Implements or maintains practices that exceed minimum requirements; (b) addresses local conservation priorities; (c) participates in on-farm research, demonstration, or pilot projects; (d) participates in a watershed or regional resource conservation plan; or (e) carries out assessment and evaluation activities relating to practices included in a conservation security plan. Enhanced payments are meant to ensure and optimize environmental benefits. How should enhanced payments be determined and calculated?

9. The law does not limit the number of contracts held by a producer. Should there be a limitation on the total number of contracts a producer may have? If there is no limit on the number of contracts, should USDA set an individual payment limitation for producers with multiple contracts?

10. The law requires that the regulations provide for adequate safeguards to protect the interests of tenants and sharecroppers, including provisions for sharing payments, on a fair and equitable basis. Concerns have been raised over the impact of CSP provisions on owner/operator relationships including changes in rental rates or changes in operators. How can NRCS ensure that payments are shared on a fair and equitable basis?

11. The law requires a minimum contract length in CSP of five years. Many landlord-tenant relationships are short-term in nature, usually less than five years. Should the applicant be required to have control of the land for the complete CSP contract period? How should the program address the tension between the return to management versus the return to capital?

12. The law does not prescribe a funding or acreage cap for CSP. USDA estimates that there is a potential applicant pool of over two million farms and ranches covering over 900 million potential eligible acres. A primary implementation concern is the program scope. In order for this program to accomplish the Administration's goal of maximizing the conservation and improvement of natural resources, it is necessary to prioritize CSP assistance. The Department is seeking public comments on ways to focus and prioritize CSP assistance. For example, if the program would only fund the highest-priority applications, should there be an open application process with all applicants competing for a limited number of contracts? Should applications be constrained by resource concern, program funding, tier level, owner-operator relationship, geography or other constraint?

13. The law includes energy as a resource concern for CSP program purposes. The NRCS Field Office Technical Guide does not recognize energy as a natural resource concern and therefore no quality criteria or non-degradation standard exists to compare a conservation treatment against. NRCS is seeking comments on how energy use should be incorporated into the program requirements. How should the benefits be assessed?

14. The law includes payment for conservation practices described as requiring planning, implementation, management and maintenance. A concern was raised as to whether the payment would be, in fact, a return for equity in capital or for the engagement in intensive management. What should the program be paying for?

15.The law provides little guidance for monitoring quality assurance or specifics on identifying contract violations. The issue is two-fold in nature encompassing both the measurement of outcomes from a performance standpoint and assuring the Federal funds are spent wisely and that contracts are appropriately carried out. How should USDA ensure accountability?

NRCS will accept all other comments on general program implementation.

Regulatory Findings

Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), USDA must determine whether the regulatory action is ''significant'' and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this Advanced Notice of Proposed Rulemaking is a ''significant regulatory action'' in light of the provisions of paragraph (4) above as it raises novel legal or policy issues. As such, this action was submitted to OMB for review.

Signed in Washington, DC, on February 6, 2003.

Bruce I. Knight,

Chief, Natural Resources Conservation Service and Vice President, Commodity Credit Corporation.

[FR Doc. 03–3782 Filed 2–14–03; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 01–040–1]

RIN 0579–AB38

Importation of Milk and Milk Products From Regions Affected With Foot-and-Mouth Disease

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations regarding the importation of animal products to establish specific processing requirements for certain cheeses, butter, and butteroil imported from regions in which foot-and-mouth disease exists; these products are currently exempt from the requirements of the regulations. Additionally, we are proposing to require that those products, when imported from regions in which foot-and-mouth disease exists, be accompanied by government certification regarding the processing of the products. The proposed processing methods could also be used for other milk products that are currently eligible for importation under other conditions. We believe these actions are necessary to ensure that materials containing the foot-and-mouth disease virus are not imported into the United States.

