Commodity Credit Corporation, USDA

§ 1435.308 New entrants.

(a) The Secretary may assign a new entrant sugarcane processor an allocation that provides a fair, efficient, and equitable distribution of allocations:

(1) Applicants must demonstrate their ability to process, produce, and market sugar for the applicable crop year;

(2) CCC will consider any adverse effects of the allocation upon existing processors and producers;

(3) CCC will conduct a hearing on a new entrant application if an interested processor or grower requests a hearing.

(4) A new entrant’s allocation is limited to no more than 50,000 short tons, raw value, for the first crop year, and

(5) A new entrant will be provided, as determined by CCC:

(i) A share of its State’s cane allotment if the processor is located in Hawaii, Florida, Louisiana, or Texas or

(ii) A share of the overall mainland cane allotment if the processor is located in any mainland State not listed in paragraph (a)(5)(i) of this section.

(b) For proportionate share States, CCC will establish proportionate shares for the sugarcane required to fill the allocation.

(c) If a new entrant beet processor constructs a new facility or reopens a facility that currently has no allocation, but last produced beet sugar from sugar beets and sugar beet molasses prior to the 1998 crop year, CCC will:

(1) Assign an allocation to the new entrant to enable it to achieve a facility utilization rate comparable to other similarly-situated sugar beet processors and

(2) Reduce all other beet processor allocations by a like amount on a pro rata basis.

(d) If a new entrant acquires an existing facility with production history that processed sugar beets for the 1998 or subsequent crop year, CCC will:

(1) Assign the allocation to the buyer to reflect the historical contribution of the sold facilities, unless the buyer and seller have agreed upon a different allocation amount, or

(2) If the new entrant and the processor holding the allocation of the existing facility cannot agree on an allocation amount, the new entrant will be denied a beet sugar allocation.

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§ 1435.309 Reassignment of deficits.

(a) CCC will determine, from time to time, whether sugar beet or sugarcane processors will be unable to market their allocations.

(b) Sugar beet and sugarcane processors will report to CCC current inventories, estimated production, expected marketings, and any other pertinent factors CCC deems appropriate to determine a processor’s ability to market their allocation.

(c) If CCC determines a sugarcane processor will be unable to market its full allocation for the crop year in which an allotment is in effect, the deficit will be reassigned as follows:

(1) First, to allocations of other sugarcane processors within that State based on each processor’s initial allocation share of the State’s allotment, but no processor may receive reassigned allocation such that its allocation exceeds its estimated total sugar supply.
§ 1435.310

(2) If the deficit cannot be eliminated after reassignment within the same State, be reassigned to the other cane States based on each State’s initial share of the cane sugar allotment, but no State may receive reassigned State allotment such that its allocation exceeds its estimated total sugar supply, with the reassigned quantity to each State being allocated according to paragraph (c)(1) of this section.

(3) If the deficit cannot be eliminated by paragraphs (c)(1) and (c)(2) of this section, be reassigned to CCC. CCC shall sell such quantity from inventory unless CCC determines such sales would have a significant effect on the sugar price.

(4) If any portion of the deficit remains after paragraphs (c)(1), (c)(2), and (c)(3) of this section have been implemented, be reassigned to imports of raw cane sugar.

(d) The initial estimate of the sugar-cane deficit will be reassigned by June 1. CCC will conduct later reassignments if CCC determines, after June 1, that a sugarcane processor will be unable to market its full allocation.

(e) If CCC determines that a sugar beet processor is unable to market its full allocation for the crop year in which an allotment is in effect, the deficit will:

(1) First, be reassigned proportionately to allocations of other sugar beet processors, depending on the capacity of other processors to fill the portion of the deficit to be reassigned to them, accounting for the interests of associated producers.

(2) If the deficit cannot be eliminated by paragraph (e)(1) of this section, be reassigned to CCC. CCC shall sell such quantity from inventory unless CCC determines such sales would have a significant effect on the sugar price.

(3) If any portion of the deficit remains after paragraphs (e)(1) and (e)(2) of this section have been implemented, be reassigned to imports of raw cane sugar.

(f) The crop year allocation of each sugar beet or sugarcane processor who receives a reassignment will be increased accordingly for that year.


§ 1435.310 Sharing processors’ allocations with producers.

(a) Every sugar beet and sugarcane processor must provide CCC a certification that:

(1) The processor intends to share its allocation among its producers fairly and equitably, and in a manner adequately reflecting each producer’s production history, and

(2) The processor has, in the previous allotment year, shared its allocation among producers fairly and equitably, reflecting each producer’s production history.

(b) CCC will determine that a processor in a proportionate share state has met the conditions of paragraph (a) of this section if the processor establishes a grower payment plan that incorporates the following provisions:

(1) Pays growers for sugar from their delivered sugarcane in the following priority:

(i) Sugar production from proportionate share acreage; as established under § 1435.311, for producers determined by CCC, who;

(A) Delivered to the mill in at least one of the crop years 1999, 2000, or 2001, or

(B) Obtained an allocation transfer from a predecessor mill.

(ii) Sugar production from base acreage, as established under § 1435.312, but exclusive of the acreage described in paragraph (b)(1)(i) of this section, for producers who meet the requirements of paragraph (b)(1)(i) of this section, then

(iii) All other sugar production.

(2) In determining the payment priority, a processor may aggregate the acreage of an operator (producer making the crop production decisions) across all the operator’s farms delivering cane to the processor.

(c) CCC will determine that a processor not in a proportionate share