

and other constituents which are customized by producers to meet the needs of customers.

It has become clear that in the dairy industry, it currently is common practice to create products by adding ingredients, which may, in fact be protein concentrates themselves (such as whey protein concentrates or caseinates), to raw materials. The resulting products are marketed and sold to customers as milk protein concentrates. This practice is acknowledged by the previously cited EN to heading 0404, "Thus the heading includes * * * milk to which natural milk constituents have been added (to obtain, for example, a protein-rich product)."

Based upon the foregoing information provided in the comments, Customs decided to withdraw the proposed revocation of the rulings.

Additional U.S. Note 13 to Chapter 4, in our view, describes a product, not a process. The provision cannot be seen to specify all the methods that might be employed to create MPC, in part because they had not been developed. Technologies have developed since 1984 which enable manufacturers to produce an increasing number of varieties of products that are entered into the marketplace and offered for sale to purchasers which are identified as MPCs. This analysis of tariff language was recently employed by the United States Court of International Trade when, in reference to chemical products, it stated: " * * * the tariff schedule should not be interpreted by reference to the method of producing the chemical compound at issue, instead of the relative simplicity of the finished product's chemical structure. Relying on method of production would undermine any consistency in the classification of imported chemicals, as new and complex chemical processes are developed constantly." *E.T. Horn Co. v. United States*, CIT Slip Op. 03-20 (February 27, 2003).

Over the course of many years, Customs has classified many different products identified as MPCs in subheading 0404.90.10, HTSUS. These products contain varying amounts of proteins and other ingredients such as milkfat and lactose. The determinative factor in these rulings has been the protein content, not the manufacturing process (see, HQ 950484, dated January 3, 1992, a product produced from skim milk by a chromatographic separation process, containing 76 to 80 percent protein; NY 812858, dated August 3, 1995, a product produced from coagulated, heated skim milk, containing 80 percent protein; NY 800374, dated July 27, 1994, process unidentified, protein content 41 percent; HQ 965395, dated April 5, 2002, a product produced either by dry blending nonfat dry milk, whey protein concentrate 35 and fine, 90-mesh casein or by mixing condensed liquid skim milk with whey protein concentrate 35 and casein, containing 42 to 44 percent protein). Moreover, these products were bought and sold in the trade as MPCs.

Based upon the above analysis of the language of the tariff, the arguments you raised and the comments received in response to the Notice, Customs finds that the classification provided in rulings NY

800374, dated July 27, 1994 and NY D83787, dated November 13, 1998 is correct. Accordingly, Customs hereby denies your petition to reclassify the subject products, referred to as dairy protein blends.

Holding

The classification of milk protein concentrates in subheading 0404.90.10, HTSUS, in NY 800374, dated July 27, 1994 and NY D83787, dated November 13, 1998, which were the subject of the domestic interested party petition, is correct, and these rulings are affirmed.

Please be advised that pursuant to 19 CFR 175.23, if you so wish, you may file a notice that you desire to contest the classification of the subject products within 30 days of the date of this letter. Such notice should also designate the port or ports at which the products are being imported into the United States, and at which you desire to protest.

Sincerely,

Myles B. Harmon,

Director, Commercial Rulings Division.

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4820-N-31]

Notice of Proposed Information Collection: Comment Request; Assisted Living Conversion Program (ALCP)

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* September 15, 2003.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Plaza Building, Room 8003, Washington, DC 20410 or Wayne.Eddins@hud.gov.

FOR FURTHER INFORMATION CONTACT: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone

(202) 708-3000, (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Assisted Living Conversion Program (ALCP).

OMB Control Number, if applicable: 2502-0542.

Description of the need for the information and proposed use: The information collection is a grant application and reporting forms for HUD's Assisted Living Conversion Program (ALCP). HUD will use the grant applications to determine an applicant's need for and capacity to administer grant funds. The applicants are usually not-for-profit institutions. HUD will evaluate applications through the use of statutory and administratively designated selection criteria.

Agency form numbers, if applicable: HUD-50080-ALCP, HUD-92045, HUD-424, HUD-424B, HUD-2880, HUD-2991, and SF-269.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated total number of burden hours needed to prepare the information collection is 2,550; the number of respondents is 30 generating approximately 135 annual responses; the frequency of response is quarterly, semi-annually, and annually; and the estimated time needed to prepare the response varies from 15 minutes to 80 hours.

Status of the proposed information collection: Extension of a currently approved collection.