DATES: We will consider all comments that we receive on or before April 21, 2003.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 01–040–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River

Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 01–040–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov.* Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 01–040–1'' on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html.*

FOR FURTHER INFORMATION CONTACT: Dr. Karen James-Preston, Assistant Director, Technical Trade Services, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–8172.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation into the United States of meat and other animal products, including milk and milk products, in order to prevent the introduction of various animal diseases, including rinderpest and foot-and-mouth disease (FMD). These are dangerous and destructive communicable diseases of livestock.

FMD is a severe and highly contagious viral infection affecting cattle, deer, goats, sheep, swine, and other animals. The most effective means of eradicating FMD is by the slaughter of affected animals. FMD is endemic to more than two-thirds of the world and is considered to be widespread in parts of Africa, Asia, Europe, and South America. FMD occurs in over seven different serotypes and 60 subtypes. As FMD outbreaks have occurred in foreign regions, the United States has banned the importation of live ruminants and swine, and restricted the importation of many animal products, from countries affected by FMD. In the past few years, the United States has implemented prohibitions and restrictions in response to outbreaks in South America, the European Union, and Taiwan.

Although FMD was eradicated in the United States in 1929, the virus could be reintroduced by a single infected animal, animal product, or person carrying the virus. Once introduced, FMD can spread quickly through exposure to aerosols from infected animals, direct contact with infected animals, contact with contaminated feed or equipment, or contact with humans harboring the virus or carrying the virus on their clothing. It appears that FMD is primarily spread among livestock through aerosol, direct contact, or ingestion of animal products, including milk products. FMD could be introduced into the United States if milk or milk products carrying the FMD virus that have not been properly processed are imported into the United States and are ingested by ruminants or other livestock in the United States.

Current Regulations

Section 94.16 of the regulations contains provisions governing the importation of milk and milk products from FMD-affected countries. With certain exceptions, the current provisions in § 94.16 prohibit the importation of milk and milk products from regions in which FMD exists, unless the milk or milk product meets one of the conditions set forth in § 94.16(b). The products that are exempted from the importation conditions are butter, butteroil, and cheese, except cheese with liquid or containing any item prohibited or restricted from importation under the regulations unless such item is independently eligible for importation under part 94. Except for these exempted articles, milk and milk products may not be imported from any region designated in § 94.1(a)(1) as a region in which rinderpest or FMD exists unless the milk or milk products meet one of the following conditions:

1. They are in a concentrated liquid form and have been processed by heat by a commercial method in a container hermetically sealed promptly after filling but before such heating, so as to be shelf stable without refrigeration.

2. They are dry milk or dry milk products, including dry whole milk, nonfat dry milk, dried whey, dried buttermilk, and formulations that contain any such dry milk products, and are consigned directly to an approved establishment for further processing in a manner approved by the Administrator of the Animal and Plant Health Inspection Service (APHIS) as adequate to prevent the introduction or dissemination of livestock diseases into the United States. However, in specific cases, upon request by the importer to the Administrator, and approval by the Administrator, they may be stored for a temporary period in an approved warehouse under the supervision of an APHIS inspector pending movement to an approved establishment. Such products must be transported from the port of first arrival to an approved establishment or an approved warehouse, and from an approved warehouse to an approved establishment only under Department seals or seals of the U.S. Customs Service. Such seals may be broken only by an APHIS inspector or other person authorized to do so by the Administrator. Such products may not be removed from the approved warehouse or approved establishment unless the Administrator gives special permission and all the conditions and requirements specified by the Administrator are complied with.

3. Milk and milk products not exempted from the importation conditions and not meeting conditions 1 or 2 above may be imported if the importer first applies for and receives written permission from the Administrator authorizing such importation. Permission will be granted only when the Administrator determines that such action will not endanger the health of the livestock of the United States. Products subject to this provision include, but are not limited to, condensed milk, long-life milks such as sterilized milk, casein and caseinates, lactose, and lactalbumin. Additionally, small amounts of milk and milk products that would otherwise be prohibited from being imported into the United States may, in specific cases, be imported for examination, testing, or analysis if such importation is approved by the Administrator.

