Canada, the imported ratites must enter a Canadian quarantine station and remain in quarantine for a minimum of 28 days. During that time, they are thoroughly checked for ticks and other external parasites. Fecal samples are taken and checked for internal parasites. The detection of internal or external parasites necessitates treatment; however, no vaccine against Newcastle disease or laryngotracheitis is administered. The detection of viral diseases may necessitate slaughter and disposal of the carcass.

Hatching eggs of ratites that are imported into Canada also undergo quarantine to ensure the hatched chicks are free from disease. Hatching eggs of ratites imported into Canada must enter a Canadian quarantine station and remain in Canadian quarantine for a minimum of 45 days following the hatch of the last chick in the lot in order for the chicks to be eligible for an Agriculture Canada health certificate for importation into the United States.

Ratites imported into Canada under the conditions described above would present a negligible disease risk if allowed to enter the United States without undergoing quarantine. The quarantine period in Canada would offer sufficient opportunity for the diagnosis of communicable diseases. Upon release from quarantine, the imported ratites would join Canadian flocks for a minimum of 60 days. Additionally, ratites do not live in the wild in Canada, and, therefore, ratites of unknown disease history could not be trapped in the wild and then added to Canadian flocks for subsequent importation into the United States. Because of these factors, neither ratites imported into Canada, nor any Canadian-origin ratites, would have occasion to be exposed to any communicable disease of concern to the United States.

We therefore believe that removing the quarantine requirement for certain ratites and hatching eggs of ratites from Canada is warranted to eliminate duplications in Canadian and U.S. disease-prevention measures and relieve an unnecessary regulatory burden.

We are also proposing to exempt 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. We are proposing this change to minimize potential pesticide residue problems in ratite meat and to acknowledge that ratites from Canada that are consigned directly to slaughter in the United States would have little, if any, opportunity to come into contact with and transfer ticks to other animals. It is also unlikely that any ticks that could be on the ratites would be ticks exotic to the United States because there are no known ticks in Canada that are exotic to the United States.

In addition, we are proposing to exempt Canadian ratite flocks from the pen-raised requirement and the identification and recordkeeping requirements in § 92.101(b)(3). These requirements were established to prevent wild-caught ratites from being added to a "pen-raised" flock and then imported into the United States as ratites produced and maintained in a pen-raised flock. Because there are no wild ratites in Canada and because Canadian import restrictions make it unlikely that any wild-caught ratites would be imported into Canada, it does not appear that it is necessary to require Canadian flocks to meet the pen-raised requirement and the identification and recordkeeping requirements in § 92.101(b)(3).

We are also proposing to allow ratites from Canada that are exempt from quarantine upon arrival to be offered for importation at the following ports, in addition to the ports listed in § 92.105(c): Anchorage, AK; Fairbanks, AK; Los Angeles, CA; San Diego, CA; Denver, CO; Jacksonville, FL; Port Canaveral, FL; St. Petersburg-Clearwater, FL; Tampa, FL; Atlanta, GA; Eastport, ID; Chicago, IL; New Orleans, LA; Houlton, ME; Jackman, ME; Portland, ME; Detroit, MI; Baltimore, MD; Boston, MA; Port Huron, MI; Sault Ste. Marie, MI; Minneapolis, MN; Great Falls, MT; Opheim, MT; Raymond, MT; Sweetgrass, MT; Alexandria Bay, NY; Buffalo, NY; Champlain, NY; Dunseith, ND; Pembina, ND; Portal, ND; Portland, OR; San Juan, PR; Galveston, TX; Houston, TX; Highgate Springs, VT; Blaine, WA; Lynden, WA; Oroville, WA; Seattle, WA; Spokane, WA; Sumas, WA; and Tacoma, WA.

We are proposing this change because, as explained above, ratites hatched and maintained in Canada, or legally imported into Canada, would present little, if any, risk of carrying an exotic animal or poultry disease, or of harboring ectoparasites that could transmit exotic diseases to animals or poultry in the United States.

Consequently, we do not believe that these ratites need to be individually handled and inspected at the port of arrival. Under these circumstances, it appears that ratites from Canada that would not require quarantine upon arrival in the United States could be offered for importation at ports other than those currently allowed, including small, limited ports that lack restraint and holding facilities.

