

§ 2011.104

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properly executed certificate of quota eligibility for such sugar.

(b) *Determinations of weight.* (1) For purposes of determining the amount of sugar which may be entered into the United States under a certificate of quota eligibility, sugar shall be entered on the basis of the actual weight of the sugar, as determined by the appropriate customs official. No adjustments in weight shall be made for the differences in polarization.

(2) The actual weight of the sugar entered into the United States may not exceed the weight specified on the certificate of quota eligibility by more than five percent. Such tolerance may be modified by the Secretary if the Secretary finds that such modification is appropriate to carry out the provisions of this subpart. Notice of any such modification shall be published by the Secretary in the FEDERAL REGISTER.

(3) This paragraph (b) shall not affect the manner in which the amount of sugar (raw value) entered is determined for purposes of administering the quota.

[55 FR 40648, Oct. 4, 1990, as amended at 61 FR 26784, May 29, 1996]

§ 2011.104 Waiver.

(a) *General.* The Secretary may waive, with respect to individual shipments, any or all of the requirements of this subpart if he or she determines that a waiver will not impair the proper operation of the sugar quota system, that it will not have the effect of modifying the allocation of sugar made pursuant to the provisions of subdivision (b) of additional U.S. Note 5, and that such waiver is justified by unusual, unavoidable, or otherwise appropriate circumstances. Such circumstances include, but are not limited to, loss or destruction of the certificate, unavoidable delays in transmittal of the certificate to the port of entry, and clerical errors in the execution or issuance of the certificate.

(b) *Request for waiver.* The request for a waiver must be made to the Secretary in writing. The request need not follow any specific format. However, the request should set forth in detail all pertinent information relating to the shipment in question and the basis

upon which the waiver should be granted.

(c) *Issuance of waiver.* The Secretary shall notify, in writing, the applicant for the waiver and the Secretary of the Treasury of any waiver granted under the authority of this section. The Secretary may attach any terms, conditions or limitations to the waiver which he or she determines are appropriate.

[55 FR 40648, Oct. 4, 1990, as amended at 61 FR 26784, May 29, 1996]

§ 2011.105 Form and applicability of certificate.

(a) *Contents.* Each certificate shall be numbered and identified by the foreign country. The certificate shall state that the quantity specified on the certificate is eligible to be entered into the United States during the applicable quota period. The certificate shall provide spaces into which the following information must be inserted by the certifying authority of the foreign country: Quantity eligible to be entered; name of shipper; name of vessel; and port of loading. The following information, if known, may also be specified on the certificate by the certifying authority: name and address of consignee; expected date of departure; expected date of arrival in U.S.; and expected port(s) of arrival in the United States. The certificate shall also provide an area where the certifying authority of the foreign country shall affix a seal or other form of authentication and sign and date the certificate.

(b) *Other limitations.* The Secretary may attach such other terms, limitations, or conditions to individual certificates of quota eligibility as he or she determines are appropriate to carry out the purposes of this subpart, provided that such other terms, limitations, or conditions will not have the effect of modifying the allocation of sugar made pursuant to the provisions of subdivision (b) of additional U.S. Note 5. Such terms, limitations, or conditions may include, but are not limited to, maximum quantities per certificate and a specified period of time during which the certificate shall be valid. In no event shall the maximum quantity per certificate exceed 10,000 short tons.

(c) *Applicability of the certificate.* The certificate of quota eligibility shall only be applicable to the shipment of sugar for which it was executed and issued by the certifying authority.

[55 FR 40648, Oct. 4, 1990, as amended at 61 FR 26784, May 29, 1996]

§ 2011.106 Agreements with foreign countries.

Agreements or arrangements providing for the certificate system may be entered into by the United States Government with the governments of foreign countries. Such agreements or arrangements may provide for the designation of certifying authorities, the designation of seals or other forms of authentication, the transmittal and exchange of pertinent information, and other appropriate means or forms of cooperation.

§ 2011.107 Issuance of certificates to foreign countries.

(a) *Amount and timing.* The Secretary may issue certificates of quota eligibility to foreign countries for any quota period in such amounts and at such times as he or she determines are appropriate to enable the foreign country to fill its quota allocation for such quota period in a reasonable manner, taking into account traditional shipping patterns, harvesting period, U.S. import requirements, and other relevant factors.

(b) *Adjustments.* The Secretary may adjust the amount of certificates issued to a certifying authority for any quota period, provided that such adjustment will not have the effect of modifying the allocation of sugar made pursuant to the provisions of subdivision (b) of additional U.S. Note 5 to reflect:

- (1) The amount of sugar entered into warehouse during previous quota periods;
- (2) Anticipated differences in actual weight and weight determined on a raw value basis; and
- (3) Other relevant factors.

[55 FR 40648, Oct. 4, 1990, as amended at 61 FR 26784, May 29, 1996]

§ 2011.108 Execution and issuance of certificates by the certifying authority.

(a) *Execution.* The certificate of quota eligibility shall be executed by the certifying authority by:

(1) Entering on the certificate the information required under § 2011.105 of this subpart; and

(2) Affixing a seal or other form of authentication to the certificate.

(b) *Issuance.* The executed certificate shall be issued by the certifying authority to the shipper or consignee specified on the certificate.

(c) *Modifications by the certifying authority.* The terms and conditions set forth in the certificate may not be modified, added to, or deleted by the certifying authority without the prior written approval of the Secretary.

(d) A certificate shall not be considered valid unless it is executed and issued in accordance with this section.

§ 2011.109 Suspension or revocation of individual certificates.

(a) *Suspension or revocation.* The Secretary may suspend, revoke, modify or add further limitations to any certificate if the Secretary determines that such action or actions is necessary to ensure the effective operation of the import quota system for sugar and that such suspension, revocation, modification or addition of further limitations will not have the effect of modifying the allocation of sugar made pursuant to the provisions of subdivision (b) of additional U.S. Note 5.

(b) *Reinstatement.* The Secretary may reinstate or reissue any certificate which was previously suspended, revoked, modified, or otherwise limited under the authority of this section.

[55 FR 40648, Oct. 4, 1990, as amended at 61 FR 26784, May 29, 1996]

§ 2011.110 Suspension of certificate system.

(a) *Suspension.* The U.S. Trade Representative may suspend the provisions of this subpart whenever he or she determines that such action gives due consideration to the interests in the U.S. sugar market of domestic producers and materially affected contracting parties to the General Agreement on Tariffs and Trade. Notice of