

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. 93-157-3]

#### Mexican Fruit Fly Regulations; Removal of Regulated Area

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Affirmation of interim rule as final rule.

**SUMMARY:** We are adopting as a final rule, without change, an interim rule that amended the regulations by removing the quarantined portion of Los Angeles County, CA, from the list of areas regulated because of the Mexican fruit fly, and by removing California from the list of States quarantined because of the Mexican fruit fly. We have determined that the Mexican fruit fly has been eradicated from California and that restrictions on the interstate movement of regulated articles from California are no longer necessary to prevent the spread of the Mexican fruit fly into noninfested areas of the United States. The interim rule was necessary to relieve unnecessary restrictions on the interstate movement of regulated articles from the previously regulated area.

**EFFECTIVE DATE:** February 27, 1995.

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael B. Stefan, Operations Officer, Domestic and Emergency Operations, Plant Protection and Quarantine, APHIS, USDA, P.O. Drawer 810, Riverdale, MD 20738. The telephone number for the agency contact will change when agency offices in Hyattsville, MD, move to Riverdale, MD, during February. Telephone: (301) 436-8247 (Hyattsville); (301) 734-8247 (Riverdale).

#### SUPPLEMENTARY INFORMATION:

##### Background

In an interim rule effective October 7, 1994, and published in the **Federal Register** on October 13, 1994 (59 FR 51839-51840, Docket No. 93-157-2), we amended the regulations in 7 CFR part 301 by removing the quarantined portion of Los Angeles County, CA, from the list of areas regulated because of the Mexican fruit fly in § 301.64-3(c), and by removing California from the list of States quarantined because of the Mexican fruit fly in § 301.64(a).

Comments on the interim rule were required to be received on or before December 12, 1994. We did not receive any comments. The facts presented in the interim rule still provide a basis for the rule.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12778, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived the review process required by Executive Order 12866.

##### List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

#### PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR 301.64 and 301.64-3 and that was published at 59 FR 51839-51840 on October 13, 1994.

**Authority:** 7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162, and 164-167; 7 CFR 2.17, 2.51, and 371.2(c).

Done in Washington, DC, this 20th day of January 1995.

**Terry L. Medley,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 95-1977 Filed 1-25-95; 8:45 am]

BILLING CODE 3410-34-P

#### Consolidated Farm Service Agency

##### 7 CFR Part 782

RIN 0560-AD77

##### End-Use Certificate Program

**AGENCY:** Consolidated Farm Service Agency, USDA.

**ACTION:** Final rule.

**SUMMARY:** Pursuant to section 321(f) of the North American Free Trade Agreement Implementation Act (the Act), a proposed rule was published on October 20, 1994 with respect to the implementation of an end-use certificate program for wheat and barley imported from any foreign country or instrumentality that as of April 8, 1994, required end-use certificates for imports of U.S.-produced wheat and barley, respectively. This final rule adopts provisions of the proposed rule, with the exception of changes that were made based on comments received in response to the proposed rule. The major changes are further discussed in the Summary of Comments portion of this final rule. Accordingly, this final rule sets forth the policies and procedures that the Consolidated Farm Service Agency (CFSA), formerly the Agricultural Stabilization and Conservation Service (ASCS), will use to implement this end-use certificate program.

**EFFECTIVE DATE:** February 27, 1995.

**FOR FURTHER INFORMATION CONTACT:** Deputy Administrator, Commodity Operations, Consolidated Farm Service Agency, United States Department of Agriculture, P.O. Box 2415, Washington, DC 20013-2415.

#### SUPPLEMENTARY INFORMATION:

##### Executive Order 12866

This final rule has been determined to be significant and was reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

##### Executive Order 12778

This final rule has been reviewed in accordance with Executive Order 12778. The provisions of this final rule do not preempt State laws, are not retroactive, and do not involve administrative appeals.

##### Environmental Evaluation

It has been determined by an environmental evaluation that this

action will not have a significant impact on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

#### Executive Order 12372

This program/activity is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See notice related to 7 CFR Part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

#### Paperwork Reduction Act

This final rule contains new reporting and recordkeeping requirements. The new requirements have been submitted to OMB for approval under the provisions of 44 U.S.C. 35. Send comments regarding this collection of information to: Department of Agriculture, Clearance Office, Office of Information Resources Management, Room 404-W, Washington, DC 20250, and Regulatory Affairs of OMB, Attention: Desk Officer for USDA, Room 3201, New Executive Office Building, Washington, DC 20503.

#### Final Regulatory Impact Analysis

The Final Regulatory Impact Analysis describing the impact of the implementation of this final rule is available upon request from Craig Jagger, Grains Analysis Division, CFSA, P.O. Box 2415, Washington, DC 20013-2415; telephone: (202) 720-4418.

#### Regulatory Flexibility Act

It has been determined under the Regulatory Flexibility Act that this final rule will have an adverse effect on a substantial number of small businesses. The analysis discussing these impacts is available upon request from Craig Jagger, at the address and telephone number noted above.