In light of recent FMD outbreaks in the European Union, South America, and elsewhere, we have reviewed the scientific literature and have determined that permitting the importation into the United States of butter, butteroil, and certain cheeses without their meeting specific importation conditions could pose an unacceptable risk of introducing the FMD virus into the United States. The literature we reviewed [1] indicates that

[1] *See:* Blackwell, J.H., ''Survival of Foot-and-Mouth Disease Virus in Cheese,'' 1976, Journal of Dairy Science, Vol. 59, No. 9, pp. 1574–1579.

Sellers, R.F., ''Inactivation of Foot-and-Mouth Disease Virus in Milk,'' 1969, British Veterinary Journal, Vol. 125, No. 4, pp. 163–168.

Continued

the FMD virus could survive in those exempted products, so we believe that it is necessary to provide specific processing requirements for these products as a condition of their importation. These proposed processing methods are consistent with the Office International des Epizooties (OIE) standards. We are, therefore, proposing to remove the exemptions from importation conditions for the milk products listed in § 94.16(a) and instead would provide specific conditions (*i.e.*, processing methods) under which those products could be imported. These processing methods could also be used for other products that are already eligible for importation under the conditions in § 94.16, including, but not limited to, condensed milk, long-life milks such as sterilized milk, cream, cheeses, whey, casein and caseinates.

Under this proposed rule, the milk products now listed as exempt in § 94.16(a) could be imported into the United States from a region affected with FMD only if they have been produced using one of the processing methods described below:

1. Milk or milk products (other than cheese) that are, or are made from, milk that has been treated at ultra-high temperature (UHT)(298.4 °F (148 °C) for 3 seconds or 284 °F (140 °C) for 5 seconds).

2. Milk or milk products (other than cheese) that are, or are made from, milk that has been treated at a high temperature for a short time (HTST) (161.6 °F (72 °C) for 15 seconds), followed by a second HTST treatment. For milk products made with added fat or added concentrates, the treatment temperature would have to be increased to 167 °F (75 °C).

3. Milk products made from milk that is HTST-treated then brought to a pH of less than 6 for 1 hour.

4. Cheese made from raw milk, aged at a temperature of greater than 35.6 of (2 °C) with a pH of less than 6 for 120 days prior to export from the country of origin.

5. Cheese made from HTST milk, aged at a temperature of greater than 35.6 of (2 °C) with a pH of less than 6 for 30 days prior to export from the country of origin.

The scientific evidence available to us indicates that each of the methods described above is sufficient to inactivate the FMD virus in milk and milk products.

We would also require that any milk or milk product imported under these proposed conditions (*i.e.*, the butter, butteroil, and cheeses that would have to meet one of those conditions, as well as any other milk or milk product for which one of those methods was used as an alternative to meeting the existing importation conditions in § 94.16) be accompanied by an official veterinary certificate endorsed by a full-time, salaried veterinarian employed by the region of origin attesting to the completion of the appropriate processing. The certificate would help ensure that the required processing has been performed by requiring that a representative responsible for animal health in the exporting region verifies that the treatment has been carried out.

Additional Changes

We are proposing to add ice cream and chocolate milk to the examples of milk products in current § 94.16 (b)(3) that may be eligible for importation based on written permission from the Administrator. We are proposing to specifically cite ice cream and chocolate milk as products requiring written permission to minimize the chance that these products may accidentally be diverted into the animal food chain.

We are also proposing to require that the examination, testing, and analysis of small amounts of milk and milk products allowed for importation under current § 94.16(b)(4) occur in a laboratory setting. This action would ensure that untreated samples would not enter the United States to be sold at trade shows or fairs.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the office of Management and Budget.

We are proposing to amend the regulations regarding the importation of animal products to establish specific processing requirements for certain cheeses, butter, and butteroil imported from regions in which FMD exists. Those processing methods could also be used for other milk and milk products that are already eligible for importation under different conditions, thus allowing their importation under a greater variety of conditions. Additionally, we are proposing to require that products imported from regions in which FMD exists and processed using one of the proposed methods be accompanied by government certification regarding their processing. We believe these actions are necessary to ensure that products containing the FMD virus are not imported into the United States.