Canadian-origin hatching eggs of ratites would also be allowed to be offered for importation at the ports listed above and could continue to be offered for importation at any international airport, or at any land-border port within 20 miles of an international airport, serviced by Customs, in accordance with § 92.105(a).

We believe that increasing the number of ports through which ratites and their hatching eggs may enter the United States from Canada would facilitate trade between the United States and Canada, in accordance with the North American Free Trade Agreement and the General Agreement on Tariffs and Trade.

We are proposing to exempt 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). This exemption would apply only to those ratites and hatching eggs that are imported from Canada through a land border port. If Canadian ratites or hatching eggs of ratites enter the United States through an airport or ocean port, then the ratites or hatching eggs must be accompanied by an import permit so that port inspectors will have prior notification of the arrival of the shipment of ratites or hatching eggs and be available to check the shipment.

The exemptions discussed above for ratites and hatching eggs imported into the United States from Canada would be set forth in § 92.107 in new paragraphs (b) and (c). Sections 92.101, 92.103, 92.104, 92.105, and 92.106 would be amended to indicate that § 92.107 contains exemptions for ratites and hatching eggs of ratites imported into the United States from Canada.

Adult Ostriches

We are also proposing 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 (NYAIC), based on space availability. As a result of our experience enforcing the regulations, we believe the NYAIC now has the facilities and trained personnel to handle adult ostriches. Additionally, if an ostrich greater than 36 inches in height or 30 pounds in weight were imported into the United States from Canada without requiring quarantine, in accordance with the requirements proposed in this document, then that adult ostrich would be permitted entry into the United States through any of the ports proposed for the importation of Canadian ratites.

Miscellaneous

We are proposing to make a correction to § 92.103(a)(1) to remove a reference to § 92.214. When part 92 was divided into seven subparts in 1990, some references within paragraphs no longer applied. We corrected most of these references, but we inadvertently overlooked the reference to § 92.214 in § 92.103(a)(1). Section 92.103(a)(1) provides import permit requirements and exceptions to those requirements for birds; whereas § 92.214 explains import permit requirements for poultry. Therefore, we are proposing to remove the reference to § 92.214 from § 92.103(a)(1).

We are also proposing to make minor editorial changes for clarity and consistency, and we are proposing to amend §§ 92.103 and 92.104 by adding a reference to the end of each section for the Office of Management and Budget control number assigned to approved information collection and recordkeeping requirements.

Executive Order 12866 and Regulatory Flexibility Act

This proposed 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 proposed rule would relieve 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 proposed rule would affect only the ostrich industry because very few ratites other than ostriches have been imported into the United States since first being allowed in 1986.

Ostrich production in the United States has been growing rapidly over the last few years. According to a recent estimate, there are approximately 6,000 to 7,000 ostrich owners and more than

70,000 breeding ostriches in the United States. Each farm owns an average of 8 to 10 adult ostriches, but each farm's holdings can range anywhere from 2 to 200 adult ostriches. All of these farms are considered small entities by Small Business Administration standards (annual gross receipts of less than \$500,000). The American Ostrich Association reports its membership at 3,650 as of September 1995.

Over the last 2 to 3 years, the supply of ostriches in the United States has steadily increased, which has greatly reduced domestic prices. For example, in 1992, market prices for ostriches of different ages ranged as follows: 3-month-old chicks sold for approximately \$6,000 a pair; 6-month-old chicks sold for \$8,000 to \$15,000 a pair; yearlings sold for \$12,000 to \$25,000 a pair; 2-year-olds sold for \$25,000 to \$40,000 a pair; and adults (breeding pairs) sold for \$40,000 up to \$100,000 a pair, depending upon proven breeding capabilities. Recent market prices for ostriches of different ages show a dramatic decrease from the market prices of 1992; estimates of 1995 market prices for ostriches of different ages are as follows: 3-month-old chicks sell for approximately \$1,300 a pair; 6-month-old chicks sell for approximately \$2,150 a pair; yearlings sell for approximately \$4,300 a pair; 2-year-olds sell for approximately \$8,600 a pair; and adults (breeding pairs) sell for approximately \$14,700 a pair, depending upon proven breeding capabilities. Further, when compared to the market prices listed above for 1995, the estimated market prices for the first quarter of 1996 show approximately a fifty percent decrease in the market prices for ostriches in all age categories.

