

## § 1435.1

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SOURCE: 67 FR 54928, Aug. 26, 2002, unless otherwise noted.

## Subpart A—General Provisions

### § 1435.1 Applicability.

These regulations set forth the terms and conditions for the 2008 through 2012 crop years under which the Commodity Credit Corporation (CCC) will:

- (a) Make loans and enter agreements with eligible processors,
- (b) Collect data from sugarcane processors, sugar beet processors, cane refiners, and importers of sugar, syrup, and molasses,
- (c) Administer sugar marketing allotments, and
- (d) Administer an inventory disposition program to sell CCC inventory to bioenergy producers and exchange CCC inventory for processor reductions in production or certificates of quota entry.

[67 FR 54928, Aug. 26, 2002, as amended at 74 FR 15363, Apr. 6, 2009]

### § 1435.2 Definitions.

The definitions set forth in this section are applicable for all purposes of program administration. Terms defined in part 718 of this title are also applicable.

*Ability to market* means, for purposes of determining the State cane sugar allotments and sugarcane processor allocations for Hawaii and Puerto Rico, the estimated quantity of sugar, raw value, as CCC determines, that will be

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produced in the cane State or by the sugarcane processor, as appropriate, during the applicable crop year; for determining the remaining State cane sugar allotments, the highest single year of sugar production for the State during the 1999 through 2003 crop years; for determining the sugarcane processor allocations for mainland cane States other than Louisiana, the highest single year of sugar production for the processor during the 1999 through 2003 crop years; and, for determining the sugarcane processor allocations for Louisiana, the simple average of two amounts for each processor, including:

(1) The production of sugar for the processor, stated in short tons, raw value, during Crop Year 2003, as determined by CCC; and

(2) The simple average of 3 years of the processor's production of sugar, stated in short tons, raw value, from among the 1999 through 2003 crop years, excluding the year in which the production was the highest and the year in which the production was the lowest. With respect to the 2003 crop year, each processor's production shall be the same as determined under paragraph (1).

*Allocation* means the division of the beet sugar allotment among the sugar beet processors in the United States and the division of each State's cane sugar allotment among the State's sugarcane processors.

*Beet sugar* means sugar that is processed directly or indirectly from sugar beets, sugar beet molasses, or in-process beet sugar, whether produced domestically or imported.

*Beet sugar allotment* means that portion of the overall allotment quantity allocated to sugar beet processors.

*CCC* means the Commodity Credit Corporation.

*Cane sugar* means sugar derived directly or indirectly from sugarcane produced in the United States, including sugar produced from sugarcane molasses.

*Cane sugar allotment* means that portion of the overall allotment quantity allocated to sugarcane processors.

*Cane sugar refiner* means any person in the U.S. Customs Territory that refines raw cane sugar through affination or defecation, clarification, and further

purification by absorption or crystallization.

*Carry-in stocks* means inventories of sugar owned by sugar beet processors, sugarcane processors, cane sugar refiners, and CCC and physically located in the United States at the beginning of the fiscal year.

*Crop year* means the period from October 1 through September 30, inclusive, and is identified by the year in which the crop year begins. For example, the 2002 crop year begins on October 1, 2002. The 2002 crop of sugar beets or sugar cane means domestically grown sugar beets or sugar cane processed during the 2002 crop year. The 2002 crop of sugar means sugar processed from domestically-grown sugar beets or sugarcane during the 2002 crop year. Sugar from de-sugaring molasses is considered to be from the crop year the de-sugaring occurred.

*Deputy Administrator* means the Deputy Administrator, Farm Programs, FSA, or designee.

*Deficit* means the quantity of sugar covered by an allocation of an allotment that CCC estimates a sugar beet processor or sugarcane processor will be unable to market during the crop year in which marketing allotments are in effect.

*Edible molasses* means molasses that is not to be further refined or improved in quality and that is to be distributed for human consumption, either directly or in molasses-containing products.

*Edible syrups* means syrups that are not to be further refined or improved in quality and that are to be distributed for human consumption, either directly or in syrup-containing products.

*Executive Vice President, CCC*, means the Executive Vice President, CCC, or designee.

*Facility* means a factory, mill, or plant.

