

designees. (See the Department of State Rule published elsewhere in this issue of the **Federal Register**.)

The Service's implementation of this rule as an interim rule, with a 60-day provision for post-promulgation public comments, is based upon the "good cause" exceptions found at 5 U.S.C. 553(b)(B) and (d)(3). The reasons and the necessity are as follows: this rule relieves a restriction and is beneficial to both the traveling public and U.S. businesses.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule merely removes a restriction to both the public and United States businesses.

Executive Order 12866

This rule is not considered by the Department of Justice, Immigration and Naturalization Service, to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review, and the Office of Management and Budget has waived its review process under section 6(a)(3)(A).

Executive Order 12612

The regulation proposed herein will not have substantial direct effects 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, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12606

The Commissioner of the Immigration and Naturalization Service herein certifies that she has assessed this rule in light of the criteria in Executive Order 12606 and has determined that it will not have any impact on family well being.

List of Subjects in 8 CFR Part 217

Administrative practice and procedures, Aliens, Passports and visas.

Accordingly, part 217 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 217—VISA WAIVER PILOT PROGRAM

1. The authority citation for part 217 continues to read as follows:

Authority: 8 U.S.C. 1103, 1187; 8 CFR part 2.

2. Section 217.5 is amended by redesignating paragraph (a) as paragraph (a)(1), revising the heading of newly designated (a)(1) to read "*Visa Waiver Pilot Program Countries*," and adding a new paragraph (a)(2) to read as follows:

§ 217.5 Designated countries.

(a)(1) * * *

(2) *Visa Waiver Pilot Program Countries with Probationary Status.* Effective April 1, 1995, until September 30, 1998 or the expiration of the Visa Waiver Pilot Program, whichever comes first, Ireland has been designated as a Visa Waiver Pilot Program country with Probationary Status in accordance with section 217(g) of the Act.

* * * * *

Dated: March 1, 1995.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 95-7450 Filed 3-27-95; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 93-061-2]

Certificate for Importation of Milk and Milk Products

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning the importation of milk and milk products to require that any milk or milk product imported into the United States from countries declared free of rinderpest and foot-and-mouth disease be accompanied by a certificate stating that the milk was produced and processed in a country declared free of rinderpest and foot-and-mouth disease, or that the milk product was processed in a country declared free of rinderpest and foot-and-mouth disease from milk produced in a country declared free of rinderpest and foot-and-mouth disease. The certificate must name the country in which the milk was produced and the country in which the milk or milk product was processed.

Also, the certificate must state that, except for certain movement under seal, the milk or milk product has never been in any country in which rinderpest or foot-and-mouth disease exists.

Requiring a certificate will help ensure that milk or milk products imported into the United States do not introduce rinderpest or foot-and-mouth disease into the United States.

EFFECTIVE DATE: April 27, 1995.

FOR FURTHER INFORMATION CONTACT: Dr. John Gray, Senior Staff Veterinarian, Import-Export Products Staff, National Center for Import-Export, VS, APHIS, Suite 3B05, 4700 River Road Unit 40, Riverdale, MD 20737-1228, (301) 734-4401.

SUPPLEMENTARY INFORMATION:

Background

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

The regulations in § 94.1(a)(2) list countries that are declared free of rinderpest and FMD. Milk and milk products have the potential to spread rinderpest and FMD if they are produced or processed in or have transited a country where these diseases exist. Therefore, under § 94.16, milk and milk products are restricted entry into the United States unless they are imported from countries listed in § 94.1(a)(2).

On June 21, 1994, we published in the **Federal Register** (59 FR 31957-31959, Docket No. 93-061-2) a proposal to amend § 94.16 to require that, except for milk and milk products imported from Canada, milk or milk products imported into the United States from a country listed in § 94.1(a)(2) as free of rinderpest and FMD must be accompanied by a certificate endorsed by a full-time, salaried veterinarian employed by the country of export. The certificate was to state that the milk was produced and processed in a country listed in § 94.1(a)(2), or that the milk product was processed in a country listed in § 94.1(a)(2) from milk produced in a country listed in § 94.1(a)(2). The certificate was to name the country in which the milk was produced and the country in which the milk or milk product was processed. Further, the certificate was to state that, except for movement under seal as described in

§ 94.16(c), the milk or milk product had never been in any country in which rinderpest or FMD existed. We stated in the proposal that this certification would help ensure that milk and milk products imported into the United States do not introduce rinderpest or FMD into the United States.

