

programs governed by this part, the State or local government has the option to separate out the direct USDA assistance funds or commingle them. If the funds are commingled, the provisions of this part shall apply to all of the commingled funds in the same manner, and to the same extent, as the provisions apply to the direct USDA assistance.

#### § 16.5 Compliance.

USDA agencies will monitor compliance with this part in the course of regular oversight of USDA programs.

### PART 17—SALES OF AGRICULTURAL COMMODITIES MADE AVAILABLE UNDER TITLE I OF THE AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954, AS AMENDED

#### Sec.

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AUTHORITY: 7 U.S.C. 1701–1704, 1731–1736b, 1736f, 5676; E.O. 12220, 45 FR 44245.

SOURCE: 62 FR 52932, Oct. 10, 1997, unless otherwise noted.

#### § 17.1 General.

(a) *What this part covers.* This part contains the regulations governing the financing of the sale and exportation of agricultural commodities by the Commodity Credit Corporation (CCC), through private trade channels to the maximum extent practicable, under the authority of title I of the Agricultural Trade Development and Assistance Act of 1954, as amended (hereinafter called “the Act”).

(b) *Agricultural commodities agreements.* (1) Under the Act, the Government of the United States enters into Agricultural Commodities Agreements with governments of foreign countries

or with private entities. These agreements cover financing of the sale and exportation of agricultural commodities, including certain ocean transportation costs.

(2) Agricultural Commodities Agreements may provide that a participant will repay CCC for the financing extended by CCC either in dollars or in local currencies.

(3) A private entity must maintain a *bona fide* business office in the United States and have a person, principal, or agent on whom service of judicial process may be had in the United States unless the General Sales Manager determines that there are adequate assurances of repayment to CCC for the financing extended by CCC.

(c) *Purchase authorizations.* This part covers, among other things, the issuance by the General Sales Manager of purchase authorizations which authorize the participant to:

- (1) Purchase agricultural commodities; and
- (2) Procure ocean transportation therefor.

(d) *Financing.* For amounts to be financed by CCC, CCC will pay the supplier of commodity or of ocean transportation in accordance with § 17.9(a)(3). The cost of ocean freight or ocean freight differential will be financed by CCC only when specifically provided for in the purchase authorization.

(e) *Where information is available.* General information about operations under this part is available from the Director, Pub. L. 480 Operations Division, Foreign Agricultural Service, USDA, Washington, DC 20250–1033. Information about financing operations under this part, including forms prescribed for use thereunder, is available from the Controller, Commodity Credit Corporation, USDA, 1400 Independence Avenue, SW, Washington, DC 20250–0581.

[62 FR 52932, Oct. 10, 1997, as amended at 63 FR 59692, Nov. 5, 1998]

#### § 17.2 Definition of terms.

Terms used in the regulations in this part are defined or identified as follows, subject to amplification in subsequent sections:

## § 17.2

## 7 CFR Subtitle A (1-1-16 Edition)

*Affiliate and associated company.* Any legal entity which owns or controls, or is owned or controlled by, another legal entity. For a corporation, ownership of the voting stock is the controlling criterion. A legal entity is considered to own or control a second legal entity if—

(1) The legal entity owns an interest of 50 percent or more in the second legal entity; or

(2) The legal entity and one or more other legal entities, in which it owns an interest of 50 percent or more, together own an interest of 50 percent or more in the second legal entity; or

(3) The legal entity owns an interest of 50 percent or more in another legal entity which in turn owns an interest of 50 percent or more in the second legal entity.

*CCC.* The Commodity Credit Corporation, USDA.

*Commodity.* An agricultural commodity produced in the United States, or product thereof produced in the United States, as specified in the applicable purchase authorization.

*Controller.* The Controller, Commodity Credit Corporation, or the Controller's designee.

*Copy.* A photocopy or other type of copy of an original document showing all data shown on the original, including signature or the name of the person signing the original or, if the signature or name is not shown on the copy, a statement that the original was signed.

*Delivery.* The transfer to or for the account of an importer of custody and right of possession of the commodity at U.S. ports or Canadian transshipment points in accordance with the delivery terms of the contract and purchase authorization. For purposes of financing, delivery is deemed to occur as of the on-board date shown on the ocean bill of lading.

*Destination country.* The foreign country to which the commodity is exported.

*Director.* The Director, Pub. L. 480 Operations Division, Foreign Agricultural Service.

*Expediting services.* Services provided to the vessel owner at the discharge port in order to facilitate the discharge and sailing of the vessel; this may include assisting with paperwork, obtain-

ing permits and inspections, supervision and consultation.

*FAS.* The Foreign Agricultural Service, USDA.

*FSA.* The Farm Service Agency, USDA.

