

(4) Aircraft must be treated in accordance with the Treatment Manual no more than 1 hour before loading. The approved pesticide should be held at a 45-degree angle toward the floor of the aircraft to ensure full coverage at the specified rate. Particular attention should be paid to the ball mat area and the holes around the main entrance. The aircraft must then be aerated under safeguard conditions for 15 minutes.

(5) Aircraft treatment records must be maintained by the applicator completing or supervising the treatment for a period of 2 years. These records must be provided upon request for review by an inspector. Treatment records shall include the pesticide used, the date of application, the location where the pesticide was applied (airport and aircraft), the amount of pesticide applied, and the name of the applicator.

(6) When "tail swapping" procedures are implemented (replacement of a designated aircraft with an alternate one when mechanical or other problems occur in the designated aircraft before departure), the alternate aircraft must be inspected and all Japanese beetles must be removed. The aircraft must be safeguarded by closing all openings and hatches or by equipping the aircraft with exclusionary devices until the aircraft is ready for use. During loading, all treatment and safeguard requirements applicable to regularly scheduled aircraft must be implemented.

(7) Aircraft may be retreated in the noninfested State if live Japanese beetles are found.

(8) Notification of unscheduled commercial flights and of all military flights must be given at least 1 hour before departure to the appropriate person in the destination airport of any of the States listed in § 301.48(b). Notification of arriving military flights should also be given to base commanders to facilitate the entrance of Federal and/or State inspectors onto the base if necessary.

§ 301.48-5 [Amended]

7. Section 301.48-5 is amended by removing the word "Deputy".

§ 301.48-6 [Amended]

8. Section 301.48-6 is amended by removing the word "Deputy".

9. A new § 301.48-8 is added to read as set forth below.

§ 301.48-8 Compliance agreements and cancellation.

(a) Any person engaged in the business of moving regulated articles may enter into a compliance agreement to facilitate the movement of such

articles under this subpart. Any person who enters into a compliance agreement, and employees or agents of that person, must allow an inspector access to all records regarding treatment of aircraft and to all areas where loading, unloading, and treatment of aircraft occurs.

(b) A compliance agreement may be canceled by an inspector, orally or in writing, whenever he or she determines that the person who has entered into the compliance agreement has failed to comply with the agreement or this subpart. If the cancellation is oral, the cancellation and the reasons for the cancellation will be confirmed in writing within 20 days of oral notification. Any person whose compliance agreement has been canceled may appeal the decision, in writing, to the Administrator within 10 days after receiving written notification of the cancellation. The appeal must state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully canceled. A hearing will be held to resolve any conflict as to any material fact. The Administrator shall adopt rules of practice for the hearing. An appeal shall be granted or denied, in writing, as promptly as circumstances allow, and the reasons for the decision shall be stated. The compliance agreement will remain canceled pending the decision on the appeal.

Done in Washington, DC, this 20th day of June 1996.

Donald W. Luchsinger,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96-16160 Filed 6-24-96; 8:45 am]

BILLING CODE 3410-34-P

Farm Service Agency

7 CFR Part 782

RIN 0560-AE37

End-Use Certificate Program

AGENCY: Farm Service Agency, Agriculture.

ACTION: Final Rule.

SUMMARY: A proposed rule was published on November 14, 1995, (60 FR 57198) with respect to the End-Use Certificate Program. This final rule adopts, with minor changes, the provisions of the proposed rule. Accordingly, this rule amends reporting requirements, reporting deadlines, and the required notification process in a manner that increases program effectiveness and efficiency for government and affected industries by

requiring all grain handlers to provide immediate notification to the buyer when wheat being purchased or handled is of Canadian origin. The provisions of this regulation also simplify the reporting burden placed on importers, subsequent buyers, end users, and exporters by extending reporting deadlines from 10 workdays to 15 workdays, and by permitting the computer generation and facsimile transmission of required reporting documentation.

EFFECTIVE DATE: June 25, 1996.

FOR FURTHER INFORMATION CONTACT:

Helen Linden, Agricultural Service Agency, P.O. Box 2415, Ag Box 0553, Washington, DC 20013-2415; Telephone (202) 690-4321.

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 (OMB).

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 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

This rule amends the reporting requirements by extending reporting deadlines and incorporating alternative reporting methods. Since the effective date of the End-Use Certificate Program, the Farm Service Agency (FSA) has determined that entities required to file form FSA-750, End-Use Certificate for Wheat, and form FSA-751, Wheat Consumption and Resale Report, have encountered some difficulty in meeting

the requirement that these forms be filed with the Kansas City Commodity Office (KCCO) within 10 workdays following the date of entry, or the date of resale, as applicable. This rule increases the amount of time to satisfy the reporting requirements from 10 workdays following the date of entry or resale to 15 workdays following the date of entry or resale. This action provides increased flexibility for entities that are required to file such reports without decreasing government efficiency in administering the program. Additionally, FSA has received numerous requests to permit facsimile transmission and computer generation of forms FSA-750 and FSA-751. In an attempt to accommodate technology that is currently available, FSA will accept such report submissions under the End-Use Certificate Program. While all of the entities that are required to file forms FSA-750 and FSA-751 may potentially be affected by these changes in reporting requirements, no entities will be adversely affected.

