

with the \$10 minimum benefit level remaining the same. State agencies have the option of increasing their WIC FMNP benefit level up to the new maximum, but are not required to do so.

Because of the changes made to the matching requirement, which may lower the amount of program funds available, it is expected that many State

agencies will not be able to increase the benefit level. If State agencies do raise benefits, it is possible that not as many people will be able to be served by the Program. For example, given the number of WIC FMNP recipients and the benefit level in Minnesota in FY 2004, with a redemption rate of 60 percent, the total value of redeemed

coupons would have been \$584,664.³ If funds available for the WIC FMNP remain constant at approximately \$585,000 as the benefit level increased, the number of recipients able to be served would decrease from 48,722 recipients receiving a \$20 coupon to 32,500 receiving a \$30 coupon.

EXAMPLE: MINNESOTA

Benefit level per recipient	Value of coupon (\$)	Number of WIC FMNP recipients, FY 2004	Average percentage of redeemed coupons	Total cost of redeemed FMNP coupons (\$)
Previous Benefit Level	20.00	48,722	60%	584,664
FY2005 Maximum Benefit Level	30.00	32,500	60%	585,000

The state of Minnesota did not increase the value of WIC FMNP coupons in 2005. The calculation was done for the purpose of an example only. The average percent of redeemed coupons is based on the average national rate of redemption for FY 2000–FY 2004.

If State agencies choose to increase benefit levels, WIC FMNP recipients will benefit from the ability to purchase and consume more fresh fruits, vegetables, and herbs. Additionally, it is possible that redemption rates will increase as some participants, who previously did not utilize their coupons, may be enticed to start utilizing them given the higher value.

FNS regional offices have indicated that in FY 2005, less than 10 State agencies increased the Federal benefit level and not all of those State agencies increased it to the \$30 annual maximum. Of the State agencies that did increase benefits, the number of WIC FMNP recipients served did not decrease. Some State agencies indicated that they would have increased their benefit level, but were unable to do so because of their Federal 2005 grant levels. This implies that if provided with sufficient Federal funding to maintain current caseloads, many of the State agencies would increase their Federal benefit level, but would choose not to increase it if it meant serving fewer recipients.

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. APHIS–2008–0107]

Addition of Russia and Azerbaijan to the List of Regions Where African Swine Fever Exists

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the regulations concerning the importation of animals and animal products by adding Russia and Azerbaijan to the list of regions where African swine fever exists. We are taking this action because outbreaks of African swine fever have been detected in Russia and Azerbaijan. This action will restrict the importation of pork and pork products into the United States from Russia and Azerbaijan and is necessary to prevent the introduction of African swine fever into the United States.

DATES: This interim rule is effective November 3, 2008. However, we are imposing these restrictions retroactively to November 19, 2007, for Russia, and to January 28, 2008, for Azerbaijan. We will consider all comments that we receive on or before January 2, 2009.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS->

2008–0107 to submit or view comments and to view supporting and related materials available electronically.

• *Postal Mail/Commercial Delivery:* Please send two copies of your comment to Docket No. APHIS–2008–0107, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2008–0107.

Reading Room: 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.

Other Information: Additional information about APHIS and its programs is available on the Internet at <http://www.aphis.usda.gov>.

FOR FURTHER INFORMATION CONTACT: Mr. Javier Vargas, Animal Scientist, Regionalization Evaluation Services Staff, National Center for Import and Export, VS, APHIS, 4700 River Road, Unit 38, Riverdale, MD 20737–1231; (301) 734–0756.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation of specified animals and animal products to prevent the introduction into the United States of various animal diseases, including

³ This calculation only takes into account the Federal food benefits and does not make any

assumptions regarding the level of State food benefits.

rinderpest, foot-and-mouth disease, bovine spongiform encephalopathy, swine vesicular disease, classical swine fever, and African swine fever (ASF). These are dangerous and destructive diseases of ruminants and swine.

Section 94.8 of the regulations lists regions of the world where ASF exists or is reasonably believed to exist and imposes restrictions on the importation of pork and pork products into the United States from those regions.

In December 2007, Russia reported an outbreak of ASF to the World Organization for Animal Health (OIE). ASF was detected on November 5, 2007, and Russia's Ministry of Agriculture and Food (MAF) confirmed the outbreak on November 19, 2007. The MAF has reported a total of 19 outbreaks after the initial detection and believes the source of the infection to be transboundary migration of wild boars in the area.

Azerbaijan reported an outbreak of ASF in Qebele, in the north-central part of the country. According to Azerbaijan's report to the OIE, the outbreak started on January 22, 2008, and was confirmed by Azerbaijan's Ministry of Agriculture January 28, 2008.