We solicited comments concerning our proposal for 60 days ending August 22, 1994. We received five comments by that date. They were from domestic and foreign manufacturers, importers and exporters of dairy products, and domestic and foreign dairy industry groups. We carefully considered all of the comments we received. They are discussed below.

One commenter requested that we exempt milk and milk products imported from New Zealand from the certificate requirement. As stated in the proposal, we are exempting milk and milk products imported from Canada from the certificate requirement because Canada has a common land border with only the United States, and Canada imports milk and milk products from other countries under conditions as restrictive as would be acceptable for importation into the United States. The commenter stated that because New Zealand also imports milk and milk products from other countries under conditions as restrictive as would be acceptable for importation into the United States, and because New Zealand does not have a common land border with any country, milk and milk products imported from New Zealand should be given the same exemption as milk and milk products imported from Canada.

We are making no changes to the rule based on this comment. Because Canada does have a common land border with the United States, products moving from Canada into the United States move mostly overland; or, if they are moved by aircraft, they are flown directly to the United States. Either way, there is virtually no risk that the shipment will pass through or land in another country en route to the United States. The risk of this would be greater for a shipment moving from a country that does not share a common land border with the United States, thereby increasing the risk of introducing rinderpest or FMD into the United States.

Another commenter supported the proposal, and asked that we expand the proposal to require a similar certificate for meat and meat byproducts of ruminants and swine imported from countries declared free of rinderpest and FMD. The USDA's Food Safety and Inspection Service (FSIS) imposes strict requirements on the importation of meat

and meat byproducts of ruminants and swine into the United States. Among them is the requirement that the meat or meat byproduct be accompanied by a foreign meat inspection certificate and that the meat or meat byproduct be manufactured in a meat establishment certified by FSIS as eligible to import meat and meat byproducts into the United States. We believe the oversight imposed by FSIS on the importation of meat and meat byproducts affords a more than adequate level of protection against the introduction of rinderpest and FMD into the United States, and that it is not necessary to require a certificate for the importation of meat and meat byproducts similar to the one proposed for milk and milk products.

Several commenters who import milk and milk products into the United States from countries declared free of rinderpest and FMD were concerned that the proposed rule would completely prohibit them from importing their products if the products were processed using milk or milk products from a country where rinderpest or FMD exists. Some dairy product companies in FMD- and rinderpest-free countries regularly utilize milk or milk products from countries where rinderpest or FMD exists. Currently, such products may be imported under § 94.16(b)(3) of the regulations. (Section 94.16(b) governs the importation of milk and milk products originating in, or shipped from, any country designated in § 94.1(a) as a country infected with rinderpest or FMD. Paragraph (b)(3) of § 94.16 allows such milk or milk products to be imported into the United States if the importer applies to and receives written permission from the Administrator of APHIS authorizing the importation.)

The intention of our proposed certificate was not to discontinue the importation, in accordance with § 94.16(b)(3), of milk or milk products from an FMD- and rinderpest-free country if milk or milk products from another country were utilized in the processing. We are, therefore, adding a sentence to the proposed regulations based on these comments in order to make it clear that, if milk or milk products from a country declared free of rinderpest and FMD were processed in whole or in part from milk or milk products from a country not declared free of rinderpest or FMD, the milk or milk products may still be imported, as they are currently, under § 94.16(b)(3) of the regulations.

One commenter who supported the proposed rule was concerned that the proposal did not specify how the

certification will be monitored and validated on a routine basis by U.S. authorities. It is not clear what the commenter was referring to. However, we can assure the commenter that each certificate will be reviewed at the port of entry by an APHIS inspector. If a shipment of milk or milk products is not accompanied by a certificate or other appropriate paper work, the shipment will be denied importation into the United States. We do not believe any additional specifications are needed to monitor or validate the proposed certificate.

The same commenter was concerned that, because the proposed rule exempts Canada from the certificate requirement, milk or milk products originating in a country where FMD exists could be shipped through one or more other countries before entering Canada for eventual shipment to the United States. For this reason, the commenter stated that milk or milk products transhipped through Canada from another country should not be exempted from the certificate requirement. We are making no changes based on this comment. In the scenario described by the commenter, the milk or milk product would not be imported from Canada into the United States; therefore, the shipment would have to be accompanied by the paperwork appropriate to the disease status of the country of origin, and would not be exempt from the certificate requirement simply because it had moved through Canada. As stated in the proposal, Canada imports milk and milk products from other countries under conditions as restrictive as would be acceptable for importation into the United States, making it highly unlikely that Canadian regulations would allow a situation such as the one posed by the commenter to occur.