The changes in this rule do not affect recordkeeping requirements.

The reporting requirements for FSA-750 and FSA-751 were previously approved by the Office of Management and Budget (OMB) and assigned OMB control number 0560-0151.

Regulatory Flexibility Act

The changes in this final rule are intended to reduce the reporting burden for all affected businesses, including small businesses. 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 final rule amends 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.

The final rule published on January 26, 1995, at 60 FR 5087, did not include a specific time requirement for importers and subsequent buyers to inform subsequent buyers or end users that wheat being purchased is of Canadian origin and is therefore subject to these regulations. In some instances, importers are delivering Canadian wheat to subsequent buyers and end users through grain handlers. FSA has found that this method of transporting Canadian wheat results in some grain handlers acquiring title to a portion of

the wheat, thus becoming either a subsequent buyer or an end user. The general interpretation of existing regulations by affected parties is that the importer or subsequent buyer has 10 workdays to provide a copy of form FSA-750, End-Use Certificate for Wheat, to the subsequent buyer or exporter, which mirrors the requirement for submitting forms to KCCO. This delay in notification has resulted in situations where importers and subsequent buyers have either commingled Canadian wheat with U.S. origin wheat or resold Canadian wheat before they were informed that the wheat was of Canadian origin. Therefore, this rule amends the regulations at 7 CFR part 782 to require importers and subsequent buyers to provide immediate notification to purchasers and grain handlers when wheat being sold is of Canadian origin.

Secondly, in an effort to simplify and expedite the receipt of reports, this rule extends the time requirements for filing forms FSA-750, End-Use Certificate for Wheat, and FSA-751, Wheat Consumption and Resale Report, with KCCO from 10 workdays to 15 workdays following the date of entry or resale, and incorporates provisions which will permit the facsimile transmission and computer generation of required forms.

Summary of Comments

Two timely responses were received to the proposed rule published in the Federal Register on November 14, 1995, (60 FR 57198). While the two respondents generally supported the provisions contained in the proposed rule, both provided additional comments and recommendations.

The first respondent did not support the proposed extension of the filing deadline from 10 workdays to 15 workdays following the date of entry or resale, while the second respondent recommended that the filing deadlines be extended to 30 workdays following the date of entry or resale. Many importers of Canadian-produced wheat have experienced difficulty in meeting the 10 workday filing deadline. Because the extension of filing deadlines from 10 workdays to 15 workdays following the date of entry or resale will ease the reporting burden without negatively impacting the effectiveness of the End-Use Certificate Program, the filing deadlines have been extended from 10 workdays to 15 workdays following the date of entry or resale, as proposed.

The second respondent commented on five additional issues. Of these issues, two were not responsive to the proposed rule, and therefore, were not considered in the development of this

final rule. The second respondent recommended that FSA consider establishing and publishing a specific policy concerning shrink. No specific policy has been established to address the issue of shrink; each situation is considered on a case-by-case basis to determine if the percentage of commodity loss is reasonable based on the length of storage and the number of times the wheat has been handled.

The second respondent also commented that forms FSA-750 and FSA-751 should be modified to reflect quantities in bushels rather than net metric tons. When wheat is imported from Canada, the United States Customs Service (Customs) agents at the border crossing collect information concerning the quantity imported on a metric ton basis. Customs then forwards this information to FSA for use in determining compliance with the End-Use Certificate Program regulations. To be consistent with the procedures used by Customs, this rule maintains the requirement that quantities reported on forms FSA-750 and FSA-751 be on a metric ton basis.

Finally, the second respondent requested that FSA consider amending the regulations to permit importers to report Canadian wheat imports on the basis of whole shipments or by contract quantities, rather than by individual truck or rail car. In developing these regulations, FSA worked closely with Customs to ensure that reporting requirements established by FSA would be consistent with the reporting requirement used by Customs. Because a portion of the information collected by Customs is forwarded to FSA for use in determining whether importers are complying with these regulations, the information collected by FSA must be consistent with the information collected by Customs. For this reason, the final rule maintains the requirement that quantities of wheat imported from Canada must be reported on a "per entry" basis as defined in this regulation.

List of Subjects in 7 CFR Part 782

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

For the reasons set out in the preamble, 7 CFR part 782 is 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. In part 782 all references to "ASCS-750" are revised to read "FSA-750."