*Farm* means that entity as defined in §718 of this title, except that when a State is subject to proportionate shares, producers will not be allowed to have farms reconstituted across State lines even if the farm land is adjoining.

*Fiscal year* means that year beginning October 1 and ending the following September 30.

*FSA* means Farm Service Agency.

*Human consumption* means sugar for use in human food, beverages, or similar products.

*Imports* means sugar originating in foreign countries or areas and entered, or to be entered, into the United States customs territory.

*In-process beet sugar* means the intermediate sugar-containing product, as CCC determines, produced from processing sugar beets. Like sugar beets, it is considered an input into the production of sugar regardless of whether it is produced domestically or imported.

*In-process cane sugar* means the intermediate sugar-containing product, as CCC determines, produced from the processing of sugarcane. It is not raw sugar, nor is it suitable for direct human consumption.

*Market or marketing* means the transfer of title associated with the sale or other disposition of sugar for human consumption in United States commerce. A marketing also includes a sale of sugar under the Feedstock Flexibility Program, the forfeiture of sugar loan collateral under the Sugar Loan Program, exportation of sugar from the United States Customs Territory eligible to receive credits under reexport programs for refined sugar or sugar-containing products administered by the Foreign Agricultural Service, or the sale of sugar eligible to receive credit for the production of polyhydric alcohol under the Polyhydric Alcohol program (see part 1530 of this title) administered by the Foreign Agricultural Service, and for any integrated processor and refiner, the movement of raw cane sugar into the refining process.

*Nonrecourse loan* means a loan for which eligible sugar offered as loan collateral may be forfeited to CCC, at loan maturity, in satisfaction of loan indebtedness.

*Overall allotment quantity* means, on a national basis, the total quantity of domestically produced sugar, raw value, processed from sugarcane, sugar beets or in-process beet sugar (whether the sugar beets or in-process beet sugar are produced domestically or imported), and the raw value equivalent of sugar in sugar products, that is permitted to be marketed by processors, during a crop year or other period in

which marketing allotments are in effect.

*Past marketings* means, for purposes of determining State cane sugar allotments and sugarcane processor allocations for States other than Louisiana, the average of the 2 highest years of sugar production during the 1996 through 2000 crop years; for Louisiana sugarcane processor allocations, the average of the 2 highest years of sugar production during the 1997 through 2001 crop years.

*Past processing* means, for determining Hawaii and Puerto Rico's allotments, the 3-year average of the 1998 through 2000 crop years; and for determining the remaining cane State allotments, the 3 crop years with the greatest production (in the States collectively) during the 1991 through 2000 crop years. Past processing, for determining the sugarcane processor allocation for States other than Louisiana, means the average of the 3 highest years of production during the 1996 through 2000 crop years; and, for determining sugarcane processor allocations in Louisiana, the average of the 2 highest years of sugar production during the 1997 through 2001 crop years.

*Per-acre yield goal* means a State's yield level that is established at not less than the State's two highest average per-acre yield years from among the 1999 through 2001 crop years as CCC determines to ensure an adequate net return per pound to State producers.

*Proportionate share* means the total acreage from which a producer may harvest sugarcane for sugar or seed during any crop year or other period in which marketing allotments are in effect.

*Proportionate share State* means a State with an established allotment and more than 250 sugarcane producers in the State, other than Puerto Rico.

*Raw sugar* means any sugar that is to be further refined or improved in quality other than in-process sugar.

*Raw value* of any quantity of sugar means its equivalent in terms of raw sugar testing 96 sugar degrees, as determined by a polarimetric test performed under procedures recognized by the International Commission for Uniform Methods of Sugar Analysis (ICUMSA). Direct-consumption sugar

derived from sugar beets and testing 92 or more sugar degrees by the polariscope shall be translated into terms of raw value by multiplying the actual number of pounds of such sugar by 1.07. Sugar derived from sugarcane and testing 92 sugar degrees or more by the polariscope shall be translated into terms of raw value in the following manner: raw value =  $\{[(\text{actual degree of polarization} - 92) \times 0.0175] + 0.93\} \times \text{actual weight}$ . For sugar testing less than 92 sugar degrees by the polariscope, derive raw value by dividing the number of pounds of the "total sugar content" (i.e., the sum of the sucrose and invert sugars) thereof by 0.972.

