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 Canadianproduced 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.