

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 20

Export Sales Reporting Requirements

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: USDA published a proposed rule in the **Federal Register** on June 25, 2012, which would have added reporting for pork (fresh, chilled, or frozen muscle cuts/whether or not boxed) and distillers dried grain (DDG) to the Export Sales Reporting Requirements (ESR). Under that 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 (FAS). This final rule implements the requirement to report weekly export sales of pork, but does not implement the requirement to report weekly export sales of DDG at this time.

DATES: The final rule will be effective on March 19, 2013.

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; 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 would have added reporting for pork (fresh, chilled, or frozen muscle cuts/whether or not boxed) and DDG to the ESR. Under that

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 FAS. The 60-day public comment period ended on August 24, 2012.

A total of eight comments were received during the comment period. Adding pork to the ESR was supported by five comments and opposed by none. USDA is amending the regulation to add pork to the ESR, as is statutorily required.

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?"

In response to the comments on DDG, USDA has determined that adding the reporting requirement for export sales of DDG requires further review and will be publishing a proposed rule, with extension of comment period, on the proposed reporting requirement for this commodity.

Effective Date

The Administrative Procedure Act (5 U.S.C. 553) provides generally that before rules are issued by Government agencies, the rule must be published in the **Federal Register**, and the required

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publication of a substantive rule is to be not less than 30 days before its effective date. One of the exceptions is when the agency finds good cause for not delaying the effective date. USDA finds that there is good cause for making this rule effective less than 30 days after publication in the **Federal Register** because the Mandatory Price Reporting Act of 2010 (Pub. L. 111-239) mandates that pork be added to the ESR, and the comments with respect to pork favored adding pork to the ESR. Therefore, USDA has determined that it is in the public interest to amend the regulation to include pork as soon as possible and is immediately amending the regulation to add pork to the ESR.

Executive Order 12866

The 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 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 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 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 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 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)

Pub. L. 104-4 requires consultation with state and local officials and Indian tribal governments. This 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 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 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, 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—Ummiled (including feed and hull-less waxy barley)	Metric Tons	June 1	May 31.
Corn—Ummiled (including waxy, cracked—if 50% whole kernels)	Metric Tons	Sept. 1	Aug. 31.
Rye—Ummiled	Metric Tons	June 1	May 31.
Oats—Ummiled	Metric Tons	June 1	May 31.
Grain Sorghum—Ummiled	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.

Commodity to be reported	Unit of measure to be used in reporting	Beginning of marketing year	End of marketing year
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 21

[Docket No. FAA-2001-8994; Amdt. No. 21-96]

RIN 2120-AK19

Type Certification Procedures for Changed Products

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; disposition of comments.

SUMMARY: On December 4, 2012, the FAA published a final rule; request for comments (77 FR 71691) to make the existing regulation consistent with the FAA's intent and with the certification practice both before and after the adoption of the existing rule. The 2012 final rule clarifies what an applicant must show regarding a "changed product" to comply with applicable standards and became effective on February 4, 2013. We sought public comment on that final rule even though it is only clarifying in nature. This action responds to the public comments the FAA received.

ADDRESSES: You may review the public docket for this rulemaking (Docket No.

FAA-2001-8994) at the Docket Management Facility in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC 20590-0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also review the public docket on the Internet at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this action, contact Victor Powell, Certification Procedures Office (AIR-110), Aircraft Certification Service, Federal Aviation Administration, 950 L'Enfant Plaza SW., Washington, DC 20024; telephone (202) 385-6326; email victor.powell@faa.gov, or Randall Petersen, Certification Procedures Office (AIR-110), Aircraft Certification Service, Federal Aviation Administration, 950 L'Enfant Plaza SW., Washington, DC 20024; telephone (202) 385-6325, email randall.petersen@faa.gov.

For legal questions concerning this action, contact Douglas Anderson, Northwest Mountain Region—Deputy Regional Counsel (ANM-7), Office of the Chief Counsel, Federal Aviation Administration Northwest Mountain Regional Office, 1601 Lind Ave. SW., Renton, WA 98057; telephone (425) 227-2166; facsimile (425) 227-1007; email douglas.anderson@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

On June 7, 2000, the FAA published a final rule entitled, "Type Certification Procedures for Changed Products" (65 FR 36244). In that final rule, the FAA

revised the procedural requirements for the certification of changes to type-certified products. The revision required the applicant to apply the latest airworthiness standards in effect, to the extent practical, for the certification of significant design changes of aircraft, aircraft engines, and propellers. Before this final rule, many changes to aeronautical products were not required to show compliance with the latest airworthiness standards. This final rule was needed because incremental design approval changes accumulated into significant differences from the original product. Also, the final rule was intended to expand under what conditions the latest airworthiness amendments needed to be applied to changes to aeronautical products.

To clarify what the 2000 final rule intended, the FAA published a final rule; request for comments also entitled, "Type Certification Procedures for Changed Products" (December 4, 2012, 77 FR 71691). The 2000 final rule requires an applicant to show that the "changed product" complies with applicable standards. The purpose of § 21.101 is to require an applicant to evaluate the proposed design change and its effect on the product rather than the re-evaluation (certification) of the entire changed product. Therefore, § 21.101 was amended in the 2012 final rule to replace "changed product" with "change and areas affected by the change" to accurately limit the scope of compliance responsibility for the applicant. That change was also made in § 21.97 for the same reason. The intended effect of the 2012 final rule is to make the applicable requirements