Therefore, in order to prevent the introduction of ASF into the United States, we are amending the regulations by adding Russia and Azerbaijan to the list of regions in § 94.8 where ASF exists or is reasonably believed to exist. As a result of this action, the importation into the United States of pork and pork products from Russia and Azerbaijan will be restricted. We are imposing these restrictions retroactively to November 19, 2007, for Russia, and to January 28, 2008, for Azerbaijan, which are the dates that the presence of ASF in Russia and Azerbaijan was confirmed.

Emergency Action

This rulemaking is necessary on an emergency basis to prevent the introduction of ASF into the United States. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this rule effective less than 30 days after publication in the **Federal Register**.

We will consider comments we receive during the comment period for this interim rule (*see DATES* above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

Executive Order 12866 and Regulatory Flexibility Act

This interim rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review under Executive Order 12866.

This interim rule amends the regulations by adding Russia and Azerbaijan to the list of regions in which ASF exists. This action is necessary on an emergency basis to prevent the introduction of ASF into the United States.

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities.

The U.S. swine industry plays an important role in the U.S. economy. Cash receipts from marketing meat animals were about \$14.8 billion in 2007, and averaged \$14.6 billion between 2004 and 2007.¹ U.S. pork production increased from 7,764,000 metric tons (MT) in 1996 to 9,962,000 MT in 2007, an annual growth rate of about 2.4 percent. Similarly, consumption increased from 7,619,000 MT to 8,964,000 MT. During the same period, U.S. pork exports increased from 440,000 MT to 1,424,000 MT, by far outpacing imports. Net exports increased from 159,000 MT to 985,000 MT.² Swine and related product exports generated over \$2.1 billion in sales in 2007. Other agricultural and nonagricultural sectors are dependent on the swine industry for their economic activity. Maintaining and expanding U.S. export markets depends in part on preventing transmission of foreign diseases to U.S. swine.

Russia's swine inventory and pork production can be characterized as ranging from moderate to large. For the years 2002–2007, the number of swine in Russia averaged about 17 million,³ while pork production averaged 1,752,000 MT. Russia was a net importer of pork and pork products during this period, with annual consumption exceeding production by an average of about 771,000 MT.⁴ Azerbaijan has a much smaller swine inventory and produces much less pork

than Russia. For the years 2002–2006, it had average swine stock of fewer than 19,500 head and produced only 1,520 MT of pork. Azerbaijan is a net importer of pork and pork products. Neither Russia nor Azerbaijan has a history of exporting swine, pork, or pork products to the United States.

The Small Business Administration (SBA) has established size standards for determining whether firms are considered small under the Regulatory Flexibility Act. Under SBA standards, meat processing establishments (North American Industry Classification System [NAICS] 311612) with no more than 500 employees and meat and meat product wholesalers (NAICS 424470) with no more than 100 employees are considered small. In 2002, there were 1,335 companies in the United States that processed and sold meat. More than 97 percent of these establishments are considered to be small entities and had average sales of \$15.4 million, while large meat processors had average sales of \$188 million. In 2002, there were 2,535 meat and meat product wholesalers in the United States. Of these establishments, 2,456 (97 percent) employed not more than 100 employees and are thus considered small by SBA standards. Small meat wholesalers had average sales of \$9.3 million, while large meat wholesalers had average sales of \$131 million.⁵

The majority of U.S. swine and pork producers (NAICS 112210) are also small entities.⁶ According to the 2002 Census of Agriculture, that year there were 82,028 hog and pig operations with sales of about 185 million hogs and pigs valued at \$12.4 billion. These facilities are considered to be small if their annual receipts are not more than \$750,000. Over 83 percent (68,083) of these operations are considered to be small, with sales of fewer than 2,000 hogs and pigs. Small operations had a total inventory of 16.3 million (9 percent of all swine) and an average inventory of 237 hogs, while large operations had a total inventory of 168.7 million (91 percent of all swine) and an average inventory of 12,714 hogs. Based on inventory shares in 2002, small operations had annual sales of \$1.1 billion and an average income of about \$19,400, while large operations had

¹ USDA/Economic Research Services (ERS), Farm Income Costs: Farm Sector Income Forecast, http://www.ers.usda.gov/briefing/farmincome/data/cr_t3.htm.

² USDA/Foreign Agricultural Service (FAS), Product Supply & Demand (PS&D) Online, 1996–2007, http://www.fas.usda.gov/dlp/circular//2008/livestock_poultry_04-2008.pdf.

³ <http://faostat.fao.org>.