*FSA Office.* The office designated in the purchase authorization to administer this financing operation on behalf of CCC.

*Finance.* To expend CCC funds, whether or not the participant is required to repay the funds to CCC. For example, this part refers to CCC "financing" both the ocean freight differential, which the participant does not repay, and the commodity cost, which the participant does repay.

*Form CCC-106.* The form entitled "Advice of Vessel Approval."

*Form CCC-329.* The signed original of the form entitled "Supplier's Certificate."

*General Sales Manager and GSM.* The General Sales Manager, FAS, or the General Sales Manager's designee.

*Importer.* The person that contracts with the supplier for the importation of the commodity. The importer may be the participant or any person to which a participant has issued a sub-authorization.

*Importing country.* Any nation with which an agreement has been signed under the Act.

*Invitation for bids and IFB.* A publicly advertised request for offers.

*Legal entity* includes, but is not limited to, an individual (except that an individual and his or her spouse and their minor children are considered as one legal entity), partnership, association, company, corporation and trust.

*Letter of credit.* An irrevocable commercial letter of credit issued, confirmed, or advised by a banking institution in the United States and payable in U.S. dollars.

*Local currency.* The currency of the importing or destination country.

*Notice of arrival.* A written notice in accordance with §17.8(g) stating that the vessel has arrived at the first port of discharge.

*Ocean bill of lading—(1) In the case of cargo carried on a vessel other than LASH barges:* An "on-board" bill of lading, or

a bill of lading with an “on-board” endorsement, which is dated and signed or initialed on behalf of the carrier; or

(2) *In the case of cargo carried in a LASH barge:* (i) For the purpose of financing commodity price, an “on-board” bill of lading showing the date the commodity was loaded on board barges, which is dated and signed or initialed on behalf of the carrier, or a bill of lading or a LASH barge bill of lading with an “on-board barge” endorsement which is dated and signed or initialed on behalf of the carrier.

(ii) For the purpose of financing ocean freight or ocean freight differential, a bill of lading which is dated and signed or initialed on behalf of the carrier indicating that the barge containing the cargo was placed aboard the vessel named in the Form CCC-106 not later than eight running days after the last LASH barge loading date (contract layday) specified in the Form CCC-106. This may be either an “on board” bill of lading or a bill of lading or a LASH barge bill of lading with an “on-board ocean vessel” endorsement.

(3) Documentary requirements for a copy of an “ocean bill of lading” refer to a non-negotiable copy thereof.

*Ocean freight contract.* A charter party or liner booking note.

*Ocean transportation.* Interchangeable with the term “ocean freight”.

*Ocean transportation brokerage.* Services provided by shipping agents related to their engagement to arrange ocean transportation and services provided by ships brokers related to their engagement to arrange employment of vessels.

*Ocean transportation-related services.* Furnishing the following services: lightening, stevedoring, and bagging (whether these services are performed at load or discharge), and inland transportation, i.e., transportation from the discharge port to the designated inland point of entry in the destination country, if the discharge port is not located in the destination country.

*Participant.* The collective term used to denote the importing country or the private entity with which an agreement has been negotiated under the Act.

*Person.* An individual or other legal entity.

*Private entity.* The nongovernmental legal entity with which an agreement has been signed under the Act.

*Purchase authorization.* Form FAS-480, “Authorization to Purchase Agricultural Commodities,” issued to a participant under this part.

*Purchasing agent.* Any person engaged by a participant to procure agricultural commodities.

*Secretary.* The Secretary of Agriculture of the United States, or the Secretary’s designee.

*Selling agent.* A representative for the supplier of the commodity, who is not employed by or otherwise connected with the importer or the participant.

*Shipping agent.* Any person engaged by a participant to arrange ocean transportation.

*Ships broker.* Any person engaged by a supplier of ocean transportation to arrange employment of vessels.

*Supplier.* Any person who sells a commodity to an importer under the terms of a purchase authorization, or who sells ocean transportation to an importer or supplier of the commodity under the terms of a purchase authorization.

*USDA.* The U.S. Department of Agriculture.

*United States.* The 50 States, the District of Columbia, and Puerto Rico.

### § 17.3 Purchase authorizations.

(a) *Issuance.* After an agreement is signed, the GSM will issue a purchase authorization to the participant for each commodity included in the agreement.

(b) *Contents.* Each purchase authorization includes the following information:

(1) The commodity to be purchased and specifications, approximate quantity and maximum dollar amount authorized;

(2) Contracting requirements;

(3) The contracting period, during which suppliers and importers must enter into contracts; and the delivery period, during which the commodity must be delivered;

(4) The terms of delivery to the importer;

(5) Documentation required for CCC financing in addition to or in lieu of the documentation specified in § 17.9;