



Billing Code 3410-10

DEPARTMENT OF AGRICULTURE

7 CFR Part 20

RIN 0551-AB01

Export Sales Reporting Program

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Final rule; clarification.

SUMMARY: The USDA is modifying the regulations implementing the export sales reporting requirements of Section 602 of the Agricultural Trade Act of 1978. The Export Sales Reporting Requirements regulations require exporters to report on a weekly basis information concerning quantity, country of destination, and other specified information related to export sales of beef and pork, among other commodities. USDA is adding a footnote to clarify the descriptions for “fresh, chilled or frozen muscle cuts/whether or not boxed” for beef and pork in the appendix to the regulations. The footnote includes an illustrative list of items that fall under these headings, such as carcasses and half-carcasses. This final rule clarifies the wording of the regulations to avoid potential confusion.

DATES: This rule is effective [INSERT DATE OF PUBLICATION IN FEDERAL REGISTER].

ADDRESSES: U.S. Department of Agriculture, Foreign Agricultural Service, Global Market Analysis Division, 1400 Independence Ave., SW, Washington, DC 20250-1025.

FOR FURTHER INFORMATION CONTACT: Amy Harding, Global Marketing Analysis Division, 202-720-3538, Email esr@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

Section 602 of the Agricultural Act of 1978 (7 U.S.C. 5712), as amended, requires all exporters of wheat and wheat flour, feed grains, oil seeds, cotton, pork, beef, and products thereof, and other commodities that the Secretary of Agriculture may designate produced in the United States to report to USDA, on a weekly basis, information regarding export sales contracts entered into or subsequently modified during the reporting period, including, *inter alia*, the type, class, and quantity of the commodity sought to be exported. The Export Sales Reporting Requirements regulations in 7 CFR part 20 implement section 602's requirements, and the commodities for which reports are required are set forth in the appendix to part 20. Information collected is aggregated and included in the weekly U.S. Export Sales report published by the Foreign Agricultural Service (FAS).

FAS has received informal inquiries whether exports of different types of beef and pork carcasses must be reported under the regulations. This final rule clarifies the descriptions in the appendix of "fresh, chilled or frozen muscle cuts/whether or not boxed" for beef and pork by adding a footnote that sets out an illustrative list of items covered by this description, such as carcasses and half-carcasses.

Notice and Comment

This rule is being issued as a final rule without prior notice and opportunity for comment. The Administrative Procedure Act (APA) states notice of proposed rulemaking is not required "when the agency for good cause finds . . . that notice and public procedure

thereon are impracticable, unnecessary, or contrary to the public interest.” 5 U.S.C. 553(b)(B). To issue a rule that is immediately effective, an agency similarly must find good cause for dispensing with the 30-day delay required by the APA. Because this change is interpretive in nature and intended to avoid potential confusion, FAS finds that the notice and comment provisions of 5 U.S.C. 553 are not necessary. Similarly, the agency finds that a delay in effectiveness would serve no useful purpose. Accordingly, under 5 U.S.C. 553(b)(B) and (d), notice and public comment thereon and a delay in effectiveness are unnecessary. Therefore, this final rule is effective when published in the Federal Register.

Executive Order 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been determined to be not significant and was not reviewed by the Office of Management and Budget (OMB) in conformance with Executive Order 12866.

Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 et seq.), the Office of Information and Regulatory Affairs has designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

Executive Order 13175

This rule has been reviewed for compliance with Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments.” Executive Order 13175 requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments, proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes or on the distribution of power and responsibilities between the Federal government and Indian tribes. FAS has assessed the impact of this rule on Indian tribes and determined that this rule does not, to the knowledge of FAS, have tribal implications that required tribal consultation under Executive Order 13175. If a tribe requests consultation, FAS will work with USDA Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions, and modifications identified herein are not expressly mandated by Congress.

Executive Order 13771

Executive Order 13771 directs agencies to reduce regulation and control regulatory costs and provides that for every new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process. This rule is not an Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866.

List of Subjects in 7 CFR Part 20

Agricultural commodities, export sales reporting.

Accordingly, for the reasons stated in the preamble, 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.

§ 20.4 [Amended]

2. In § 20.4(j), remove “appendix 1” and add “appendix A to this part” in its place.

§ 20.5 [Amended]

3. In § 20.5, remove “appendix 1” and add “appendix A” in its place everywhere it appears.

Appendix 1 to Part 20 [Redesignated as Appendix A to Part 20 and Amended]

4. Redesignate appendix 1 to part 20 as appendix A to part 20 and revise newly redesignated appendix A to read as follows:

Appendix A 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.
Rye—Unmilled	Metric Tons	June 1	May 31.
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), hydrogenated, 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 croupons, 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 ¹	Metric Tons	Jan. 1	Dec. 31.
Pork—fresh, chilled or frozen muscle cuts/whether or not boxed ¹	Metric Tons	Jan. 1	Dec. 31.

¹For greater clarity, “muscle cuts” includes carcasses, whether whole, divided in half or further sub-divided into individual primals, sub-primals, or fabricated cuts, with or without bone. Carcasses which are broken down, boxed, and sold as a complete unit are muscle cuts. Total weight of carcasses reported may include minor non-reportable items attached to carcasses (*e.g.*, hooves attached to carcasses). Meats removed during the conversion of an animal to a carcass (*e.g.*, variety meats such as beef/pork hearts, beef tongues, etc.) are not muscle cuts nor are items sold as bones practically free of meat (*e.g.*, beef femur bones) or fat practically free of meat (*e.g.*, pork clear plate) removed from a carcass.

Dated: October 29, 2019.

Ken Isley,
Administrator,
Foreign Agricultural Service.

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