The establishment of FMD in the United States could result in serious economic consequences, given the size of the Nation's livestock inventories and the volume of animal and animal product sales. Potential losses associated with an outbreak of FMD include production losses at affected establishments, eradication and quarantine costs, and trade restrictions.[2] Production losses arise from lost production on depopulated premises and in the industries linked to the livestock sector. There would also be additional costs to be borne by producers and slaughterers, as restrictions would be imposed to prevent the spread of FMD and eradicate the disease within the United States. These restrictions and eradication measures would also mean added costs to the government for implementation and enforcement.

FMD outbreaks in the spring of 2001 in the United Kingdom illustrate these costs. Control of FMD in the United Kingdom became a nationwide undertaking, with restrictions on the movement of animals (and people), large-scale slaughter of animals on affected and neighboring farms, and disposal of carcasses through burning, rendering, or burial. The last case of FMD in the United Kingdom was found on September 30, 2001; by the time the United Kingdom declared the outbreak eradicated on January 14, 2002, 586,551 cattle, 3,466,493 sheep, 148,388 pigs, 2,482 goats, 1,021 deer, and 770 other animals had been slaughtered.[3] In addition, the European Union banned the export of meat, livestock, and milk products from the United Kingdom. As is shown below, the United States is a major exporter of products whose international movement could be affected by an outbreak of FMD in the United States. In addition to a likely reduction in demand from international consumers, trading partners of the United States would likely impose restrictions on, and reduce imports of, U.S. ruminants, swine, and some of their products in the event of an FMD outbreak in the United States.

According to ''Agricultural Statistics 2001,'' published by National Agricultural Statistics Service (NASS), cattle in U.S. herds in 2000 were valued at $67.1 billion, with 1999 cash receipts

Cunliffe, H.R., *et al.*, ''Inactivation of Milkborn Foot- and Mouth Disease Virus at Ultra-High Temperatures,'' 1979, Journal of Food Protection, Vol. 42, No. 2, pp. 135–137.

[2] Ekboir, Javier M., ''Potential Impact of Foot-and-Mouth Disease in California,'' 1999, Agricultural Issues Center, Division of Agriculture and Natural Resource, University of California.

[3] UK Department for Environment, Food & Rural Affairs.

of $36.5 billion from the sale of cattle, calves, beef, and veal. Cash receipts from the sale of milk and cream in 1999 reached $23.2 billion. U.S. hogs and pigs in 2000 were valued at $4.6 billion, with 1999 cash receipts from the sale of hogs, pork, and lard totaling $8.6 billion. Sheep and lamb inventories in 2000 were valued at $668.8 million, with 1999 cash receipts of $468.8 million from the sale of live sheep and lambs and of mutton and lamb. The value of U.S. wool production in 1999 totaled about $17.9 million.

U.S. exports of live bovines, swine, sheep, and goats were valued at $304.5 million in 2000. U.S. exports of fresh beef, pork, and sheep and goat meat totaled $4.4 billion in 2000. U.S. exports of fresh ruminant and swine products other than meat were valued at $718.4 million in 2000. U.S. exports of prepared and preserved ruminant and swine meat products such as sausages and cured, salted, and dried meats were valued at $375.5 million in 2000. U.S. exports of dairy products totaled $784.1 million in 2000. In addition, the United States exports a great number of other ruminant and swine products including germplasm, hides and skins, animal feeds, dairy products, bones, hair, guts, and glands.

In order to help prevent an outbreak of FMD in the United States, and thus protect the substantial domestic and export market described above, imports of certain cheeses, butter, and butteroil from regions affected with FMD would be subject to specific processing requirements as a result of this proposed rule. Other products, including milk, cream, casein, whey, caseinates, and ice cream, which are already eligible for importation under different conditions, could also be processed using the proposed methods as an alternative to meeting the existing requirements governing the importation of those products. Those products, as previously discussed, would need to be accompanied by an official veterinary certificate that attests to the completion of the appropriate processing. U.S. imports of these products in 2000 from regions affected with FMD and the world are shown in Table 1.

