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.