§ 1435.305 State cane sugar allotments.
(a) Hawaii and Puerto Rico will be allotted a total of 325,000 short tons, raw value, of the cane sugar allotment.
(b) A new entrant cane State will receive an allotment to accommodate a new processor’s allocation under 1435.308.
(c) Subject to paragraphs (a) and (b) of this section, the remaining cane States will be allotted, in aggregate, the remaining cane sugar allotment.
(d) The individual cane State allotments, other than a new entrant cane State, will be based on:
(i) Past marketings of cane sugar.
(ii) Past processings of cane sugar, and
(iii) The ability to market the sugar covered under the allotment assigned to the State.
(e) Past marketings and past processings will each be weighted by 0.50 in determining the States’ respective cane sugar allotments. The weights may be adjusted, as CCC deems appropriate, for the crop year.
(f) Except when deficits are reassigned as provided in §1435.309, a processor may fill an allocation of a cane sugar allotment only with sugar processed from sugarcane grown in the State for which the allotment was established.

§ 1435.306 Allocation of marketing allotments to processors.
(a) Each sugar beet processor’s allocation, other than a new entrant’s, of the beet allotment will be calculated as the beet processor’s share times the beet sector allotment:

(b) The allotment for cane sugar will be 45.65 percent of the overall allotment quantity.
(c) A sugar beet processor allocated a share of the beet sugar allotment may use only beet sugar to fill such allocation. A sugarcane processor allocated a share of the cane sugar allotment may use only cane sugar to fill such allocation.

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comment on the next crop year’s marketing allotments and allocations. After consideration of comments obtained at the hearing, a final determination on cane State allotments and processor allocations will be announced.

(d) During any crop year in which marketing allotments are in effect and allocated to processors, the quantity of sugar and sugar products that a processor markets shall not exceed the quantity of the processor’s allocation.

(e) Paragraph (d) of this section will not apply to:

(1) Any sugar marketings to facilitate the export of sugar or sugar-containing products as long as such exports are not eligible to receive credits under reexport programs administered by the Foreign Agricultural Service for refined sugar or sugar-containing products;

(2) Any sugar marketings for nonhuman consumption, except for the sale of sugar for the production of ethanol or other bioenergy under the Feedstock Flexibility program or the sale of sugar for the production of polyhydric alcohol under the Polyhydric Alcohol program administered by the Foreign Agricultural Service; and

(3) Any processor marketings of sugar to another processor made to enable the purchasing processor to fulfill its allocation if such sales:

(i) Are made before May 1, and

(ii) Reported to CCC within 51 days of the date of sale.

(f) Paragraph (d) of this section also shall not apply to marketings of purchased sugar marketed in the crop year of the purchase, but does apply to marketings of sugar purchased as part of a transaction pursuant to paragraph (e)(3) of this section.

(g) Paragraph (d) of this section also will not apply to the marketing of beet sugar processed from purchased in-process beet sugar if the processor purchased the in-process beet sugar before October 1, 2008.

(h) A sugar beet processor allocated a share of the beet sugar allotment may only use beet sugar to fill such allocation. A sugarcane processor allocated a share of the cane sugar allotment may only use cane sugar to fill such allocation.

§ 1435.307 Transfer of allocation.

(a) If a sugarcane processing facility is sold or transferred to another owner or is closed as part of a corporate consolidation CCC will transfer the allotment allocation to the purchaser or successor.

(b) In proportionate share States, allocations, based on the number of acres of sugarcane base being transferred and the pro rata amount reflecting the grower’s contribution to allocation of the processor for the sugarcane base being transferred, will be transferred between facilities if the transfers are based on:

(1) Written consent of the crop-share owners, or their representatives,

(2) Written certification from the processor that will accept the additional sugarcane deliveries that its processing capacity will not be exceeded,

(3) CCC will only consider requests for transfer of allocation submitted during the month of May. The request must include the grower’s sugar production history for crop years 1997 through 2003. The facility with the grower’s history will be required to certify the history when requested by the grower, and

(4) Allocation transfers will be effective for the next fiscal year after the request is submitted to CCC, that is beginning October 1.

(c) If a sugar beet processing facility or a sugarcane processing facility located in a non-proportionate share State is closed, and the growers that delivered their crops to the closed facility elect to deliver their crops to another processor, the growers may petition the Executive Vice President, CCC, to transfer their share of the allocation from the processor that closed the facility to their new processor. If CCC approves transfer of the allocations, it will distribute the closed facility’s allocation based on the contribution of the growers’ production