TABLE 1.—U.S. IMPORTS OF MILK AND MILK PRODUCTS, 2000

Product imported	From FMD affected regions (in millions)	From FMD free regions (in millions)	U.S. global imports (in millions)
Milk and cream, not concentrated	$0.73	$9.65	$10.38
Milk and cream, concentrated or sweetened	2.78	31.51	34.29
Butter and other fats and oils derived from milk	0.65	34.44	35.09
Cheese and curd	140.53	556.10	696.63
Ice cream	2.38	15.25	17.62
Casein and caseinates	98.81	401.57	500.38
Other milk products	15.25	157.06	172.31

Source: World Trade Atlas, Global Trade Information Services, Inc.

Approximately 9 percent of these imports were from regions affected with FMD. Information on the portion of butter, butteroil, and cheese imports from FMD-affected regions that do not currently meet the proposed requirements is not available. However, the impact of the proposed changes is expected to be small. Imports in total are small relative to domestic production. For example, butter imports totaled 18,059 metric tons in 1999, while domestic production of butter was 578,349 metric tons. In addition, APHIS anticipates that the majority of these imports currently meet, or could relatively easily be made to meet, the requirements described in this proposed rule, as most processors already possess and use the equipment necessary to meet the proposed standards. In addition, certain products (*i.e.,* dry milk and dry milk products including dry whole milk, nonfat dry milk, dried whey, dried buttermilk, and formulations which contain any such dry milk products) would continue to be eligible for importation under existing regulations and would not be required to meet the specific proposed requirements.

For most types of cheese imported into the United States, this proposed rule should have little impact. At a total of 197,537 metric tons in 1999, the amount of imported cheese was equal to about 5 percent of domestic cheese production, which was about 3.6 million metric tons. In addition, most U.S. imports of cheese currently meet or should be able to meet the requirements for time, temperature, and pH level in this proposed rule. There are notable possible exceptions to this. The aging requirement in the proposed rule may affect the importation of some cheeses, as additional aging may alter the character of some cheeses made with raw milk and some cheeses with eye-formation such as Swiss cheese, thus making them less desirable or unavailable for importation. In 1999, the United States produced about 100,000 metric tons, and imported more than 34,000 metric tons, of Swiss cheese. Table 2 shows U.S. imports of Swiss type cheeses and their origin in 1998 through 2000. The extent to which imports of Swiss cheese and raw milk cheese may be altered as a result of the proposed rule is unknown. However, the effect should be exceedingly small, as more than 99 percent of U.S. Swiss cheese imports in 2000 originated in FMD-free countries.

TABLE 2.—U.S. IMPORTS OF SWISS CHEESE

[in metric tons]

Country of origin	1998	1999	2000
Austria	1,269	1,109	1,298
Canada	346	369	183
Denmark	1,428	3,417	2,585
Finland	5,872	6,908	8,124
France	1,371	984	1,390

TABLE 2.—U.S. IMPORTS OF SWISS CHEESE—Continued

[in metric tons]

Country of origin	1998	1999	2000
Germany	3,858	6,477	4,633
Hungary	790	792	357
Ireland	1,021	1,124	818
Netherlands	374	424	213
Norway	7,510	7,254	7,709
Switzerland	3,416	3,516	3,498
Other countries	1,773	2,816	3,082

In addition to the specific processing requirements for butter, butteroil, and certain cheeses imported from regions affected by FMD, this proposed rule would also require government certification that those requirements have been met. The cost of obtaining certification may affect the price of the product paid by U.S. importers and end users. However, the cost of obtaining such certification is expected to be low. The certification is simply a signed statement from the veterinary official of the exporting country attesting that the requirements have been met. Certification would be a new requirement for cheese (without liquid or restricted items), butter, and butteroil. Under the current regulations, these items may enter without restriction. In 2000, about 40 percent of the $530 million in milk and milk products imported from FMD-affected countries were cheese and butter.

