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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 02–026–6]

Importation of Fruits and Vegetables; Correction

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule; correction.

SUMMARY: In a final rule published in the **Federal Register** on June 25, 2003, we amended the fruits and vegetables regulations. The final rule contained errors in the rule portion of the document. This document corrects those errors.

EFFECTIVE DATE: June 25, 2003.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne Burnett, Senior Import Specialist, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737–1236; (301) 734–6799.

SUPPLEMENTARY INFORMATION: We published a final rule in the **Federal Register** on June 25, 2003 (68 FR 37904–37923, Docket No. 02–026–4) to amend the fruits and vegetables regulations (7 CFR 319.56 through 319.56–8, referred to below as the regulations). In the rule portion of that final rule, we inadvertently reversed the order of the words ''latitude'' and ''longitude'' in an amendment to § 319.56–2d, ''Administrative instructions for cold treatments of certain imported fruits.'' Rather than referring to ''39° longitude and east of 104° latitude,'' we should have referred to 39° latitude and east of 104° longitude.'' This document corrects that error.

We are also correcting an error in the table in § 319.56–2t under the entry for basil from Honduras. The additional declaration referred to in that entry should state that the ''commodity is free from *Planococcus minor*'' rather than the ''fruit is free from *Planococcus minor.*''

In FR Doc. 03–15908, published on June 25, 2003 (68 FR 37904–37923, Docket No. 02–026–4), make the following corrections:

§ 319.56–2d [Corrected]

■ 1. On page 37917, in the first column, in § 319.56–2d, in paragraph (b)(1), correct ''39° longitude and east of 104° latitude'' to read ''39° latitude and east of 104° longitude''.

§ 319.56–2t [Corrected]

■ 2. On page 37919, in § 319.56–2t, in the table, under the entry for basil from Honduras, correct ''fruit is free from *Planococcus minor*'' to read ''commodity is free from *Planococcus minor*''.

Done in Washington, DC, this 5th day of November 2003.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 03–28293 Filed 11–10–03; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 381

[Docket No. 02–015N]

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: Affirmation of direct final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is announcing that it is confirming the addition of Australia and New Zealand to the list of countries eligible to import poultry products (ratite only) into the United States (U.S.).

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

ADDRESSES: Reference materials cited in the direct final rule and all comments received are available for public inspection in the FSIS Docket Room from 8:30 a.m. to 4:30 p.m., Monday through Friday in Room 102, Cotton Annex, 300 12th Street, SW., Washington, DC 20250–3700 and on the FSIS Web site at *http://www.fsis.usda.gov/OPPDE/rdad/FinalRules03.htm.*

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

SUPPLEMENTARY INFORMATION:

Background

On October 28, 2000, the President signed the FY 2001 Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act (the Appropriations Act), which provided that 180 days after the date of its enactment, U.S. establishments that slaughter or process ratites (such as ostriches, emus, and rheas) or squabs for distribution into commerce as human food would be subject to the requirements of the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451,*et seq.*), rather than the voluntary poultry inspection program under section 203 of the Agriculture Marketing Act (AMA) (7 U.S.C. 1622). This provision of the Appropriations Act was effective on April 26, 2001. Prior to that time, imported ratite meat was regulated by the Food and Drug Administration (FDA).

On May 7, 2001, FSIS published an interim final rule (66 FR 22899) that amended the poultry products regulations to include ratites and squabs within the list of species that are ''poultry'' (9 CFR 381.1(b)) and thus subject to the mandatory inspection requirements of the PPIA.

This interim final rule also announced that within 18 months of April 26, 2001, imported ratite or squab products would have to originate in countries that were eligible to import poultry into the U.S. and would have to be processed in establishments certified by the government of the foreign country as eligible to export to the U.S.

During the 18 months, countries that were eligible to import meat into the U.S. were permitted to import ratites

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.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it and make copies of this **Federal Register** publication available through the FSIS Constituent Update. FSIS provides a weekly Constituent Update, which is communicated via Listserv, a free e-mail subscription service. In addition, the update is available on-line through the FSIS Web page located at *http://www.fsis.usda.gov.* The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent Listserv consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through the Listserv and web page, FSIS is able to provide information to a much broader, more diverse audience.

For more information contact the Congressional and Public Affairs Office, at (202) 720–9113. To be added to the free e-mail subscription service (Listserv) go to the Constituent Update'' page on the FSIS Web site at *http://www.fsis.usda.gov/oa/update/update.htm.* Click on the ''Subscribe to

the Constituent Update Listserv'' link, then fill out and submit the form.

Done in Washington, DC, on November 5, 2003.

Dr. Garry L. McKee,

Administrator.

[FR Doc. 03–28273 Filed 11–10–03; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–16407; Airspace Docket No. 03–ACE–75]

Modification of Class D Airspace; and Modification of Class E Airspace; Topeka, Philip Billard Municipal Airport, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedures (SIAPs) have been developed to serve Philip Billard Municipal Airport, Topeka, KS. Also, the existing VHF Omni-directional Range (VOR)/Distance Measuring Equipment (DME) Runway (RWY) 22 SIAP serving Philip Billard Municipal Airport has been amended. An examination of controlled airspace for Topeka, Philip Billard Municipal Airport, KS revealed discrepancies in the legal descriptions for the Class D and Class E airspace areas.

The intended effect of this rule is to provide controlled airspace of appropriate dimensions to protect aircraft executing SIAPs to Philip Billard Municipal Airport. It also corrects discrepancies in the legal descriptions to Topeka, Philip Billard Municipal Airport, KS Class D and Class E airspace areas and brings the airspace areas and legal descriptions into compliance with FAA Orders.

DATES: This direct final rule is effective on 0901 UTC, February 19, 2004. Comments for inclusion in the Rules Docket must be received on or before December 12, 2003.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2003–16407/Airspace Docket No. 03–ACE–75, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, AC–520C, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2525.

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR 71 modifies the Class D airspace area and the Class E airspace area extending upward from 700 feet above the surface at Topeka, Philip Billard Municipal Airport, KS. RNAV (GPS) ORIGINAL SIAPs for RWYs 4, 13, 18, 22, 31 and 36 VOR/DME RWY 22, AMENDMENT 21, SIAP have been developed to serve Philip Billard Municipal Airport. Existing controlled airspace at Topeka, Philip Billard Municipal Airport, KS is adequate to contain aircraft executing the new RNAV (GPS) approach procedures. However, the Class E airspace areas extending upward from 700 feet above the Surface must be tailored to protect aircraft executing the amended VOR/DME RWY 22 SIAP. An examination of controlled airspace for Topeka, KS revealed discrepancies in the legal descriptions for to Topeka, KS Class D and Class E airspace areas. This action corrects the discrepancies and brings the airspace areas and their legal descriptions into compliance with FAA Order 7400.2E, Procedures for Handling Airspace Matters. The areas will be depicted on appropriate aeronautical charts. Class D airspace are published in paragraph 5000 of FAA Order 7400.9L, dated September 2, 2003, and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1 Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of the same FAA Order. The Class D and Class E airspace designations listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Interested parties are invited to participate in this rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2003–16407/Airspace Docket No. 03–ACE–75.'' The postcard will be date/time stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant