

quota eligibility will be issued to foreign countries that have been allocated a share of the U.S. sugar tariff-rate quota. Except as otherwise provided in this subpart, sugar imported from a foreign country may not be entered unless such sugar is accompanied by a certificate of quota eligibility. This subpart applies only to the ability to enter sugar at the in-quota tariff rates of the quota (subheadings 1701.11.10, 1701.12.10, 1701.91.10, 1701.99.10, 1702.90.10, and 2106.90.44 of the HTS). Nothing in this subpart shall affect the ability to enter articles at the over-quota tariff rate (subheadings 1701.11.50, 1701.12.50, 1701.91.30, 1701.99.50, 1702.90.20, 2106.90.46).

[61 FR 26784, May 29, 1996]

§ 2011.102 Definitions.

Unless the context otherwise requires, for the purpose of this subpart, the following terms shall have the meanings assigned below.

(a) *Additional U.S. Note 5* means additional U.S. Note 5 to chapter 17 of the HTS, including any amendments thereto.

(b) *Appropriate customs official* means the district or area Director of the U.S. Customs Service, his or her designee, or any other customs officer of similar authority and responsibility for the customs district in which the port of entry is located.

(c) *Certificate of quota eligibility* or *certificate* means a certificate issued by the Secretary to a foreign country that, when duly executed and issued by the certifying authority of such foreign country, authorizes the entry into the United States of sugar produced in such country.

(d) *Certifying authority* means a person designated by the government of a foreign country who is authorized to execute and issue certificates of quota eligibility on behalf of such foreign country.

(e) *Enter* or *Entry* means to enter or withdraw from warehouse, or the entry or withdrawal from warehouse, for consumption in the customs territory of the United States.

(f) *Foreign country* means, for any quota period, any foreign country or area with which an agreement or arrangement described in section 2011.106

is in effect for that quota period and to which the United States Trade Representative has allocated a particular quantity of the quota.

(g) *HTS* means the Harmonized Tariff Schedule of the United States.

(h) *Licensing Authority* means the Team Leader, Import Quota Programs, Import Policies and Trade Analysis Division, Foreign Agricultural Service, U.S. Department of Agriculture, or his or her designee.

(i) *Person* means an individual, partnership, corporation, association, estate, trust, or other legal entity, and, wherever applicable, any unit, instrumentality, or agency of a government, domestic or foreign.

(j) *Quota* means the tariff-rate quota on imports of sugar provided in additional U.S. Note 5.

(k) *Quota period* means the period October 1 of a calendar year through September 30 of the following calendar year.

(l) *Raw value* has the meaning provided in additional U.S. Note 5.

(m) *Secretary* means the Secretary of Agriculture or any officer or employee of the Department of Agriculture to whom the Secretary has delegated the authority or to whom the authority hereafter may be delegated to act in the Secretary's place.

(n) *Sugar* means sugars, syrups, and molasses described in subheadings 1701.11.10, 1701.12.10, 1701.91.10, 1701.99.10, 1702.90.10, and 2106.90.44 of the HTS, but does not include for any foreign country for any quota period specialty sugars as defined in subpart B of this part if a quantity of the quota for that quota period has been reserved for specialty sugars and an amount of that quota quantity has been allocated to that country.

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

§ 2011.103 Entry into the United States.

(a) *General*. Except as otherwise provided in §§ 2011.104, 2011.109, and 2011.110, no sugar that is the product of a foreign country may be permitted entry unless at the time of entry the person entering such sugar presents to the appropriate customs official a valid and

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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.