For some other imports, the proposed rule would expand import options. For example, certain products such as condensed milk, long-life milks such as sterilized milk, casein and caseinates, lactose and lactalbumin, are currently allowed entry if written permission is given for their importation, and other products such as dry milk or dry milk products are currently allowed entry only if consigned to an approved facility for further processing. If any of these products were produced using milk processed in accordance with methods described in this proposal, those products would be eligible for importation if accompanied by the certification described in the previous paragraph. The number of producers in FMD-affected regions that might opt to use the processing methods described in this proposed rule for these products is unknown. We expect that those producers would use UHT-or HTST-treated milk in the preparation of their products if that option was viable from a production standpoint and was an economically attractive alternative to the existing requirements in § 94.16 governing the importation of these products.

The quantity of imports from FMD-affected regions that might be produced using milk treated in accordance with this proposed rule is not known, nor is the degree to which that treatment might affect the cost of those imports.

As this proposed rule would simply provide an alternative to the current importation provisions for milk and milk products other than butter, butteroil, and cheese, we expect that the effect of this proposed rule on imports of those products, which in 2000 constituted about 60 percent of milk and milk product imports from FMD-affected regions, would be small.

Cost/Benefit Analysis

This proposed rule may involve added costs for importers and users of butter, butteroil, and certain cheeses, as those imports from FMD-affected regions would be required to meet new processing and certification requirements. However, because FMD-affected regions account for a small portion of all U.S. imports of these products and represent an even smaller fraction of domestic production and overall supply, the impacts on domestic prices and consumption will be small. Moreover, these costs are very small when compared to the benefits of preventing an outbreak of FMD in the United States. Such an outbreak could have serious economic consequences given the size of the nation's livestock inventories and the volume of animal and animal product sales.

Impact on Small Entities

The Regulatory Flexibility Act requires that Agencies specifically consider the economic impact of their rules on small entities. Those entities most likely to be affected by the proposed rule are domestic importers of milk and milk products, domestic users of these products, and dairy farms.

The Small Business Administration (SBA) has established guidelines for determining which establishments are to be considered small entities under the Regulatory Flexibility Act. According to North American Industry Classification System (NAICS) codes 422430 and 422490, import/export merchants, agents, and brokers are identified in the wholesaling trade. A firm engaged in wholesaling dairy products is considered small if it employs fewer than 100 persons. In 1997, more than 97 percent (2,460 of 2,522) of dairy products (except dried or canned) wholesalers would be considered small, and more than 95 percent (12,251 of 12,845) of other grocery and related products wholesalers, which includes dried and canned dairy products, would be considered small.[4] An establishment engaged in dairy cattle and milk production (NAICS code 112111) is considered small if it has annual sales of less than $750,000. According to the 1997 Census of Agriculture, at least 79,155 of 86,022 (or 92 percent) of dairy farms would be considered small. The size standards for establishments engaged in food manufacturing range from fewer than 500 employees to fewer than 1,000 employees, depending on the type of food being manufactured. An establishment engaged in dairy product manufacturing (NAICS code 3115) is considered small if it employs fewer than 500 persons. This is also the standard for non-chocolate confectionary manufacturing, NAICS code 311340, which includes granola and other types of breakfast bars. In 1997, 25,729 of 26,302 (or more than 97 percent) of food manufacturing establishments would be considered small.[5]

From the above it is clear that any domestic entity affected by this proposed rule is likely to be considered small. However, for most milk products, the quantity imported is a small fraction of that produced domestically, and the quantity of imports supplied by FMD-affected regions is a smaller percentage still of domestic supply. Thus, the

[4] 1997 Economic Census, Department of Commerce, Bureau of the Census.

[5] 1997 Economic Census, Department of Commerce, Bureau of the Census.

impact of this proposed rule on small entities is expected to be small.

