

DEPARTMENT OF AGRICULTURE**Farm Service Agency****7 CFR Part 782**

RIN 0560-AF64

End-Use Certificate Program

AGENCY: Farm Service Agency, Agriculture.

ACTION: Proposed rule

SUMMARY: The Farm Service Agency (FSA) is proposing to amend regulations governing the End-Use Certificate Program for imported Canadian wheat to allow FSA to collect additional information regarding distinguishing characteristics of imported wheat. The proposal also will revise the definition of importer to include only the importer of record as recognized by the U.S. Customs Service. Lastly, FSA proposes to revise the deadline for submission of the End-Use Certificate from 15 work days to 10 work days after the date of entry. These changes are necessary to facilitate a cooperative effort between FSA and the U.S. Customs Service to make End-Use Certificates a part of the official entry summary package. These changes will also help ensure that Canadian wheat will not benefit from U.S.-export programs.

DATES: Comments must be submitted on or before January 25, 1999 to be assured of consideration. The comment period is limited to 10 days because on January 1, 1999, the United States Customs Service implemented changes to the Harmonized Tariff Schedule relating to wheat. The changes in this proposed rule are intended to compliment these Harmonized Tariff Schedule changes and must coincide with them as soon as possible.

ADDRESSES: FSA invites interested parties to submit written comments on this proposed rule to: Steve Gill, Director, Warehouse and Inventory Division, Farm Service Agency, STOP 0553, 1400 Independence Avenue, SW, Washington, D.C. 20250-0553; telephone (202) 720-2121; FAX (202) 690-3123; or E-mail CClist@wdc.fsa.usda.gov.

All written comments received in response to this proposed rule will be available for public inspection in Room 5968, South Building, U.S. Department of Agriculture, 1400 Independence Avenue, SW, Washington, D.C., between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Timothy R. Murray, Chief, Inventory Management Branch, U.S. Department

of Agriculture, Farm Service Agency, STOP 0553, 1400 Independence Avenue, SW, Washington, DC 20250-0553; telephone (202) 720-6125; FAX (202) 690-0014; E-mail Tim_Murray@usda.gov.

SUPPLEMENTARY INFORMATION:**Executive Order 12866**

This proposed rule is issued in conformance with Executive Order 12866 and has been determined not to be significant and therefore has not been reviewed by the Office of Management and Budget under Executive Order 12866.

Executive Order 12778

This proposed 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 of the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Analysis 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

The amendments to 7 CFR part 782 set forth in this proposed rule involve a change in the existing information collection requirements which were previously cleared by OMB under the provisions of 44 U.S.C. 35. In accordance with section 3507(j) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection and recordkeeping requirements included in this proposed rule have been submitted for emergency approval to the Office of Management and Budget (OMB). OMB has assigned control number 0560-0151 to the information collection and recordkeeping requirements. Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork

Reduction Act, unless that collection of information displays a currently valid OMB Control Number. Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for Agriculture, Washington, DC 20503. Please state that your comments refer to Control Number 0560-0151. Additionally, please send a copy of your comments to Timothy R. Murray, Warehouse and Inventory Division, FSA, USDA, STOP 0553, 1400 Independence Avenue, SW, Washington, DC 20250-0553. Comments may be submitted to Timothy Murray by e-mail to tmurray@wdc.fsa.usda.gov. All comments regarding this information collection will be summarized and included in the request for OMB approval. All comments will also become public records.

OMB is required to make a decision concerning the collection(s) of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Department on the proposed regulations.

Abstract: The information collected under OMB Control Number 0560-0151, insures that Canadian wheat does not benefit from USDA or Commodity Credit Corporation assisted export programs. To comply with the provisions of the North American Free Trade Agreement Implementation Act, FSA requires information from the importers, subsequent buyers, and end-users that will assist in tracking the Canadian wheat within the U.S. Marketing System.

Estimate of Burden: Public reporting burden for this information collection is estimated to average 0.26 hours per response.

Respondents: Wheat importers and traders.

Estimated Number of Respondents: 154.

Estimated Number of Responses per Respondent: 73.

Estimated Total Annual Burden on Respondents: 2,942 hours.

Proposed topics for comment on the information collection include: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and

assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Copies of the information collection may be obtained from Timothy Murray at the address shown above.

Regulatory Flexibility Act

On January 26, 1995, FSA published a final rule that established program requirements for the End-Use Certificate Program. A copy of this Regulatory Flexibility Analysis is available upon request from Timothy Murray, Warehouse and Inventory Division, FSA, STOP 0553, 1400 Independence Avenue, Washington, DC 20250-0553; telephone (202) 690-4321.

Because these changes will not have an adverse impact on a substantial number of small businesses, a Regulatory Flexibility Assessment is not required.

Background

This proposal will amend the regulations at 7 CFR Part 782 with respect to the U.S. End-Use Certificate Program. Since February 27, 1995, the effective date for the implementation of the End-Use Certificate Program, several items have been identified that could improve the effectiveness and the efficiency of the End-Use Certificate Program. To further ensure that Canadian wheat does not benefit from U.S. export programs, End-Use Certificates will include distinguishing characteristics of grade, protein content, moisture content, dockage and date of sale in addition to the class and/or varietal information currently collected for each shipment. These additional data are deemed necessary because imported wheat may benefit from U.S. export programs even if the imported wheat itself is not directly eligible for use under such programs. Such benefit may accrue if wheat of the type or quality used under U.S. export programs (including humanitarian assistance programs) is imported into the United States in anticipation of, or as a result of use of a similar type or quality of U.S. wheat under the U.S. program. Indeed, the Department of Agriculture is frequently implored not to take action to facilitate sales of U.S. wheat out of a concern that such sales will only encourage off-setting imports of Canadian wheat. The proposed rule will provide necessary information to

monitor for such an occurrence and potentially allow appropriate actions to minimize such an occurrence. In addition, these additional data will help facilitate effective program audits while minimizing the burden on importers of Canadian wheat.

FSA also proposes to replace the current definition used for "Importer" found at 7 CFR 782.2 with the same definition used by the U.S. Customs Service and found at 19 U.S.C. 1484(a).

The U.S. Customs Service has informed the Department of Agriculture officials that it will be amending the provisions of their basic import bond to allow for the assessment of damages if there is a failure to provide the End-Use Certificate in the time period provided by FSA.

List of Subjects in 7 CFR Part 782

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

Accordingly, it is proposed that 7 CFR part 782 be amended as follows:

PART 782—END-USE CERTIFICATE PROGRAM

1. The authority citation for part 782 continues to read as follows:

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

2. Amend § 782.2 to revise the definition for "Importer" to read as follows:

§ 782.2 Definitions.

* * * * *

Importer means a party qualifying as an Importer of Record pursuant to 19 U.S.C. 1484(a).

* * * * *

3. Amend § 782.12(a) as follows:

A. Revise the first sentence to read as follows:

"Each entity that imports wheat originating in Canada shall, for each entry into the U.S., obtain form FSA-750, End-Use Certificate for Wheat, from Kansas City Commodity Office, Warehouse Contract Division, P.O. Box 419205, Kansas City, MO 64141-6205, and submit the completed original form FSA-750 to KCCO within 10 workdays following the date of entry or release."

B. Redesignate paragraphs (a)(6) through (a)(9) as paragraphs (a)(8) through (a)(11), and add new paragraphs (a)(6) and (a)(7) to read as follows:

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

(a) * * *

(6) Grade, protein content, moisture content, and dockage level of wheat being imported,

(7) Date of sale,

* * * * *

Signed at Washington, DC, on January 8, 1999.

Keith Kelly,

Administrator, Farm Service Agency.

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BILLING CODE 3410-05-P

SMALL BUSINESS ADMINISTRATION

13 CFR Parts 121 and 125

Government Contracting Programs

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: The Small Business Administration (SBA) proposes to add regulatory language addressing contract bundling, due to changes set forth in sections 411-417 of the Small Business Reauthorization Act of 1997 (Public Law 105-135). In addition, this rule restates SBA's current authority to appeal to the head of a procuring agency, decisions made by the agency that SBA believes to adversely affect small businesses. The statutory amendments recognize that the consolidation of contract requirements may be necessary and justified, in some cases, but require that each Federal agency, to the maximum extent practicable, take steps to avoid unnecessary and unjustified bundling of contract requirements that precludes small business participation as prime contractors as well as to eliminate obstacles to small business participation as prime contractors. Section 414 of Public Law 105-135 requires that the Federal Procurement Data System (FPDS) be modified to collect data regarding bundling of contracts when a contracting officer anticipates that the resulting contract price will exceed \$5 million, including options. The SBA will confer with the Federal Procurement Data Center and analyze the data reported in the FPDS on all bundled contracts expected to exceed \$5 million in order to determine the impact on small business resulting from contract bundling and generate a report on the extent to which individual agencies are engaging in the practice of contract bundling.

DATES: Submit comments on or before March 15, 1999.

ADDRESSES: Address comments concerning this proposed rule to Judith Roussel, Associate Administrator for Government Contracting, U.S. Small Business Administration, 409 Third Street, SW., Mail Code 6250, Washington, DC, 20416.