No live ratites have been imported into the United States from any country since April of 1994. Removing the quarantine and other requirements for Canadian ratites and their hatching eggs could encourage imports by decreasing the cost of importing these ratites and hatching eggs. However, because of the decrease in market prices described above, we do not expect a heavy volume of ostriches or other ratites from Canada to be imported into the United States as a result of this rule.

In addition, though the hatching eggs of ratites are more readily available, are cheaper to transport, and can be 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 would 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 would 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 would not have a significant economic impact on a substantial number of small entities.

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

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

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 would be amended as follows:

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

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

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 114a, 134a, 134b, 134c, 134d, 134f, 135, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.2(d).

2. Section 92.101 would be amended as follows:

- a. By removing paragraph (b)(3)(ii).
- b. By redesignating paragraphs as follows:

Old designation	New designation
(b)(3)(i)	(b)(3).
(b)(3)(i)(A)	(b)(3)(i).
(b)(3)(i)(B)	(b)(3)(ii).
(b)(3)(i)(C)	(b)(3)(iii).
(b)(3)(i)(D)	(b)(3)(iv).
(b)(3)(i)(D)(1)	(b)(3)(iv)(A).
(b)(3)(i)(D)(2)	(b)(3)(iv)(B).
(b)(3)(i)(D)(3)	(b)(3)(iv)(C).
(b)(3)(i)(E)	(b)(3)(v).
(b)(3)(i)(F)	(b)(3)(vi).
(b)(3)(i)(G)	(b)(3)(vii).
(b)(3)(i)(H)	(b)(3)(viii).
(b)(3)(i)(I)	(b)(3)(ix).
(b)(3)(i)(J)	(b)(3)(x).
(b)(3)(i)(K)	(b)(3)(xi).
(b)(3)(i)(L)	(b)(3)(xii).

c. By revising newly redesignated paragraph (b)(3) introductory text, to read as set forth below.

d. In newly designated paragraph (b)(3)(vi), by removing the reference “(b)(3)(i)(D)” and adding “(b)(3)(iv)” in its place.

e. In newly designated paragraph (b)(3)(vii), by removing the reference “(b)(3)(i)(B)” and adding “(b)(3)(ii)” in its place, and by removing the reference “(b)(3)(i)(C)” and adding “(b)(3)(iii)” in its place.

f. In newly designated paragraph (b)(3)(x), the first sentence, by removing the reference “(b)(3)(i)(B)” and adding “(b)(3)(ii)” in its place, and by removing the reference “(b)(3)(i)(C)” and adding “(b)(3)(iii)” in its place.

g. In newly designated paragraph (b)(3)(x), the fourth sentence, by removing the reference “(b)(3)(i)(E)” and adding “(b)(3)(v)” 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) would be amended by removing the reference “§ 92.105(a)” and adding “§ 92.105” in its place.

4. Section 92.103 would be 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; and by removing “§ 92.101 (b)(3)(i)(B) and (b)(3)(i)(C)” and adding “§ 92.101(b)(3)” in its place.

d. 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 spaces 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.

* * * * *

(Approved by the Office of Management and Budget under control number 0579-0040)

5. Section 92.104 would be amended as follows:

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.

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

* * * * *

(c) * * *

(2) That, except when the certificate is for zoological birds or ratites imported from Canada in accordance with § 92.107, the flock of origin is pen-raised and the ratites covered by the certificate were produced and maintained in that flock;

* * * * *

(8) That, except as provided in § 92.107 for ratites imported from Canada for immediate slaughter, the ratites were treated at least 3 days but not more than 14 days before being loaded for shipment to the United States with a pesticide of a type and concentration sufficient to kill ectoparasites on the ratites;

* * * * *

(13) That the number of ratites and hatching eggs of ratites exported from the flock of origin has not exceeded the ceiling required to be established under § 92.101(b)(3)(ix);

(14) That all the ratites and hatching eggs of ratites in the flock from which the ratites come were identified in accordance with § 92.101(b)(3);

(15) Except for ratites imported from Canada in accordance with § 92.107, the number of ratite laying hens in the flock from which the ratites come;

(16) For ratites required to be treated prior to shipment with a pesticide for ectoparasites, the certificate must also state the name, concentration, and date of administration of the pesticide used to treat the ratites;

* * * * *

(d) * * *

(2) That, except when the certificate is for hatching eggs of ratites imported from Canada in accordance with § 92.107, the flock of origin is pen-raised, and the hatching eggs covered by the certificate were produced by that flock;

* * * * *

(9) That the number of ratites and hatching eggs of ratites exported from the flock of origin has not exceeded the ceiling required to be established under § 92.101(b)(3)(ix);

(10) That all the ratites and hatching eggs of ratites in the flock from which the hatching eggs come were identified in accordance with § 92.101(b)(3);

(11) Except for hatching eggs of ratites imported from Canada in accordance with § 92.107, the number of ratite laying hens in the flock from which the hatching eggs come.