#### Background

The Act requires that a U.S. end-use certificate program be established for wheat and barley imported from any foreign country or instrumentality that, as of April 8, 1994, required end-use certificates for imports of U.S.-produced wheat and barley. As of that date and currently, Canada is the only country that has such a requirement for wheat. Neither Canada nor any other country had an end-use requirement for barley on April 8, 1994.

Pursuant to section 101(a)(2) of the Act, Congress approved the Statement of Administrative Action prepared to implement the North American Free

Trade Agreement. The Statement of Administrative Action states that the purpose of the U.S. end-use requirement is to ensure that foreign agricultural commodities do not benefit from U.S. export programs. Such programs include, among others, the export credit guarantee program and the export enhancement program, both of which require any grain exports on which benefits are paid to be entirely produced in the United States. (7 U.S.C. 5622(h); 7 CFR 1493(a); 7 U.S.C. 5651(a); 7 CFR 1494.501(c)(20)(xi).

A notice requesting comments regarding an end-use certificate program was published in the **Federal Register** on April 13, 1994, at 59 FR 17495. Comments received in response to this notice were taken into account in the development of the proposed rule which was published on October 20, 1994, at 59 FR 52931.

The October 20 rule proposed to adopt a program similar to that of Canada with respect to imports of U.S.-produced wheat and barley. The rule proposed that importers of Canadian-produced wheat and barley would be required to store such imported grain separately from U.S.-produced grain until delivered to the end user.

The rule also proposed that, upon importation, each entry of wheat or barley from Canada must be reported to the Kansas City Commodity Office (KCCO), of the CFSA, on form ASCS-750, End-Use Certificate for Grain, within 10 days following the date of entry. Further, any importer, subsequent buyer, or end user storing Canadian-produced wheat or barley would be required to report to KCCO the status of the imported commodity on form ASCS-751, End-Use Certificate for Grain Quarterly Report, until the commodity is sold, resold, or fully used.

**SUMMARY OF COMMENTS:** Thirty-two timely comments were received in response to the proposed rule published in the **Federal Register** on October 20, 1994 (59 FR 52931). Twenty-four of the respondents supported the provisions contained in the proposed rule, while four were not in favor.

Of those supporting CFSA's proposed rule, 19 recommended immediate implementation of the end-use certificate program. However, so that U.S. importers will have ample time to establish separate storage, recordkeeping, and reporting systems, this final rule will not become effective until February 27, 1995.

Seventeen of the respondents recommended that CFSA collect information on the price paid by the U.S. importer for Canadian grain. This

recommendation will not be adopted because CFSA does not have the statutory authority to collect such information.

Five respondents noted that the Government of Canada (GOC) has no end-use certificate requirements on imports of U.S.-produced barley and did not have such a requirement on April 8, 1994. After further review, it has been determined that, because the GOC has imposed only an import license requirement rather than an end-use certificate requirement on U.S.-produced barley, and because an import license is distinct from an end-use certificate requirement, CFSA has no statutory authority to implement an end-use certificate program for barley.

Three respondents indicated that a provision should be made to allow for the commingling of U.S. and Canadian grain at the time the commodity is being "loaded out" by either the importer or subsequent buyer to the end user. As proposed, commingling would be prohibited until the grain is delivered to the end user. It is implied that the commingling cannot occur at any facility other than that of the end user. The respondents stated that some end users do not have the capability to blend grain, and that not allowing commingling to occur at "load out" would preclude blending by merchandisers to meet the contract specifications of an end user. To clarify this provision and allow merchandisers to participate in commercial sales, the final rule provides that U.S.-produced wheat and Canadian-produced wheat may only be commingled by the end user or when loaded onto a conveyance for direct delivery to an end user.

Three respondents recommended that CFSA prohibit the disclosure of private information between buyers and sellers that will be collected as a result of the end-use requirements. Although this final rule does not contain a specific prohibition regarding the disclosure of collected information, CFSA will handle all data collected through the end-use requirements in accordance with current agency procedures used to comply with the Privacy Act and Freedom of Information Act requirements.

Three respondents expressed concern with the penalties for noncompliance, believing that the penalties were either too severe or should be increased as the incidence of violations increases. The Act specifies that a criminal violation occurs if a person engages in fraud or knowingly violates this regulation. Accordingly, CFSA has no statutory authority to change the applicable penalties.

Two respondents recommended that CFSA require exporters to forward copies of end-use certificates to foreign end users, such as flour millers or government entities which purchase U.S.-produced wheat under commercial terms for importation. This recommendation will not be adopted as it exceeds the statutory authority provided to CFSA under the Act.

Two respondents expressed concern that the proposed rule prohibited changes to the intended use of the commodity once an intended use is designated on the end-use certificate by the importer. Additionally, two other respondents recommended consolidating intended uses into only two categories, domestic use and export, which would permit the importer to deliver the commodity to any user, with no restrictions placed on the end use of the grain. The proposed rule reflects the Canadian system with respect to the prohibition of changing intended use once designated. However, because the proposed rule was not intended to restrict the use of Canadian-produced wheat as it flows through U.S. commercial channels, the final rule deletes the requirement for the importer to designate the intended use of Canadian-produced wheat at the time of importation. Information concerning the end-use of the wheat will be collected from end users and exporters.