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 12988

This proposed rule has been reviewed under Executive Order 12988, 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

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 01–040–1. Please send a copy of your comments to: (1) Docket No. 01–040–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OCIO, USDA, room 404-W, 14th Street and Independence Avenue, SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

We are proposing to amend the regulations regarding the importation of animal products to establish new processing requirements for butter, butteroil, and certain cheeses imported from regions in which FMD exists. Additionally, we are proposing to require that those materials, as well as other milk or milk products that are processed using the new proposed methods in lieu of meeting the existing importation conditions, when imported from regions in which foot-and-mouth disease exists, be accompanied by government certification by a salaried veterinarian employed by the region of origin regarding the processing of the materials.

We are asking OMB to approve, for 3 years, our use of this information collection activity in connection with our efforts to ensure that milk and milk products imported into the United States from FMD regions do not harbor the FMD virus.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.*, permitting electronic submission of responses).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 0.25 hours per response.

Respondents: Exporters of milk and milk products in FMD regions; full-time, salaried veterinarians employed by the region of origin.

Estimated annual number of respondents: 200.

Estimated annual number of responses per respondent: 5.

Estimated annual number of responses: 1,000.

Estimated total annual burden on respondents: 250 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.) Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS'' Information Collection Coordinator, at (301) 734–7477.

Government Paperwork Elimination Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. For information pertinent to GPEA compliance related to this proposed rule, please contact Mrs. Celeste Sickles, APHIS'' Information Collection Coordinator, at (301) 734–7477.

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, we propose to amend 9 CFR part 94 as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for part 94 would continue to read as follows:

Authority: 7 U.S.C. 450, 7701–7772, and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.4.

2. Section 94.16 would be amended as follows:

a. By removing paragraph (a) and redesignating paragraphs (b), (c), and (d) as paragraphs (a), (b), and (c), respectively.

b. In newly redesignated paragraph (a), by revising the introductory text of the paragraph; redesignating paragraphs (a)(1) through (a)(4) as paragraphs (a)(6) through (a)(9), respectively; and by adding new paragraphs (a)(1) through(a)(5) to read as follows.

c. In newly redesignated paragraph (a)(8), by revising the first sentence to read as follows, and in the last sentence, by adding the words ''ice cream, chocolate milk,'' after the word ''lactose''.

d. In newly redesignated paragraph (a)(9), by adding the words ''in a laboratory setting'' after the word ''analysis''.

e. In newly redesignated paragraph (c), in the last sentence, by removing the citation § 94.16(b)(3)'' and adding the words ''paragraph (a)(8) of this section'' in its place.

§ 94.16 Milk and milk products.

(a) Milk and milk products originating in, or shipped from, any region designated in § 94.1(a) as a region infected with rinderpest or foot-and-mouth disease may be imported into the United States if the milk or milk product satisfies one of the sets of criteria described in paragraphs (a)(1) through (a)(9) of this section. Products processed in accordance with one of the methods described in paragraphs (a)(1) through (a)(5) of this section must be accompanied by an official veterinary

certificate endorsed by a full-time, salaried veterinarian employed by the region of origin stating that the products have been processed in accordance with one of those methods:

(1) Milk or milk products (other than cheese) that are, or are made from, milk that has been treated at an ultra high temperature (298.4 °F (148 °C) for 3 seconds or 284 °F (140 °C) for 5 seconds); or

(2) Milk or milk products (other than cheese) that are, or are made from, milk that has been treated at a high temperature for a short time (HTST) (161.6 °F (72 °C) for 15 seconds) followed by a second HTST (161.6 °F (72 °C) for 15 seconds) treatment. For milk products made with added fat or added concentrates, the treatment temperature must be increased to 167 °F (75 °C); or

(3) Milk products made from HTST milk that is brought to a pH of less than 6 for 1 hour.

(4) Cheese made from raw milk, aged at a temperature of greater than 35.6 °F (2 °C) with a pH of less than 6 for 120 days prior to export from the country of origin; or

(5) Cheese made from HTST milk, aged at a temperature of greater than 35.6 °F (2 °C) with a pH of less than 6 for 30 days prior to export from the country of origin.

* * * * *

(8) Milk and milk products not of classes included within the provisions of paragraphs (a)(1) through (a)(7) of this section may be imported if the importer first applies to and receives written permission from the Administrator, authorizing such importation. * * *

* * * * *

Done in Washington, DC, this 11th day of February, 2003.

