

**§ 1488.9a**

(b) If the commodity is exported by ocean carrier, the exporter shall furnish to the Treasurer, CCC, one non-negotiable copy or photo copy or other type of copy of either (1) an on-board ocean bill of lading or (2) an ocean bill of lading with an onboard endorsement, dated and signed or initialed on behalf of the carrier. The bill of lading must be certified by the exporter as being a true copy and must show the quantity, the date and place of loading the commodity, the name of the vessel, the destination of the commodity and the name and address of both the exporter and the importer.

(c) If the commodity is exported by aircraft, the exporter shall furnish to the Treasurer, CCC, one non-negotiable copy of an airway bill, dated and signed or initialed on behalf of the carrier. The airway bill must be certified by the exporter as being a true copy and must show the date and place of loading the commodity, the name of the airline, the destination of the commodity, and the name and address of both the exporter and the importer.

(d) If the exporter is unable to supply documentary evidence of export as specified in this section, he shall submit such other documentary evidence as may be acceptable to CCC.

(e) For commodities transshipped through Canada via the Great Lakes or the St. Lawrence River, the exporter shall certify that the commodity transshipped was produced in the United States.

**§ 1488.9a Evidence of export for commodities delivered before export.**

For commodities delivered before export under a financing agreement for which the financial period is 12 months or less, the exporter shall furnish a certification to the Treasurer, CCC, within 60 days from the date of delivery or such extension of time as may be granted by the Treasurer or Assistant Treasurer, CCC, certifying that the commodities have been exported. The certification must include the name of the ocean carrier, the date the commodities were loaded aboard the ocean carrier and the financing agreement number.

[Amdt. 5, 43 FR 25992, June 16, 1978]

**7 CFR Ch. XIV (1-1-08 Edition)**

**DOCUMENTS REQUIRED AFTER FINANCING**

**§ 1488.10 Evidence of entry into country of destination.**

(a) Commodities exported under a financing agreement must enter the destination country specified in the financing agreement.

(b) For a financing agreement under which the financing period is in excess of 12 months, within 90 days, or such extension of time as may be granted in writing by the Assistant Sales Manager, following shipment from the United States of any agricultural commodity exported under the financing agreement, the exporter shall furnish to the office specified in §1488.22, documentary evidence verifying entry of the commodity into the country of destination specified in the financing agreement. The documentary evidence must:

(1) Identify the agricultural commodity (or permit identification through supplementary documents also furnished) as that exported under the financing agreement,

(2) State the quantity and date of entry of the commodity into the destination country, and

(3) Be signed by (i) a customs official of the destination country, or (ii) the importer, or (iii) a representative of an independent superintending or controlling firm.

(c) When the commodity enters the country of destination in bond, a statement by the importer will be acceptable which:

(1) Identifies the commodity as that exported under the financing agreement,

(2) States the quantity of the commodity entered under bond and date of entry into the destination country, and

(3) Certifies that the commodity will be withdrawn from bonded storage at a later date for consumption in the destination country.

(d) If the evidence of entry is in other than the English language, the exporter shall also provide an English translation thereof.

(e) Failure to furnish, within the time specified, evidence of entry of the commodity into the country of destination shall constitute prima facie evidence of failure to enter or to cause the

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entry of the commodity into such country as required. In such case, the financing agreement may be terminated by the Assistant Sales Manager, and if full payment under the bank obligation or account receivable has not yet been received, the bank obligation and the account receivable shall at the option of CCC, become due and payable and liquidated damages shall be payable in accordance with §1488.11. The remedy herein provided shall not be exclusive of other rights available to the Federal government if the commodity enters a country other than that specified in the financing agreement.

### DELIVERY REQUIREMENTS

#### § 1488.11 Liquidated damages.

Failure of the exporter to export or cause to be exported, within the period provided therefor, any agricultural commodity financed, when delivery is made before export under the terms of the financing agreement, or failure of the exporter to enter or cause the entry of, such commodity into the country of destination, shall constitute a breach of the financing agreement which will result in serious and substantial damage to CCC and to its program. Since it will be difficult, if not impossible, to prove the exact amount of such damage, the exporter shall pay to CCC promptly on demand, as reasonable compensation and not as a penalty, liquidated damages in lieu of probable actual damages, as follows:

(a) For each day of delay in exportation after the final date for exportation, when delivery is made before export under the terms of the financing agreement, .15 percent of the amount financed under the financing agreement for the commodity not exported; (b) for failure to export or cause exportation, when delivery is made before export under the terms of the financing agreement, 5 percent of the amount financed under the financing agreement for the commodity not exported; (c) for failure, after exportation, to enter or cause the entry of the commodity into the country of destination, at the rate of 5 percent a year of the amount financed under the financing agreement for such commodity from the start of the financing period until payment to

CCC of the amount financed; *Provided however*, That the aggregate of all amounts assessed under this §1488.11 with respect to the same commodity shall not exceed 5 percent of the amount financed for such commodity. Liquidated damages shall not be assessed: Under paragraph (a) of this section if the Assistant Sales manager determines that the delay was due to such causes as acts of God or government or public enemy, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or unusually severe weather; under paragraph (b) of this section if the Assistant Sales Manager determines that failure to export was due to loss, damage, destruction or deterioration of the commodity or act of God or government or public enemy; and under paragraph (c) of this section if the Assistant Sales Manager determines that failure to enter or cause the entry of the commodity into the country of destination was due to loss, damage, destruction or deterioration of the commodity or act of God or government or public enemy.

### BANK OBLIGATIONS AND REPAYMENT

#### § 1488.12 Coverage of bank obligations.

(a) U.S. banks and branch banks shall be liable without regard to risk (1) for payment of bank obligations issued by them or (2) for payment of bank obligations confirmed by them without regard to risk if a requirement for such confirmation is included in the financing agreement or (3) as provided in paragraphs (c) and (d) of this section.

(b) An obligation issued by a foreign bank must be confirmed and advised, as provided in paragraphs (a), (c), (d), (e), and (f) of this section, by a U.S. bank or a branch bank, or may be confirmed by an agency bank when determined by the President or Vice President, CCC after consultation with the Controller, CCC, to be in the interest of CCC.

(c) A U.S. bank must confirm the full amount of an obligation issued by its foreign branch. CCC will hold the U.S. bank liable for payment without regard to risks.

(d) If a branch bank confirms an obligation issued by its home office, or by another branch of its home office, it