Two respondents indicated that the proposed rule exceeded the legal authority provided under the Act by extending the application of end-use certificates, namely identity-preserved storage, to domestic food assistance programs. The respondents stated that (1) the legislative mandate requiring end-use certificates to protect the integrity of the U.S. export programs does not change the underlying laws governing domestic food assistance programs, and (2) CFSA's current system of assuring origin for domestic food assistance programs should remain intact, as described in the proposed rule. Inasmuch as entities who participate in domestic and foreign food assistance programs must comply with domestic origin requirements, this final rule provides only for the identity preserved storage of Canadian-produced wheat beginning with importation into the U.S. until the wheat is loaded onto a conveyance for direct delivery to an end user, or until delivered to the end user. This final rule does not impose requirements on the end-use of the imported wheat or change current domestic origin requirements.

One respondent recommended that CFSA establish an automated system to collect information required under the

End-Use Certificate program. CFSA will work toward the automation of the collection and reporting requirements. Importers, end users, and subsequent buyers will, however, be required to provide CFSA with the required documentation in paper form until the automated process is complete.

One respondent recommended that the definition of end user should be amended to include export facilities. While the definition of end user has not been amended, specific provisions have been developed to provide instructions to importers or subsequent buyers who purchase Canadian-produced wheat for export and are incorporated into this final rule.

One respondent recommended that the quantity imported should be reported on a "per conveyance" basis. This recommendation has been incorporated into the final rule.

One respondent requested that the final rule provide for a waiver from the certificate requirement for importers, like himself, who use Canadian wheat as seed wheat. Importers of Canadian seed wheat will not be excluded from the requirements set forth in this final rule because such wheat may enter commercial markets if not used as originally intended after importation.

One respondent noted that the proposed 10-day reporting period for submitting information to KCCO is short. Because of the marketability of commodities such as wheat, and the ease with which title can transfer from one owner to another, it is vital to the success of the end-use certificate program for CFSA to have timely information relating to imported Canadian wheat. Failure to collect the information during the 10-day reporting period would make it difficult to ensure that the imported wheat is being used in a matter consistent with this final rule.

One respondent expressed concern over the proposed rule's provisions relating to bills of lading, stating that the provisions are in conflict with the Interstate Commerce Commission's regulations governing bills of lading. A further review of the information to be collected from importers indicates that by making a minor addition to the provisions for collection of data, CFSA would have sufficient data to track Canadian wheat through the U.S. commercial channels without requiring submission of bills of lading. Accordingly, the provisions that would have required the importer to submit to KCCO, within 10 workdays after delivery of the commodity to the end user, a bill of lading acknowledging receipt of the commodity have been withdrawn.

Minor changes have also been made in this final rule to the collection requirements. Specifically, the proposed form ASCS-750, End-Use Certificate for Grain, and form ASCS-751, End-Use Certificate for Grain Quarterly Report, have been revised to reflect the change in the agency name and deletion of the barley requirements. In addition, form ASCS-751 has been renamed to more accurately reflect the use of the form, and has been redesigned to incorporate changes that were made to simplify reporting requirements. Accordingly, the forms are titled ASCS-750, End-Use Certificate for Wheat, and ASCS-751, Wheat Consumption and Resale Report. In addition, importers are no longer required to include the intended use of the imported wheat on form ASCS-750, but are required to enter the customs entry number, date of entry, and importer number on form ASCS-750. This additional information is readily available to importers and will be used for (1) cross-referencing with information provided to CFSA by the Commissioner of Customs, and (2) verifying compliance with the policies and provisions set forth in this final rule. Also, the general information included on the ASCS-750 has been revised to incorporate the provisions that were proposed to be included in sales contracts entered into between importers and subsequent buyers, or between any subsequent buyers. Because importers and subsequent buyers are required to provide their purchasers with a copy of the ASCS-750, this final rule deletes all requirements for changes to sales contracts that were included in the proposed rule. Finally, on form ASCS-751, "export" will be added as an end use to allow exporters to properly designate the end use for wheat that will be purchased by foreign entities under commercial terms.

#### **List of Subjects in 7 CFR Part 782**

Administrative practice and procedure, Reporting and recordkeeping requirements, Wheat.

Accordingly, subchapter D, chapter VII of title 7 of the Code of Federal Regulations is amended by adding part 782 to read as follows:

#### **PART 782—END-USE CERTIFICATE PROGRAM**

##### **Subpart A—General**

Sec.

782.1 Basis and purpose.

782.2 Definitions.

- 782.3 Administration.  
782.4 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

#### Subpart B—Implementation of End-Use Certificate Program

- 782.10 Identification of commodities subject to end-use certificate regulations.  
782.11 Extent to which commodities are subject to end-use certificate regulations.  
782.12 Filing ASCS-750, End-Use Certificate for Wheat.  
782.13 Importer responsibilities.  
782.14 Identity preservation.  
782.15 Filing ASCS-751, Wheat Consumption and Resale Report.  
782.16 Designating end use on form ASCS-751.  
782.17 Wheat purchased for resale.  
782.18 Wheat purchased for export.  
782.19 Penalty for noncompliance.

#### Subpart C—Records and Reports

- 782.20 Importer records and reports.  
782.21 End-user and exporter records and reports.  
782.22 Subsequent buyer records and reports.  
782.23 Failure to file end-use certificates or consumption and resale reports.  
782.24 Recordkeeping and examination of records.  
782.25 Length of time records are to be kept.

**Authority:** 19 U.S.C. 3391(f).

#### Subpart A—General

##### § 782.1 Basis and purpose.

The regulations contained in this part are issued pursuant to and in accordance with Section 321(f) of the North American Free Trade Agreement Implementation Act. These regulations govern the establishment of the end-use certificate program, the completion of end-use certificates, the identification of commodities requiring end-use certificates, the submission of reports, and the keeping of records and making of reports incident thereto.

##### § 782.2 Definitions.

As used in this part and in all instructions, forms, and documents in connection therewith, the words and phrases defined in this section shall have the meanings herein assigned to them unless the context or subject matter requires otherwise. References contained herein to other parts of this chapter or title shall be construed as references to such parts and amendments now in effect or later issued.

Date of entry means the effective time of entry of the merchandise, as defined in 19 CFR part 101.

End Use means the actual manner in which Canadian-produced wheat was used, including, among other uses, milling, brewing, malting, distilling, manufacturing, or export.

End user means the entity that uses Canadian-produced wheat for, among other uses, milling, brewing, malting, distilling, manufacturing, or other use, except resale.

Entity means a legal entity including, but not limited to, an individual, joint stock company, corporation, association, partnership, cooperative, trust, and estate.

Entry means that documentation required by 19 CFR part 142 to be filed with the appropriate U.S. Customs officer to secure the release of imported merchandise from U.S. Customs custody, or the act of filing that documentation.

Importer means the person primarily liable for the payment of any duties on the merchandise, or an authorized agent acting on their behalf. The importer may be:

- (1) The consignee, or
- (2) The importer of record, or
- (3) The actual owner of the merchandise, if an actual owner's declaration and superseding bond has been filed in accordance with 19 CFR part 141, or
- (4) The transferee of the merchandise, if the right to withdraw merchandise in a bonded warehouse has been transferred in accordance with 19 CFR part 144.

Metric ton means a unit of measure that equals 2,204.6 pounds.

Subsequent buyer means an entity other than the end user or importer which owns wheat originating in Canada.

Workdays means days that the Federal government normally conducts business, which excludes Saturdays, Sundays, and Federal holidays.

##### § 782.3 Administration.

The end-use certificate program will be administered under the general supervision and direction of the Administrator, Consolidated Farm Service Agency (CFSA), U.S. Department of Agriculture (USDA), through the Office of the Deputy Administrator for Commodity Operations (DACO), CFSA, Washington, D.C., and the Kansas City Commodity Office (KCCO), CFSA, Kansas City, MO, in coordination with the Commissioner of Customs pursuant to a Memorandum of Understanding.

##### § 782.4 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

The information collection requirements contained in these regulations (7 CFR part 782) have been submitted to the Office of Management and Budget (OMB) in accordance with the provisions of 44 U.S.C. 35 and will be assigned an OMB control number.

#### Subpart B—Implementation of the End-Use Certificate Program

##### § 782.10 Identification of commodities subject to end-use certificate regulations.

(a) The regulations in this part are applicable to wheat and barley, respectively, imported into the U.S. from any foreign country, as defined in 19 CFR 134.1, or instrumentality of such foreign country that, as of April 8, 1994, required end-use certificates for imports of U.S.-produced wheat or barley.

(b) Because Canada is the only country with such requirements on wheat, and no country has an end-use certificate requirement for barley, only wheat originating in Canada is affected by the regulations in this part.

##### § 782.11 Extent to which commodities are subject to end-use certificate regulations.

(a) In the event that Canada eliminates the requirement for end-use certificates on imports from the U.S., the provisions of the regulations in this part shall be suspended 30 calendar days following the date Canada eliminates its end-use certificate requirement, as determined by the Secretary.

(b) The provisions of the regulations in this part may be suspended if the Secretary, after consulting with domestic producers, determines that the program has directly resulted in the:

- (1) Reduction of income to U.S. producers of agricultural commodities, or
- (2) Reduction of the competitiveness of U.S. agricultural commodities in world export markets.

##### § 782.12 Filing ASCS-750, End-Use Certificate for Wheat.

(a) Each entity that imports wheat originating in Canada shall, for each entry into the U.S., obtain form ASCS-750, End-Use Certificate for Wheat, from Kansas City Commodity Office, Warehouse License and Contract Division, P.O. Box 419205, Kansas City, MO 64141-6205, and submit the completed original form ASCS-750 to KCCO within 10 workdays following the date of entry. Each form ASCS-750 shall set forth, among other things, the:

- (1) Name, address, and telephone number of the importer,
- (2) Customs entry number,
- (3) Date of entry,
- (4) Importer number,
- (5) Class of wheat being imported,
- (6) Quantity imported, in net metric tons, rounded to the nearest hundredth of a metric ton, per conveyance,
- (7) Storage location of the wheat,
- (8) Name, address, and telephone number of the end user, if known,

(9) Mode of transportation and the name of the transportation company used to import the wheat, and

(10) A certification that the identity of the Canadian-produced wheat will be preserved until such time as the wheat is either delivered to a subsequent buyer or end-user, or loaded onto a conveyance for direct delivery to an end user.