Bill Hawks,

Under Secretary for Marketing and Regulatory Programs.

[FR Doc. 03–3836 Filed 2–14–03; 8:45 am]

BILLING CODE 3410–34–P

FEDERAL ELECTION COMMISSION

11 CFR Parts 100 and 110

[NOTICE 2003—5]

Leadership PACs

AGENCY: Federal Election Commission.

ACTION: Notice of public hearing.

SUMMARY: The Federal Election Commission is announcing a public hearing on proposed rules to address leadership PACs, which are unauthorized committees that are associated with a Federal candidate or officeholder. Further information is provided in the supplementary information that follows.

DATES: The hearing will be held at 9:30 a.m. on Wednesday, February 26, 2003. The Commission is no longer accepting requests to testify.

ADDRESSES: Commission hearings are held in the Commission's ninth floor meeting room, 999 E Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Mai T. Dinh, Acting Assistant General Counsel, Mr. J. Duane Pugh, Jr., Acting Special Assistant General Counsel, or Mr. Anthony T. Buckley, Attorney, 999 E Street, NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: On December 26, 2002, the Commission published a Notice of Proposed Rulemaking [''NPRM''] proposing three alternative sets of rules addressing political committees that are associated with a Federal candidate or officeholder, and potential limitations to the contributions that such committees may accept and make. 67 FR 78753 (Dec. 26, 2002). The comment period for the NPRM ended on January 31, 2003. Eight sets of comments were received by the Commission in response to the NPRM. Seven commenters, who submitted six of the sets of comments, requested to testify at a public hearing if one is held.

After considering these requests and the other comments received to date in response to the NPRM, the Commission believes a public hearing would be helpful in considering the issues raised in the rulemaking. As the Commission stated in the NPRM, the hearing will be held at 9:30 a.m. on February 26, 2003.

Dated: February 11, 2003.

Ellen L. Weintraub,

Chair, Federal Election Commission.

[FR Doc. 03–3834 Filed 2–14–03; 8:45 am]

BILLING CODE 6715–01–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR PART 1301

[DEA–232P]

RIN 1117–AA70

Controlled Substances Registration and Reregistration Application Fees

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: DEA is proposing to adjust the current fee schedule for DEA controlled substances registration to adequately recover necessary costs associated with the Diversion Control Program as mandated by the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act of 1993.

DATES: Written comments must be submitted on or before April 21, 2003.

ADDRESSES: Written comments should be submitted to the Administrator, Drug Enforcement Administration, Washington, DC 20537, Attention: DEA **Federal Register** Representative/CCR.

FOR FURTHER INFORMATION, CONTACT: Patricia M. Good, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537; Telephone (202) 307–7297.

SUPPLEMENTARY INFORMATION:

Background

The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act of 1993 (Pub. L. 102–395) requires that the Drug Enforcement Administration (DEA) collect fees to ensure the recovery of the full costs of operating the Diversion Control Program. Section 111(b)(3) of the act, codified at 21 U.S.C. 886a(3), requires that ''fees charged by the Drug Enforcement Administration under its diversion control program shall be set at a level that ensures the recovery of the full costs of operating the various aspects of that program.'' Section 111(b)(1) of the act also requires that ''there shall be deposited as offsetting receipts into that account all fees collected by the Drug Enforcement Administration, in excess of $15,000,000, for the operation of its diversion control program.''

Since 1970 the Controlled Substances Act (CSA) has authorized the Attorney General to ''charge reasonable fees relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances.'' 21 U.S.C. 821 and 958(f). This fee is collected by the Deputy Administrator of DEA for the Attorney General and is the only fee collected by DEA to support the Diversion Control Program. DEA does collect a user fee to support its listed chemical activities. However, this fee does not fall within the scope of this notice (see below for a further discussion). The fee schedule for the CSA was established in 1971 and was adjusted in 1984 and again in 1993. The fees have remained unchanged since that time.