⁴ USDA/FAS, Production, Supply, and Demand (PS&D) Online, 1996–2007, http://www.fas.usda.gov/dlp/circular//2008/livestock_poultry_04-2008.pdf.

⁵ U.S. Census Bureau, 2002 Economic Census: Manufacturing—Industries Series, Wholesale Trade—Subject Series and Transportation and Warehousing—Subject Series, issued August 2006; and SBA, Small Business Size Standards matched to North American Industry Classification System 2002, effective July 2006.

⁶ SBA, Small Business Size Standards matched to North American Industry Classification System 2002, effective July 2006 (<http://www.sba.gov/size/sizetable2002.html>).

sales of \$11.3 billion with an average income of about \$834,000.

No impact is expected as a result of this rule, based on the fact that there is no history of U.S. imports of swine or swine products from Russia or Azerbaijan. Adding Russia and Azerbaijan to the list of regions in which ASF exists or is reasonably believed to exist will have no effect on U.S. producers or consumers.

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 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has retroactive effect to November 19, 2007, and January 28, 2008; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This interim rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 are amending 9 CFR part 94 as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, CLASSICAL SWINE FEVER, 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. 450, 7701–7772, 7781–7786, and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

§ 94.8 [Amended]

■ 2. In § 94.8, the introductory text is amended by adding the word “Azerbaijan,” after the word “Armenia,” and by adding the word “Russia,” after the word “Mauritius,”.

Done in Washington, DC, this 28th day of October 2008.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E8–26140 Filed 10–31–08; 8:45 am]

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DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 585

[OTS–2008–0017]

RIN 1550–AC14

Prohibited Service at Savings and Loan Holding Companies Extension of Expiration Date of Temporary Exemption

AGENCIES: Office of Thrift Supervision (OTS), Treasury.

ACTION: Final rule.

SUMMARY: OTS is revising its rules implementing section 19(e) of the Federal Deposit Insurance Act (FDIA), which prohibits any person who has been convicted of any criminal offense involving dishonesty, breach of trust, or money laundering (or who has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such an offense) from holding certain positions with respect to a savings and loan holding company (SLHC). Specifically, OTS is extending the expiration date of a temporary exemption granted to persons who held positions with respect to a SLHC as of the date of the enactment of section 19(e). The revised expiration date for the temporary exemption is March 31, 2009.

DATES: *Effective Date:* The final rule is effective on November 3, 2008.

FOR FURTHER INFORMATION CONTACT: Donna Deale, Director, Holding Companies and Affiliates, Supervision Policy, (202) 906–7488, Marvin Shaw, Senior Attorney, Regulations and Legislation Division, (202) 906–6639, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: On May 8, 2007, OTS published an interim final rule adding 12 CFR part 585. This new part implemented section 19(e) of the FDIA, which prohibits any person who has been convicted of any criminal offense involving dishonesty, breach of trust, or money laundering (or who has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such an offense) from

holding certain positions with a SLHC. Section 19(e) also authorizes the Director of OTS to provide exemptions from the prohibitions, by regulation or order, if the exemption is consistent with the purposes of the statute.

The interim final rule described the actions that are prohibited under the statute and prescribed procedures for applying for an OTS order granting a case-by-case exemption from the prohibition. The rule also provided regulatory exemptions to the prohibitions, including a temporary exemption for persons who held positions with respect to a SLHC on October 13, 2006, the date of enactment of section 19(e). This temporary exemption is set to expire on November 3, 2008, unless a case-by-case exemption is filed prior to that expiration date.¹

OTS is extending the expiration date of the temporary exemption to March 31, 2009. This extension will avoid needless disruptions of SLHC operations while OTS continues to review the public comments and develop a final rule addressing these comments. OTS has concluded that this extension of the exemption is consistent with the purposes of section 19(e) of the FDIA.

Regulatory Findings

Notice and Comment and Effective Date

For the reasons set out in the interim final rule,² OTS has concluded that: Notice and comment on this extension are unnecessary and contrary to the public interest under section 552(b)(B) of the Administrative Procedure Act; there is good cause for making the extension effective immediately under section 553(d) of the APA; and the delayed effective date requirements of section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRIA) do not apply.

Regulatory Flexibility Act

For the reasons stated in the interim final rule,³ OTS has concluded that this extension does not require an initial regulatory flexibility analysis under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), and that this extension should not have a significant

¹ This temporary exemption originally was scheduled to expire on September 5, 2007. OTS extended the expiration date to March 1, 2008, 72 FR 50644 (September 4, 2007), then to June 1, 2008, 73 FR 10985 (February 29, 2008) and most recently to November 3, 2008, 73 FR 30736 (May 29, 2008).

² 72 FR at 25953.

³ 72 FR at 25953–54.