(b) The original form ASCS-750 and one copy of form ASCS-750 shall be signed and dated by the importer.

(c) Distribution of form ASCS-750 will be as follows:

(1) The original shall be forwarded to Kansas City Commodity Office, Warehouse License and Contract Division, P.O. Box 419205, Kansas City, MO 64141-6205, by the importer,

(2) One copy shall be retained by the importer,

(3) The importer shall provide a photocopy to the end user or, if the wheat is purchased for purposes of resale, the subsequent buyer(s).

(d) The completion and filing of an end-use certificate does not relieve the importer of other legal requirements, such as those imposed by other U.S. agencies, pertaining to the importation.

#### **§ 782.13 Importer responsibilities.**

The importer shall:

(a) File form ASCS-750 in accordance with § 782.12.

(b) Provide each subsequent buyer or end user with a copy of form ASCS-750 that was filed when the Canadian wheat entered the U.S.

(c) Submit to KCCO, within 10 workdays following the date of sale, form ASCS-751, Wheat Consumption and Resale Report, in accordance with § 782.15.

#### **§ 782.14 Identity preservation.**

(a) The importer and all subsequent buyers of the imported wheat shall preserve the identity of the Canadian-produced wheat.

(b) Canadian-produced wheat may only be commingled with U.S.-produced wheat by the end user, or when loaded onto a conveyance for direct delivery to the end user or foreign country.

(c) Failure to meet the requirements in paragraphs (a) and (b) of this section shall constitute noncompliance by the importer or subsequent buyer for the purposes of this part.

#### **§ 782.15 Filing ASCS-751, Wheat Consumption and Resale Report.**

(a) For purposes of providing information relating to the consumption and resale of Canadian-produced wheat, form ASCS-751, Wheat Consumption

and Resale Report, shall be filed with KCCO by each:

(1) Importer and subsequent buyer, for each sale to a subsequent buyer or end user, within 10 workdays following the date of sale.

(2) End user and exporter, for full and partial consumption or export, within 15 workdays following:

- (i) March 31,
- (ii) June 30,
- (iii) September 30, and
- (iv) December 31.

(b) Each form ASCS-751 shall set forth, among other things, the:

- (1) Name, address, and telephone number of the filer,
- (2) Storage location of the wheat,
- (3) Name and address of the importer,
- (4) Form ASCS-750, End-Use Certificate for Wheat, serial number,
- (5) Class of wheat,
- (6) Date the wheat was received at the filer's facility,
- (7) Quantity of wheat received, in net metric tons, rounded to the nearest hundredth of a metric ton,
- (8) Certification to be completed by end users and exporters that requires the end user or exporter to provide, among other things:

(i) A certification of compliance with these regulations,

(ii) The quantity consumed or exported,

(iii) The quantity remaining,

(iv) The manner in which the commodity was used.

(v) The signature of an authorized representative of the end user or exporter.

(9) Certification to be completed by subsequent buyers and importers that requires the subsequent buyer or importer to provide, among other things:

(i) A certification of compliance with the regulations in this part,

(ii) The quantity resold,

(iii) The name, address, and telephone number of the buyer, and

(iv) The signature of an authorized representative of the subsequent buyer or importer.

(c) End user and exporter shall submit form ASCS-751 to KCCO quarterly until the wheat has been fully utilized or exported in accordance with the regulations in this part.

(d) Importers and subsequent buyers shall, for each individual sale, submit form ASCS-751 to KCCO until the imported wheat has been fully resold.

#### **§ 782.16 Designating end use on form ASCS-751.**

(a) If the end use specified on the applicable form ASCS-751, Wheat Consumption and Resale Report, is "export," the exporter must specify the

final destination, by country, on form ASCS-751.

(b) If the end user utilizes the wheat for purposes other than milling, brewing, malting, distilling, export, or manufacturing, such use must be specifically designated on form ASCS-751.

#### **§ 782.17 Wheat purchased for resale.**

(a) This section applies to an importer or subsequent buyer who imports or purchases Canadian-produced wheat for the purpose of reselling the wheat.

(b) The importer or subsequent buyer shall provide all purchasers of Canadian-produced wheat with a photocopy of the form ASCS-750 submitted to KCCO by the importer in accordance with § 782.12(a).

#### **§ 782.18 Wheat purchased for export.**

(a) This section applies to an importer or subsequent buyer who imports or purchases Canadian-produced wheat for the purpose of export to a foreign country or instrumentality.

