

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

#### 7 CFR Part 20

#### Export Sales Reporting Requirements

**AGENCY:** Office of the Secretary, USDA.

**ACTION:** Proposed rule; reopening of comment period.

**SUMMARY:** USDA published a proposed rule in the **Federal Register** on June 25, 2012, which would have mandated that weekly reporting for pork (fresh, chilled, or frozen muscle cuts/whether or not boxed) and distillers dried grain (DDG) be added to the Export Sales Reporting program (ESR). A final rule was issued to add pork to the ESR, but a decision on DDG was deferred. This document provides for an additional comment period regarding mandatory export sales reporting for DDG.

**DATES:** Submit comments on the proposed rule on or before April 18, 2013.

**ADDRESSES:** We invite you to submit comments as requested in this document. In your comment, include the Regulation Identifier Number (RIN) and volume, date, and page number of this issue of the **Federal Register**. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- *Mail, hand delivery, or courier:* Peter W. Burr, Branch Chief, Export Sales Reporting Branch, Import Policies and Export Reporting Division, Office of Trade Programs, Foreign Agricultural Service, 1400 Independence Avenue SW., Washington, DC 20250-1021, STOP 1021; or by email at [Pete.Burr@fas.usda.gov](mailto:Pete.Burr@fas.usda.gov); or by telephone at (202) 720-3274; or fax to (202) 720-0876.

Comments will be available for inspection online at <http://www.regulations.gov> and at the mail address listed above between 8:00 a.m.

and 4:30 p.m., Monday through Friday, except holidays.

Persons with disabilities who require an alternative means for communication of information (Braille, large print, audiotape, etc.) should contact USDA's Target Center at (202) 720-2600 (voice and TDD).

*Confidentiality:* All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or that is inappropriate for public disclosure.

**FOR FURTHER INFORMATION CONTACT:** Peter W. Burr, Branch Chief, Export Sales Reporting Branch, Import Policies and Export Reporting Division, Office of Trade Programs, Foreign Agricultural Service, 1400 Independence Avenue SW., Washington, DC 20250-1021, STOP 1021; or by email at [Pete.Burr@fas.usda.gov](mailto:Pete.Burr@fas.usda.gov); or by telephone on (202) 720-3274; or by fax (202) 720-0876.

#### SUPPLEMENTARY INFORMATION:

##### Background

USDA published a proposed rule in the **Federal Register** on June 25, 2012 (77 FR 37823), which proposed mandating weekly export sales reporting for pork (fresh, chilled, or frozen muscle cuts/whether or not boxed) and DDG to the ESR. Under this proposed rule, all exporters of U.S. pork and DDG would have been required to report, on a weekly basis, information on the export sales of pork and DDG to the Foreign Agricultural Service, USDA. The 60-day public comment period ended on August 24, 2012. USDA issued a final rule that amended the regulation to add pork to the ESR, but determined that further comments should be solicited regarding DDG.

Five comments mentioned DDG, of which three were favorable and two were unfavorable. One trade association stated: "We believe [adding DDG] would facilitate market transparency and allow our industry and our corn marketing partners with the ability to conduct accurate and timely analysis of U.S. market conditions." Another commenter stated: "[Adding DDG] would help avoid future price inflation such as we had in 1973/74 when the 'Great Russian Grain Robbery' occurred." Another commenter stated "Having these [DDG] sales brings market transparency which

will allow all market participants to digest the data."

Another trade association expressed concerns about the impacts of adding DDG, stating: "DDGs are traded with highly variable and specific quality terms that differ greatly based on end use. For example, exported DDGs often require a specific color or nutritional profile that's not necessarily the same as the product that's traded domestically. Providing export sales reporting may skew the markets viewpoint on domestic sales." Another commenter stated, "I would question why DDGs are listed to be reported, and other corn milling co-products like Corn Gluten Feed, etc., are not. I would also like to know the compelling reason for the need to have DDGs reported at all?"

##### Determination To Extend the Public Comment Period on Proposed Rule

Both supporters and opponents' views appear to have merit. The concerns raised with respect to the potential negative impact that mandatory export sales reporting for DDG would have on the domestic DDG market, especially the view expressed by one of the trade associations that the reporting information may confuse markets and skew domestic prices, justify an additional comment period.

All comments previously submitted to USDA during the initial comment period will be given full consideration, so there is no need to resubmit these comments. Please provide any available specific information in support of your comments. If after evaluating all the comments received with respect to DDG, USDA determines to add DDG to the exporting reporting requirements, USDA would amend Appendix 1 to Part 20, adding DDG to the list of commodities to be reported, as set forth below.

##### Executive Order 12866

The proposed rule has been determined to be not significant under Executive Order 12866.

##### Regulatory Flexibility Act

The Regulatory Flexibility Act ensures that regulatory and information requirements are tailored to the size and nature of small businesses, small organizations, and small governmental jurisdictions. This proposed rule will not have a significant economic impact on small businesses.