Therefore, based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposal as a final rule, with the changes discussed in this document.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

This rule will require that, except for milk and milk products imported from Canada, milk and milk products imported into the United States from countries declared free of rinderpest and FMD be accompanied by a certificate

stating that the milk was produced and processed in a country declared free of rinderpest and FMD, or that the milk product was processed in a country declared free of rinderpest and FMD from milk produced in a country declared free of rinderpest and FMD. The certificate will have to name the country in which the milk was produced and the country in which the milk or milk product was processed. The certificate will also have to state that the milk or milk product has never been in any country in which rinderpest or FMD exists.

We do not expect that requiring a certificate will have any significant economic impact for U.S. importers of milk or milk products. The exporter of the milk or milk products will have to obtain the required certification through the national government of the country of export prior to shipping the milk or milk products to the United States. We do not know how many of those governments will charge a fee for providing the certificate, but it is unlikely that any fee will be high enough to significantly raise the cost of the milk or milk product should the exporter choose to pass the cost of the certificate on to the importer in the United States.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the information collection or recordkeeping requirements included in this rule have been submitted for approval to the Office of Management and Budget.

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, 9 CFR part 94 is amended as follows:

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

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

Authority: 7 U.S.C. 147a, 150ee, 161, 162, and 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331, and 4332; 7 CFR 2.17, 2.51, and 371.2(d).

2. In § 94.16, a new paragraph (d) is added to read as follows:

§ 94.16 Milk and milk products.

* * * * *

(d) Except for milk and milk products imported from Canada, and except as provided in this paragraph, milk or milk products imported from a country listed in § 94.1(a)(2) as free of rinderpest and foot-and-mouth disease must be accompanied by a certificate endorsed by a full-time, salaried veterinarian employed by the country of export. The certificate must state that the milk was produced and processed in a country listed in § 94.1(a)(2), or that the milk product was processed in a country listed in § 94.1(a)(2) from milk produced in a country listed in § 94.1(a)(2). The certificate must name the country in which the milk was produced and the country in which the milk or milk product was processed. Further, the certificate must state that, except for movement under seal as described in § 94.16(c), the milk or milk product has never been in any country in which rinderpest or foot-and-mouth disease exists. Milk or milk products from a country listed in § 94.1(a)(2) that were processed in whole or in part from milk or milk products from a country not listed in § 94.1(a)(2) may be imported into the United States in accordance with § 94.16(b)(3).

Done in Washington, DC, this 22nd day of March 1995.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95-7599 Filed 3-27-95; 8:45 am]

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FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 325

RIN 3064-AB60

Capital Maintenance

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule.

SUMMARY: The FDIC is amending its risk-based capital standards for insured state nonmember banks to implement section 350 of the Riegle Community Development and Regulatory Improvement Act of 1994 (Riegle Act). Section 350 states that the amount of risk-based capital required to be maintained by any insured depository institution, with respect to assets transferred with recourse, may not exceed the maximum amount of recourse for which the institution is contractually liable under the recourse agreement. This rule will have the effect of correcting the anomaly that currently exists in the risk-based capital treatment of recourse transactions under which an institution could be required to hold capital in excess of the maximum amount of loss possible under the contractual terms of the recourse obligation.

EFFECTIVE DATE: April 27, 1995.

FOR FURTHER INFORMATION CONTACT: Robert F. Storch, Chief, Accounting Section, Division of Supervision, (202) 898-8906, or Cristeena G. Naser, Attorney, Legal Division, (202) 898-3587, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION:

I. Background

The FDIC's current regulatory capital standards are intended to ensure that FDIC-supervised banks that transfer assets and retain the credit risk inherent in the assets maintain adequate capital to support that risk. This is generally accomplished by requiring that bank assets transferred with recourse continue to be reported on the balance sheet in the Reports of Condition and Income (Call Reports). These amounts are thus included in the calculation of banks' risk-based and leverage capital ratios. The regulatory reporting treatment for most asset transfers with recourse differs from the treatment of such transactions under generally accepted accounting principles (GAAP).¹

¹ The GAAP treatment focuses on the transfer of benefits rather than the retention of risk and, thus,