(b) Wheat that is purchased for the purpose of export must be stored identity preserved while the importer or subsequent buyer maintains control of the wheat, except that such wheat may be commingled when loaded onto a conveyance for delivery to the foreign country or instrumentality.

(c) Importers or subsequent buyers that purchase wheat for export to a foreign country or instrumentality must complete form ASCS-751 quarterly, in accordance with § 782.15.

#### **§ 782.19 Penalty for noncompliance.**

It shall be a violation of 18 U.S.C. 1001 for any entity to engage in fraud with respect to, or to knowingly violate, the provisions set forth in this part.

### **Subpart C—Records and Reports**

#### **§ 782.20 Importer records and reports.**

(a) The importer shall retain a copy of each form:

(1) ASCS-750, End-Use Certificate for Wheat, that is submitted to KCCO in accordance with § 782.12(a); and

(2) ASCS-751, Wheat Consumption and Resale Report, that is submitted to KCCO in accordance with § 782.15(a)(1).

(b) The importer shall maintain records to verify that the wheat was identity preserved until such time as the wheat was:

- (1) Loaded onto the conveyance for direct delivery to an end user, or
- (2) Delivered to an end user, or
- (3) Delivered to a subsequent buyer.

(c) Copies of the documents, information, and records required in paragraphs (a) and (b) of this section shall be kept on file at the importer's

headquarters office or other location designated by the importer for the period specified in § 782.25.

**§ 782.21 End-user and exporter records and reports.**

(a) The end user or exporter shall retain a copy of each form ASCS-751, Wheat Consumption and Resale Report, that is filed with KCCO in accordance with § 782.15(a)(2).

(b) The end user or exporter shall retain a copy of each form ASCS-750, End-Use Certificate for Wheat, provided to the end-user or exporter in accordance with § 782.17(b).

(c) The exporter shall maintain records to verify that wheat purchased for the purpose of export was stored identity preserved until such time as the wheat was loaded onto a conveyance for delivery to the foreign country or instrumentality.

(d) Copies of the documents required in paragraphs (a), (b), and (c) of this section shall be kept on file at the end-user's or exporter's headquarters office or other location designated by the end user or exporter for the period specified in § 782.25.

**§ 782.22 Subsequent buyer records and reports.**

(a) The subsequent buyer shall retain a copy of each form ASCS-751, Wheat Consumption and Resale Report, that is filed with KCCO in accordance with § 782.15(a)(1).

(b) The subsequent buyer shall retain a copy of each form ASCS-750, End-Use Certificate for Wheat, provided to the subsequent buyer in accordance with § 782.17(b).

(c) The subsequent buyer shall maintain records to verify that the wheat specified on the end-use certificate was identity preserved during the time that the subsequent buyer maintained control of the wheat, or until the wheat was loaded onto a conveyance for direct delivery to an end user.

(d) Copies of the documents and records required in paragraphs (a) through (c) of this section shall be kept on file at the subsequent buyer's headquarters office or other location designated by the subsequent buyer for the period specified in § 782.25.

**§ 782.23 Failure to file end-use certificates or consumption and resale reports.**

Failure by importers, end users, exporters, and subsequent buyers to file form ASCS-750, End-Use Certificate for Wheat, and form ASCS-751, Wheat Consumption and Resale Report, as applicable, and retain or maintain related copies and records shall constitute noncompliance for the purposes of § 782.19.

**§ 782.24 Recordkeeping and examination of records.**

(a) *Examination.* For the purpose of verifying compliance with the requirements of this part, each importer,

end-user, exporter, and subsequent buyer shall make available at one place at all reasonable times for examination by representatives of USDA, all books, papers, records, contracts, scale tickets, settlement sheets, invoices, written price quotations, or other documents related to the importation of the Canadian-produced wheat that is within the control of such entity.

(b) Orderly retention of records. To facilitate examination and verification of the records and reports required by this part, copies of form ASCS-750, End-Use Certificate for Wheat, and form ASCS-751, Wheat Consumption and Resale Report, shall be filed in an orderly manner, and must be made available for inspection by representatives of USDA.

**§ 782.25 Length of time records are to be kept.**

The records required to be kept under this part shall be retained for 3 years following the filing date of the applicable record. Records shall be kept for such longer period of time as may be requested in writing by USDA representatives.

[**Note:** The following forms will not appear in the Code of Federal Regulations.]

Signed at Washington, DC on January 19, 1995.

**Grant Buntrock,**

*Acting Administrator, Consolidated Farm Service Agency.*

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Form Approved - OMB No. 0560-XXXX

