

**§ 1435.111**

**7 CFR Ch. XIV (1-1-01 Edition)**

making such certification to liability under applicable Federal civil and criminal statutes.

**§ 1435.111 Applicable forms.**

CCC forms used for this program are available from the appropriate State committee or designated county committee. For purposes of any CCC form that refers to program participation by producers, the term “producer” shall be taken to mean “processor.”

**Subpart C—Sugar Marketing Assessments**

**§ 1435.200 General statement.**

(a) This subpart sets forth the terms and conditions for the payment to CCC of marketing assessments for beet sugar and raw cane sugar marketed during fiscal years 1996 through 2003.

(b) Except as provided in §1435.205, the marketing assessment applies to:

(1) First processor marketings of all raw cane sugar processed during fiscal years 1996 through 2003 from domestically-produced sugarcane or sugarcane molasses, and

(2) First processor marketings of all beet sugar processed during fiscal years 1996 through 2003 from domestically-produced sugar beets or sugar beet molasses.

[61 FR 37618, July 18, 1996, as amended at 65 FR 7956, Feb. 16, 2000]

**§ 1435.201 Marketing assessment rates.**

(a) For marketings during fiscal year 1996, the assessment rate per pound of beet sugar is 0.2123 cents per pound. The assessment rate for fiscal years 1997 through 2003 is 0.2654 cents per pound.

(b) For marketings during fiscal year 1996, the assessment rate per pound of raw cane sugar is 0.1980 cents per pound, raw value. The assessment rate for fiscal years 1997 through 2003 is 0.2475 cents per pound, raw value.

**§ 1435.202 Remittance.**

(a) The monthly amount of the beet sugar marketing assessment to be remitted to CCC is determined by multiplying the number of pounds of beet sugar marketed in the calendar month by the assessment rate.

(b) The monthly amount of the marketing assessment on raw cane sugar to be remitted to CCC is determined by multiplying the number of pounds, raw value, of raw cane sugar marketed, or estimated to be marketed in accordance with (e)(1) of this section, in the calendar month by the assessment rate.

(c)(1) First processors shall remit marketing assessments to CCC no later than the 30th calendar day following the end of the month in which the beet sugar or raw cane sugar subject to the assessment was marketed.

(2) Mailed remittances will be considered timely if they are postmarked not later than the 25th calendar day following the month in which the beet sugar or cane sugar subject to the assessment was marketed.

(3) CCC must receive electronic remittances by the 30th calendar day following the month in which the beet sugar or raw cane sugar subject to the assessment was marketed.

(4) Any processor who fails to file a remittance by the due date shall be assessed a civil penalty and interest in accordance with §1435.203.

(d)(1) Except as provided in §1435.205, first processors shall prepare and submit a fully and accurately completed form CCC-80 each month that shows:

(i) Beet sugar marketings during the previous calendar month; and

(ii) Raw cane sugar, raw value, marketings during the previous calendar month.

(2) First processors who do not operate on a calendar month basis may pay their assessments based on marketings on several extra days or fewer days than the calendar month reporting period, consistent with the processor's standard accounting period. However:

(i) Assessments must be paid on all marketings of specific crop year sugar in the fiscal year it is due; and

(ii) The marketing assessments must be remitted monthly and by the dates specified in this section.

(3) The entire assessment that is due and payable shall be remitted with the Form CCC-80.

(e)(1) If, when a raw cane sugar assessment is due and payable, the first processor cannot determine the exact raw value of such sugar, an estimate of

raw value based on the recent experience of the processor shall be made and the assessment submitted on the estimated quantity.

(2) Whenever an assessment is based on an estimate of raw value pursuant to (e)(1), any necessary adjustments to the quantity of raw sugar subject to the assessment shall be made by filing a corrected Form CCC-80 no later than 30 calendar days after the last day of the month in which the estimated assessment was paid. If, according to the corrected Form CCC-80:

(i) The assessment was underpaid, the first processor shall remit the additional assessment due with the corrected Form CCC-80, and

(ii) If the assessment was overpaid, the first processor shall subtract the overpayment from any assessment due at the time the corrected Form CCC-80 is filed, or if none is due at that time, from the assessment next due.

(f) By October 30 of each year, first processors shall determine the quantity of beet sugar or raw cane sugar on hand that was produced during the preceding fiscal year but not marketed by September 30 of such preceding fiscal year and shall remit a marketing assessment to CCC as if the sugar had been marketed in September of such preceding fiscal year. Such sugar is not subject to a second assessment when it is marketed.

(g) First processors shall send remittances and CCC-80 forms as CCC specifies.

[61 FR 37618, July 18, 1996, as amended at 65 FR 7956, Feb. 16, 2000]

#### § 1435.203 Civil penalties and interest.

(a) A first processor is liable for a civil penalty of up to 100 percent of the relevant national average loan rate times the marketings of beet sugar or raw cane sugar involved in the violation if the processor:

(1) Fails to remit, on a timely basis, the entire amount of any marketing assessment in accordance with this subpart;

(2) Fails to submit Form CCC-80 fully and accurately completed; or

(3) Fails to maintain and permit inspection of records as required by §1435.204.

(b) In addition to any civil penalty assessed in accordance with this section, interest on unpaid assessments or deficiencies in assessments paid is due and payable at the rate specified in part 1403 of this chapter beginning on the 1st day of the month after the marketing assessment was due in accordance with §1435.203. Interest shall continue to accrue until such amount is paid. However, if full payment of an assessment is received within 30 calendar days of the date on which the assessment was due, no interest shall apply.

(c) The Controller, CCC, shall assess civil penalties and interest.

(d) Affected first processors may request reconsideration of civil penalties by filing a request, within 30 days of receipt of certified written notification by the Controller, CCC, of such assessment of civil penalties, with the Executive Vice President, CCC, Stop 0501, 1400 Independence Ave. SW, Washington, D.C. 20250-0501.

(e) After reconsideration, affected first processors may appeal civil penalties by filing a notice of appeal, within 30 calendar days of receipt of certified written notification by the Executive Vice President, CCC, of an affirmation of the assessment of civil penalties, with the National Appeals Division in accordance with part 780 of this chapter.

#### § 1435.204 Refunds.

Marketing assessments are non-refundable. However, upon presentation of evidence acceptable to the Controller, CCC, adjustments to an assessment may be made by CCC to reflect the actual marketings of beet sugar or raw cane sugar, or a first processor may adjust the amount of the assessment due in accordance with §1435.202.

#### § 1435.205 Special rules for fiscal years 2000 and 2001.

(a) First processors are not required to pay the marketing assessments provided for in this subpart that would otherwise be due under this part during the period from October 22, 1999 through September 30, 2001;

(b) First processors are not required to prepare and submit form CCC-80 pursuant to §1435.202(d)(1) during the