

§ 20.2 Administration.

The regulations of this part will be administered by the Foreign Agricultural Service (FAS) under the general supervision of the Administrator, FAS. Information pertaining to these regulations may be obtained from the office specified in § 20.10.

[Amdt. 3, 45 FR 8562, Feb. 8, 1980]

§ 20.3 Delegation of authority.

Authority has been delegated to the Administrator to promulgate amendments and revisions to the regulations in this part.

[Amdt. 3, 45 FR 8562, Feb. 8, 1980]

§ 20.4 Definitions.

As used in these regulations and in all instructions, forms, and documents pertaining hereto, the words and phrases defined in this section shall have the meaning assigned to them as follows:

(a) *Administrator.* The Administrator, Foreign Agricultural Service, U.S. Department of Agriculture.

(b) *Buy-back contract.* A transaction under which a reporting exporter having sold a commodity for export to a foreign buyer liquidates the export sale contract by making an offsetting purchase of the same kind of commodity from the same foreign buyer.

(c) *Commodity.* Wheat and wheat flour, feed grains, oilseeds, cotton, and 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, 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.

(d) *Country of destination.* (1) Any country outside the United States or (2) any territory or possession of the

United States. Country of destination shall be the ultimate destination.

(e) *Export.* A shipment of a commodity from the United States destined to a country specified in paragraph (d) of this section. The commodity shall be deemed to have been exported on the date of the applicable export carrier onboard bill of lading or the date the commodity is received for shipment, as specified on the bill of lading, in the case of a commodity received for shipment in a lash barge or containerized van if a through on-board bill of lading is issued for shipment to a country specified in paragraph (d) of this section.

(f) *Export carrier.* The vessel on which a commodity is exported from the United States to a country specified in paragraph (d) of this section, or if export is by railcar, truck, or airplane, "export carrier" means such railcar, truck, or airplane.

(g) *Exports for exporter's own account.* A transaction involving shipments made by the reporting exporter which are unsold at the time of export, shipments on consignment to selling agents of the reporting exporter for subsequent sale for the account of the reporting exporter, shipments by the reporting exporter that have not been allocated to any outstanding export sale, and shipments from the United States to Canada in bond for subsequent shipment to a third country.

(h) *Export sale.* A transaction entered into between a reporting exporter and a foreign buyer. The transaction must be represented by a written document evidencing that (1) the exporter agrees to export the commodity, (2) the foreign buyer agrees to receive the commodity, (3) a fixed price or an agreed upon mechanism by which such a price can be determined is established, and (4) payment will be made to or for the account of the reporting exporter by or on the behalf of the foreign buyer for delivery of the commodity. The quantity of "outstanding export sale" means the quantity not yet exported under an export sale. The terms of delivery specified in the written agreement, such as FAS vessel, FOB vessel, C&F, CIF, etc., do not determine whether a transaction is an export sale which must be reported. A transaction

which otherwise meets this definition and is subject to the posting of an exporter performance bond or letter of credit from the foreign buyer is included in this definition and such a transaction shall be reported under these regulations. However, a transaction which becomes operative only upon the imposition of export controls is excluded from this definition of "export sale" and such a transaction shall not be reported under these regulations.

(i) *Foreign buyer and foreign seller.* A person whose place of doing business with respect to the transaction is outside the United States. Foreign buyer or foreign seller includes a person who maintains a place of doing business outside the United States even though the transaction is concluded in the United States by his agent who has a place of business in the United States or by his employee who does not maintain a place of doing business in the United States. (If such employee maintains a place of doing business in the United States with respect to the transaction, the resulting contract is construed to be a domestic sale.) Notwithstanding the foregoing, all foreign governments, agencies and instrumentalities are considered foreign buyers or foreign sellers even though transactions are concluded by their employees in the United States or they maintain a place of business with respect to the transaction in the United States.

(j) *Marketing year.* The reporting period specified for a commodity in appendix 1.

(k) *Optional origin contracts.* A transaction involving an export sale contract between a reporting exporter and a foreign buyer under which the reporting exporter has the option of exporting the commodity from the United States or from one or more other exporting countries or an export sale contract under which no origin is specified.

(l) *Person.* An individual, partnership, corporation, association or other legal entity.

(m) *Purchases from foreign sellers.* A transaction involving the purchase of a commodity from a seller whose place of business with respect to the transaction is outside the United States.

(n) *Quantity.* The actual contract quantity (exclusive of any upward or downward tolerance) specified in the agreement between the reporting exporter and foreign buyer or seller.

(o) *Reporting exporter.* A person who enters into a transaction referred to in this section whose place of doing business with respect to such transaction is in the United States. A reporting exporter shall include any person who sells a commodity to a foreign buyer irrespective of whether or not such person may appear as the shipper on the export documentation or whether or not such person is required to file a Shipper's Export Declaration. A reporting exporter would not normally include agents of either the reporting exporter or foreign buyer, brokers, or freight forwarders unless such agents, brokers or freight forwarders are acting in the capacity of a principal. (See examples §20.6(c).)

(p) *United States.* All of the 50 States, the District of Columbia and Puerto Rico.

[Rev. 2, 40 FR 23839, June 3, 1975, as amended by Amdt. 1, 41 FR 19950, May 14, 1976; Amdt. 3, 45 FR 8562, Feb. 8, 1980; Amdt. 4, 45 FR 24104, Apr. 9, 1980]

§20.5 Announcements.

Commodities for which reports are required under these regulations are set forth in appendix 1 to this part. Any change therein will be made by publication in the FEDERAL REGISTER of an amendment thereto, and, in addition, announcement of such change will be made through the press and ticker service. The unit of measure to be used in reporting the commodity, the beginning and ending dates of the marketing year for each commodity, and any other information deemed necessary to be included in the report will be specified in appendix 1 to this part and amendments thereto and in the announcements through press and ticker service.

§20.6 Submission of reports.

(a) *Weekly reports.* For each commodity for which reports are required under these regulations, the reporting exporter shall file weekly with the office specified in §20.10 and not later than the time specified in paragraph