<p><b>ASCS-750</b> U.S. DEPARTMENT OF AGRICULTURE (Proposal 8) Consolidated Farm Service Agency</p> <p style="text-align: center;"><b>END-USE CERTIFICATE FOR WHEAT</b></p>	<p style="text-align: center;"><b>FOR INTERNAL USE ONLY</b></p> <p>Date: _____</p> <p>Initials: _____</p> <p style="text-align: center;"><b>Serial Number: XXXXXXXX</b></p>
<p><b>NOTE:</b> <i>The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a) and the Paperwork Reduction Act of 1980, as amended. The authority for requesting the following information is 7 CFR Part 782. The information will be used to verify compliance by the importer of wheat, subsequent buyer or an end user of imported wheat with the provisions of 7 CFR Part 782. Furnishing the requested information is mandatory. Failure to comply with the regulations governing the End-Use Certificate Program may result in the assessment of penalties in accordance with 7 CFR Part 782 against the non-complying party. This information may be provided to other agencies, IRS, Department of Justice, or other State and Federal Law enforcement agencies, and in response to a court magistrate or administrative tribunal. The provisions of criminal and civil fraud statutes, including 18 USC 286, 287, 371, 651, 1001; 15 USC 714m; and 31 USC 3729, are applicable to the information provided.</i></p> <p><i>Public reporting burden for this collection of information is estimated to average 10 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, AG Box 7630, Washington, D.C. 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB No. 0560-XXXX), Washington, D.C. 20503. RETURN THIS COMPLETED FORM TO THE KANSAS CITY COMMODITY OFFICE, WAREHOUSE LICENSE AND CONTRACT DIVISION, P.O. BOX 419205, KANSAS CITY, MO 64141-6205 WITHIN 10 WORKDAYS FROM THE DATE OF ENTRY (ITEM 4).</i></p>	
<p>1. Importer's Name and Address (include street, city, state, ZIP code)</p>	
<p>2. Importer's Telephone Number (include area code)</p>	
<p>3. Custom's Entry Number</p>	<p>4. Date of Entry (month, day, year)</p>
<p>5. Importer Number</p>	<p>6. Class of Wheat</p>
<p>7. Quantity Imported (in net metric tons, per conveyance)</p>	
<p>8. Storage Location</p>	
<p>9. Transportation Company</p>	
<p>10. Mode of Transportation (mark one box)</p> <p style="text-align: center;"> <input type="checkbox"/> RAIL                      <input type="checkbox"/> TRUCK  <input type="checkbox"/> BARGE                      <input type="checkbox"/> VESSEL                 </p>	
<p><b>11. CERTIFICATION</b></p> <p><i>I, acting as agent for the importer named above for the purpose of completing this form, declare that I have personal knowledge concerning the wheat described above. I agree to preserve the identity of the wheat, and will not commingle or blend the imported wheat with U.S. produced wheat until such time as the imported wheat is (1) delivered to an end user, or (2) loaded onto a conveyance for direct delivery to the end user or foreign country. I further agree to provide copies of this form to all parties when I sell this wheat, and to provide the U.S. Department of Agriculture's Kansas City Commodity Office, P.O. Box 419205, Kansas City, MO 64141-6205, with copies of all required documentation in accordance with 7 CFR Part 782.</i></p>	
<p>A. Importer's Authorized Representative (Please Print)</p>	<p>B. Title</p>
<p>C. Signature</p>	<p>D. Date</p>

*This program or activity will be conducted on a nondiscriminatory basis without regard to race, color, religion, national origin, age, sex, marital status, or disability.*

**General Information**

• The United States Department of Agriculture (USDA) provides end-use certificates for persons requiring such certificates for the importation of Canadian-produced wheat into the United States.

• Regulations regarding the End-Use Certificate Program can be found at 7 CFR Part 782. Copies of these regulations can be obtained from the Kansas City Commodity Office (KCCO) at the address shown below.

• Form ASCS-750, End-Use Certificate for Wheat, is required for each entry of Canadian-produced wheat, and must be submitted by the importer to KCCO at the address shown below within 10 workdays following the date of entry.

• Copies of forms ASCS-750, End-Use Certificate for Wheat, and ASCS-751, Wheat Consumption and Resale Report, can be obtained from KCCO at the address shown below.

• Wheat covered by an end-use certificate must be stored identity

preserved, and may not be commingled or blended with U.S.-produced wheat until such time as the Canadian-produced wheat is either delivered to an end user, or loaded onto a conveyance for direct delivery to an end user.

• When wheat covered by this end-use certificate is sold to subsequent buyers or end users, the importer and all subsequent buyers must also:

—provide purchasers with copies of the front and reverse sides of this form.

—submit form ASCS-751, Wheat Consumption and Resale Report, within 10 workdays of the date of each individual sale to a subsequent buyer or end user, to KCCO at the address shown below.

• When wheat covered by this end-use certificate is sold to an end user, the end user must submit form ASCS-751, Wheat Consumption and Resale Report, to KCCO at the address shown below, to report consumption of the Canadian-produced wheat. Reports from the end user must be submitted within 15

workdays following March 31, June 30, September 30, and December 31.

• If wheat covered by this end-use certificate will be exported to a foreign country, the exporter must store the Canadian-produced wheat identity preserved until the wheat is loaded onto a conveyance for delivery to the foreign country. Exporters must submit form ASCS-751, Wheat Consumption and Resale Report, to KCCO at the address shown below, to report the exportation of Canadian-produced wheat. Reports from exporters must be submitted within 15 workdays following March 31, June 30, September 30, and December 31.

• The reports and records of all parties that, at any point in time had control of wheat covered by an end-use certificate are subject to inspection by a representative of USDA.