(Approved by the Office of Management and Budget under control number 0579-0040)

6. Section 92.105 would be amended as follows:

a. In paragraph (a), by revising the first sentence to read as set forth below.

b. In paragraph (c), by revising the introductory text and paragraph (c)(1) to read as set forth below.

§ 92.105 Inspection at the port of entry.

(a) All commercial birds, zoological birds, and research birds, including hatching eggs of ratites, but excluding other ratites, imported into the United States, must be inspected by the port veterinarian at the Customs port of entry, which may be any international airport, or any land-border port within 20 miles of an international airport, serviced by Customs, as well as, for Canadian-origin hatching eggs of ratites, ports listed in § 92.107 (c). However, hatching eggs of ratites may be shipped, in bond, from the port of first arrival to the Customs port of entry at which they will be quarantined, for inspection, at that port.

* * * * *

(c) Ratites, other than hatching eggs of ratites, imported from any part of the world must be inspected at the Customs port of entry by a veterinary inspector of APHIS and, except as provided in § 92.107(b) for ratites imported from Canada, shall be permitted entry only at one of the following ports of entry:

(1) Ostriches:

(i) Up to 36 inches in height (as measured from the top of the head to the base of the feet) or 30 pounds in weight: New York, NY; Stewart Airport, Newburgh, NY; and Miami, FL.

(ii) Exceeding 36 inches in height or 30 pounds in weight: New York, NY, and Stewart Airport, Newburgh, NY.

* * * * *

§ 92.106 [Amended]

7. Section 92.106 would be 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 would be amended as follows:

a. By adding the paragraph designation “(a)” 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; Jacksonville, FL; Miami, FL; Port Canaveral, FL; St. Petersburg-Clearwater, FL; Tampa, FL; Atlanta, GA; Honolulu, HI; Eastport, ID; Chicago, IL; New Orleans, LA; Boston, MA; Baltimore, MD; Houlton, ME; Jackman, ME; Portland, ME; Detroit, MI; Port Huron, MI; Sault Ste. Marie, MI; Minneapolis, MN; Great Falls, MT; Opheim, MT; Raymond, MT; Sweetgrass, MT; Alexandria Bay, NY; Buffalo, NY; Champlain, NY; New York, NY; Stewart Airport, Newburgh, NY; Dunseith, ND; Pembina, ND; Portal, ND; Portland, OR; San Juan, PR; Galveston, TX; Houston, TX; Highgate Springs, VT; Blaine, WA; Lynden, WA; Oroville, WA; Seattle, WA; Spokane, WA; Sumas, WA; and Tacoma, WA; and

(3) If offered for entry at a Canadian land border port listed in § 92.203(b), without an import permit; and

(4) If consigned directly to slaughter from the port of entry, without being treated for ectoparasites within 3 to 14

days before shipment to the United States, as otherwise required by § 92.104(c)(8).

(c) *Ratite eggs from Canada.* Hatching eggs of ratites that were laid in Canada may be imported into the United States:

(1) Without being quarantined upon arrival in the United States; and

(2) At any of the ports of entry listed in paragraph (b)(2) of this section or authorized by § 92.105(a); and

(3) If offered for entry at a Canadian land border port listed in § 92.203(b), without an import permit.

Done in Washington, DC, this 28th day of May 1996.

Lonnie J. King,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96-13810 Filed 5-31-96; 8:45 am]

BILLING CODE 3410-34-P

FEDERAL RESERVE SYSTEM

12 CFR Part 229

[Regulation CC; Docket No. R-0926]

Availability of Funds and Collection of Checks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board is proposing amendments to its Regulation CC relating to the availability of funds and collection of checks. The proposed amendments do not represent any major policy changes and are intended to clarify the regulation and, in some cases, reduce the compliance burden for depository institutions.