3. In part 782 all references to "ASCS-751" are revised to read "FSA-751."

4. Section 782.2 is amended by adding the following definition in alphabetical order:

§ 782.2 Definitions.

* * * * *

Grain handler means an entity other than the importer, exporter, subsequent buyer, or end user that handles wheat on behalf of an importer, exporter, subsequent buyer, or end user.

* * * * *

5. Section 782.4 is revised to read as follows:

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

The information collection requirements in this part have been approved by the Office of Management and Budget and assigned OMB control number 0560-0151.

6. Section 782.12 is amended by:

A. Removing the number "10" in the first sentence of paragraph (a) and adding the number "15" in its place,

B. Removing paragraph (a)(8),

C. Redesignating paragraphs (a)(9) and (a)(10) as paragraph (a)(8) and (a)(9), respectively,

D. Redesignating paragraphs (b), (c), and (d) as paragraph (d), (e), (f), respectively,

E. Adding new paragraphs (b) and (c) and revising newly redesignated paragraph (e) to read as follows:

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

* * * * *

(b) Importers may provide computer generated form FSA-750, provided such computer generated forms:

(1) Are approved in advance by KCCO,

(2) Contain a KCCO-assigned serial number, and

(3) Contain all of the information required in paragraphs (a)(1) through (a)(9).

(c) KCCO will accept form FSA-750 submitted through the following methods:

(1) Mail service, including express mail,

(2) Facsimile machine, and

(3) Other electronic transmissions, provided such transmissions are approved in advance by KCCO. The importer remains responsible for ensuring that electronically transmitted forms are received in accordance with paragraph (a).

* * * * *

(e) Distribution of form FSA-750 will be as follows:

(1) If form FSA-750 is submitted to KCCO in accordance with paragraph (c)(1);

(i) 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,

(ii) One copy shall be retained by the importer.

(2) If form FSA-750 is submitted to KCCO in accordance with paragraphs (c)(2) or (c)(3), the original form FSA-750 that is signed and dated by the importer in accordance with paragraph (d) shall be maintained 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).

* * * * *

7. Section 782.13 is amended by:

A. Redesignating paragraphs (b) and (c) as paragraph (c) and (d), respectively, and by removing the number "10" in the new paragraph (d) and adding the number "15" in its place,

B. Adding paragraph (b) to read as follows:

§ 782.13 Importer responsibilities.

* * * * *

(b) Immediately notify each subsequent buyer, grain handler, or end user that the wheat being purchased or handled originated in Canada and 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 a foreign country.

* * * * *

8. Section 782.15 is amended by:

A. Removing the number "10" in paragraph (a)(1) and adding the number "15" in its place, and

B. Adding paragraphs (e), (f), and (g) to read as follows:

§ 782.15 Filing FSA-751, Wheat Consumption and Resale Report.

* * * * *

(e) Filers may provide computer generated form FSA-751, provided such computer generated forms:

(1) Are approved in advance by KCCO, and

(2) Contain the information required in paragraphs (b)(1) through (b)(9) of this section.

(f) KCCO will accept form FSA-751 submitted through the following methods:

(1) Mail service, including express mail,

(2) Facsimile machine, and

(3) Other electronic transmissions, provided such transmissions are

approved in advance by KCCO. The importer, end user, exporter, or subsequent buyer remains responsible for ensuring that electronically transmitted forms are received in accordance with this section.

(g) Distribution of form FSA-751 will be as follows:

(1) If form FSA-751 is submitted to KCCO in accordance with paragraph (f)(1) of this section:

(i) 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, end user, exporter, or subsequent buyer.

(ii) One copy shall be retained by the importer, end user, exporter, or subsequent buyer.

(2) If form FSA-751 is submitted to KCCO in accordance with paragraphs (f)(2) or (f)(3) of this section, the original form FSA-751 shall be maintained by the importer, end user, exporter, or subsequent buyer.

* * * * *

9. Section 782.17 is amended by:

A. Redesignating paragraph (b) as paragraph (c), and

B. Adding a new paragraph (b) to read as follows:

§ 782.17 Wheat purchased for resale.

* * * * *

(b) The importer or subsequent buyer shall immediately notify each subsequent buyer, grain handler, exporter, or end user that the wheat being purchased or handled originated in Canada and 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 a foreign country.

* * * * *

Signed at Washington, DC, on June 14, 1996.

Grant Buntrock,

Administrator, Farm Service Agency.

[FR Doc. 96-15850 Filed 6-24-96; 8:45 am]

BILLING CODE 3410-05-P

Commodity Credit Corporation

7 CFR Part 1439 and 1475

Redesignation of Emergency Livestock Assistance Regulations

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This final rule redesignates the Emergency Livestock Assistance Regulations from part 1475 to part 1439 as part of an overall agency effort to reorganize chapter XIV of this title.