**Executive Order 12372**

Executive Order 12372, "Intergovernmental Review of Federal Programs," requires consultation with state and local officials. The objectives of the Executive Order are to foster an intergovernmental partnership and a strengthened federalism, by relying on state and local processes for state and local government coordination and review of proposed federal financial assistance and direct federal development. This proposed rule neither provides federal financial assistance nor direct federal development; it does not provide either grants or cooperative agreements. Therefore this program is not subject to Executive Order 12372.

**Executive Order 12988**

This proposed rule has been reviewed under Executive Order 12988. The provisions of this rule would not have a preemptive effect with respect to any state or local laws, regulations, or policies which conflict with such provision or which otherwise impede their full implementation. The rule would not have a retroactive effect. Before any judicial action may be brought forward regarding this rule, all administrative remedies must be exhausted.

**Executive Order 13132**

The policies contained in this proposed rule would not have any substantial direct effect on 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. Nor would this rule impose substantial direct compliance costs on state and local governments. Therefore, consultation with the states is not required.

**Executive Order 13175**

This proposed rule has been reviewed for compliance with Executive Order

13175, "Consultation and Coordination with Indian Tribal Governments." This Executive Order imposes requirements on the development of regulatory policies that have Tribal implications or preempt tribal laws. The policies contained in this rule do not preempt Tribal law.

**National Environmental Policy Act**

The Administrator has determined that this action will not have a significant effect on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is necessary for this rule.

**Unfunded Mandates Reform Act (Pub. L. 104-4)**

Public Law 104-4 requires consultation with state and local officials and Indian tribal governments. This proposed rule does not impose an unfunded mandate or any other requirement on state, local, or tribal governments. Accordingly, these requirements are not subject to the provisions of the Unfunded Mandates Reform Act.

**Executive Order 12630**

This Order requires careful evaluation of governmental actions that interfere with constitutionally protected property rights. This proposed rule would not interfere with any property rights and, therefore, does not need to be evaluated on the basis of the criteria outlined in Executive Order 12630.

**Paperwork Reduction Act of 1995**

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Secretary of Agriculture is requesting comments from all interested individuals and organizations on a proposed revision to the currently approved information collection for this program. This revision includes the proposed change in information

collection activities related to the regulatory changes in this rule.

**List of Subjects in 7 CFR Part 20**

Agricultural commodities, Exports, and Reporting and recordkeeping requirements.

Accordingly, 7 CFR part 20 is proposed to be amended as follows:

**PART 20—EXPORT SALES REPORTING REQUIREMENTS**

- 1. The authority citation for part 20 continues to read as follows:

Authority: 7 U.S.C. 5712.

- 2. Section 20.4 is amended by revising paragraph (c) to read as follows:

**§ 20.4 Definitions.**

\* \* \* \* \*

(c) *Commodity*. Wheat and wheat flour, feed grains, distillers dried grain, oilseeds, cotton, rice, cattle hides and skins, beef and pork, and any products thereof, and any other agricultural commodity the Secretary may designate. "Commodity" shall also mean a commodity having identifying characteristics as described in any announcement issued pursuant to § 20.5 such as class(es) of wheat and rice, or staple length(s) of cotton. Mixed wheat shall be considered to be the predominant wheat class of the blend. This definition excludes commodities to be used for seed which have been treated in such a manner that their use is limited to seed for planting purposes or on which a certificate has been issued by a recognized seed testing laboratory setting forth variety, germination and purity.

\* \* \* \* \*

- 3. Appendix 1 to part 20 is revised to read as follows:

**Appendix 1 to Part 20—Commodities Subject to Reporting, Units of Measure To Be Used in Reporting, and Beginning and Ending Dates of Marketing Years**

Commodity to be reported	Unit of measure to be used in reporting	Beginning of marketing year	End of marketing year
Wheat—Hard red winter .....	Metric Tons .....	June 1 .....	May 31.
Wheat—Soft red winter .....	Metric Tons .....	June 1 .....	May 31.
Wheat—Hard red Spring .....	Metric Tons .....	June 1 .....	May 31.
Wheat—White (incl. Hard and soft white) .....	Metric Tons .....	June 1 .....	May 31.
Wheat—Durum .....	Metric Tons .....	June 1 .....	May 31.
Wheat—Products—All wheat flours (including clears) bulgur, semolina, farina, and rolled, cracked and crushed wheat.	Metric Tons .....	June 1 .....	May 31.
Barley—Unmilled (including feed and hull-less waxy barley).	Metric Tons .....	June 1 .....	May 31.
Corn—Unmilled (including waxy, cracked—if 50% whole kernels).	Metric Tons .....	Sept. 1 .....	Aug. 31.
Distillers Dried Grain .....	Metric Tons .....	Sept. 1 .....	Aug. 31.
Rye—Unmilled .....	Metric Tons .....	June 1 .....	May 31.