DATES: Comments must be submitted on or before August 2, 1996.

ADDRESSES: Comments, which should refer to Docket No. R-0926, may be mailed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, D.C. 20551. Comments addressed to Mr. Wiles also may be delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m. and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street NW. Comments may be inspected in Room MP-500 between 9:00 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Louise Roseman, Associate Director (202/452-2789), Division of Reserve Bank Operations and Payment Systems;

Stephanie Martin, Senior Attorney (202/452-3198), Heatherun Allison, Attorney (202/452-3565), Legal Division; Manley Williams, Staff Attorney, (202/736-5565), Division of Consumer and Community Affairs. For the hearing impaired *only*, contact Dorothea Thompson, Telecommunications Device for the Deaf (TDD) (202/452-3544), Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: The Board is proposing amendments to its Regulation CC (12 CFR Part 229), Availability of Funds and Collection of Checks. The proposed amendments are clarifying and technical in nature and do not represent any major policy changes. The proposed amendments to subpart B of the regulation, governing availability schedules and disclosures, address a variety of issues, including the treatment of deposits received at "contractual" branches (such as affiliate banks). Many of the proposed amendments are designed to reduce the burden on depository institutions of complying with the regulation. For example, the proposed amendments would provide more flexibility for banks giving hold notices under emergency conditions, clarify the various media by which written notices may be given, and delete certain notice content requirements. The Board is also proposing to update the Model Forms in Appendix C.

The proposed amendments to subpart C, governing collection of checks, would make various clarifications of the interaction between Regulation CC and the Uniform Commercial Code (U.C.C.), set forth rules for checks drawn on banks in Guam, American Samoa, and the Northern Mariana Islands, and address other check collection matters. The Board is specifically requesting comment on the time required for a bank to qualify a returned check for automated processing (§ 229.31(a)), the provisions regarding the extension of the midnight deadline (§ 229.30(c)), and the extent of a presenting bank's preferred claim against a closed paying bank (§ 229.39(d)).

A red-lined version of the proposed amendments to the regulation, model forms, and Commentary is available from the Board's Freedom of Information Office or by calling 202-452-3684.

Section-by-Section Analysis

Available for withdrawal (§ 229.2(d)). The regulation defines "available for withdrawal" to mean available for all uses generally permitted to the customer for actually and finally collected funds

under the bank's account agreement or policies. The Commentary to this definition clarifies that funds are considered available for withdrawal even if they are being held to satisfy, among other things, the customer's liability arising from the certification, guaranty, or acceptance of a check or the sale of a cashier's or teller's check. The Board has received several inquiries as to whether funds would be considered available for withdrawal if they are being held to satisfy a contingent obligation of the customer relating to the customer's account. For example, a depository bank might receive a notification that the customer has authorized a debit to the account at a point-of-sale terminal. Banks often "memo-post" these debits to the customer's account in advance of the settlement date. The Board proposes to revise the Commentary to clarify that funds held to meet contingent obligations of the customer related to the account are considered to be available for withdrawal.

Definition of "bank" (§ 229.2(e)). The regulation states that, for purposes of subpart C, the term "bank" includes any person engaged in the business of banking, including a Federal Reserve Bank, a Federal Home Loan Bank, and a state or unit of general local government to the extent that the state or unit of general local government acts as a paying bank. The Board proposes to amend the regulation's definition of "bank" to clarify that the Federal Reserve Banks, the Federal Home Loan Banks, and state or units of general local government are not necessarily engaged in the business of banking, notwithstanding the fact that they are included in this definition.

Definition of "traveler's check" (§ 229.2(hh)). The Commentary states that "[t]raveler's checks that are not issued by banks may not have any words on them identifying a bank as drawee or paying agent * * *." Some commenters have interpreted this provision to mean that traveler's checks are prohibited from having words on them identifying a bank. The Board proposes to revise the Commentary to clarify that only a description of a possible situation, and not a prohibition, is intended.

Notice requirement to state amount of deposit (§§ 229.13(g) and 229.16(c)). Regulation CC requires a notice of an exception hold (§ 229.13(g)(1)(i)(B)) or a case-by-case hold (§ 229.16(c)(2)(i)(B)) to include the amount of the deposit from which funds will be held. Some banks have noted that when they learn that a check is being returned by the paying