

**RECORD OF COMMENTS: EFFECTIVENESS OF LICENSING PROCEDURES FOR
AGRICULTURAL COMMODITIES TO CUBA, DUE SEPTEMBER 20, 2002**

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Chapter VII

[Docket No. 020725179-2179-01]

Effectiveness of Licensing Procedures for Agricultural
Commodities to Cuba

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Request for comments.

SUMMARY: The Bureau of Industry and Security (BIS) is requesting public comments on the effectiveness of its licensing procedures as defined in the Export Administration Regulations for the export of agricultural commodities to Cuba. BIS is required to submit a biennial report to the Congress on the operation of the licensing system for such exports, which was created to implement the Trade Sanctions Reform and Export Enhancement Act of 2000. To help make this assessment, BIS is seeking public comments on the effectiveness of these measures.

DATES: Comments must be received by September 20, 2002.

ADDRESSES: Written comments (three copies) should be sent to Sheila Quarterman, Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, P.O. Box 273, Washington, DC 20044. Comments may also be e-mailed to Brian Nilsson, Office of Strategic Trade and Foreign Policy Controls, at BNilsson@bis.doc.gov.

FOR FURTHER INFORMATION CONTACT: Joan Roberts, Director, Foreign Policy Controls Division, Bureau of Industry and Security, Telephone: (202) 482-5400. Additional information on BIS procedures is available under the heading "Trade Sanctions Reform and Export Enhancement Act" at www.bis.doc.gov. Copies of this material may also be requested by contacting the Office of Strategic Trade and Foreign Policy Controls.

SUPPLEMENTARY INFORMATION: The current procedures of the Bureau of Industry and Security (BIS) for authorizing the export of agricultural commodities to Cuba are set forth in Sec. 740.18 of the Export Administration Regulations (EAR). Under the provisions of section 906(c) of the Trade Sanctions Reform and Export Enhancement Act of 2000 (TSRA) (Pub. L. 106-387), as amended, BIS must submit a report to the Congress on the operation of the licensing system under Section 906 of TSRA for the preceding two-year period. This report is to include the number and types of licenses applied for, the number and types of licenses approved, the average amount of time elapsed from the date of

<http://frwebgate4.access.gpo.gov/cgi-bin/waisgate.cgi?WAISdocID=65846231661+0+0+0&WAIS..c10/3/02>

filing of a license application until the date of its approval, the extent to which the licensing procedures were effectively implemented, and a description of comments received from interested parties about the extent to which the licensing procedures were effective, after holding a public 30-day comment period. This notice serves as public notice to solicit such comments.

Parties submitting comments are asked to be as specific as possible. All comments received by the close of the comment period will be considered by BIS in developing the report to Congress. All information relating to the notice will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, BIS requires written comments. Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying.

Copies of the public record concerning these regulations may be requested from: Bureau of Industry and Security, Office of Administration, U.S. Department of Commerce, Room 6883, 1401 Constitution Avenue, NW., Washington, DC 20230; (202) 482-0637. This component does not maintain a separate public inspection facility. Requesters should first view BIS's website (which can be reached through www.bis.doc.gov). If requesters cannot

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access BIS's website, please call the number above for assistance.

James J. **Jochum**,
Assistant Secretary for Export Administration.
[FR Doc. 02-21161 Filed 8-20-02; 8:45 am]
BILLING CODE 3510-33-U



7373 West Saginaw Highway, Box 30960, Lansing, Michigan 48909-8460
Phone (517) 323-7000

September 20, 2002

Sheila Quarterman
Bureau of Industry and Security, Regulatory Policy Division
Department of Commerce
P.O. Box 273
Washington D.C. 20044

RE: Comments of the Michigan Farm Bureau regarding: Effectiveness of Licensing Procedures for Agricultural Commodities to Cuba; 15 CFR, Docket NO. 0207257 79-2179-01

Dear Ms. Quarterman:

Please accept the following comments by the Michigan Farm Bureau on the effectiveness of licensing procedures for agricultural commodities to Cuba. Michigan Farm Bureau is the state's largest general farm organization representing over 46,000 farm families.

We support trade with Cuba. Engaging with Cuba, through export sales of U.S. food and medicine, is necessary for humanitarian, economic and foreign policy reasons. From the humanitarian perspective, nothing could be more important than providing the Cuban people with access to affordable, abundant, high quality food. From a foreign policy perspective, trade fosters engagement and engagement fosters democratic reform. Face-to-face contact between American farmers and the Cuban people will yield positive results. When we export food to a nation, we also export our values.

Michigan agriculture exported to the Cuban market this year when the Michigan Turkey Producers sold nearly one million pounds of Michigan produced turkey to Cuba, at a value of a quarter of a million dollars to Michigan farmers. Next year, they hope to more than double that sale. The Cubans are also very interested in our dry beans. Since November 2001, the Cuban government through its import company Alimport, has purchased over \$100 million worth of agricultural products from 25 states and paid cash.