Address for KCCO: Kansas City Commodity Office, Warehouse License and Contract Division, P.O. Box 419205, Kansas City, MO 64141-6205.

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**General Information**

• The United States Department of Agriculture (USDA) provided End-Use Certificates for Wheat (ASCS-750) for persons required to submit these certificates for the importation of Canadian-produced wheat into the United States.

• Regulations governing the End-Use Certificate Program can be found at 7 CFR Part 782.

• Wheat covered by an End-Use Certificate for Wheat must be stored identity preserved until such time as the wheat is (1) Delivered to an end user, or (2) loaded onto a conveyance for delivery to an end user for foreign country.

• Copies of ASCS-751, Wheat Consumption and Resale Report can be obtained from the Kansas City Commodity Office, Warehouse License and Contract Division, P.O. Box 419205, Kansas City, MO 64141-6205.

• ASCS-751, Wheat Consumption and Resale Report must be filed by each end user, subsequent buyer, exporter, and importer.

• All filers must complete Section A, General Information.

• End users and exporters must complete Section B, Certification by End Users and Exporters.

• Subsequent buyers and importers must complete Section C, Certification by Subsequent Buyers and Importers.

• End users and exporters file form ASCS-751 to report quarterly consumption and exports. Reports are due from end users and exporters within 15 workdays following March 31, June 30, September 30, and December 31.

• Subsequent buyers and importers must file form ASCS-751 for each individual sale. Reports are due from subsequent buyers and importers within 10 workdays following the date of the sale.

[FR Doc. 95-1866 Filed 1-25-95; 8:45 am]

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**Rural Utilities Service****7 CFR Part 1755****Standard for Splicing Copper and Fiber Optic Cables**

**AGENCY:** Rural Utilities Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Rural Utilities Service (RUS) hereby amends its regulations on telecommunications standards and specifications for materials, equipment and construction. The revised standard will update the splicing methods and

materials used for splicing copper cables brought about through technological advancements over the past fifteen years and incorporate a section into the standard dealing with the splicing methods and materials used to splice fiber optic cables.

**DATES:** Effective date: February 27, 1995.

**Incorporation by reference:** Incorporation by reference of certain publications listed in this final rule is approved by the Director of the Federal Register as of February 27, 1995.

**FOR FURTHER INFORMATION CONTACT:** Garnett G. Adams, Chief, Outside Plant Branch, Telecommunications Standards Division, Rural Utilities Service, room 2844, South Building, U.S. Department of Agriculture, Washington, DC 20250-1500, telephone (202) 720-0667.

**SUPPLEMENTARY INFORMATION:****Executive Order 12866**

This final rule has been determined to be not significant for the purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget.

**Executive Order 12778**

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. If adopted, this final rule will not:

- (1) Preempt any State or local laws, regulations, or policies;
- (2) Have any retroactive effect; and
- (3) Require administrative proceedings before parties may file suit challenging the provisions of this rule.

**Regulatory Flexibility Act Certification**

The Administrator of RUS has determined that this final rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This final rule involves standards and specifications, which may increase the direct short term costs to RUS borrowers. However, the long-term direct economic costs are reduced through greater durability and lower maintenance cost over time.

**Information Collection and Recordkeeping Requirements**

This final rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (Pub. L. 96-511).

**National Environmental Policy Act Certification**

The Administrator of RUS has determined that this final rule will not significantly affect the quality of the human environment as defined by the

National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

**Catalog of Federal Domestic Assistance**

The program described by this final rule is listed in the Catalog of Federal Domestic Assistance programs under No. 10.851, Rural Telephone Loans and Loan Guarantees, and No. 10.582, Rural Telephone Bank Loans. This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, DC 20402.

**Executive Order 12372**

This final rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation that requires intergovernmental consultation with state and local officials. A Notice of Final Rule titled Department Programs and Activities Excluded from Executive Order 12372 (50 FR 47034) exempts RUS and RTB loans and loan guarantees, and RTB bank loans, to governmental and nongovernmental entities from coverage under this Order.

**Background**

RUS issues publications titled "Bulletin" which serve to guide borrowers regarding already codified policy, procedures, and requirements needed to manage loans, loan guarantee programs, and the security instruments which provide for and secure RUS financing. RUS issues standards and specifications for the construction of telephone facilities financed with RUS loan funds. RUS is rescinding Bulletin 345-6, RUS Standard for Splicing Plastic-Insulated Cables, PC-2, and codifying the revised standard at 7 CFR 1755.200, RUS Standard for Splicing Copper and Fiber Optic Cables.

RUS Bulletin 345-6 is used by borrowers and contractors as an outside plant construction standard for splicing copper cables installed in aerial and buried splice closures, ready-access enclosures, and buried plant housings. Because of technological advancements made in copper cable splicing methods and materials over the past fifteen years, the current splicing methods and materials relating to copper cables specified in the current standard have become outdated. To allow borrowers and contractors to take advantage of these improved methods and materials which will reduce installation costs, the current standard will be revised to update the copper cable splicing methods and materials to reflect these improved methods and materials.