Commodity to be reported	Unit of measure to be used in reporting	Beginning of marketing year	End of marketing year
Oats—Unmilled .....	Metric Tons .....	June 1 .....	May 31.
Grain Sorghum—Unmilled .....	Metric Tons .....	Sept. 1 .....	Aug. 31.
Soybeans .....	Metric Tons .....	Sept. 1 .....	Aug. 31.
Soybean Cake and Meal .....	Metric Tons .....	Oct. 1 .....	Sept. 30.
Soybean Oil—including: crude (including degummed), once refined, soybean salad oil (including refined and further processed by bleaching, deodorizing or winterizing), hydro-genated, packaged oil.	Metric Tons .....	Oct. 1 .....	Sept. 30.
Flaxseed .....	Metric Tons .....	June 1 .....	May 31.
Linseed Oil—including raw, boiled .....	Metric Tons .....	June 1 .....	May 31.
Cottonseed .....	Metric Tons .....	Aug. 1 .....	July 31.
Cottonseed Cake and Meal .....	Metric Tons .....	Oct. 1 .....	Sept. 30.
Cottonseed Oil—including crude, once refined, cottonseed salad oil (refined and further processed by bleaching, deodorizing or winterizing), hydrogenated.	Metric Tons .....	Oct. 1 .....	Sept. 30.
Sunflowerseed Oil crude, once refined, sunflowerseed salad oil (refined and further processed by bleaching, deodorizing or winterizing), hydrogenated.	Metric Tons .....	Oct. 1 .....	Sept. 30.
Cotton—American Pima—Raw, extra long staple .....	Running Bales .....	Aug. 1 .....	July 31.
Cotton—Upland—Raw, staple length 1 1/16 inches and over.	Running Bales .....	Aug. 1 .....	July 31.
Cotton—Upland—Raw, staple length 1 inch up to 1 1/16 inches.	Running Bales .....	Aug. 1 .....	July 31.
Cotton—Upland—Raw, staple length under 1 inch .....	Running Bales .....	Aug. 1 .....	July 31.
Rice—Long grain, rough (including parboiled) .....	Metric Tons .....	Aug. 1 .....	July 31.
Rice—Medium, short and other classes, rough (including parboiled).	Metric Tons .....	Aug. 1 .....	July 31.
Rice—Long grain, brown (including parboiled) .....	Metric Tons .....	Aug. 1 .....	July 31.
Rice—Medium, short and other classes, brown (including parboiled).	Metric Tons .....	Aug. 1 .....	July 31.
Rice—Long grain, milled (including parboiled) .....	Metric Tons .....	Aug. 1 .....	July 31.
Rice—Medium, short and other classes, milled (including parboiled, brewer's rice).	Metric Tons .....	Aug. 1 .....	July 31.
Cattle Hides and Skins—Whole cattle hides, (excluding wet blues).	Pieces .....	Jan. 1 .....	Dec. 31.
Cattle Hides and Skins—Whole calf skins (excluding wet blues).	Pieces .....	Jan. 1 .....	Dec. 31.
Cattle Hides and Skins—Whole kip skins, (excluding wet blues).	Pieces .....	Jan. 1 .....	Dec. 31.
Cattle Hides and Skins—Cattle, calf, and kip cut into croupions, crops, dossets, sides, butts and butt bend (hide equivalent) (excluding wet blues).	Number .....	Jan. 1 .....	Dec. 31.
Cattle Hides and Skins—Cattle, calf and kip, in cuts not otherwise specified; pickled/limed (excluding wet blues).	Pounds .....	Jan. 1 .....	Dec. 31.
Cattle, calf and kip, Wet blues—unsplit (whole or sided) hide equivalent.	Number .....	Jan. 1 .....	Dec. 31.
Cattle, calf and kip, Wet blues—grain splits (whole or sided) hide equivalent.	Number .....	Jan. 1 .....	Dec. 31.
Cattle, calf and kip, Wet blues—splits, (excluding grain splits).	Pounds .....	Jan. 1 .....	Dec. 31.
Beef—fresh, chilled or frozen muscle cuts/whether or not boxed.	Metric Tons .....	Jan. 1 .....	Dec. 31.
Pork—fresh, chilled or frozen muscle cuts/whether or not boxed.	Metric Tons .....	Jan. 1 .....	Dec. 31.

Dated: February 26, 2013.

**Bryce Quick,**

*Acting Administrator, Foreign Agricultural Service.*

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**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 71**

[Docket No. FAA-2012-0852; Airspace Docket No. 12-AWP-5]

**Proposed Amendment of Class E Airspace; Eureka, NV**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Supplemental notice of proposed rulemaking (SNPRM).

**SUMMARY:** This SNPRM would further modify Class E airspace at Eureka Airport, Eureka, NV. In a NPRM published in the **Federal Register** on December 21, 2012, the FAA proposed to create additional airspace at Eureka Airport to accommodate aircraft using Area Navigation (RNAV) Global Positioning System (GPS) standard instrument approach procedures. The FAA has found that further enlargement