The biggest challenge expressed with the licensing process, was the extreme delay in getting the license issued. It took 6-8 weeks for the U.S. government to process the application and issue the license.

Lengthy delays have been experienced with the issuance of other licenses as well, authorizing agricultural export sales to Cuba and other previously sanctioned nations, including Libya, Iran and Sudan, under the implementing regulations for the Trade Sanctions Reform and Export Enhancement Act of 2000 (TSREEA). In some cases, up to 45 days have elapsed before the requested license was issued. Such delays significantly impact our ability to transact commercial sales with these countries. In many cases, the export sale is lost to our competitors.

The procedures under which these licenses are issued lack transparency and a systematic process for approval. In the short term, efforts should be undertaken to streamline the process to 24 hours or less in cases where licenses have previously been issued for sales to the same end users. Shortening the process to just one day, where possible, is necessary in order for U.S. exporters to

compete with their foreign counterparts. Ultimately, legislation should be passed to repeal the licensing provisions now mandated under TSREEA.

U.S. law currently prohibits U.S. agricultural exporters wishing to export food and agricultural commodities to Cuba from using U.S. banks or financial institutions to execute the sale, other than to confirm or advise letters of credit that are issued by third country financial institutions. This prohibition increases the cost of the overall export transaction by adding additional banking fees; increases the difficulty of completing the export sale thereby making it more difficult to compete against foreign suppliers; takes business away from the U.S. economy and hands it over to international institutions; and disproportionately disadvantages smaller exporters who may not have international banking relationships.

These third country financing restrictions placed on agricultural export sales prevent U.S. agricultural exporters from developing normal commercial relations with Cuba and are contrary to the spirit of TSREEA. We support repeal of this provision of U.S. law.

U.S. agricultural export sales have remained flat since 1997 due to the Asian financial crisis and the continued high value of the dollar. Access to the Cuban market, valued at nearly \$1 billion per year, is important to America's farmers. Market analysts estimate that the U.S. economy is losing up to \$1.24 billion annually in agricultural exports because of the embargo against Cuba and up to \$3.6 billion more each year unrealized in related economic output.

Cuba imports around \$4 billion in goods per year from countries other than the United States. Agricultural commodities constitute 20-25 percent of this amount approaching \$1 billion in imports. Unfettered access to the Cuban market would benefit U.S. farmers. Prior to the 1960's embargo, U.S. imports constituted 75-80 percent of total Cuban foreign agricultural purchases. Restoring trade with the United States would also help the Cuban people to increase their standard of living.

According to historical data from the United Nations Foreign Agricultural Organization, Cuba is a solid market for imports of:

- meat products (\$50-\$60 million per year),
- dairy, powdered milk and eggs (up to \$100 million),
- cereals including corn, wheat, barley and rice (over \$300 million),
- fruits and vegetables (up to \$75 million),
- other animal feed (over \$60 million),
- soybeans/meal/oils (over \$100 million) and,
- fish and fish products (\$25 million).

The United States produces large quantities of each of these commodities and is located less than 100 miles from the port of Havana. As economic growth accelerates in Cuba and living standards climb, U.S. agricultural exports could be expected to increase as well.

In conclusion, the Cuban market must be open for export sales of U.S. food and agricultural commodities. American farmers and ranchers are under extreme economic stress from low prices and decreasing world market share. Access to this viable market provides a much-needed economic boost to many producers that are now experiencing financial hardship.

More importantly, maintaining our current trade with Cuba and taking steps to lift the restrictions and ease the licensing procedures, are needed in order to improve our bilateral relationship with Cuba and foster democratic reform.

The only thing standing in the way of realizing this opportunity is our own U.S. trade policy. While we wait for a failed sanctions policy to change the Cuban political environment, our competitors from other countries around the world are forging long-term trade relationships and investments in Cuba in a market that is literally in our backyard.

If we can provide any additional information, feel free to contact me at (517)323-7000, ext. 2025.

Sincerely,

A handwritten signature in black ink that reads "Sarah Black". The signature is written in a cursive, flowing style.

Sarah Black
National Legislative Counsel

September 20, 2002

Mrs. Shela Quarterman
Regulatory Policy Division
Department of Commerce (BIS)
P.O. Box 273
Washington, DC 20044

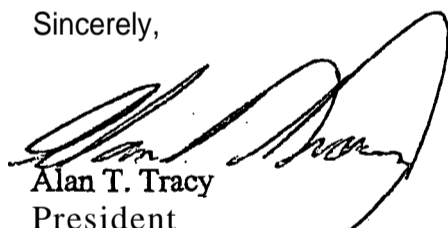
Dear Ms. Quarterman:


This is in response to the request of the Department of Commerce for comments on the effectiveness of the Bureau of Industry and Security (BIS) in its licensing procedures for the export of agricultural commodities to Cuba. This request also will help the Department of Commerce respond to Congress under its biennial report on the licensing system for agricultural exports under the Trade Sanctions Reform and Export Enhancement Act of 2002 (TSRA).

