

Miami, Florida, to establish facilities that meet the standards for approval. Following the April 1984 announcement of openings, litigation concerning the selection of such applicants put the status of their selection in doubt for an extended period of time. It appears that this amendment is necessary to ensure that such applicants are given a fair opportunity to establish privately-operated bird quarantine facilities.

DATE: Comments must be received on or before July 21, 1986.

ADDRESS: Written comments concerning this proposed rule should be submitted to Thomas O. Cessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Comments should state that they are in response to docket number 85-119. Written comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Samuel S. Richeson, Import-Export Animals and Products Staff, VS, APHIS, USDA, Room 843, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8172.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR Part 92 (referred to below as the regulations) contain provisions concerning the importation of birds into the United States. The regulations are designed to protect the poultry industry of the United States from exotic Newcastle disease and other communicable diseases of poultry. Section 92.11(e) provides, with certain exceptions, that each lot of pet birds, commercial birds, zoological birds, or research birds imported from any part of the world shall be entered at certain ports and quarantined at a United States Department of Agriculture quarantine facility or at a privately-operated quarantine facility approved by the Deputy Administrator for Veterinary Services (VS).

The regulations in § 92.11(f)(5) set forth a mechanism for selecting applicants for consideration for approval of privately-operated bird quarantine facilities. Applicants selected for consideration for approval are notified of their selection by registered or certified mail. The regulations currently provide that such a facility must meet all requirements contained in § 92.11 for approval of the bird quarantine facility within 18 months from the date of such

notification. These requirements include minimum standards concerning location, construction, sanitation, security, and operational procedures.

The 18-month period was originally included in the regulations because it has been anticipated that selected applicants would meet all requirements for approval of quarantine facilities within a short period of time and that an 18-month period would be sufficient for any serious applicant to meet all of the requirements.

Because of a unique factual situation, it is proposed to amend the regulations to extend the time period for establishing privately operated bird quarantine facilities for certain applicants that were selected for consideration for approval of bird quarantine facilities in Miami, Florida, as a result of the April 18, 1984, announcement of openings (49 FR 15244-15245). After the selection of the applicants for consideration for approval, a person who had been denied priority status sued the Department in an effort to be awarded priority status for consideration for approval of a bird quarantine facility in Miami. The Department advised the applicants who had been selected for consideration for approval of bird quarantine facilities in Miami that their status could be jeopardized, depending on the outcome of the lawsuit. The lawsuit has now been resolved, and the final decision has no effect on the applicants' prior selection. However, since the lawsuit presented the possibility that applicants would lose their opportunity to establish bird quarantine facilities in Miami, two selected applicants did not take action to establish quarantine facilities and have not yet completed their quarantine facilities. Under these circumstances, it appears that it would not be fair to require these applicants to have taken action to establish privately-operated bird quarantine facilities without notification that they would be given adequate time to accomplish the task. This document proposes to give such notification by amending the regulations to extend such time period an additional 9 months from the date of publication of a final rule.

The 9-month period is proposed since the status of affected applicants was placed in jeopardy by the lawsuit referred to above for a period of approximately 9 months and the affected applicants have requested such a 9-month extension.

Executive Order 12291 and Regulatory Flexibility Act

This action is issued in conformance with Executive Order 12291 and has

been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this action would not have a significant effect on the economy; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and would not have any significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

No substantial change in either the number of birds imported into the United States or in the number of persons importing birds is anticipated as a result of this action.

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 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (See 7 CFR 3015, Subpart V.)

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

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

Accordingly, Part 92, Title 9, Code of Federal Regulations, would be amended as follows:

1. The authority citation for Part 92 would continue to read as set forth below:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1308; 21 U.S.C. 102-105; 111, 134a, 134b, 134c, 134d, 134f, and 135; 7 CFR 2.17, 2.51, and 371.2(d).

2. In § 92.11, the second sentence of paragraph (f)(5)(vi) would be revised to read as follows:

§ 92.11 Quarantine requirements.

(f) . . .