*Reasonable carryover stocks* means desirable inventories of sugar owned by sugar beet processors, sugarcane processors, cane sugar refiners, and CCC and on hand in the United States at the end of the fiscal year, as CCC determines.

*State* means any of the 50 States, the District of Columbia, or the Commonwealth of Puerto Rico.

*Sugar* means any grade or type of saccharine product derived, directly or indirectly, from sugarcane, sugar beets, sugarcane molasses, sugar beet molasses or in-process beet sugar whether domestically produced or imported and consisting of, or containing, sucrose or invert sugar, including raw sugar, refined crystalline sugar, edible molasses, edible cane syrup, liquid sugar, and in-process cane sugar.

*Sugar beet processor* means a person who commercially produces sugar, directly or indirectly, from sugar beets, sugar beet molasses, or in-process beet sugar.

*Sugar products* means products for human consumption, other than sugar, that contain 50 percent or more of sucrose, on a dry weight basis, and that are marketed by a sugar beet processor or sugarcane processor. In determining sugar subject to marketing allocations, only the sugar content of such products will be counted against the allocation.

*Sugarcane processor* means a person who commercially produces sugar, directly or indirectly, from sugarcane, has a viable processing facility, and a supply of sugarcane for the applicable allotment year.

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*Ton* means a short ton or 2,000 pounds.

*United States* means the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

*U.S. market value* means, for sugarcane, the daily New York Board of Trade No. 14 contract price for raw sugar, or other price, as determined by CCC; for sugar beets, the Midwest refined beet sugar price published in Milling and Baking News, or other price, as determined by CCC.

*USDA* means the United States Department of Agriculture.

[67 FR 54928, Aug. 26, 2002, as amended at 69 FR 55062, Sept. 13, 2004; 74 FR 15363, Apr. 6, 2009]

### § 1435.3 Maintenance of records.

(a) Each sugar beet processor, sugarcane processor, importer of sugars, syrups and molasses, and cane sugar refiner or any person having custody of records required by CCC to operate the sugar program must retain such books, records, accounts, and other written or electronic data for not less than 3 years from the date:

(1) A loan is disbursed under subpart B;

(2) Market data are reported to CCC under subpart C of this part; and

(3) Marketings are conducted under marketing allotments under subpart D of this part.

(b) [Reserved]

[67 FR 54928, Aug. 26, 2002, as amended at 74 FR 15364, Apr. 6, 2009]

### § 1435.4 Administration.

(a) This program shall be administered under the general supervision of the Executive Vice President, CCC, and may be carried out in the field by FSA State and county committees.

(b) State and county committees, and representatives and employees thereof, may not modify or waive any of the provisions of part 1435.

(c) The State committee shall take any action required by this part that the county committee has not taken. The State committee shall also:

(1) Correct, or require a county committee to correct, a county committee action not under this part; or

(2) Require a county committee to withhold taking any action not under this part.

(d) No provision or delegation herein to a State or county committee shall preclude the Executive Vice President, CCC, from determining any question arising under the program or from reversing or modifying any State or county committee determination.

(e) The Deputy Administrator may authorize State and county committees to waive or modify deadlines and other program requirements in cases where lateness or failure to meet such requirements do not adversely affect program operation.

(f) A CCC representative may execute loans and related documents only under the terms and conditions CCC determines and announces. Any such document not executed under such terms and conditions, including any purported execution before the CCC-authorized date, shall be null and void.

### § 1435.5 Other regulations.

The following are applicable to this part:

(a) Part 707—Payments due persons who have died, disappeared, or have been declared incompetent.

(b) Part 718—Provisions applicable to multiple programs.

(c) Part 780—Appeal regulations.

(d) Part 1403—Debt settlement policies and procedures.

(e) Part 1405—Loans, purchases, and other operations.

## Subpart B—Sugar Loan Program

### § 1435.100 Applicability.

(a) The regulations of this subpart set forth the terms and conditions under which CCC will make non-recourse loans available to eligible processors. Additional terms and conditions are set forth in the loan application and note and security agreement that a processor must execute to receive a loan.

(b) Loan rates used in administering the loan program are available in FSA State and county offices.

(c) Loans shall not be available for sugar produced from imported sugar beets, sugarcane, molasses, syrups and in-process sugar.