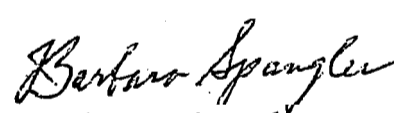
We have been working with the trade to facilitate wheat exports to Cuba, and we have been concerned over the need for separate licenses for travel, coverage of freight and approval of the commodity sale itself. Coordinating these license requirements and particularly getting the license on a timely basis for shipping commodities has been a particular concern. Our first preference would be to do away with the licensing requirements entirely and recognize that agricultural commodities are not in any way strategic or in need of export controls. If, in fact, licensing for agriculture exports to Cuba is required under TSRA, we would then urge that all licenses for Cuba be handled by BIS. This would reduce the coordination problems as individual licenses are presently needed for exporting companies: to have people travel to Cuba to arrange sales, to fix the vessels for shipping and to get approval for the commodity to be exported. At present Commerce handles only the licenses on commodity sales, not travel or freight.

The conclusion we have reached is that BIS, under Commerce, is doing an effective job in handling the commodity export part of the total picture. The volume of agriculture commodities exported to Cuba continues to grow, and BIS has played an important role in making this happen. We would expect even better results if the Department of Commerce handled all licensing related to U.S. agricultural exports -to Cuba.

Sincerely,


Alan T. Tracy
President
U.S. Wheat Associates


Daren Coppock
CEO
National Association
of Wheat Growers


Barbara Spangler
Executive Director
Wheat Export Trade
Education Committee

FAX COVER PAGE

U.S. WHEAT ASSOCIATES, INC.

1620 I Street, N.W., Suite 801

Washington, D.C. 2 0 0 0 6

pages are being sent including this cover page. If you do not received these pages satisfactorily, please call (202) 463-0999 or fax to (202) 785-1052.

TO: Brian Nilsson

202-501-0784

FROM: Nelson Denlinger

DATE: 9/24/02

NOTE: These comments are provided as requested.

Best regards
Nelson Denlinger

From: "Deanna C. Firth" <info@naega.org>
To: <BNilsson@bis.doc.gov>
Date: 9/24/02 10: 02AM
Subject: Cuba Agricultural Licensing Procedures

To whom it may concern:

We had attempted to submit the following letter on Friday, September 20. However, due to complications with our email system, it does not appear to have been sent. Therefore, I am submitting this letter again. If the first email was received and this is a duplicate, please accept my apologies.

If there are any questions or comments, please feel free to contact me

Sincerely,

Deanna C. Firth
NAEGA
Washington, DC

t. 202-682-4030
f. 202-682-4033

September 20, 2002

Sheila Quarterman
Regulatory Policy Division
Bureau of Industry and Security
Department of Commerce
P.O. Box 273
Washington, DC 20044

[VIA Email to Brian Nilsson, Office of Strategic Trade and Foreign
Policy Controls (BNilsson@bis.doc.gov.)]

Dear Ms. Quarterman,

Please accept this letter in response to your August 21, 2002 request for comments with regard to the Cuba Agricultural Licensing Procedures conducted by the Department of Commerce, Bureau of Industry and Security.

The North American Export Grain Association (NAEGA) is comprised of grain and oilseed exporters and interested parties whose purpose is to promote and sustain the development of commercial export grain and oilseed trade from the United States. Chartered in 1912 and incorporated in 1920, NAEGA is a not-for-profit organization. Its members are privately and publicly owned companies and cooperatives. NAEGA members, the commercial companies that execute almost all bulk grain and oilseeds

exports from the United States, are companies most directly involved with BIS in licensing of agricultural exports to Cuba.

With respect to the effectiveness of the Bureau of Industry and Security licensing procedures, we want to extend our appreciation for a job well done. While NAEGA remains committed to reform of US unilateral sanction policy with respect to food and agricultural commodities, our polling of members whose employees work with BIS to secure licenses indicates a strong level of satisfaction with the process itself. In particular, we applaud the outstanding effort of the employees of BIS in making the process as effective as possible.

We expect that individual companies that are members of NAEGA may have specific suggestions or comments about the process itself. In fact, one of the prevailing comments of our membership references the ongoing willingness of the BIS to accommodate suggestions and concerns of applicants. We thank you again for your cooperative approach to the licensing procedure.

Sincerely,

Gary C. Martin
President and CEO